

THE PASSOVER SEDER: THE HISTORY OF A MEMORY

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For the last stage of this work, recommenced at the University of Tennessee in 2012 I must express my gratitude to Christina Shepardson who read my undergraduate thesis and pressed me to continue my research. Professor Shepardson was joined by Professors Thomas Burman (now at Notre Dame), Thomas Heffernan and J.P. Dessel all of whom worked with me, read this dissertation, and contributed their knowledge, patience and occasionally necessary humor to the work. I cannot express sufficiently my gratitude to Professor Jay Carter Rubenstein for accepting the stewardship of the project with all that entails.

In addition to those who made up my committee, Professor Daniel Boyarin was kind enough to answer my questions and suggest resources, and Professor Galen Marquis assisted me with his vast knowledge of Biblical Hebrew and ancient Hebrew manuscripts.

ABSTRACT

The Passover Seder marks a semaphore in the history of Rabbinic Judaism. It created an unprecedented new holiday observance marking the beginning of the seven-day Passover holiday which had been observed for centuries past with various manners of fulfilling biblical requirements to abstain from leavened bread and eat bitter herbs along with the meat of the Passover offering. Throughout the period of the Second Temple, those who worshipped at the Temple understood that this required a pilgrimage to Jerusalem, the only place where sacrifice was permitted.

There are hints of new thinking about the observance of such festivals in the works of Philo who lived too far from the Temple to contemplate annual journeys. Several Greek authors including Plato, Xenophon and Plutarch describe festive meals in ritual settings which facilitated discussion of the issues of day in Hellenistic Greek and Mediterranean society. The Tanaitic rabbis, confronting the fact that they were physically unable to honor the biblical requirement of sacrifice in the Temple of Jerusalem designed other mechanisms for celebrating the holiday. One of those mechanisms was the ritual that would become known in later Jewish liturgy as the Passover Seder.

This thesis demonstrates that the Passover Eve meal as celebrated by third century rabbis created new and noteworthy innovation, transforming the basis for the holiday into something different from what it meant in earlier periods. I will show that the rabbis not only invented ritual not known before the third century, but used that ritual to create a memory which allowed succeeding generations to imagine that in celebrating this ritual they were somehow fulfilling the requirements set forth in the much earlier periods of the people who accepted the Hebrew Bible as their basic text and guide to religious observance. In a

very real sense, the Seder became the collective memory of a ritual that could not possibly have been authentic to the era it portrays but set the standard for the perception of the correct way to honor the festival for anyone claiming to practice rabbinic Judaism.

PREFACE

כָּל הַמְסַתֵּפֵל בְּאַרְבָּעָה דְּבָרִים, רָאוי לוֹ כָּאִלּוּ לֹא בָּא לְעוֹלָם, מַה לְמַעַלָּה, מַה לְמַטָּה, מַה
לְפָנִים, וּמַה לְאַחֲרָי.

Anyone who investigates four things, it would have been better had they
not been born. What is up, what is down, what went before, and what
comes after.

— Hagigah 2.1

The past is what you remember, imagine you remember, convince yourself
you remember, or pretend to remember.

— Harold Pinter

Measured in the span of a human lifetime this project began a very long time ago. At
the Bronx H.S. of Science, now more than fifty years ago, I elected to take Advanced
Placement History for two years. Two teachers there influenced my life's direction: Mr.
Stuart Elenko and Mr. Emmanuel Harrison. Mr. Elenko later developed the first center at
any High School devoted to the study of the Holocaust. He taught world history in the first
of the two years of the course. Mr. Harrison taught the second, devoted to American history,
and imbued in his students the understanding that history cannot be understood as a set of
facts in some linear alignment but is rather the product of the interpretation of those facts
which often results in vastly different assessments of what may have transpired in any given
place and time. We studied how different lenses and theories could explain events. We
became familiar with terms like “manifest destiny” and “frontier theory” just to name a few.
The University of Wisconsin rewarded me with a year of academic credit for my studies at
Bronx Science and I went on to declare a major in History.

At the University of Wisconsin, Professor Frank “Mike” Clover, of blessed memory,
took me under his wing and yet allowed me to follow my own paths of discovery. Prof.

Clover was an expert Latinist and historian of Rome but had only limited knowledge of Jewish sources and texts. For that area, I had a stroke of luck. A new director had just been hired by the campus Hillel Foundation, Rabbi Alan Lettowsky. Rabbi Lettowsky had impeccable academic credentials: ordination from the Jewish Theological Seminary (NYC) having studied under the legendary Saul Lieberman. He was himself working on a Ph.D. in Talmud at Yale after spending several years teaching in the Seminario Rabínico Latinoamericano, Buenos Aires. Together these two scholars were kind enough to lead me through the forest of languages, texts and literatures I would need to understand to attempt to make sense out of an event in Jewish history.

What had sparked my interest was a little-known episode in the history of the Jewish people (or at least that was a common term for this history back then—a bit more problematic now as this thesis demonstrates): a series of revolts by people claiming some affinity to Judea about a half-century after the Roman-Jewish War that had ended with the fall of the Temple of Jerusalem. Across North Africa, Egypt and Cyprus there were serious rebellions requiring the Roman Emperor Trajan to summon his legions from all over the Empire to quell. And on Trajan's eastern front, there were also reports of Jews fighting Romans in Parthia. What could have caused these disturbances? And how could people who were in some sense "Jews" be involved in these events without any direction from the center of the Jewish nation? Was there also a locus of anti-Roman activity in Jerusalem or Judea? My undergraduate thesis won an award and the credit certainly belongs at least as much to these fine scholars as it did to me.

From Madison, Wisconsin I headed to Tel Aviv, Israel. I spent a year at Tel Aviv University beginning to make up for a serious deficiency in the language skills I would need

to pursue these lines of historical inquiry. During that year I learned a great deal of Hebrew and joined a first-year Latin course that was the first in Israel to be taught using a textbook written in the Hebrew language.

From Tel Aviv I traveled to the University of California, Berkeley at the invitation of Prof. Jacob Milgrom of the Department of Near East Studies. As it turned out, the scholar who I thought would be working with me was unable to do so. David Winston was one of the world's experts on Hellenistic thought and Philo in particular, but since his appointment was at the Graduate Theological Union rather than UCB, he could not be permitted to direct my work. The scholar to whom I was assigned was Baruch M. Bokser, then a newly minted Ph.D. from the Brown University program led by Jacob Neusner. Bokser was late to arrive in the semester, so Milgrom took the lead in advising me about courses, and as a result I registered for just one course in the Fall of 1974: Intensive Attic Greek (10 credit hours). Over the next two academic years I added French, German, and Aramaic to the list of languages I formally studied. This was also the period during which I studied Mishnah, Tosefta, Midrash, and texts from the Babylonian and Palestinian Talmuds with Prof. Bokser. And in December of 1976 I received the M.A. degree from the Near East Studies department.

At that point, I encountered a serious problem. If I continued in Near Eastern Studies my path would necessitate more emphasis on language and culture than history. Prof. Bokser encouraged me to shift my emphasis to rabbinic literature, but at that point I was still more interested in the history and literary sources of the Roman and Greek cultures which served as the general milieu of the people who claimed attachment to the Temple of Jerusalem. The better place for me given my interests was an interdisciplinary unit at

Berkeley called the Group for Ancient History and Mediterranean Archaeology led by Prof. Erich Gruen. I assembled a Ph.D. committee with Gruen as the Director, and three additional members: Peter Brown, John Dillon, and Victor Gold (of the Pacific Lutheran Theological Seminary). We agreed that I had exhausted the available courses at Berkeley, and so I applied for and received a graduate fellowship to study at the Hebrew University of Jerusalem.

At Hebrew University I had honor and privilege of studying classical and Hellenistic Greek texts with Professors Suzanne Danielle and Menachem Stern of blessed memory. I also studied the Hebrew Bible with Prof. Emmanuel Tov and learned that it is indeed possible to spend an entire semester on a single chapter of the Bible. It was a wonderful year, but at its conclusion I still didn't feel as if I had acquired sufficient training to pursue my studies of Jews in the Hellenistic era, so I applied to and was offered a fellowship by the Hebrew Union College in Cincinnati where I had the honor to study Hellenistic Greek texts with Prof. Samuel Sandmel in what would turn out to be the last semester of his life's work. Prof. Sandmel gifted me his copy of the book we were studying, and I learned that he had passed two months later.

It was at last time for me to return to Berkeley, but a harsh reality awaited me there. There were no fellowships or other funding opportunities available. I would have been qualified to teach Hebrew courses, but no assistantships were available. It was at this time that I learned that my mother was very ill, and because my father had abandoned the family, it was up to me to do something about it. I packed her up and brought her to Berkeley and then sought a job to hold me over until I could return to graduate school. Little did I know or suspect that what I expected to be a brief interregnum would last forty years.

As a life-long student, my search for a solution to the issues at hand was to enroll in accounting courses at a local community college. I had spent a great deal of time at Berkeley's Hillel Foundation and two of the senior directors there approached me with a job offer: spend my days doing the financial administration of the Foundation, and my evenings teaching Biblical Hebrew in their school for adults called Lehrhaus Judaica—named for the famed school in pre-Nazi Germany led by Franz Rosenzweig. In an odd way, this division of labor was to characterize the balance of my work life. And I owe these opportunities to Rabbi Martin Ballonoff of blessed memory and Mr. Fred Rosenbaum who not only founded and led Lehrhaus for several decades, but also became a highly respected author tracing the history of the Jews of America.

Over the course of the next decade I wrote a textbook for Biblical Hebrew for the ballooning number of students who enrolled in my courses at our Berkeley, Stanford and San Francisco State campuses. By the time I left Lehrhaus, I had taught about 3,000 students including one who became my life partner. We brought our first child into the world, and three years after that milestone my wife was offered a professorship at the University of Michigan. We made the eminently sensible decision to accept that offer, although it did mean an interruption in my career as a teacher of Biblical Hebrew. Another of my students, Kenneth Cohen, had dramatically increased my employability by gifting me a license to use the software of the Oracle Corporation and perhaps even more importantly, a shirt embroidered with the Oracle logo. It turned out that the University of Michigan had just signed a contract with Oracle but had no one who knew how to use it. I was picking up my child from daycare when I felt a tap on my shoulder. It was a manager of one of the Information Technology groups inquiring as to whether I knew how to program Oracle

databases. And from that incident I arrived at the Information Technology career that would occupy my days for the next quarter century. I took early retirement from that career in 2010.

While living in Ann Arbor, I established a long-term relationship with a group of Jewish Studies faculty and highly committed professionals and scholars centered on Congregation Kehillat Israel in Lansing, Michigan. A single request to deliver a lecture became a quarter-century career as a lecturer for that community. And here I must mention Professor Donald Weinshank of blessed memory for his contribution to this work. Passover after Passover for that quarter-century, I learned how far the Passover liturgy could be stretched to incorporate new ideas and fresh views of the old. And it was Don Weinshank who urged me to write my own *Haggadah*

The following year, the University of Tennessee came calling on my wife and before we knew it we were moving to Knoxville so that she could take the position of Dean of Arts and Sciences. I imagined my new, retired life but that was short-lived. A few months into our Knoxville residence, the University's Biblical Hebrew instructor elected to abandon his position, and the University was left on short notice to fill the position. The Director of our Judaica Studies program, Professor Gilya Schmidt, asked me to consider coming out of retirement to fill in for the missing faculty member and so I found myself teaching Biblical Hebrew at the University level once again. Although the intent was just to complete the year the department offered to extend the appointment and as I write this I am now in my seventh year as Tennessee's instructor of Elementary and Intermediate Biblical Hebrew.

In the second year of my Tennessee career, Prof. Christine Shepardson offered to read my undergraduate thesis on the Jewish rebellion during the time of Trajan. She

suggested that I consider completing my Ph.D. and offered to direct a committee for this purpose. It had never sat well with me that I had not completed my degree, so I was easily convinced. In addition to Prof. Shepardson, my committee included Prof. Tom Burman (now director of Medieval Studies at Notre Dame University), Prof. Thomas Heffernan, Prof. Jay Carter Rubenstein, and Prof. J.P. Dessel. In order to meet the requirements of the Graduate School, I found myself enrolled in a number of courses and somehow managed to complete that work, teach my own courses, and write this dissertation. I would be remiss if I did not mention the kind attention of Prof. Denise Phillips who introduced me to twenty-first century historiography and convinced me that I wasn't too old to learn new tricks. And Professor Daniel Feller who suffered my presence in his marvelous dissertation workshop for two years. Finally I cannot sufficiently thank Prof. Rubenstein who assumed the role of lead scholar in my effort when Prof. Shepardson needed to reduce her own role. I owe a profound debt to all these scholars for taking their time to contribute to my education and assist with the project which follows. Of all this it has truly been said, *ars longa, vita brevis*.

Nothing can compare to the debt I owe my wife of 34 years who has believed in me all this time, first as my student, then as my partner, and now as my Dean. Of her the text of Proverbs 31 surely applies:

¹⁰אִשָּׁת־חַיִּל מִי יִמָּצֵא וְרֹחַק מִפְּנוּיִים מְכָרָהּ: ¹¹בְּטַח בָּהּ לֵב בַּעֲלָהּ וְשָׁלֵל לֹא יִחָסֵר:

Who can find a powerful woman, more valuable than precious gems? Her husband lives secure knowing that on her account he will never lack bounty.

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CHAPTER 1: INTRODUCTION TO THE MISHNAH ON PASSOVER

The oldest text in the canon of Judaism describing a home worship service for Passover is contained in a text that has been known as the Mishnah since the Middle Ages.¹ To imagine that we can understand the development, liturgy, and origins of the Passover rite in the generations which followed the fall of the Second Temple, it is therefore necessary to understand the nature of this book. Practically nothing can be said about Judaism in this period that is uncontroversial. Thus, Joshua Kulp and Shamma Friedman would argue that another collection of rabbinic sources, the Tosefta, predates the Mishnah.² In due course I hope to demonstrate why the Mishnah's version of at least the material on the Passover ritual should be regarded as primary, but even at this early stage it is necessary to acknowledge that the relative dating of these texts is open to argument.

The Mishnah from a cursory inspection appears to be a simple document. It is divided into six orders, the orders are divided into treatises or “tractates” to a total of 63, and each tractate is further divided into chapters—creating the impression of opening a window onto traditions practiced over the course of millennia which match up with the religious life

¹ It is difficult to pinpoint a time when the term Mishnah was understood to be a completed text. In both the Talmud of the Land of Israel [PT] and the Babylonian Talmud [BT], quotations from early recensions of the work are introduced with the terms *matnita* or *matnitim* in PT and *misbnatenu* or *matnitin* in BT. See Hermann Leberecht Strack, *Introduction to the Talmud and Midrash*, 1st Fortress Press ed (Minneapolis: Fortress Press, 1992), p. 109.

² For my current purposes, the distinction is not important. The fact that a distinguished scholar could disagree with others on such a fundamental point is part of my argument. Joshua Kulp and Jason Rogoff, *Reconstructing the Talmud: An Introduction to the Academic Study of Rabbinic Literature*, 2nd edition (New York City, NY: Hadar Press, 2017) p. 18-19. Kulp mentions Friedman without citation. It is worth noting that Kulp states, “...without much exaggeration one could say that the question of their relationship [that is, of the Mishnah to the Tosefta] is among the most contentious issues in the academic study of rabbinic texts.”

Indeed, until a few decades ago, most questions about the nature of the Mishnah would have been quickly and easily answered.⁴ Who composed the Mishnah? *Rabbi Yehuda HaNasi* (often called simply “Rabbi” as if there was just one⁵). When did he compose it? *About 212 C.E.*⁶ Where was it composed? *In the Galilee*. How was it communicated? *Orally, by skilled masters of memorization called Tanaim*. Where did the constituent texts originate? Here we would have had a divergence of opinion. Seminarians, students and scholars who come to the study of the Mishnah from the perspective of Orthodox Judaism, would have answered that the underlying statements in the Mishnah originated on Sinai with Moses and were transmitted orally in an unbroken chain through the time of R. Yehuda HaNasi. Secular scholars beginning in the mid-1800s recognized the natural impossibility of such a claim, but still regarded attributions as trustworthy. Thus, if the Mishnah contains a statement that Hillel said thus-and-so, secular scholars would attribute that statement to the period of the decade before the beginning of the Common Era when Hillel was said to have been active. A statement attributed to R. Aqiva would, in the same way, be considered to belong to the

⁴ See, for example, Strack, *op. cit.* now updated but epitomizing early twentieth-century scholarship. Similar viewpoints as this and George Foot Moore, *Judaism in the First Centuries of the Christian Era: The Age of Tannaim* (Peabody, Mass.: Hendrickson Publishers, 1997) are still evident in articles in the *Encyclopedia Judaica* revised as recently as 2007, Stephen G. Wald, “Mishnah,” in *Encyclopedia Judaica*, ed. Michael Berenbaum and Fred Skolnik (Macmillan Reference, 2007) and Stephen G. Wald, “Tosefta,” in *Encyclopedia Judaica*, ed. Michael Berenbaum and Fred Skolnik (Macmillan Reference, 2007) and see also Shaye J. D. Cohen, *From the Maccabees to the Mishnah*, 2nd ed (Louisville: Westminster John Knox Press, 2006) pp. 206-207.

⁵ Students are introduced at an early stage to nomenclature and standards such as attributing the name “Rabbi” to R. Yehuda HaNasi but pinpointing how these standards came to be accepted is much more difficult problem. Suffice it to say for now that the author(s) of the Tanaitic literature nowhere provide a rationale for this and the standard is simply assumed in later materials.

⁶ In this dissertation I defer to Jewish scholarly and religious standards which advise the terms C.E. (for Common Era) and B.C.E. corresponding to A.D. and B.C.

period between the destruction of the Second Temple and the Bar Koseba⁷ rebellion (70 to 135 CE). It would appear then that, in the Mishnah, we have a volume much like the Bible composed of chapters and verses with a great deal of standardization. And yet, despite two centuries of serious scholarship focused on the Mishnah, not a single scholar has claimed to have created a standard text of the Mishnah.

Common histories of Jews and Judaism tend to begin with the Bible and regard the various tribes and inhabitants of the territory between Lebanon and the Sinai as appropriately bearing the label “Jews” and their religion as “Judaism.” Regardless of whether one uses categories of ethnicity, religious ideology, or religious practice, it is nevertheless obvious that the Mishnah represents a dramatic break from that earlier biblical era. The people who accorded respect to the texts of the Mishnah did not live in Jerusalem or its environs. They knew that they had sympathizers in places near and distant from Jerusalem. They described religious practices that were in many cases divergent from the religious practice of the Israelites of the biblical era and the various “philosophical” groups described by Philo and Josephus. Two thousand years later, the word “Judaism” still describes a religion recognizable in the pages of the Mishnah, far more so than the Bible. Jews who worship in synagogues, acknowledge the authority of teachers who can claim no divinely inspired authority, place *mezuzot* on their doorposts, and eat a robust, celebratory meal to honor the Passover are behaving in ways familiar from the Mishnah. But notice how distant

⁷ This rebellion is more often referred to as the Bar Kokhba rebellion, but that name likely represents some aggrandizement by his supporters and from his actual correspondence recovered at Wadi Muraba‘at it appears that his name was actually Bar Koseva,” Samuel Abramsky and Shimon Gibson, “Bar Kokhba,” in *Encyclopedia Judaica*, ed. Michael Berenbaum and Fred Skolnik (Macmillan Reference, 2007).

they are from the people whose official worship could be conducted in just one place in the world, led by religious leaders with claims to the divine privilege of Aaron, and owing allegiance to people who claimed the divine right of kings emanating from David. Regardless of whether you are looking at location, authority, ideology, or practice, “Jews” and “Judaism” in the era of the Mishnah belong to a different set of categories than the people who worshipped in the Temple of Jerusalem. The balance of this chapter is devoted to refining the definitions of the terms “Jew” and “Judaism” and introducing the Passover holiday as one way to understand the transformation of the religion represented by the Mishnah from its biblical antecedents. By transformation I mean the conversion of a festival which by its biblical terms could be observed primarily in a series of actions such as making grain offerings or sacrificing animals on an altar to one in which the primary activities are discourses over wine, liturgies unknown from biblical texts and formulae, and an elaborate meal.

Jew, Jews and Judaism

Terms like *Jew* and *Judaism* are common in both popular and scholarly literature. But even this foundational language is not straightforward. As Cynthia Baker says in the beginning of her essay on the definitions of “Jew” and “Judaism” “Words matter.”⁸ These terms need to be defined and their use restricted to appropriate periods and circumstances. Applied too generally, these terms can prejudice discussion and suggest a continuity of

⁸ Cynthia M. Baker, “A Jew by Any Other Name,” *Journal of Ancient Judaism* 2, no. 2011 (2011): 151–78. p. 153

religious ideology that is entirely absent from the historical record. Modern Jews, popularly but also within the academy, are often eager to suggest this continuity. Near the time that I am writing this we have already seen at least two scholarly monographs grappling with the terminology: one (by the same Cynthia Baker) is entirely devoted to the definition of the word “Jew.”⁹ The other, that of John Collins, is entitled *The Invention of Judaism: Torah and Jewish Identity from Deuteronomy to Paul*. These studies demonstrate that the confidence in broad continuities cannot be justified by the standards of scholarly research.¹⁰ There is a generally held assumption that¹¹ there is a logical evolution of biblical religion into something called “Judaism” which demonstrates similar customs, mores, and beliefs throughout transitional periods. But when considered in detail, these purported continuities vanish. When Philo, for example, uses the Hellenistic philosophical tools to reinterpret biblical rules, he is in fact obviating the original meaning of those traditions and transforming them into something

⁹ Cynthia M. Baker, *Jew*, Key Words in Jewish Studies 7 (New Brunswick, New Jersey ; London: Rutgers University Press, 2017); John J. Collins, *The Invention of Judaism: Torah and Jewish Identity from Deuteronomy to Paul*, The Taubman Lectures in Jewish Studies 7 (Oakland, California: University of California Press, 2017).

¹⁰ John J. Collins, *The Invention of Judaism: Torah and Jewish Identity from Deuteronomy to Paul*, The Taubman Lectures in Jewish Studies 7 (Oakland, California: University of California Press, 2017). Most recently, Daniel Boyarin, published *Judaism: The Genealogy of a Modern Notion*, Key Words in Jewish Studies (New Brunswick, New Jersey: Rutgers University Press, 2018) which may mark an extremity in the dismissal of “Jew” as an appropriate designation to pre-modern society.

¹¹ I am not suggesting, of course, that we have precise knowledge of the manner in which a king, priest, or Israelite understood the sacrifices and rituals in which they were participating. But it is reasonable to imagine that they had some tangible, even tactile, connection to the sacrifice and a belief that the deity desired this as sustenance. For Philo, that connection has been transformed into something complete else. For a consideration of how blood atonement and the role of the priesthood might have been understood by various groups that were near contemporaries to Philo, see Lawrence H Schiffman, “Temple, Sacrifice and Priesthood In the Epistle to the Hebrews and The Dead Sea Scrolls,” in *Echoes from the Caves: Qumran and the New Testament*, ed. Florentino García Martínez (Boston, United States: Brill, 2009), 165–76, <http://ebookcentral.proquest.com/lib/utk/detail.action?docID=489341>.

completely different. It is no exaggeration to say that Philo's religion has little in common with biblical Israel.

Introducing his book about the boundaries of Judaism in the Hellenistic period, Shaye Cohen¹² cites Philo, *Flaccus* 43, "...both Alexandria and the whole of Egypt had two kinds of inhabitants, us and them" emphasizing the meaning of the text as "us Jews" contrasted to Gentiles. Philo goes on to say, "and that there were no less than a million Jews resident in Alexandria and the country..."¹³ However, the Greek says something slightly different: καὶ πᾶσα Αἴγυπτος, καὶ ὅτι οὐκ ἀποδέουσι μυριάδων ἑκατὸν οἱ τὴν Ἀλεξάνδρειαν καὶ τὴν χώραν Ἰουδαῖοι κατοικοῦντες ἀπὸ τοῦ πρὸς Λιβύην καταβαθμοῦ μέχρι τῶν ὁρίων Αἰθιοπίας... The word which Thackeray (Younge and others) translates as "Jews" is actually "Judeans" (ioudaioi). It is simply taken for granted that "Judeans" means "Jews." But is it so? Cohen cites Josephus in *Antiquities* referencing "Jews" as opposed to Gentiles, and provides the Greek in his note: "AJ 20.157, 259 (us Ioudaioi), and 262 (Ioudaioi and allophuloi). These phrases appear throughout the Josephean corpus." But once again, every occurrence of the Greek is "Ioudaios" and should therefore not be rendered by "Jew." It is true that Greek texts of the era always use the term "Judean" (with an infixed "d") and so there is a valid question that there simply is no word other than "Jew" to use for translation purposes. I argue that using a word which creates false impressions is not the appropriate outcome of this conversation. The distinction between "Jew" and "Judean" is not just a

¹² Shaye J. D. Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties* (Berkeley: University of California Press, 1999). Kindle edition, p. 176.

¹³ Philo, *Philo: in ten volumes (and two supplementary volumes)*. 7: ..., trans. Francis Henry Colson, Repr, vol. VII, The Loeb classical library 320 (Cambridge, Mass.: Harvard Univ. Press, 2006), 327.

matter of ethnicity or religion. It is central to the fact that both the idea of ethnicity and the nature of the religion are undergoing profound changes. The use of the term “Jew” in modern translations and discussion can convey a sense of false continuity—that the “Judaism” of Josephus or Philo is some natural basis for the Judaism of the Mishnah. The Mishnah itself deploys this strategy by suggesting that its *weltanschauung* is identical to that of tradents (real or imagined) centuries before its time. It is therefore critical that any consideration of the Mishnah be able to differentiate the argument that the Mishnah itself is projecting from historical reality.

Consider, for example, Cohen’s citation of an inscription long known from CIJ,¹⁴ which reads “Ptolemy son of Leukios of Tlos erected at his own expense this tomb from the foundations, himself and on behalf of his son, Ptolemy the second, son of Leukios, on the occasion of the completion of the archonship among us Jews, so that it (the tomb) shall be for all the Jews, and no one else is allowed to be buried in it. If anyone shall be discovered burying someone, he shall owe to the people of Tlos [a fine of x amount of money].”¹⁵ Cohen footnotes this reference: “I follow the text of *Tituli Asiae Minoris* ILZ no. 612. See too Schürer, *History* 3.32-33. I have translated *Ioudaioi* in this inscription as ‘Jews,’ although

¹⁴ Jean Baptiste Frey, *Corpus of Jewish Inscriptions: Jewish Inscriptions from the Third Century B.C. to the Seventh Century A.D.*, The Library of Biblical Studies (New York: Ktav Pub House, 1975). no. 757. Along the same lines, note that Josephus consistently uses the term “Judeans” which is nevertheless translated as “Jews” by the standard translators. For example, in the famous mention in *Wars* of the vote of the Roman Senate to name Herod as King, Josephus says, βασιλέα καθιστᾶν Ἰουδαίων which is translated by Thackeray “...determined then and there to make him king of the Jews...” Flavius Josephus, *The Jewish War Books I - II*, Reprinted, The Loeb classical library 203 (Cambridge, Mass.: Harvard Univ. Press [u.a.], 2004), Book 1, xiv 4.

¹⁵ Cohen, Shaye J. D. Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties* (Berkeley: University of California Press, 1999). Kindle Locations 83-86.

perhaps ‘Judaicans’ would be more accurate.”¹⁶ And that is precisely the point. The Greek is unambiguous. Ptolemy the son of Leukios is establishing a tomb for the use of the Judeans, not the Jews (in modern use of the term), of his community.

Cynthia Baker has helped map the boundaries in this lively discussion among scholars on whether “Jew” or “Judaism” reflects an ethnic or religious categorization.¹⁷ She provides something of a taxonomy of four scholars weighing in recently on the topic: Shaye Cohen, Joseph Blenkinsopp, Marc Zvi Brettler, and Steve Mason. Sh. Cohen suggests that the term “Jew” should be regarded as “religious” whereas “Judaean”¹⁸ is “ethno-geographic.”¹⁹ This notion that there is a distinction between Judaism as a religion and Jew as a gentilic is, of course, a commonplace. But even with that interpretation we are still left to wonder when did “Judaism” come to be something apart from “Jew”? Can a person be a Jew, but not participate in Judaism—and the converse? It is reasonably clear from the ancient record that this was not so in earlier biblical times. The ethnic identity of a person was inextricably bound to their religious identity, language and rituals. Can we find a temporal boundary beyond which these ideas separate?

J. Blenkinsopp seems to posit the earliest date for the idea that we have something akin to “Judaism,” namely at the dawn of the Second Temple period—four or even five centuries B.C.E.²⁰ It is true that the author(s) of the Mishnah and communities that accepted

¹⁶ Cohen, *ibid.* Kindle Locations 4673-4674.

¹⁷ Cynthia M. Baker, “A Jew by Any Other Name,” *Journal of Ancient Judaism* 2, no. 2011 (2011): 151–78.

¹⁸ Some scholars even invest some importance in the differentiation of *Judean* from *Judaean* but I cannot agree that such distinctions are useful.

¹⁹ Baker, *op. cit.* 153, referencing Cohen, *The Beginnings of Jewishness*, p. 70.

²⁰ Joseph Blenkinsopp, *Judaism, the First Phase: The Place of Ezra and Nehemiah in the Origins of Judaism* (Grand Rapids, Mich: William B. Eerdmans Pub. Co, 2009).

it could look to the Bible for the roots of their culture and religious practice. But the same can be said for those communities which became Christian, Gnostic, Manichaean, etc. Many communities asserted legitimacy for their faiths by claiming that they were the logical continuation of biblical writing or prophecy. My complaint about Blenkinsopp is that his title conveys more of a case than he makes in the book. Ezra is, if anything, a rejection of the notion that anyone can join the Israelite nation. In Ezra's time, people might (reasonably or not) claim to know the tribal affiliation or their ancestors.²¹ The rabbis of the Mishnah, on the other hand, surveyed an ethnic landscape in which no one could identify their original tribe, and many likely entered the community via some sort of conversion process.

Daniel Boyarin's *Border Lines* represents one of the most innovative approaches to this discussion in recent years.²² In essence, Boyarin has concluded that most of the conversation regarding "Jew" and "Judaism" (at least in the period we are discussing) did not occur among "Jews." It was, rather, a Christian construct. For Christians, Boyarin claims, it was vital to construct a group of people to serve as the "other" who believe in a set of principles they regarded as passé. Boyarin has recently updated his reflections on the

²¹ For example, examine the list of people who can cite their ancestry in Ezra 2 and Nehemiah 2. Note that Matthew begins with the sort of genealogical demonstration of authenticity that is expected for anyone claiming ethnic heritage with the Israelites. In Philippians (3:5) Paul says, "circumcised on the eighth day, a member of the people of Israel, of the tribe of Benjamin, a Hebrew born of Hebrews; as to the law, a Pharisee" (NRSV). By the time of the Mishnah, this type of genealogy has all but vanished from Tanaitic discourse. The famous Rabbi Aqiva, for example, is not identified by any ancestral source (medieval accounts suggest his parents were converts). Hillel the Elder supposedly descended from the tribe of Benjamin on his father's side, Judah on his mother's, but this is not recorded in Tanaitic sources: the earliest mention is a story in the Babylonian Gemara, Ketubot 62b, and this depends on an account of the heritage of Judah HaNasi as mentioned for the first time in an aggadic source several centuries after the fact. The lack of interest in genealogy may reflect ignorance, or perhaps the knowledge that few if any of the Tannaim had convincing evidence of their heritage.

²² Daniel Boyarin, *Border Lines: The Partition of Judaeo-Christianity*, Divinations: Rereading Late Ancient Religion (University of Pennsylvania Press, 2006).

challenge of understanding the term Judaism with a monograph devoted to the subject.²³

While I accept in large measure the points that Boyarin makes both in this volume and in his subsequent *Judaism: The Genealogy of a Modern Notion*, for my purposes it leaves a vacuum: I still need to find terminology which suitably describes the authors of the texts I study and the people and communities that used them. Boyarin is wrestling with a philological and theoretical framework for concepts beginning with the idea of religion itself. Does the whole notion of “religion” begin with some Christian invention of the concept? Is “Judaism” merely a foil for what Christianity is not? Boyarin is arguing that the absence of a term indicates the absence of the underlying concept. That is a bridge too far for me.²⁴ I am looking at a text which served some function for some social group. If they are not “Jews” and if they are not practicing some form of “Judaism,” then who are they and what do they practice?²⁵

²³ “Precisely on Josephus’s witness and in accord with the view of Mason, they regard themselves as one of the ‘family of nations,’ so to speak. Translators and historians in their wake go on blithely referring to Josephus’s Judaism, thus inventing an entity that I would claim is a chimera borne of looking backward through a telescope from our time to theirs.” Daniel Boyarin, *Judaism: The Genealogy of a Modern Notion*, Key Words in Jewish Studies (New Brunswick, New Jersey: Rutgers University Press, 2018), p. 59.

²⁴ As Adele Reinhartz noted in a rebuttal to Boyarin, psychologists and linguists have long disputed the idea that vocabulary is required to establish that a person understands a concept. Pre-verbal children understand gravity before they can understand the word. There are numerous words in the vocabularies of other languages which we understand even though we do not have the equivalent in English such as the Scottish “tartle” which means the hesitation one feels when introducing someone whose name one has forgotten. Reinhartz concludes on this topic, “Research as well as common sense argues against Boyarin’s instinctive conviction that the absence of a word in a given language denotes the absence of the concept from those who speak and write in that language.” <https://marginalia.lareviewofbooks.org/word-beginning-relationship-language-concepts/> accessed 9/28/2019.

²⁵ Boyarin, *op. cit.*, for example: “The question of when Christianity separated from Judaism is a question whose answer is determined ideologically. We need always to ask: Whose Judaism; whose Christianity? Shall we make the determining point an act of inner-Jewish hostility to certain authorities that we choose now to name ‘the Jews,’ or are we looking for something else, and if so, what? What is revealed and concealed in this or that way of framing or defining the issues, in seeing Christianity as separate from Judaism *ab ovo* or in claiming that ‘it takes an army’ to separate them?” Kindle Edition, loc. 340. Since the publication of *Border Lines* Boyarin has continued to publish on this topic. In 2018, Boyarin wrote, “Why Ignatius Invented Judaism,” in *The Ways That*

Steve Mason argues that for the period from 200 BCE to 200 CE the ancient literature uses the term *loudaioi*, members of an ἔθνος, in the same way that ancient authors treated the peoples of other lands who may have been living elsewhere but retained their association with their land of origin. The Greeks of Alexandria considered themselves Greeks and not Egyptians—which makes the struggles of people like Philo all the more intriguing as he retained his identification as one of the *loudaioi* but insisted that *loudaioi* should be entitled to Alexandrian citizenship. Ultimately this is an economic struggle: citizenship conveyed all sorts of advantages in establishing businesses, managing the tax burden, setting status in law courts, etc. But, as Mason notes, ancient authors seemed to have no need to associate a gentile with religious practice. There were *loudaioi* but there was no *Ioudaismos*—no “Judaism.”²⁶ What this means in practical terms is that we should call the people who included themselves with others of this ἔθνος “Judeans” rather than “Jews.” The latter term should be reserved for identifying the religious group only at such time that we can determine there is such a notion common among the people so designated.

Often Parted: Essays in Honor of Joel Marcus, ed. Lori Baron et al., Early Christianity and Its Literature, number 24 (Atlanta: SBL Press, 2018), 309–23. Here he presents a lengthy argument which, however, involves no trace of Judaism (however that might be defined) but instead focuses on how a Christian might define Judaism. This issue of the “parting of the ways” has become something of a cottage industry. Just a small and somewhat random sampling of the discussion might include the essay in 1980 by Lawrence H Schiffman, “At the Crossroads: Tannaitic Perspectives on the Jewish-Christian Schism,” in *Jewish and Christian Self-Definition Vol. 2*, ed. E. P Sanders (London: SCM Press, 1980), 115–56; Philip S. Alexander, “‘The Parting of the Ways’ from the Perspective of Rabbinic Judaism,” in *Jews and Christians: The Parting of the Ways, A.D. 70 to 135: The Second Durham-Tübingen Research Symposium on Earliest Christianity and Judaism (Durham, September 1989)*, ed. James D. G. Dunn (Grand Rapids, Mich: W.B. Eerdmans, 1999), 1–26; and Annette Yoshiko Reed and Lily Vuong, “Christianity in Antioch: Partings in Roman Syria,” in *Partings: How Judaism and Christianity Became Two*, ed. Hershel Shanks (Washington, DC: Biblical Archaeology Society, 2013), 105–32.

²⁶ This is by necessity an oversimplification of a lengthy discussion. For the details, see Steve Mason, “Jews, Judeans, Judaizing, Judaism: Problems of Categorization in Ancient History,” *Journal for the Study of Judaism* 38, no. 4–5 (2007): 457–512.

Moving outside Cynthia Baker's four pillars, Philip R. Davies published a monograph entitled, *On The Origins of Judaism* in 2011. Early in this work he says, "...the loss of the Jerusalem temple caused Judaism to mutate into a geographically decentred religion without priesthood or sanctuary or sacrificial cult."²⁷ But what sort of "mutation" is this Judaism? Davies notes that continued exposition of new finds such as the writings from the Judean Desert attest to vibrant diversity of religious culture, but wonders, in my opinion correctly, why we needed evidence beyond the long-attested Pseudepigrapha for that.²⁸ On the issue of terminology, Davies senses that there is a problem with the common "Judaism" and attempts to solve it by writing it as "Juda-ism." Davies believes that something resembling this Juda-ism begins to be identifiable in the Maccabean era with sensibilities that the ancestral beliefs recorded in Torah are in contrast to Hellenism. I find the suggestion somewhat bizarre given the fact that the literature of the times makes it abundantly clear that the Hellenizers are members of the same Judean population as the anti-Hellenizers. And even if one wants to argue that for some brief period after the Maccabean revolt the anti-Hellenizers had the upper hand, surely it also clear that the process of Hellenization and sympathy for its ideals soon permeated the culture of the Judeans.²⁹

Of the various proposals, I find Mason's views the most helpful in constructing a framework for my project. The problem that I face is that I am speaking about a group of

²⁷ Philip R. Davies, *On the Origins of Judaism*, BibleWorld (London ; Oakville, CT: Equinox, 2011), p. 1.

²⁸ Davies, op. cit. p. 8.

²⁹ Davies, op. cit. p. 33. To be fair, he agrees that "The pictures I have sketched (there can be no single picture) do not constitute a history of Early Judaism, but suggest some issues that ought to be paramount in writing and that cast doubt on a good deal of current reconstruction."

people who clearly have some notion that they are bound together by common religious beliefs even if there is a conspicuous lack of some sort of label for those beliefs. It should not be a mystery that people have some views in common and others in difference throughout history. There were differences among Greeks (Athenian and Spartan culture and undoubtedly difference within those groups), Romans at any phase of Roman history, etc. A person might characterize themselves as Roman and yet have radically different ideas about what the term means from others. How else can one explain the arguments of Cato and Caesar and Cicero? And of course, Christians early and late had enormous differences of opinion on important topics such as the nature of Christ. Really, the odd thing is that so many investigators have imagined that the inhabitants of Judea and environs would have some uniform view of theological topics. In view of these uncertainties, I will characterize the people who lived in some accordance with the ancient religious literature of Judea as “Judeans” regardless of whether they live proximate to Judea or not. This is not unusual for the social milieu of the Hellenistic and Roman Mediterranean region. Romans had very concrete notions of Romans who need not have resided in Rome to be considered citizens (e.g. Paul) and much of the controversy between Greeks and Judeans in Alexandria centered on questions of the separation of ethnic origin from nationality. And I will speak of the religious practices which are described in the Mishnah and the Tosefta as “rabbinic Judaism.” In my view, this is the best solution to the terminological problem.³⁰ The Mishnah

³⁰ The editor of *Biblical Archaeology Review*, Hershel Shanks, published a collection of articles in 2011 which he called *Christianity and Rabbinic Judaism: A Parallel History of Their Origins and Early Development* (Washington, DC; Upper Saddle River, NJ: Biblical Archaeology Society; Pearson, 2011). The article by Shayne Cohen contained in that collection is entitled “Judaism to the Mishnah 130-220 C.E.” In other words, for Sh. Cohen, there is no

is hardly a work of uniform theological discourse. Nor does it anywhere set forth a doxology that would allow us to measure whether various people properly belong or should be excluded from its boundaries. But at least it allows us to place a marker that is better than the generic words “Jew” and “Judaism.” Rabbinic Judaism is readily distinguishable from Temple-based Israelite worship, Essenism, Samaritanism, or Pharasaism, even if the last group might be regarded by some as the spiritual ancestors of the Mishnah.

Prior to the time of the Mishnah, the people who claimed a connection to the Torah, or to other books included in the Hebrew Bible (and in collections in the Greek translations, which include many books non-canonical to rabbinic Jews) all acknowledged the requirements of the Torah to obey the commandments related to religious ritual. The very term *canonical* puts us into difficult terrain as the definition of that term is by no means clear.³¹ Most scholars agree that the “Law” (*Torah*) was already fixed as the first five books of the Bible as we have it today centuries earlier than the focus of this dissertation, so for our purposes that part of the “canon” can be presumed.³² But it is abundantly clear that within the time frame viewed by the authors of the Mishnah, different groups had different ideas about which books should be included. Many of the works that ultimately found their way

need to use the term “Rabbinic,” Judaism is a sufficient qualifier. Louis Feldman begins his contribution to the essay collection, “Perhaps no century in the entire history of Judaism saw more revolutionary changes than the first century of the common era.” (Shanks, *op. cit.*, p. 1). For Feldman, there was “Judaism” prior to the first century, and Judaism after the first century, and although he can speak of change, it is all Judaism. I beg to differ.

³¹ By this I do not mean that the modern understanding of the term is unclear, but rather that the application of the term both in Antiquity and in modern times can result in different conclusions for different groups.

³² However, I am certainly not arguing that merely because the members of a large group accepted the notion that the Torah was a complete collection that all members of the group agreed on what that means. Obviously, a person such as Philo could have radically different notions about how the various traditions listed in the Torah might be interpreted or followed.

into the Apocrypha and works clearly sacred to groups such as those who collected a library at Qumran, demonstrate the fluidity of the canon through the first few centuries of the Common Era. At least from the time of the promulgation of Deuteronomy (again, a matter of some dispute but certainly several centuries prior to the Tannaim), this meant a single place of sacrificial worship and the presence of authority figures, including priests, royalty, prophets, elders, and charismatic figures such as judges (as the Bible conceived of those roles).³³ Although it is a commonplace that rabbis or teachers are nowhere found to be among the acceptable authority models, somehow most serious scholarly accounts of the century prior to the loss of the Temple and continuing to the time of the Mishnah accept that they must have been present and active. It is perhaps a perfect irony that one of the few places in the literature of the age where we find the word *rabbi* used in this way is in the Christian Bible, where Jesus is occasionally addressed by this title. But those rare incidents need to be treated with caution. In the first place, they all derive from literature that is post-

³³ Although of course not everyone accepted the need for this to be the Temple of Jerusalem. There is an attested case of a site in Egypt at Yeb from the First Temple era in which Judeans offered sacrifices and even petitioned the authorities in Judea to rebuild their Temple after it was destroyed by the native Egyptian population, Eduard Sachau, "Three Aramaic Papyri from Egypt," in *Annual Report of the Smithsonian Institution*, 1907, 605–11. The case of the Temple of Onias in Heliopolis or Leontopolis is intriguing because Josephus seems to regard it as a fully functioning replacement for the Jerusalem Temple by a claimant to priestly lineage with some credibility (*Ant* 17:72, *Wars* 7:426–432). This Temple is also mentioned in the Mishnah (*Men* 13:10) where the authorities concede some limited validity to rituals connected with it. But strangely all these references are from sources dating from a period after the Temple of Onias was destroyed. Judea-Egyptian sources such as Philo have nary a mention of it—and Philo would certainly have been in position to use its services. Another famous Temple regarded as having the sanctity of the Temple of Jerusalem was that of the Samaritans on Mt. Gerizim. Although this Temple was destroyed by the Hasmonean king Jonathan Hyrcanus (Josephus *Ant* 13:255ff.) the Samaritans continue to worship at the site and indeed continued to offer sacrifices such as the Passover offerings there Matassa, Lidia Domenica, John Macdonald, Benyamim Tsedaka, Ayala Loewenstamm, Haïm Z'ew Hirschberg, and Shlomo Hofman. "Samaritans." In *Encyclopaedia Judaica*, 2nd ed., edited by Michael Berenbaum and Fred Skolnik, 718–740. Vol. 17. Detroit, MI: Macmillan Reference USA, 2007. *Gale Virtual Reference Library* (accessed June 13, 2019). <http://link.galegroup.com.proxy.lib.utk.edu:90/apps/doc/CX2587517382/GVRL?u=knox61277&sid=GVRL&xid=3ec2ba0d, p. 729ff>).

Temple,³⁴ and in the second, the title can simply convey the simple meaning of “Master” and need not mean “Rav”, “Rabban”, or “Rabbi” as Tanaitic literature would see such roles.³⁵

I am under no illusion that my distinction, admittedly arbitrary and against the grain of most modern scholarship and popular formulations, will carry the day. Lay people and scholars alike will no doubt continue to name the people of the Bible, Apocrypha and Pseudepigrapha, and the Christian Bible “Jews.” But because the focus of this dissertation is that “border line,” the boundary between the biblical and rabbinic periods, at least for this time and space I argue that it is important to use terms that do not prejudice the discussion. The religious formulation of the Mishnah forms the core of what will become known ever after as “Judaism.” In this dissertation I am not particularly interested in any separation of “Judaism” (however that might be defined) from Christianity, but rather whether we can see, through the lens of the Passover Seder, any development of an identifiable type of religious observance specific to rabbinic Judaism. It is a religion which concedes that the Temple and

³⁴ James Crossley has recently (2004) argued that Mark is much older than the prior consensus representing traditions about Jesus being a “Torah” adhering Jew as early as about 40 C.E. His views have not received wide adoption, with all recent handbooks and treatments retaining a date at or just before the destruction of the Temple in 70 C.E. Jesus is called ῥαββί in Mark at 8:5, 11:21, and 14:45. Nevertheless, even if the earlier dating is correct, all that would be established is that some people use the Hebrew address, “My master” or “My teacher,” but not that Jesus was a Tanna. See further James Donaldson, “The Title Rabbi in the Gospels: Some Reflections on the Evidence of the Synoptics,” *The Jewish Quarterly Review* 63, no. 4 (1973): 287–91, <https://doi.org/10.2307/1453806> and James G. Crossley, *The Date of Mark's Gospel: Insight from the Law in Earliest Christianity*, Journal for the Study of the New Testament 266 (London ; New York: T & T Clark International, 2004).

³⁵ John 20:16 famously not only uses the title rabouni but mentions that it is from the Hebrew: λέγει αὐτῇ Ἰησοῦς, Μαριάμ. στραφεῖσα ἐκείνη λέγει αὐτῷ Ἑβραϊστί, ραββουνι, ὃ λέγεται διδάσκαλε. Novum Testamentum Graece, Nestle-Aland 28th Edition. *Jesus said, 'Mary!' She turned round then and said to him in Hebrew, 'Rabbuni!' -- which means Master.* (The New Jerusalem Bible s.v.) Other editions omit the word Ἑβραϊστί, e.g. the Byzantine text. The text of John, it should be noted, is certainly post-Temple. This is important because we need to ask when people began to address an authority figure via some variant of “rabbi.” This text does not penetrate to the Temple era.

purity are important, but nevertheless posits that worship may occur anywhere in the absence of the Temple whether in Jerusalem or anywhere else, and whether practitioners are in a state of purity or not, a religion which holds that teachers who have learned a variety of traditions which may be related to the Torah, but are often antithetical to that Torah, to be the primary source of authority on questions of religious practice.³⁶ The Mishnah is nothing less than the bold assertion of the rabbis that it is they rather than priests, prophets or kings who control religious authority for all who consider themselves part of Israel.

Traditions After the Temple, And Before

The destruction of the Temple is a watershed moment. Change rarely takes place overnight, and it is not surprising that we do not find the Tanaitic literature flourishing until two hundred years after that point. After all, the Bar Koseba³⁷ rebellion sought to reestablish the Jerusalem capital and restore the Temple after an interval of about the same time as was

³⁶ There is, of course, a recognition within the early rabbinic community that some authority resides with secular institutions such as the Patriarchate in the Land of Israel and the Exilarch in Babylonia. Martin David Goodman, *Rabbis* (Oxford University Press, 2012), <https://www.oxfordreference.com/view/10.1093/acref/9780199545568.001.0001/acref-9780199545568-e-5493>.

³⁷ The precise name of the individual who led the rebellion is difficult to establish. The most common appellation is “Bar Kokhba” which appears to be a reference to Numbers 24:17 אֲרָאֵנִי וְלֹא עָתִידָה אֲשִׁירָאֵנִי וְלֹא קָרוֹב דָּרִידָה כֹּכָב מִיַּעֲקֹב וְקָם שִׁבְט מִיִּשְׂרָאֵל וְיָחִץ פְּאֵתִי מוֹאָב וְקָרַקַר כָּל-בְּנֵי-שֵׁת׃ I see him, but not now, I see him, but he is yet not close, A star shall come from Jacob, a scepter from Israel, and it will crush the Moabites and destroy(?) the people of Seth. A puzzling verse whose very lack of certain translation likely contributed to its mystical power. Other texts refer to this man as Ben Koziba which means “the liar.” Using the name Ben Koseba is a neutral ground neither conveying nor denying the interpretation and has the advantage of being the most likely candidate for his real name. For example, one letter from Wadi Muraba‘at begins, מִשְׁמַעוֹן בֶּד כּוֹסְבָא from *Simon bad Koseba*. (The “bad” for “bar” is curious and is likely a transcription error as the dalet and resh were often indistinguishable one from the other.) Regarding the spelling of his name, it seems to have been quite fluid since even in his own letters as they contain no less than three variants. Samuel Abramsky and Shimon Gibson, “Bar Kokhba,” in *Encyclopedia Judaica*, ed. Michael Berenbaum and Fred Skolnik (Macmillan Reference, 2007), p. 160.

the case for the reestablishment of the Temple after the first Temple's destruction and the return from exile. Consider that the generally accepted date for the destruction of the First Temple was 586 BCE. According to the book of Ezra (and with obvious modern calendrical manipulation) the Second Temple was started in 538 BCE, which is a period of 48 years. But that Second Temple was not finished for another 23 years, so that could be thought of as 71 years. 48 years after the destruction of the Second Temple would have been the year 118 CE which was a period of tremendous Judean unrest throughout the Roman Empire. 71 years after 70 takes us to 141, a few years beyond the Bar Koseba revolt (ended about 135 CE). Hadrian died in 138 to establish one more milestone that might have had repercussions for Judeans (and others) throughout the Roman world. The point is that people would have been looking throughout the period from 118 to 141 for the Temple to be restored on a timetable that could be related to the events of the period between the first two Temples.

Setting aside prophetic expectations, among the various groups of Judeans who survived the war of 66-73, there must have been a lively discussion of, "what next?" How does worship of the ancestral religion continue given the mandate to worship (which meant "sacrifice" to most Judeans) exclusively in the Temple of Jerusalem? What role if any belonged to the *Kohanim* (priests) and *Levi'im* (Levites) who survived the war? Were they still owed the tithes and other privileges of leadership if they could not perform their official duties? Although the record is not entirely clear, it appears that the Samaritans continued to worship in accordance with their version of the *Torah* despite the lack of a Temple atop Mt.

G'rizim.³⁸ We should also note that the Romans apparently wasted little time leveling the other competing Temple, the one in Leontopolis (Egypt), apparently around 75 CE.³⁹

Some people with attachment to the religion of Judea must have found ways to satisfy their religious needs without going on pilgrimage. As far we know, even a wealthy person like Philo went to Jerusalem just once. He writes positively of that experience,⁴⁰ but what did he do to satisfy his religious obligations other than that one pilgrimage? We know

³⁸ All historical sources agree that there was a turbulent relationship between Samaritans and Judeans, and indeed between Samaritans and the Romans over the period of concern here. The Samaritan Temple was apparently destroyed by the Hasmonean ruler John Hyrcanus around 128 B.C.E., reported by Josephus twice: Wars 1:62f and Antiquities 13:254ff. Although the Samaritans were never permitted to rebuild their Temple by any of the legal authorities which subsequently controlled the Samaritan territory, they continued to regard Mt. Gerizim as their holy place and there is considerable evidence that they continued to worship there, although there were likely gaps during various hostilities and persecutions. There is an abundance of circumstantial evidence for this continued interest in Mt. Gerizim in a variety of literary sources including Josephus, the Christian Bible (for example, Acts 8:4, Luke 10:30–37; 17:16; John 4). Archaeological excavations conducted by the Israeli scholar Yitzhak Magen and the American Robert J. Bull have produced voluminous data ranging from the likely foundations of the original Samaritan Temple to coins and inscriptions which show continuous use of Mt. Gerizim through the period after the destruction of the Temple. Bull, Robert J., and G. Ernest Wright. “Newly Discovered Temples on Mt. Gerizim in Jordan.” Robert J. Bull and G. Ernest Wright, “Newly Discovered Temples on Mt. Gerizim in Jordan,” *Harvard Theological Review* 58, no. 02 (April 1965): 234–37, <https://doi.org/10.1017/S0017816000031345> and Ephraim Stern and Yitzhak Magen, “Archaeological Evidence for the First Stage of the Samaritan Temple on Mount Gerizim,” *Israel Exploration Journal* 52, no. 1 (2002): 49–57.

³⁹ Joan Taylor, “A Second Temple in Egypt: The Evidence for the Zadokite Temple of Onias,” *Journal for the Study of Judaism in the Persian, Hellenistic, and Roman Period* 29, no. 3 (1998): 297–321. As Taylor documents, it is by no means possible to reconcile various accounts of the creation or location of this temple, but there seems to be sufficient evidence to conclude, at least, that it did exist and serve some sort of cultic purpose for Judeans living in Egypt, and see also sources cited above.

⁴⁰ Although it is virtually an aside which didn’t seem to require an extended description: “There is a city on the sea coast of Syria called Ascalon. While I was there at a time when I was on my way to our ancestral temple to offer up prayers and sacrifices I observed a large number of pigeons at the cross roads and in each house, and when I asked the reason I was told that it was not lawful to catch them because they had been from old times forbidden food to the inhabitants. In this way the creature has been so tamed by its security that it not merely lives under their roof but shares their table regularly and takes delight in the immunity which it enjoys.” *On Providence* 2.64 in Philo, *Philo: in ten volumes (and two supplementary volumes). 9: ...*, trans. Francis Henry Colson, Nachdr., The Loeb classical library 363 (Cambridge, Mass.: Harvard Univ. Press, 2007). Jean Daniélou points out in Jean Daniélou and James G. Colbert, *Philo of Alexandria* (Eugene, Oregon: Cascade Books, 2014). Kindle loc. 789, p. 28) “Let us add that there is no reason to believe it was his first trip to Jerusalem. Given the attraction Jerusalem exerted at the time of the great feasts, the proximity of Alexandria in relation to Ascalon, the great wealth of Philo, whose brother was a ship-owner, and his ties to the Palestinian Herods, it would be very strange that he should have had no occasion to go to Palestine.” Could Philo have gone more often? Certainly, but in his voluminous writings we have no other mention of it.

that he was capable of even longer journeys because he devotes one of his books to a description of a mission to Rome undertaken on behalf of the Judeans who lived in Alexandria.⁴¹ Therefore it is likely that Philo's various meditations on allegory and mention of prayer sufficed to fill his needs. He almost certainly paid the annual contribution for the maintenance of the Temple, and perhaps that also counted for fulfillment of his religious duties. But note that if he did not sacrifice in Jerusalem, he had no need for any of the other trappings of the sacrificial cult: the priesthood or any of the vast infrastructure that existed to support the Temple.

Given those considerations, and understanding the world assumed by the Mishnah, should we not expect that Philo would know something of the masters the Mishnah mentions during this period? If we do, we will be sorely disappointed because Philo knows no more about them than he does about the putative Temple of Onias. That does not, of course, prove that the rabbis named in the Mishnah are fictional characters. The Christian Bible mentions one of the sages also frequently mentioned in the Mishnah, namely one Gamaliel, in Acts 5 and 22.⁴² But here we enter a particularly difficult chronological problem.

⁴¹ Philo, *The embassy to Gaius. Indices to volumes I - X*, trans. Francis Henry Colson, Repr, Philo, in ten volumes (and two supplementary volumes) / with an Engl. transl. by F. H. Colson ...; 10 (Cambridge, Mass.: Harvard Univ. Press, 2004), pp. 7ff. The trip from Alexandria to Rome must have taken considerably longer and been far more arduous than a trip to Jerusalem given the distance differential. Rome is 1200 miles (as the crow flies) from Alexandria compared with about 300 to Jerusalem.

⁴² Acts 5:34 I should note that while Gamaliel is mentioned as a "Pharisee" (Φαρισαῖος) but not given the title or addressed as "rabbi" or any other compound of that Hebrew/Aramaic term. He is further described as νομοδιδάσκαλος a "teacher of the law", but that does not allow us to presume that he had views in consonance with third-century sages. Gamaliel is also mentioned in Acts 22:3 in which Paul self-identifies as a person educated by him. It is worth mentioning in our discussion of nomenclature that Paul states that he is, ἐγὼ εἰμι ἄνθρωπος Ἰουδαῖος which every major translation renders as "I am a Jew" despite the fact that the Greek clearly means, "I am Judean man." Gamaliel is mentioned to support Paul's claim that he is learned in the "Law," but that term is explained as τοῦ πατρῶου νόμου which means "the rules of the ancestors" and

Despite the traditional attribution to Luke (which itself was written after 70), Acts was written significantly after the Temple was destroyed.⁴³ Paul, in his own writings, including especially the seven letters regarded by most scholars as substantially authentic, never mentions Gamaliel or any other authority included in the Mishnah.⁴⁴ With respect to Josephus, there is no reason here to discuss his description of Pharisees at length. All of Josephus's surviving works were composed after the Temple was destroyed. Even so, he does not mention Gamaliel or other prominent teachers later authorities would connect to "sages" or "rabbis."

We can conclude that there are no sources dating before the year 70 that identify the rabbinic personages named in the Mishnah. All such traditions are post-70, at least by decades. Scholars have long attempted to construct episodic history from the time when the Temple stood to the early third century by connecting various named authorities (or in some case, vaguer labels such as "Beit Hillel"—the House of Hillel).⁴⁵ But when a historical document, written with no small amount of hindsight, makes mention of an earlier event or personage, how much credence do we attach to that recollection? There are two extreme

need not mean anything resembling the traditions collected in the Mishnah. In fact, it is more logical to imagine that Paul simply intended the Pentateuch, not anything external to it—otherwise he (or the author of Acts) would likely have explained it as such.

⁴³ Common estimates begin at 80 CE with the consensus using terms such as "early second century." See for example, Margaret Mary Mitchell, Frances M. Young, and K. Scott Bowie, eds., *Origins to Constantine*, Cambridge History of Christianity, v. 1 (Cambridge ; New York: Cambridge University Press, 2006), p. 188.

⁴⁴ The literature on this topic is vast. See for example, Mitchell, etc., p. 106.

⁴⁵ The start of many a modern student's education is Hermann Leberecht Strack, *Introduction to the Talmud and Midrash*, 1st Fortress Press ed (Minneapolis: Fortress Press, 1992) in which the sages of the Mishnah, Tosefta and the Midrash are arrayed in neat layers demonstrating the continuity of the tradition. But as we have just demonstrated, with the possible exception of Gamaliel, none of these personages can be traced to any contemporary documents.

positions. First, we can say that the Mishnah, while subject to the vagaries of human memory, is substantially accurate in its attributions. Or second, the Mishnah remembers only what contemporaries claimed to know of earlier ages and paints those recollections in contemporary terms closer to the time of its publication.⁴⁶ Some intermediate solution is also possible which would consist of a spectrum of opinions that might have a varied degree of veracity, with the likelihood that veracity would improve the closer one gets to the publication era of the Mishnah.

Within the text of the Mishnah, we have numerous statements describing the life, times, and legal positions of dozens of people who can be associated with various unquestionably historical events (because we can find corroborating evidence in other sources) such as wars, famines, and earthquakes. The Mishnah as well as other Tanaitic collections also name people outside their own boundaries such as various emperors, kings, governors, and generals also known from sources external to the Mishnah.⁴⁷ The Bible, especially the Pentateuch, contains a myriad of detail not sufficiently explained that a person could know what it intended or what needed to be done, and the Mishnah supplies much of that detail. What is difficult to determine is how much of that detail is accurate.⁴⁸ For

⁴⁶ Some might suggest an even more extreme position—that the Mishnah was made up of whole cloth, a fantasy with no basis in history whatsoever. It seems to me that both this position, and the position which presumes substantial accuracy, are based on religious rather than historical arguments. Those who put their religious faith in the Mishnah as a foundational argument regard it as an accurate witness to earlier history, those who would deny credibility of early Judaism might suggest that it is a fantasy.

⁴⁷ Note that we should not include works such as the Tosefta or the early midrashic collections as corroborating sources, because these all consist of the same layers of traditional material which might belong to a common substrate. Therefore, corroborating sources include books outside the rabbinic community entirely such as the works of Josephus, other Greek and Roman authors, inscriptions, etc.

⁴⁸ By “accurate” I mean detail that would have been recognizable to those who might have been familiar with the Temple, its service and the realia of life in those times while it stood.

example, Leviticus 19:23 prohibits the consumption of fruit from a tree for the first three years the tree produces fruit. At first glance the instruction seems easy to follow. But in practicality, problems soon emerge. What must be done to assure that the fruit isn't eaten? What if the fruit is used to create a dye for garments? Is that prohibited as well as eating it? Can we even determine exactly which fruits are subject to the restriction? The Mishnah contains a tractate (treatise) which attempts to answer many of these questions interestingly enough called *Orlah* which means "uncircumcised."⁴⁹ Various people who lived before the publication of the Mishnah are said to voice their opinions. But how historical is any of this information? It is beyond question that the issues related to *orlah* existed long before the time of the Mishnah. But to what extent should we believe that the opinions of those quoted in the Mishnah were followed by priests, kings, governors, or even the common people living before the time of the Mishnah? And even if the people quoted did live and teach in the two centuries before the Mishnah, how certain can we be that they are being quoted accurately?⁵⁰

Introduction to the Passover Holiday

A recognition of these textual and historical uncertainties forms the necessary background to any analysis of the observance of Passover. In the modern religion of

⁴⁹ The verse (Lev 19:23) uses forms of the word "uncircumcised" three times:

וְכִי־תֵבְאוּ אֶל־הָאָרֶץ וְנִטְעַתֶּם כָּל־עֵץ מֵאֲכָל וְעֵרְלֶתֶם עֵרְלֹתוֹ אֶת־פְּרִיָּו שְׁלֹשׁ שָׁנִים יִהְיֶה לָכֶם עֵרְלִים לֹא יֵאָכֵל:

⁵⁰ An example of the type of work which can emerge from the uncritical use of rabbinic sources is Finkelstein, *Akiba*. (originally published in 1936). In his own consideration of Aqiva, Hammer, *Akiva*, Reuven Hammer explains in the preface why most scholars regard it as impossible to construct a historically viable biography from the available sources, and the subject is revisited again by Barry Holz in 2017 (in Holtz, *Rabbi Akiva*). In fact, none of these volumes transcends the genre of hagiography and none limn a historically credible biography of Aqiva. And Aqiva is perhaps the best documented (in the sense of reported stories and quotations) of the sages of his era.

Judaism, practically all practitioners agree that Passover should be celebrated in the Spring by convening family and friends, eating a hearty meal, and reciting a liturgy. The meal is usually referred to as the *Seder* which means “arrangement” or “order” and it suggests an elaborate set of courses to be presented in an orderly fashion. The liturgy is called the *Haggadah* which means, the “Story” or the “Retelling.” The Bible in various texts prescribes the Spring meal and contains texts which suggest that a story should be told. The history of Passover as a biblical holiday is fraught with complexity that need not detain us here, but we should review a few pertinent matters.⁵¹

Several chapters of the biblical book of Exodus tell the story of the Israelite departure from Egypt and describe a holiday that should be observed to commemorate that event.⁵² The most pertinent text is found in the twelfth chapter. From this text we can learn the parameters of the holiday. The observance is described as a sacrificial feast including a lamb or goat, eaten with “bitter” herbs, refraining from leavened bread for seven days, and putting a blood sign on the dwelling. The manner in which the meal is to be eaten is spelled out in some detail: footwear on, walking sticks in hand, assuming a stance for quick departure to signify the need for speeding out of Egypt. And the text tells the reader to

⁵¹ Segal, *Hebrew Passover from the Earliest Times to A.D. 70* provides a highly detailed account of what is known about the observance of Passover while the Temple existed.

⁵² A catalog of the biblical verses concerned with the Passover history, liturgy, and sacrifice would look something like this: Ex 12:1-42 (the Passover in Egypt and the aftermath), 43-49 (explaining the rules that should bind the Israelites ever after the Exodus), Ex 13:1-7 (including comments related to the education of children); Lev 23:4-8 (establishing an annual Passover of a full week of abstaining from leavened bread and burnt offerings, with endpoints of special sanctity); Num 9:1-14 (describing the establishment of a second Passover for Israelites who were ritually incapable of celebrating on the normal date); Ezek 45:21-24 (describing the ritual to be performed in the rebuilt Temple); Ezra 6:19-22 (describing the first Passover in the rebuilt Temple); 2 Chron 30:1-27 (describing Hezekiah’s Passover), 35:1-19 (describing Josiah’s Passover).

understand that this is not the instruction just for the generation that experienced the Exodus, but for every generation thereafter. Finally, the instructions explicitly require teaching the event to children.

Exodus continues the description of the requirements of the Passover in Chapter 13. There are two significant additions to the traditions associated with Passover in this passage. First, it demands explicitly that parents educate their children about the meaning of the festival; and second, it proposes a connection between the Exodus and the ancient symbols applied to a hand and forehead which at some later point developed into donning phylacteries.⁵³

It is obvious that according to the Bible this event originally took place in Egypt (or the Sinai) and even by the Pentateuch's own chronology⁵⁴ must have been observed for centuries in various places—40 years in the “wilderness” and several centuries in the period before the monarchy. But Deuteronomy has a somewhat different view of things:

1 Observe the month of Abib and offer a passover sacrifice to the LORD your God, for it was in the month of Abib, at night, that the LORD your God freed you from Egypt. 2 You shall slaughter the passover sacrifice for the LORD your God, from the flock and the herd, in the place where the LORD will choose to establish His name. 3 You shall not eat anything

⁵³ I am not claiming that we know what the biblical author meant by symbols on the hands and forehead. It is obvious that whatever the terms *'ot* and *totafot* might have originally meant, they could not have meant boxes containing scrolls written on a material not generally available in that age in a script that had not yet been devised, cf. Deut 6:8, 11:18, and Exod 13:16, the last being essentially a repetition of the passage above with the addition of explaining the custom of the sacrifice of the first born (which need not detain us here as it has no role in the development of Passover). It is clear that the later interpretation of the term had already become normalized in the late Second Temple period. Scrolls and capsules have been found at Qumran which obviously were used while the Temple stood. Yonatan Adler, “Identifying Sectarian Characteristics in the Phylacteries From Qumran,” *Revue de Qumrân* 23, no. 1 (89) (2007), p. 80 note 1.

⁵⁴ For our purposes, the fact that modern biblical scholars have vastly different ideas about chronology, or even treat the Exodus as ahistorical is unimportant. The people who are the subject of this dissertation all believed that the Exodus was historical and occurred as depicted in their sacred literature.

leavened with it; for seven days thereafter you shall eat unleavened bread, bread of distress -- for you departed from the land of Egypt hurriedly -- so that you may remember the day of your departure from the land of Egypt as long as you live. 4 For seven days no leaven shall be found with you in all your territory, and none of the flesh of what you slaughter on the evening of the first day shall be left until morning. 5 You are not permitted to slaughter the passover sacrifice in any of the settlements that the LORD your God is giving you; 6 but at the place where the LORD your God will choose to establish His name, there alone shall you slaughter the passover sacrifice, in the evening, at sundown, the time of day when you departed from Egypt. 7 You shall cook and eat it at the place that the LORD your God will choose; and in the morning you may start back on your journey home. 8 After eating unleavened bread six days, you shall hold a solemn gathering for the LORD your God on the seventh day: you shall do no work.⁵⁵

The most obvious (and important) difference is that Deuteronomy does not deal with the Exodus narrative except to mention it as an aside. For Deuteronomy, all that matters is how the people should celebrate the holiday. It immediately states that the only place where Passover can be celebrated is “in the place where the LORD will choose to establish His name.” Note that Deuteronomy as a whole is set up as an address made by Moses to the Israelites prior to their entry into the “Promised Land.” Even by biblical standards of historicity, it is strange that the text makes no effort to explain how the Israelites should celebrate Passover given that the “place” will not be available for centuries after the time of Moses. The modern critical perspective explains the issue by placing Deuteronomy much later in Israelite history. If most or all of Deuteronomy was written three hundred years after David conquered Jerusalem, then its author might be forgiven for omitting any reference to how the festival should be celebrated when Judeans/Israelites had no access to either. But

⁵⁵ Deut 16:1-8 (NJPS)

those who lived later than Deuteronomy, later than the return from Exile, had no such conception. For them, Deuteronomy was *Torah* (Teaching or Law) and had been written by Moses at the direction of God. Other than the problem of the site of worship, Deuteronomy also omits any reference to the “bitter herbs.” The prohibition on eating leavened bread is the same as it is in Exodus.

The third passage in the Torah that describes the Passover holiday is found in Leviticus 23:

⁵ In the first month, on the fourteenth day of the month, at twilight, there shall be a passover offering to the LORD, ⁶ and on the fifteenth day of that month the LORD's Feast of Unleavened Bread. You shall eat unleavened bread for seven days. ⁷ On the first day you shall celebrate a sacred occasion: you shall not work at your occupations. ⁸ Seven days you shall make offerings by fire to the LORD. The seventh day shall be a sacred occasion: you shall not work at your occupations. [NJPS]

This brief passage mentions a sacrifice and the prohibition on eating leavened bread. As with Exodus and Deuteronomy it prescribes a week-long festival with the first and last days held to be at a higher level of sanctity than the intermediate days (demonstrated by the directive to refrain from ordinary work). In agreement with the Deuteronomist, Leviticus either knows nothing of or doesn't care to mention a requirement of eating bitter herbs. But Leviticus does require, in distinction to both Deuteronomy and Exodus, sacrifices on every day of the festival.

To summarize what we have learned from this survey of biblical sources, subsequent to whatever period saw the integration of these various sources into a combined text,⁵⁶ in the Spring, Judeans and Israelites commemorated an agricultural festival and combined it with reflections on their sense of the historical origins of their people. They ate no leavened bread for seven days, made various sacrifices (provided that they could attend one of the official Temples), and consumed those sacrifices in traditional ways—one source mentioning a requirement to eat the sacrifice with bitter herbs. Deuteronomy specified that the sacrifice could only be performed in a single location, and even though that location is not named in Deuteronomy, by the end of the Second Temple period of Judean history, there was near consensus that this meant Temple of Jerusalem. The holiday rules also required that parents educate their children as to these customs, and connected the festival to a variety of other ancient customs including various symbols.

Note that this summary reflects only what one might conclude from reading the Torah after the Torah was set and complete in some form. From the perspective of biblical scholarship, these passages might have originated at different times and in different places. Perhaps some communities consumed “bitter herbs” and others did not. Perhaps the priests codified an offering for each day, but other writers did not agree that was necessary. Our subject lies centuries later than the formulation of the Torah as a unified corpus and so for

⁵⁶ It is not necessary to come to any firm conclusion about that date here because even the latest possible dates would be several centuries prior to end of the Second Temple and even longer before the era of the Mishnah, and this is discussed further below.

our purposes, viewing the texts as a whole is justifiable. To put it another way, we are looking at the Passover texts as the author(s) of the Mishnah would have perceived them.

Passover Between the Hebrew Bible and the Mishnah

Jubilees

R.H. Charles, one of the first translators of this work, established its full title as "The Book of the Divisions of the Seasons According to their Jubilees and their Weeks."⁵⁷ Using various linguistic techniques, scholars have demonstrated that the original was in Hebrew, but our current knowledge is based on Latin and Ethiopic versions that seem to rely on an underlying Greek text. There is no certain dating for the work, but the consensus places it one or two centuries B.C.E., which is to say within the period of the existence of the Second Temple. The book is largely concerned with calendrical issues and it is within a number of other intertestamental works (Enoch, some Dead Sea Scrolls) which adopt the solar calendar.⁵⁸ The Passover festival is mentioned several times in Jubilees. First in Chapters

⁵⁷ Robert Henry Charles, *Fragments of a Zadokite Work* (Oxford: Clarendon Press, 1912), 20:1 (cited in Yehoshua M. Grintz, "Jubilees, Book Of," in *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 11 (Detroit, MI: Macmillan Reference USA, 2007), 473–74, <http://link.galegroup.com/apps/doc/CX2587510394/GVRL?u=knox61277&sid=GVRL&xid=7c91658e>.

⁵⁸ Grintz, op. cit. p. 474. A modern version of the concerns of Jubilees can be found with the proposed Hanke-Henry Permanent Calendar. Prof. Steve Hanke argues that the entire planet needs a stable time system. Going beyond the various organizations which have already agreed to follow Greenwich Mean Time, Hanke argues for a solar year calendar adjusted every five or six years by the addition of a leap week. In this proposal, January 1 will always occur on a Monday. The rabbis of the Talmudic era engaged in similar calendrical manipulations designed to ensure that several holidays occurred on specified week days, and of course the Christian Church mandated that Holy Week would always be assigned to the various named days (Good Friday, etc). The author of Jubilees did not carry the day for subsequent religious calendars, but their concerns were widely shared then and now. On the Hanke-Henry calendar, see https://hopkinsnet.jhu.edu/servlet/page?_pageid=1794&_dad=portal30p&_schema=PORTAL30P. Prof. Hanke maintains a web site for the proposal at <http://hankehenryontime.com/index.html>.

17/18, we find a seven-day holiday which is associated with the story of the binding of Isaac. In this case there is no mention of the usual Passover requirements (unleavened bread, bitter herbs, etc.) but only that the holiday should be observed in accordance with the rules for festive occasions. The entirety of Chapter 49 is devoted to the celebration of the Passover.⁵⁹ It repeats the calendrical requirements several times and is primarily devoted to the proper preparation of the sacrifice including the specification that no bones must be broken. It appears that the festival of unleavened bread is something of a parallel holiday to the sacrificial occasion. And there is an allusion to the requirement of conducting the service in haste.

While there is no mention of the biblical requirement of bitter herbs, there is one verse which is redolent of the Seder. At 49:6 we read, “And all Israel was eating the flesh of the paschal lamb, and drinking the wine, and was lauding, and blessing, and giving thanks to the Lord God of their fathers, and was ready to go forth from under the yoke of Egypt, and from the evil bondage.” The scriptural passages do not reference wine as a requirement of the holiday, but if we remove the item of the consumption of the paschal lamb, this verse could serve as a model for the later Seder. Nevertheless, Jubilees seems primarily concerned with situating the biblical observance of the holiday within its own calendrical constraints and envisions no possibility for properly observing the holiday outside the Temple precincts.

⁵⁹ Robert Henry Charles, *The Apocrypha and Pseudepigrapha of the Old Testament in English: With Introductions and Critical and Explanatory Notes to the Several Books*, vol. 1 (Oxford: Clarendon Press, 1913). Text accessed at: <http://wesley.nnu.edu/sermons-essays-books/noncanonical-literature/noncanonical-literature-ot-pseudepigrapha/the-book-of-jubilees/>

The Exagoge of Ezekiel

A play dramatizing the life of Moses and the Exodus has been preserved in fragmentary form by an author variously named Ezekiel the Poet or Ezekiel the Tragedian, in several sources including Alexander Polyhistor, Clement of Alexandria (ca. 200 C.E.) and Eusebius. The date of this work is reasonably assigned to the period 150 – 50 B.C.E. based on its dependence on the language of the Septuagint and the quotations in Alexander Polyhistor who died about 35 B.C.E.

We don't know much about this play other than the fact that it existed. For example, when was it performed, how often, by whom? But the mere fact that a play exists and was popular enough to be recorded at length in several sources demonstrates the power of the story of the Exodus as a matter of the culture of the Judeans living in Egypt (Alexandria?) in the period just before the turn of the Common Era. The focus of most investigators has been establishing the relationship of the incidents recorded to the texts of Exodus account in the Torah (by scholarly consensus completely translated in Egypt by 200 B.C.E.). One of the principle investigators, Harold Jacobson, devotes considerable attention to the question of whether the author might have been working from a Hebrew text of Exodus. While large portions seem to have been cribbed from Scripture, the author feels free to *ad lib* here and there so that the play is much more than just a dramatic reading of the Bible.⁶⁰

⁶⁰ See Howard Jacobson, *The Exagoge of Ezekiel* (Cambridge: Cambridge University Press, 2009); Marshall S. Hurwitz, "Ezekiel the Poet," in *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 6 (Detroit, MI: Macmillan Reference USA, 2007), 649, <http://link.galegroup.com/apps/doc/CX2587506207/GVRL?u=knox61277&sid=GVRL&xid=4740e61f>.

The basic elements of the festival are identical in the Exagoge to the biblical texts: paschal sacrifice, blood on the lintels, unleavened bread, eating in haste. But the very form of this work as a play allows us to see the observance of Passover as one that especially lends itself to dramatic presentation. Indeed, the biblical language describing not only the pageantry of any sacrificial festival, but the flourishes of smearing blood on the lintel and instructing fathers in the manner in which they must convey this information to children is redolent of drama. It would take Cecil B. DeMille to foster the special effects that would illustrate a film production, and yet we see already in the first century B.C.E. in the Exagoge's manipulation of discourse an attempt to create that drama in the eyes of an audience.⁶¹

Philo of Alexandria

Among the most prominent of ancient authors writing about the community of people who regarded the Torah as sacred, Philo lived and wrote in Alexandria (Egypt) during the first four decades of the Common Era. The vast literatures of the rabbis contain not a word about a person who must have been among the best-known spokespersons of one of the largest and wealthiest communities of Judeans in the world. The preservation of a considerable quantity of his writings is owed to the Christian Church. The author of the biographical entry on Philo in the *Encyclopedia Judaica* writes, without a trace of irony, "His Jewish training seems to have derived from growing up in a traditional Jewish home, but

⁶¹ Jo-Ann A. Brant, "Mimesis and Dramatic Art in Ezekiel the Tragedians' Exagoge," in *Ancient Fiction: The Matrix of Early Christian and Jewish Narrative*, ed. Jo-Ann A. Brant, Charles W. Hedrick, and Chris Shea, Society of Biblical Literature Symposium Series, no. 32 (Atlanta: Society of Biblical Literature, 2005), 129–48.

apparently did not include knowledge of the Hebrew language.” One wonders how this author conceptualized the term “traditional.”⁶²

The point of interest for our investigation is how a Judean living during the period when the Temple was available might have observed a festival designated as among the most important even though he lived too distant from that Temple to personally offer the required sacrifice. In the extant literature, Philo discusses Passover three times.⁶³ Of these, the most important for our topic is Philo’s description of the nature of the Passover sacrifice in *The Special Laws*:

On this day every dwelling-house is invested with the outward semblance and dignity of a temple. The victim is then slaughtered and dressed for the festal meal which befits the occasion. The guests assembled for the banquet have been cleansed by purificatory lustrations, and are there not as in other festive gatherings, to indulge the belly with wine and viands, but to fulfil with prayers and hymns the custom handed down by their fathers.⁶⁴

The mentions of the sanctity of “every” house, festal meal, and “banquet” seem to take on the appearance of a Passover Seder meal. However, in context Philo is clearly speaking about the service in the Temple. The sacrifices are not taking place outside the Temple, and it is

⁶² Yehoyada Amir and Maren Niehoff, “Philo Judaeus,” in *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 16 (Detroit, MI: Macmillan Reference USA, 2007), 59–64, <http://link.galegroup.com/apps/doc/CX2587515715/GVRL?u=knox61277&sid=GVRL&xid=dda386a3>. And see now Erich S. Gruen, “Philo and Jewish Ethnicity,” in *Strength to Strength: Essays in Honor of Shaye J.D. Cohen*, ed. Michael L. Satlow, Brown Judaic Studies, Number 363 (Providence: Brown Judaic Studies, 2018), 179–96.

⁶³ Philo, *Philo: in ten volumes (and two supplementary volumes)*. 9: ..., trans. Francis Henry Colson, The Loeb Classical Library 363 (Cambridge, Mass.: Harvard Univ. Press, 2007), *On the Special Laws* volume 320, p. 304/5, 396-405; *Questions and Answers on Exodus*, Philo, *The embassy to Gaius. Indices to volumes I - X*, trans. Francis Henry Colson, Repr, Philo 401 (Cambridge, Mass.: Harvard Univ. Press, 2004), 1.12, 21-22; and *Life of Moses*, Philo, *Philo: in ten volumes (and two supplementary volumes)*. 6: ..., trans. Francis Henry Colson, The Loeb Classical Library 289 (Cambridge, Mass. { : Harvard Univ. Press, 2002).

⁶⁴ Colson, op. cit. v IX, p. 397.

likely that what Philo means by “house” is the family units which were to meet and consume the sacrifice. In fact, so distant is Philo from the culture of the Seder that his comment “...not as in other festive gatherings, to indulge the belly with wine and viands” is more redolent of an “anti-Seder”—in other words, if Philo knew of such manner of celebrating Passover, he would have condemned it as contrary to Scripture.

A similar passage is found in *Life of Moses*:

In this month, about the fourteenth day, when the disc of the moon is becoming full, is held the commemoration of the crossing, a public festival called in Hebrew *Pasch*, on which the victims are not brought to the altar by the laity and sacrificed by the priests, but, as commanded by the law, the whole nation acts as priest, each individual bringing what he offers on his own behalf and dealing with it with his own hands.⁶⁵

As in *On the Special Laws*, this passage cannot indicate any celebration external to the Temple precincts. The altar to which each household brought the victims was the one altar in the one Temple.

Philo’s most extensive meditation on Passover is found in Questions and Answers on Exodus.⁶⁶ Philo interprets Scripture and explains in his own interpretation the meaning of the holiday. He mentions the main requirements of the festival including the sacrifice, unleavened bread, and bitter herbs. He also focuses attention on the Scriptural requirement to perform the statutory elements in haste. His comment on Ex 12:7 is intriguing because it afforded him an opportunity to situate the holiday in the home rather than the Temple:

⁶⁵ Colson, op. cit., v. VI, pp. 560-561.

⁶⁶ Colson, op. cit. v. X pp. 10-29.

Why does He command (them) to place some of the blood upon the doorposts and upon the lintel of every house?

That is (because), as I said a little earlier, at that time every house became an altar and a temple of God for the contemplative, wherefore He rightly deemed them worthy of making divine offerings of blood upon the front parts of each (house) that they might at the same time, showing contempt of their enemies, sacrifice without fear and, as it were, bear testimony to and show confidence in the greatness and abundance of God's gracious acts. That is the literal meaning. But as for the deeper meaning, it is this. Since our soul is threefold, the heart is likened to the lintel, desire to the house, and reason to the two doorposts. And since each of these parts is destined to move on to righteousness and piety and worthy holiness and to change to other virtues, it is necessary for it to participate in virtue, to which it is kin by blood.⁶⁷

The requirement of the blood on the lintel is seen from the modern perspective as indicative of the fundamental difference between the viewpoint of the author(s) of that passage and Exodus as a whole from that of Deuteronomy, the latter of which centralized religious practice in the Temple. Once Deuteronomy had been accepted as part of the canon, something which clearly happened long before the time of Philo, it became necessary to rationalize religious requirements that are apparently at odds. How can an Israelite whose house is located far from the sanctuary perform the requirement of placing a sacrificial victim's blood on their lintel? But this is not Philo's concern. Rather, he is interested in using hermeneutics to explain what he believes to be the underlying motivations of such laws, and he essentially evades the question of performing the literal requirement. Ultimately, that is Philo's method for understanding the requirements of the Passover holiday. Attending the Temple service when possible, and otherwise discussing the meaning of the holiday in terms

⁶⁷ Ibid., pp. 21-22.

redolent of the Hellenistic philosophies of his times. If anything, his comments reflect a culture that would oppose the later form of the rabbinic Seder—no slow-paced, drunken banquets for Philo.

Paul

The works collected into the Christian Bible are chronologically bifurcated. The large majority of the texts are post-Temple ranging from about the late sixties C.E. for Mark to the early decades of the second century for Acts.⁶⁸ The letters attributed to Paul are likewise bifurcated with seven assigned by almost all authorities to Paul's own composition and the remainder to someone perhaps writing in Paul's name. Obviously anything Paul wrote would by necessity be dated to the period when the Temple stood as the capital of the Judean religion. First Corinthians belongs to this collection, and Paul mentions Passover at 5:7-8: "Clean out the old yeast so that you may be a new batch, as you really are unleavened. For our paschal lamb, Christ, has been sacrificed. Therefore, let us celebrate the festival, not with the old yeast, the yeast of malice and evil, but with the unleavened bread of sincerity and truth."⁶⁹ [NRSV] There is nothing in this instruction that would obviate the external practices of Passover, Paul seems to be suggesting rather a different conception of why the

⁶⁸ The precise dates for the various works are contested, but there is little dispute that the Gospels, Acts and Revelation are all post-Temple. Even Mark, regarded as the earliest Gospel and possibly slightly antedating the Temple's destruction contains material that was added later. See Margaret Mary Mitchell, "The Emergence of the Written Record," in *Origins to Constantine*, ed. Frances M. Young and K. Scott Bowie, Cambridge History of Christianity, v. 1 (Cambridge ; New York: Cambridge University Press, 2006). For Mark, pp. 185-86, for Acts, p. 188.

⁶⁹ ἑκκαθάρατε τὴν παλαιὰν ζύμην, ἵνα ᾗτε νέον φύραμα, καθὼς ἐστε ἄζυμοι· καὶ γὰρ τὸ πάσχα ἡμῶν ἐτύθη Χριστός. ⁸ ὥστε ἐορτάζομεν μὴ ἐν ζύμῃ παλαιᾷ μηδὲ ἐν ζύμῃ κακίας καὶ πονηρίας ἀλλ' ἐν ἄζυμοις εὐκρινείας καὶ ἀληθείας. (1 Cor. 5:7-8 NA28)

community should perform the requirements of the Passover. As far as I know, this is the only passage in the seven Pauline epistles that directly references Passover.

Passover clearly plays an important role in the texts written subsequent to the Roman destruction of the Temple. Luke mentions that Jesus and his family made the annual pilgrimage (2:41). The Last Supper is consistently portrayed in conjunction with Passover, although there are some chronological and logical problems with that designation. Matthew 26:2 places the events leading up to the crucifixion beginning two days before Passover and at 26:17 calls the holiday the festival of unleavened bread (τῶν ἄζύμων). At 26:26 the text reads that Jesus took a “loaf of bread” (λαβὼν ὁ Ἰησοῦς ἄρτον καὶ εὐλογήσας ἔκλασεν). If this was the Passover on its first day, then presumably this would have been unleavened bread, but the author of Matthew uses the term for an ordinary loaf. We shall see that the Tanaitic sources for the Seder also use a word for ordinary bread when presumably *matzah* is being served. In other texts, it appears that the meal was set before the Passover⁷⁰ so that the bread issue would be inconsequential. As always, there are many levels to consider here. Since these texts were written by people not merely after the lifetime of Jesus, but indeed most of these sources after the Temple had already been destroyed—meaning that the Passover sacrifice was at least for the nonce of no issue—perhaps members of some Judean community, perhaps not, to what extent would the details of the requirements of Passover be important to their description of events? In other words, in a world in which people

⁷⁰ The events in John seem to place the Last Supper prior to the beginning of Passover, in which case there would have been no need for mentioning or consuming unleavened bread. Among a few other verses, John 18:28, 39; and 19:14.

ought to be aware of the biblical requirements of the holiday, what could or could not have been done in the absence of the Temple and a functioning priesthood? Another question: who was the audience for these Gospels? If Judeans, perhaps they would have been knowledgeable and concerned about these details, but if Gentiles, perhaps not. And we need to keep in mind that the audience was shifting over these several decades from Judeans to non-Judeans. In the first century, presumably most would have been aware of the Passover stipulations such as unleavened bread, but by the second, perhaps not.

While we have not exhausted the references to Passover in the Christian Bible, we have explored the range of issues to be encountered. The Passover festival was important to the early community of believers in Jesus, but primarily because of the symbolism of Jesus as the sacrificial lamb needed to replace the Temple sacrifice. There is much to say about the Christian adaption of aspects of Passover ranging from discussion of the nature of the Eucharist, to the movement of the Sabbath to Sunday, to the date and importance of celebrating Easter on Sunday (among other milestones). Christian practice would also agree with a need for invoking blessings over wine. But what we do not apparently have is any reason to suggest that Christians of the second or third centuries saw any need to celebrate Passover or Easter with a meal conforming to the requirements that the rabbis would set in Mishnah Pesahim 10.

Passover in Josephus

The lengthy descriptions of Judean life, history and culture in the works of Josephus specific omit any descriptions of the Passover ritual. However, he does comment frequently about the many instances of disruption caused by the massive crowds arriving to assemble in

the Temple area for the festival.⁷¹ Here is an exemplar of an occasion in which Josephus seeks to inform his audience of the nature of the Passover holiday:

At this time there came round the festival during which it is the ancestral custom of the Jews to serve unleavened bread. It is called Passover, being a commemoration of their departure from Egypt. They celebrate it with gladness, and it is their custom to slaughter a greater number of sacrifices at this festival than at any other, and an innumerable multitude of people come down from the country and even from abroad to worship God.⁷²

One issue that is striking to me that with all the voluminous discussion in the considerable quantity of the writings of Josephus we would seem to have the ideal opportunity to witness some sort of change in attitude resulting from the loss of the Temple. Consider that every word of Josephus that we have was written subsequent to the destruction of the Temple. In his review of the books of the Hebrew Bible which constitutes a large part of the *Antiquities*, and in his autobiography, we have complete silence on how communities distant from the Temple might observe the holiday and how he personally could observe it in Rome. For Josephus the holiday does not exist outside the Temple precincts.

This concludes our survey of the sources that mention Passover between the conclusion of the Hebrew Bible and the third century C.E. It is true that there are also mentions of Passover in the Patristic literature, but most if not all are focused on the same issues we have already seen. In this overview we have seen the many different ways in which Passover has been represented, figured, and even staged as drama over the centuries

⁷¹ Mira Balberg provides a comprehensive catalog of Passover references in Josephus, Mira Balberg and Simeon Chavel, “The Polymorphous Pesah,” *Journal of Ancient Judaism* 8, no. 3 (November 13, 2017): 292–343, <https://doi.org/10.13109/jaju.2017.8.3.292>, p. 329.

⁷² Flavius Josephus, *Books XVI - XVII*, trans. Ralph Marcus and Allen P. Wikgren, Reprinted, Josephus Jewish antiquities, 11 [7] (Cambridge, Mass.: Harvard Univ. Press, 1998), p. 265.

throughout the Second Temple period, and the decades following its destruction. It is indeed the “polymorphous Pesah” as Mira Balberg and Simeon Chavel have so aptly characterized it.⁷³ But what we have not seen in these various and multifaceted perspectives is anything resembling the description of the first service of Passover as described in Rabbinic sources. As we turn to the Mishnah, we will find a call to a religious service which is in abrupt contradistinction to almost every other source we have examined.

Passover in the Mishnah

As we will learn in detail in a subsequent chapter, there are significant differences between the celebration of Passover as recorded in the Mishnah and in the Pentateuch. The Mishnah opens with a comment about the necessity of serving even the poorest person in Israel a minimum of four cups of wine. The reader no doubt will notice that the Bible contained not a word about the necessity of drinking even one cup of wine. Indeed, we might ask even at this early stage how exactly the consumption of any wine, much less a fairly substantial amount, could possibly be consistent with the Bible’s vision of the festival. It is, after all, difficult to imagine the original Israelites fleeing Pharaoh’s army while imbibing intoxicating drink.⁷⁴

One scholar has questioned whether the Passover as practiced in post-Temple history has any directly biblical lineage. In 1957 Siegfried Stein, a professor of Jewish Studies at University College, London, noticed what he thought to be substantial parallels between

⁷³ Mira Balberg and Simeon Chavel, “The Polymorphous Pesah,” *op. cit.*

⁷⁴ Although we have noted, *supra*, the mention of wine in Jubilees 49:6 which does seem to allow the notion that drinking wine and carousing are somehow consistent with observing the festival in haste.

the form of the festival meal as described in the Mishnah and Greek festive, ceremonial meals as described in Greek literature such as Plato's *Symposium*, Xenophon's similarly titled work, and especially Plutarch.⁷⁵ The frequent mentions of libations of wine, and even discourses during the meal regarding vegetables struck him as especially notable. An extraordinary argument for Stein's time, perhaps, but it has since become the most widely quoted article describing the origin of the Passover *Seder*.⁷⁶

I return now to Baruch M. Bokser's *The Origins of the Passover Seder* which was based on his doctoral research under the direction of Jacob Neusner.⁷⁷ Bokser argued that many of the affinities Stein saw with Greek custom were culturally widespread and therefore lacked clear relationship to the Seder. He argued that the Seder is more strongly founded on "Jewish" cultural norms than those who found Stein to be persuasive. Bokser and Stein both lived in an academic universe in which attributions were taken as serious reflections of historical reality. For example, Stein writes of Plutarch that he was "a younger contemporary of Rabbi Eliezer, Rabbi Joshua, Rabbi Eleazar ben Azariah, Rabbi Akiba and Rabbi Tarfon,"⁷⁸ as if we can take for granted that the attributions to those characters can be considered evidence of contemporality. Bokser, coming as he did from the program

⁷⁵ Siegfried Stein, "The Influence of Symposia Literature on the Literary Form of the Passover Haggadah," *Journal of Jewish Studies* 8 (1957): 13–44.

⁷⁶ The Hebrew word *seder* literally means "order" but is understood in the context of Passover to mean the festive meal which follows a specific order. Regarding popularity, at the time that I am writing this Google Scholar references 58 citations of Stein's article in scholarly literature. Bokser's book which is essentially a response to Stein collects 141 references. Philip Davies seems to accept the Stein hypothesis in his 2011 volume, "It is also probable that the Jewish Passover meal was influenced, perhaps even inspired, by the banquet." Philip R. Davies, *On the Origins of Judaism*, BibleWorld (London ; Oakville, CT: Equinox, 2011) p. 144.

⁷⁷ Baruch M. Bokser, *The Origins of the Seder* (Berkeley: University of California Press, 1984).

⁷⁸ Stein, op. cit., p. 18

founded by Jacob Neusner, was at the beginning of an era in which it became possible to challenge the attributions quoted in rabbinic literature. But *Origins* was written during that period in which Neusner was still finding credibility in the assertions of rabbinic attributions. Therefore, it is not surprising that Bokser spends little time questioning attributions or challenging the historicity of accounts in the Mishnah of earlier periods of time.

The Memory of the Seder

I turn now to considerations of research into the mechanisms of human memory and measurement of memory reliability or fallibility. Although memory research in both the physiological and cultural realms has been proceeding apace for many decades, there is scant evidence that scholars of Judaica have paid much attention to the conclusions of scientists and scholars working in these fields. The result of this neglect is that much of the discussion I have been reporting in this chapter has been based on notions that fail critical and scientific scrutiny. In recent times, however, some scholars have at last begun asking questions about whether we can extract historically reliable information from reports created or edited a century or more after the period of their concern.

Naftali Cohn examined a number of traditions about the Temple as recorded in Tanaitic corpora and in 2012/13 published his conclusions that the texts as we receive them cannot represent historical reality. It is, according to Cohn, simply irrational to imagine that the Temple authorities—the priests, levites, and other official functionaries of the religious institutions and government—would have suborned their authority to rabbis, sages or Pharisees. One question then becomes whether that falsification was a deliberate distortion representing a program of the rabbis of the third century or whether they had convinced

themselves of the truth or validity of such accounts. And even if they deliberately falsified the import of that record, does that mean that they made everything up out of whole cloth? Cohn convincingly concludes that while they may not have invented everything, very little of what they recorded can be considered historically trustworthy. To put it another way, the traditions about the Temple in the Mishnah are a creation of the third century, not the first, and they have only the degree of credibility that human memory can assure.⁷⁹

I have a similar question. The Passover is a ritual which, by the time of the fall of the Temple, had already been observed for centuries. Most of the ritual practice was firmly in the hands of the Temple authorities because ultimately the focus of the ritual was the slaughter of animals which could only occur at the Temple. We know very little about how Passover might have been observed by the large population of Judeans living too far from Jerusalem to participate. Perhaps before 70 CE, a celebratory meal functioned as an alternative to the pilgrimage for those Judeans who, like Philo, were unable to go to the Temple. This might be a different case than the one confronted by Cohn since he was dealing exclusively with Temple-based ritual which was clearly impossible away from the Temple and anywhere after the Temple was destroyed. Utilizing the available evidence, this thesis will attempt to discover whether and how much we can know about the celebration of the holiday external to the Temple.

⁷⁹ Naftali S Cohn, *The Memory of the Temple and the Making of the Rabbis* (Philadelphia: University of Pennsylvania Press, 2013). The summary here is a recapitulation of the general conclusions of this book, and those can be found at pp.119-122.

As far as the Mishnah is concerned, our evidence comes from ten chapters. Five of them are concerned with the Passover sacrifice (the paschal lamb). Four are devoted to the removal of leaven from the home. One other is primarily concerned with the festive meal (Seder). In printed editions, this chapter is usually the tenth—although some manuscripts (examined in detail below in Chapter 2) place the Seder traditions at Chapter 5, separating the chapters concerned with leaven from those concerned with the paschal lamb. The single chapter which concerns itself with the home service of the Passover contains nine short paragraphs. The last of these is probably not related to the Seder, so that means we have but eight short statements that serve as the oldest description of the service. In addition, we have several statements in the Tosefta which are parallel to, and occasionally amplify, concepts laid out in the Mishnah. After I establish the texts according to the surviving manuscripts to the best of my ability, we will begin a systematic exposition of the material to determine whether they are sufficient to guide the community which considered the Mishnah authoritative in their observance of the rite.

In the course of examining these eight paragraphs, and the parallel material in other third-century compendia, there will be numerous statements attributed to persons who the organizer(s) of the Mishnah considered to be within their own tradition. The Mishnah typically cites cases where various opinions, sometimes contradictory, sometimes supplemental, are voiced. But all these opinions were at least conceivable: they might ultimately be rejected or simply not preferred. Just as with the Temple traditions discussed by Cohn, I will be trying to ascertain whether these traditions can be properly situated in the time period indicated by the purported author, or whether the material rather belongs to the third century—the time of the Mishnah itself. The statements in Mishnah Pesahim 10

eventually form the nucleus of the rite of the Passover, and as such shape the memories of people who celebrated the rabbinic Passover ever after. Were the statements attributed to R. Gamaliel, R. Tarfon, R. Aqiva and R. Eliezer b'R. Tzadoq accurate recordings (memorialized) from the first and second centuries, or at least serious attempts to record their comments, or were they perhaps merely fiction developed by third-century authorities? The difference between these two positions can help elucidate the consideration of the novelty of the Seder. Was the Seder a new ritual without precedent, or did it develop in stages? I intend to demonstrate that while some aspects of rabbinic Judaism likely developed over the period of time between the Temple and the Mishnah, the Seder was a novelty which signaled a new phase in the religion of those who claimed the Hebrew Bible as the basis of their religious beliefs, but required mechanisms to cope with the new realities of the third century.

CHAPTER 2: TEXT AND COMMENTARY

Tanaitic Literature

The Mishnah is an early, perhaps the first, major literary production written in post-Biblical Hebrew.⁸⁰ The Mishnah is also in many ways the foundational document of rabbinic Judaism. Indeed, it would not be a radical claim to say that the Mishnah is the beginning of the religion called Judaism. While many within the contemporary practice of Judaism claim that Judaism in some sense began with Abraham or Moses and that the books found in the Hebrew Bible define its practices and beliefs, I will be arguing here that that honor belongs to the Mishnah.⁸¹ The religion of the Bible is one in which the liturgy is led by priests,

⁸⁰ Chaim Brovender et al., “Hebrew Language,” in *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 8 (Detroit, MI: Macmillan Reference USA, 2007), 620–83, <http://link.galegroup.com/apps/doc/CX2587508629/GVRL?u=knox61277&sid=GVRL&xid=a1bf08c0>. One can quibble about the Temple Scroll (11Q Temple Scroll) and other candidates from the literature often classified as discoveries in the Judean desert. The Temple Scroll contains large amounts of material that are essentially mash-ups of the Hebrew Bible and some scholars categorize the language as “parabiblical.” In their section on Mishnaic Hebrew (MH, an acronym which is also used for other post-biblical Hebrew such as “Middle” or “Medieval”) in EJ, Brovender, et al. list a *de minimus* number of “features” in DSS that might be considered MH, p. 639. The Mishnah and the Tosefta are major, long works written in a form of Hebrew from beginning to end easily distinguished from Biblical Hebrew. Every book written in Biblical Hebrew displays the characteristic consecutive tenses which are completely absent in Tanaitic literature except when quoting the Bible. The verbs of Tanaitic Hebrew rely heavily on the participle and the syntax is more generally akin to the Aramaic literature of the period than Biblical Hebrew. Finally, the vocabulary of Tanaitic Hebrew contains large numbers of loan words from Aramaic and Greek. Indeed, one of those words apparently borrowed from Greek will draw a great deal of our attention below.

⁸¹ On defining the boundaries of Judaism and its terminology the following is by no means exhaustive, see Cynthia M. Baker, “A Jew by Any Other Name,” *Journal of Ancient Judaism* 2, no. 2011 (2011): 151–78, Joseph Blenkinsopp, *Judaism, the First Phase: The Place of Ezra and Nehemiah in the Origins of Judaism* (Grand Rapids, Mich: William B. Eerdmans Pub. Co, 2009); Gabriele Boccaccini, *Roots of Rabbinic Judaism: An Intellectual History, from Ezekiel to Daniel* (Grand Rapids, Mich: William B. Eerdmans Pub, 2002); Daniel Boyarin, *Border Lines: The Partition of Judaeo-Christianity*, Divinations: Rereading Late Ancient Religion (University of Pennsylvania Press, 2006); James H Charlesworth, “Christians and Jews in the First Six Centuries,” in *Christianity and Rabbinic Judaism: A Parallel History of Their Origins and Early Development*, ed. Hershel Shanks (Washington, DC; Upper Saddle River, NJ: Biblical Archaeology Society ; Pearson, 2011), 331–58;” Shaye J. D. Cohen, *The Beginnings of*

leadership is vested in divinely chosen judges and kings, prophets know the will of God, and reconciliation to God is achieved via sacrificial offerings of animals and agricultural products in a Temple (or temples) recognized as the abode of God. The Mishnah is the first book produced in a world in which none of this true. There are no divinely ordained judges, kings, or prophets. Priests cannot conduct the liturgy because the theology of the Temple worship as defined in Deuteronomy requires that it can be done only in a Jerusalem which the Judeans and their allies no longer control. In many cases the outward appearance of the Mishnah is that it is explicating and permitting the eventual return to practices described in the Bible, but in the case of the Passover evening meal we have strong evidence of a

Jewishness: Boundaries, Varieties, Uncertainties (Berkeley: University of California Press, 1999); John J. Collins, *The Invention of Judaism: Torah and Jewish Identity from Deuteronomy to Paul*, The Taubman Lectures in Jewish Studies 7 (Oakland, California: University of California Press, 2017); Mark A Jackson-McCabe, "Ebionites and Nazareans: Christians or Jews?," in *Partings: How Judaism and Christianity Became Two*, ed. Hershel Shanks (Washington, DC: Biblical Archaeology Society, 2013), 187–206; Ruth Langer, *Cursing the Christians?: a history of the birkat haminin* (New York: Oxford University Press, 2012); Lee I Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven: Yale University Press, 2005); Steve Mason, "Jews, Judeans, Judaizing, Judaism: Problems of Categorization in Ancient History," *Journal for the Study of Judaism* 38, no. 4–5 (2007): 457–512; Frederick J. Murphy, "The Jewishness of Matthew: Another Look," in *When Judaism and Christianity Began: Essays in Memory of Anthony J. Saldarini*, ed. Anthony J. Saldarini et al., Supplements to the Journal for the Study of Judaism, v. 85 (Leiden ; Boston: Brill, 2004), 377–403; Ray Pritz, *Nazarene Jewish Christianity: From the End of the New Testament Period until Its Disappearance in the Fourth Century* (Jerusalem: Magnes Press, Hebrew University, 1992); David Rokeah, *Jews, Pagans and Christians in Conflict*, vol. 33, *Studia Post Biblica: Supplements to the Journal for the Study of Judaism* (Brill Academic Pub, 1982); Leonard Victor Rutgers, *Making Myths: Jews in Early Christian Identity Formation* (Leuven: Peeters, 2009); Claudia Setzer, *Jewish Responses to Early Christians: History and Polemics, 30-150 C.E* (Minneapolis: Fortress Press, 1994); Christine C. Shepardson, *Anti-Judaism and Christian Orthodoxy: Ephrem's Hymns in Fourth-Century Syria*, Patristic Monograph Series, v. 20 (Washington, D.C: Catholic University of America Press, 2008); Christine C. Shepardson, *Anti-Judaism and Christian Orthodoxy: Ephrem's Hymns in Fourth-Century Syria*, Patristic Monograph Series, v. 20 (Washington, D.C: Catholic University of America Press, 2008); Joan Taylor, "The Phenomenon of Early Jewish-Christianity: Reality or Scholarly Invention?," *Vigiliae Christianae* 44 (1990): 313–34; Géza Vermès, "The Jewish Jesus Movement," in *Partings: How Judaism and Christianity Became Two*, ed. Hershel Shanks (Washington, DC: Biblical Archaeology Society, 2013), 1–26; Stephen G Wilson, *Related Strangers: Jews and Christians, 70-170 C.E.* (Fortress Pr, 2006); Israel Jacob Yuval, Barbara Harshav, and Jonathan Chipman, *Two nations in your womb: perceptions of Jews and Christians in Late Antiquity and the Middle Ages* (Berkeley, Calif.; London: University of California Press, 2008).

complete break with the past. In this chapter, I will examine and explicate the earliest and foundational description of this event.

The Organization of the Mishnah

The Mishnah consists of six large divisions called *orders* each divided into *tractates*. Each *tractate* is divided into *chapters*. Each chapter is further divided into statements which are usually termed *mishnah* (plural: *mishnayot*). A mishnah is roughly equivalent to a biblical verse. It is a brief statement that is usually composed of a few lexical units with complete thoughts that are the equivalent of sentences in English. These sentences are not enumerated, in other words, the smallest unit of the Mishnah referenced is essentially a paragraph. Citations to the Mishnah generally follow the pattern [Order]/Tractate/Chapter/mishnah. It is not necessary to specify the order as each tractate is unique to an order. In other words, *Pesahim* occurs solely within the order *Mo'ed* (“Fixed Times”) and there is no tractate *Pesahim* in any other order. However, there may very well be (and there are) tractates in other collections called *Pesahim* and so scholars will reference these by an introductory initial. For example, there is a tractate *Pesahim* in the Babylonian Talmud, so that version of *Pesahim* will be referenced as *BT Pesahim*. Although admittedly awkward, I will be distinguishing the Mishnah as a whole by the capital letter Mishnah whereas the lower case “mishnah” will indicate the paragraph unit. *M. Pesahim 10.3* means: Mishnah, Tractate Pesahim, Chapter 10, mishnah 3.

There are four manuscripts of the Mishnah, two being complete for all tractates. These two are commonly referred to as Parma and Kaufmann.⁸² In addition to the consonantal text, Parma and Kaufmann are also vocalized; that is, a scribe has added vowel points to the consonants to aid in pronunciation. The Cambridge University Library possesses two manuscripts, signified as T-S E1.57 which is a vocalized text and T-S E1.113 which is unvocalized. The scribe's hand is crystal clear for 1.57 and I did consult it for this project; however, the pages have holes and the last part of the tractate is missing. 1.113 contains readable characters but is heavily worn. It has holes and is missing most of the lower parts of the columns.⁸³

One issue which often confuses modern readers is the relationship of the text of the independent volume we call the Mishnah to the quotations of those texts found quoted in the Babylonian (and Palestinian) Talmud. In the printed editions of the Talmud, a chapter is introduced with a quotation from the Mishnah and then the *Gemara*, that is, the interpretive commentary on the Mishnah, attempts to explain or elucidate the Mishnah. These introductory quotations of the Mishnah are, however, the product of modern editors. The manuscripts of the Talmud had no such citations. But those manuscripts do, nevertheless,

⁸² *Mishna Codex Parma (De Rossi 138): An Early Vowelized Manuscript of the Complete Mishna*, Facsimile Edition (Jerusalem: Makor, 1970); *Mishna Codex Kaufmann A 50* (Jerusalem, 1968). While these have been available for decades, in recent years it has been possible to examine high quality scans on line. A catalogue of available Mishnah manuscripts is available here: <http://web.nli.org.il/sites/nli/english/library/news/pages/dig-heb-manus-catalog.aspx>.

⁸³ For a thorough review of the various manuscripts, provenance, estimates of their ages and suggested reliability, see Michael Ryzhik, "The Language of the Mishnah from the Late Manuscripts to the Printed Editions," in *Studies in Mishnaic Hebrew and Related Fields Proceedings of the Yale Symposium on Mishnaic Hebrew, May 2014*, ed. Elitzur Bar-Asher Siegal and Aaron J. Koller (New Haven, Conn. and Jerusalem, Israel: Magnes Press, Hebrew University, 2017), 221–40.

contain the quotations of the Mishnah as they were discussed within the commentary. What that means is that both of the works called Talmud (Babylonian and that of the Land of Israel⁸⁴) proceed according to the orders, tractates, and chapters set forth in the Mishnah.⁸⁵ The quotations embedded in the commentary are fragmentary and not set forward as collected units. But in some cases, it appears that these fragmentary quotations might have earlier or at least different wordings than the subsequently assembled full Mishnah texts.⁸⁶

⁸⁴ The designation of this Talmud has become politically vexed. In the scholarly literature of Talmudic specialists it is often referred to as the *Yerushalmi*, i.e., the Talmud of Jerusalem. However, this is the one name that cannot be historically correct because no part of this document was written or edited within or even near Jerusalem. While there is no way to be sure, this name apparently developed as a simple foil to the *Bavli* or Babylonian Talmud. But during the entirety of the period during which it would have been compiled, Jews had little or no purchase in Jerusalem. Rather, the work seems to have proceeded entirely in Galilee. In the more general scholarly community it became known as the Palestinian Talmud (PT) since it was composed in the territory to which Rome gave that designation. In recent years, Israeli and Jewish scholars have shied away from that designation owing to political connotations and have been using the name Talmud of the Land of Israel (TLI is a common abbreviation). In this dissertation I have chosen to use both the names Palestinian Talmud and the Talmud of the Land of Israel depending on what seems best in a given place, but I avoid the historically inaccurate term *Yerushalmi* altogether.

⁸⁵ In fact, this is reasonable evidence that the Mishnah existed in something approximating its later form as found in the manuscripts of the complete work as early as the fourth to sixth centuries when the BT and PT were being constructed. It is however not good evidence that the Mishnah was in any sort of final state by then because there are numerous discrepancies between the Mishnah as an independent work and the forms of the texts quoted in the BT and PT. The Encyclopedia Judaica provides an overview of the topic: Stephen G. Wald, "Mishnah," in *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 14 (Detroit, MI: Macmillan Reference USA, 2007), 319–31, <http://link.galegroup.com/apps/doc/CX2587513999/GVRL?u=knox61277&sid=GVRL&xid=f17e24ba>.

⁸⁶ Within the scholarly world, the most commonly used version of the Mishnah is that of Chanoch Albeck and Henoch Yalon, eds., *Shishah Sidre Mishnah* (Yerushalayim : Tel-Aviv: Mosad Byalik ; Devir, 1952). This is by no means to be considered a critical edition. The reading is always eclectic and often rationalized to the modern spellings of words. Manuscripts are rarely cited and the interpretations provided in the footnotes are essentially the editors' best guesses of which medieval or early modern rabbinic commentators had what in their view is the correct sense of the text. As far as I know, there are no critical editions of either the Babylonian or Palestinian Talmuds. Scholars depend on either the facsimiles of editions that have been in print since the late eighteenth century or now can easily reference manuscripts that are provided on-line. Jacob Neusner and his students have edited English translations of the Tosefta and the Palestinian Talmuds with *de minimis* critical apparatus. Saul Lieberman created a widely praised critical edition of the Tosefta and an accompanying commentary, *Ša'ul Mōše Lieberman, Tōseftā ki-fēšūtā: be'ār āroḳ lē-tōseftā. heleq 4: Seder mō'ed*, Mahādūrā 2 (Yērūšalayim: The Jewish Theological Seminary of America, 1992).

Recall that none of the complete manuscripts of the Mishnah can be dated earlier than the eleventh century. One question which might arise is how can we know that the Mishnah is not some sort of intellectual fraud and belongs entirely to that period—after all, *Sefer Yosippon* which purports to be a recapitulation of the events of the Roman Jewish War (66-70 CE) is precisely such a fraud.⁸⁷ The existence of large parts of the Mishnah embedded in the two Talmuds following the logical order of the Mishnah manuscripts is one part of the evidence that there has been a Mishnah for at least the length of time during which the Talmuds were compiled. In addition to the manuscripts and the embedded quotations (some of which can be found in other major compilations of rabbinic literature), there are numerous fragments in the Cairo Geniza which are particularly useful in demonstrating the existence of Mishnaic material centuries earlier than our complete manuscripts. This brings us to the question of whether we can determine just how old the Mishnah really is.

Establishing the date of the earliest version(s) of the Mishnah is a difficult problem. As mentioned in Chapter 1, there is a commonly asserted date of 212 C.E. This date emerges from the work of nineteenth-century scholars who plotted out the “genealogy” of the various transmitters (“tradents”) of the Tanaitic literature. Using various chronological signposts such as the reign of Herod I and the destruction of the Second Temple, they developed a chronology which places the various personages of the Mishnah from the early days of the Hasmonean era through the time of Rabbi Judah Ha-Nasi (often rendered *the*

⁸⁷ Saskia Dönitz, “Sefer Yosippon (Josippon),” in *A Companion to Josephus*, ed. Honora Howell Chapman and Zuleika Rodgers, Blackwell Companions to the Ancient World (Chichester, West Sussex, UK ; Malden, MA: Wiley Blackwell, 2016), 382–89. pp. 382ff.

Prince but in essence a title which indicates some sort of position of authority) who was credited with the composition of the Mishnah. There are numerous problems with this method beginning with the fact that it does not entertain the possibility that many of these personages might be fictitious. The Mishnah itself makes no claims about the date of its publication, nor does it state that its author or compiler was Rabbi Judah (or anyone else). The Mishnah always casts itself as the work of an anonymous editor. And occasionally there are references to people who must have lived after the time of Rabbi Judah. That does not mean, of course, that Rabbi Judah could not have written the bulk of the Mishnah. However, the only reason to presume that he did is the comments of sources centuries after the completion of the Mishnah.⁸⁸

Despite these reservations a third-century date for the Mishnah seems plausible. Primarily because of the almost complete absence within its voluminous chapters of mention of Christians or Christianity. I do not say that there are no references at all, but as with Josephus, the few that exist demonstrate no recognition that Christianity has become a

⁸⁸ One of the most influential studies of the question of the publication of the Mishnah is an essay by that name collected into Saul Lieberman's 1950 book, *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* (New York: Jewish Theological Seminary of America, 1950). Demonstrating the vast erudition for which he was famous, Lieberman concludes that the Mishnah was never published in the sense of a complete document committed to writing. Rather, he finds that it was committed to memory by skilled professionals and then recited as needed within study circles (something in the mode of Plato's description of reciters for Homer in his dialogue *Ion*). As superb a study as this was, it suffers from methodological faults. For Lieberman, the tradents are historical figures and the attributions to them genuine. He can admit no possibility that the Mishnah was composed significantly after their lifetimes and their statements possibly invented entirely. As I will demonstrate below, even if it is true that various tradents did live and teach in the generations preceding the third century, it is certain that much of what is attributed to them is fiction. And when we consider memory theory, we will return to the questions of how and how much the Mishnah was likely to have been committed to and recited from memory. 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* (New York: Jewish Theological Seminary of America, 1950), 83–99. pp. 83-99.

major force in the world. From the point of view of its rhetoric, it is abundantly clear that the Mishnah is a work composed (or compiled) in *Eretz Israel* (the Land of Israel) and more specifically in the Galilee which figures prominently and frequently in the body of its texts. The Galilee was the site of some Christian communities during the period when these materials formed, but through the early part of the third-century the Roman government did not favor Christians and indeed sometimes persecuted them.⁸⁹ In the next century, Christians became an increasingly potent force to be reckoned with and that seemed to spark larger numbers of references to them. The Babylonian Talmud does not necessarily display this trait given that Babylonia remained relatively free of Christian hegemony, but the more western texts such as the Palestinian Talmud (written in the Galilee up to about 400 CE) has numerous passages referencing Christians or Christianity.⁹⁰

⁸⁹ The history of Roman persecutions of Christians has evolved in recent years. Once it had secured legal status the early church seems to have exaggerated the various incidents as part of its own efforts to embellish the tale of its struggles. It is now widely agreed that there was only one serious Roman Empire-wide effort to persecute Christians, that of Decius in 250 C.E. which continued sporadically for several decades and ending entirely in 311 with the Edict of Serdica. Prior to that there were certainly episodes of local persecution of Christians beginning as early as Nero's attempt to blame Christians for the fire that heavily damaged Rome in 64 C.E. The important point for the discussion here is that while Christian communities were growing, and likely aided in that process by the destruction of the Temple as that deprived Judeans of their primary purchase of power, they were not significant enough in either political or religious authority to have commanded much attention from others. The standard account is presented by W. H. C. Frend, *Martyrdom and Persecution in the Early Church: A Study of a Conflict from the Maccabees to Donatus*, 2014 (originally published in 1965). Candida Moss presents a counterview in Candida R. Moss, *The Myth of Persecution: How Early Christians Invented a Story of Martyrdom*, 1st ed (New York: HarperOne, 2013).

⁹⁰ "In early rabbinic literature (from Babylonia as well as Palestine), we encounter statements about Jesus from specifically Jewish sources. Even so, since the Talmud, Midrash, and related works are vast compendia of Hebrew law and lore, their allusions to Jesus must be adjudged strikingly sparse. These mentions are also so widely scattered that we must "hunt and peck" simply to assemble a viable portrait--combining views from different rabbis, generations, and academies. Compounding the problem is confusion over whether some passages, not originally alluding to Jesus, later became misconstrued as indeed about him." Michael J. Cook, "Evolving Jewish Views of Jesus," in *Jesus through Jewish Eyes: Rabbis and Scholars Engage an Ancient Brother in a New Conversation*, ed. Beatrice Bruteau (Maryknoll, N.Y: Orbis Books, 2001), p. 11.

If the Mishnah achieved something approaching its current form no later than the end of the third century, it must also be said that it is unlikely to belong any earlier than beginning of the third century. The absence of references to people and events external to the community of the Mishnah is remarkable. The Christian book of Acts mentions Gamaliel twice (5:34 and 22:3), the first time as a person who defends Jesus, the second as the reputed teacher of Paul. This is an unusual case of a book external to Tanaitic literature naming someone regarded as a Tana by the later rabbinic literature. Note that Acts itself was written after the destruction of the Temple, perhaps late first century to about a century later than the events it portrays, referencing a person also known in the Mishnah. The Mishnah only rarely mentions of some of the most famous personages of the late Temple era whom they did not regard as within their community. Herod Agrippas is mentioned at M. Sotah 7.8, although all four extant manuscripts name him Agrippas (omitting Herod). The name was used by two kings in the Herodian line. Agrippas I reigned from 11 BCE to 44 CE and is presumably the king mentioned in Acts 12 as “Herod Agrippas” (Ἡρώδης Ἀγρίππας). But there was a second king known as Agrippas who reigned over one part of Herod’s kingdom or another from about 48 CE to 93 CE. He was specifically given certain rights over the Temple liturgies and became Josephus’ good friend (according to Josephus, that is). It therefore seems more likely that this is the Agrippas referred to in the Mishnah.⁹¹ One

⁹¹ This Agrippas is well attested in many (western) classical authors. In addition to Josephus (esp. Antiquities books 19 and 20, he is mentioned by Tacitus, Dio Cassius, and even Juvenal—whose interest was piqued by his notorious relationship with his sister Berenice who apparently became the mistress of Titus, the destroyer of Jerusalem and the Temple. JE (1906) s.v. Agrippa II; Abraham Schalit, “Agrippa II,” in *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 1 (Detroit, MI: Macmillan Reference USA, 2007), 503, <http://link.galegroup.com/apps/doc/CX2587500543/GVRL?u=knox61277&sid=GVRL&xid=ff7eb962>.

person not mentioned at all in Tanaitic literature is Herod (the Great), arguably the most important and influential king of the Judeans in the Second Temple era. The Mishnah, then, names a vast number of people who are not found in any works outside the Tanaim, and fails to mention even the most powerful and consequential people for the rabbinic community known from all other historical sources. There is therefore little ability to construct a date for the Mishnah based on references to external people or events. I will return to this point in subsequent chapters.

One more consideration seems to me to argue for the third century as the general locus for the composition of the Mishnah, and that is an apparent intellectual movement toward *canonization*. Although there are many modern handbooks which assert that Judeans canonized the Hebrew Bible in the aftermath of the destruction of the Temple, the only evidence for this claim are texts found in the Mishnah itself along with even later references from the Talmud.⁹² As it happens, Christians were also facing a problem of determining which texts should be regarded as holy, and their various efforts are identifiable beginning in the third century. It is not clear precisely when the canon of the New Testament was concluded by Christian authorities, but there are numerous indications that the work of

⁹² Origin's *Hexapla* is an early witness to the contents of the Hebrew Bible. It is the product of his years in Caesaria rather than Alexandria and therefore belongs to the beginning of the third century. For a general review of the topic of the formation and formulation of books accepted by rabbinic Judaism into their version of Scripture, Timothy H. Lim, *The Formation of the Jewish Canon*, The Anchor Yale Bible Reference Library (New Haven: Yale University Press, 2013). is a recent and excellent monograph. For a discussion of the various Talmudic references to the process of canonization, Solomon Zeitlin's 1931 study is still useful. Solomon Zeitlin, "An Historical Study of the Canonization of the Hebrew Scriptures," *Proceedings of the American Academy for Jewish Research* 3 (1931): 121–58, <https://doi.org/10.2307/3622189>.

identifying an authoritative list was in full sway from the mid-fourth century forward.⁹³

Given that the third and fourth centuries seem to be the loci of at least the beginning of discussions in both communities regarding the need to establish consensus lists of sacred texts, combined with the relative paucity of references to Christianity in the Mishnah, my conclusion is that the process of redacting the Mishnah (and its related literatures) began in the mid to late third century. If the process began mid-third century, can we find a *terminus ante quem*? There are no tradents or identifiable historical personages in this literature who can be assigned to the fourth century. There are no references to historical events post-third century. The absence of counter arguments to Christian groups or claims suggests that the author(s) of the Mishnah lived without much concern of the religious or ideological threat posed by Christian expansionism. Therefore, I believe that the Mishnah was started and concluded entirely within the bounds of the third century and likely later in that century than the usual designation of 212 might suggest. The milieu of the Mishnah is about a century and a half later than the last Jewish presence in Jerusalem, close to two centuries after the destruction of the Temple. No one involved in the redaction of the Mishnah had likely laid eyes on Jerusalem unless from afar.

⁹³ Origen may claim pride of place for the list of canonical books of the Christian Bible. He provides a list of books at Homilies on Joshua 7.1: Matthew first sounded the priestly trumpet in his Gospel; Mark also; Luke and John each played their own priestly trumpets. Even Peter cries out with trumpets in two of his epistles; also James and Jude. In addition, John also sounds the trumpet through his epistles, and Luke, as he describes the Acts of the Apostles. And now that last one comes, the one who said, “I think God displays us apostles last,” and in fourteen of his epistles, thundering with trumpets, he casts down the walls of Jericho and all the devices of idolatry and dogmas of philosophers, all the way to the foundations. Origen, *Homilies on Joshua*, pp. 74-75 (<http://ebookcentral.proquest.com/lib/utk/detail.action?docID=3134794>. Created from utk on 2019-03-21 16:09:19.) This text would likely have been composed in the first few decades of the third century and demonstrates an early stage of the canonization process.

Tractate Pesahim

As we look for the origins of the Passover Seder, we must dig deep into the most ancient stratum of literature that refers to a ritual that might seem to be the progenitor of the modern rite, and by all accounts that is the tenth chapter of the Mishnah's treatise on Passover.⁹⁴ This chapter does not yet call the rite a "Seder" and even within its few statements it still cannot fully differentiate itself from the ritual which could only take place in the Temple. But as subsequent generations of Jews began to piece together a ceremony designed to celebrate one of the most important festivals of the year, they would look back on this chapter again and again for some hint as to how the ritual should be observed. We begin by describing the evolution of this chapter, how we become acquainted with it in its oldest manuscripts, and what becomes represented to us in more modern editions.

In one sense, the study of Mishnah manuscripts is not that different from the study of the Hebrew Bible. For much of modern scholarly history it would have been fair to note that the oldest manuscripts of the Bible date no earlier than about 900 C.E. The first printed editions of the Hebrew Bible were based on manuscripts significantly younger than that as the Viennese printer did not have access to either the Aleppo nor what would become the Leningrad Codices. Other scholars pointed to the much greater antiquity of some of the Greek translations in manuscript of the books of the Hebrew Bible such as Codex Sinaiticus. The discovery of the Dead Sea Scrolls did not so much end the discussion as to which

⁹⁴ The tenth chapter in all current editions. In at least one manuscript, the chapter is fifth (out of ten) separating the other two main topics as we will discuss below.

tradition is more “authentic” however that term might be defined, as demonstrate that a half-century earlier than the Greek manuscripts and a millennium earlier than the Hebrew there were Hebrew exemplars that demonstrated that both traditions were in circulation. In other words, centuries of written transmission resulted in relatively accurate versions of traditions that had differentiated before the earliest of the Dead Sea Scrolls.

The earliest manuscripts of the Mishnah are dated to about the tenth century C.E. There are few complete manuscripts (that is, all six orders) of which the two best are known as Kaufmann and Parma. There are several more partial copies, but none are significantly earlier. As explained before, the Mishnah must have been in something resembling a complete version by the end of the third century, which leaves a gap of about seven hundred years before our currently available manuscripts were written. There are at least two different considerations which could lead to doubt regarding the accuracy of transmission of the Mishnah as compared with those appertaining to the Hebrew Bible. First, there is no doubt that the Hebrew Bible was transmitted via written copies during its entire post-canonical history in both Christian and Rabbinic Jewish circles. The Mishnah, on the other hand, was claimed to have been preserved by means of oral tradition alone for some significant period after its composition and redaction. As we will explain in greater detail in subsequent chapters, the question of orality is highly relevant to the issue of transmission accuracy. While the use of professional reciters can no doubt improve the reliability of transmission, all oral transmission is subject to version drift.⁹⁵

⁹⁵ This will be covered in detail in Chapters 4 and 5, for now it should suffice to point to Albert Bates Lord, Stephen A. Mitchell, and Gregory Nagy, *The Singer of Tales*, 2nd ed (Cambridge, Mass: Harvard University Press,

But was the Mishnah ever really transmitted orally without a written version for comparison? As we saw in Chapter 1, Saul Lieberman certainly made that argument. But his argument is based on the notion that earlier recensions of various Tanaim were eventually redacted in an oral document which was then itself transmitted exclusively orally for some generations until ultimately generational turmoil required its commitment to writing. The problem is that we have no evidence for any of this. Obviously any orally transmitted version was subsumed in the later documents. All we can say with certainty is that for now, despite the many documentary discoveries covering periods from late Second Temple through the third century there is not a single written text which would become a part of any part of the Tanaitic documents.

Mishnah Parma Mss

The Mishnah is known to most people who study it today from the form represented in printed editions. Scholars have tended to rely on the text edited by Hanoah Albeck, professor of Talmud at Hebrew University. His *Shishah Sidrei Mishnah* was published by Mosad Bialik in 1952. Albeck created this edition by assembling a text that represented his own sense of how the text should read. He included little or no information on manuscript differences and vocalizes the text in accordance with his own views of the grammar.⁹⁶ In

2000) which demonstrates how orally transmitted material can mutate drastically without either the reciter or the audience being aware of the changes to the material.

⁹⁶ Hebrew is written with consonants and the meaning of a text can often vary depending on how one supplements the text by pronouncing it with vowels. Several of the manuscripts supply vowel signs written into the consonantal texts by means of diacritic marks. Albeck chose not to standardize on one of these manuscripts, but rather to provide his own diacritic marks which therefore mean that any interpretation of the text is in accordance with his own understanding of it.

particular, he regularizes the Hebrew forms so that they conform to Modern Hebrew. There has not been a major competitor to Albeck within the scholarly community but there are efforts under way using digital technologies to replace Albeck with a version that better represents the evidence of the manuscripts.⁹⁷

The two complete manuscripts that could serve as the textual basis for a new edition of the Mishnah are Parma and Kaufmann. Various scholars have opined on the relative qualities of each, but ultimately in my opinion it is more important to establish a consistent text base from one manuscript and then allow readers to know when the other manuscripts provide variant readings. At the time that I write this, both Parma and Kaufmann are readily available in digital libraries. I have arbitrarily picked the Parma for this project and will indicate all variants via the scholarly apparatus. The Parma and Kaufmann are both vocalized. That is to say, someone has added the Hebrew vowel signs into the consonantal text. That may have been the same scribe who wrote the consonantal text, or there may have been the same or later scribe who added the vowels to a pre-existing text. There are occasional points to be made which will depend on whether the vocalizing scribe did so correctly, or perhaps erred in that process.⁹⁸

⁹⁷ Robert Brody has a reasonably thorough discussion of the problems associated with establishing a methodology for using the manuscripts of both the Mishnah and Tosefta. He clearly prefers an eclectic approach but fails to inform us how he might be able to achieve such a hypothetically superior reading. I can't understand from his remarks how he would not wind up with something looking like the Albeck version of the Mishnah, with perhaps more comprehensive notes on the manuscript variations. See his conclusions in Robert Brody, *Mishnah and Tosefta Studies* (Jerusalem: Hebrew University, Magnes Press, 2014) pp. 155-164.

⁹⁸ Michael Ryzhik provides a rationale for preferring the Kaufmann to the Parma, Michael Ryzhik, "The Language of the Mishnah from the Late Manuscripts to the Printed Editions," in *Studies in Mishnaic Hebrew and Related Fields Proceedings of the Yale Symposium on Mishnaic Hebrew, May 2014*, ed. Elitzur Bar-Asher Siegal and Aaron J. Koller (New Haven, Conn. and Jerusalem, Israel: Magnes Press, Hebrew University, 2017), 221–40. Whether he is right to do so or not, both versions are represented here.

Tosefta Vienna, National Library, Heb 20

If we know less about the Mishnah than most think, we know even less than that about the Tosefta, a separate collection of traditions written in Tanaitic Hebrew which nevertheless follows the basic order and arrangement of the Mishnah. There is little agreement about how to present the Tosefta, so the division I provide here is arbitrary, but based on my examination of the breaks in the Vienna manuscript. The translation and brief commentary I provide is not intended to match the masterwork written by Saul Lieberman.⁹⁹ Rather, I am hoping to provide a literal but comprehensible translation which constantly asks the question, how would we understand this text if all we could refer to are sources from the approximate time of the Mishnah? When I am at a loss to do anything else I will provide sources from later rabbinic literature, but always carefully delineating their time of origin and provenance to the extent I am able to do so. As with the chapter from the Mishnah, as you read through this material, ask the question of whether it explains what a person from this era would need to know in order to observe the holiday or conduct a rite—either alone or in concert with the material from the Mishnah.

1. [The] eve of Passovers around afternoon ¹⁰⁰ , a person must not eat before dark; even the poorest Israelite must not eat	ערב פסחים סמוך למנחה לא יאכל אדם עד שתחשך אפי ¹⁰³ עני שבִּישְׂרָאֵל לא יאכל עד שתסב ¹⁰⁴ ולא ¹⁰⁵ יפחתו לו מארבע כוסות של יין שיש ¹⁰⁶ בהן
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⁹⁹ Lieberman, Šā' ūl Mōše. Sēder mō'ēd. Mahādūrā 2. Tōseftā, 'p kētav yād Wīēnnā wē-šinūyē nushā' ōt mik-kētav yād 'Erfurt qēṭā'im min hag-gēnizā ū-dēfūs wēnēšī' ā 1521 / bē-šērūf mēsōrat hat-tōseftā ū-fērūš qāṣār mē'ēt Šā' ūl Mōše Līberman[...]. Yerušalayim: The Jewish Theological Seminary of America [u.a.], 1992.

¹⁰⁰ Or: near the time of the afternoon sacrifice.

¹⁰³ Berlin: v'afilu

¹⁰⁴ Berlin: yasev

¹⁰⁵ Berlin: omits vav (lo)

¹⁰⁶ Berlin: yehei *that there is*.

prior to reclining. ¹⁰¹ They must not provide him with less than four cups of wine about a quarter measure whether living or mixed, whether new or aged. R. Yehudah says “It need only have the taste and appearance of wine.” ¹⁰²	כדי רביעית בין חי בין מזוג בין חדש בין ישן ¹⁰⁷ ר' יהודה או' ובלבד שיהא טעם יין ומראה ¹⁰⁸
2. They mix for him [the] first cup. Bet Shammai says, “He blesses the day and afterwards blesses the wine because the day elicits the wine to be brought and he has already sanctified the day yet wine has not yet come.” And Bet Hillel says, “He blesses the wine and afterwards he blesses the day because the wine elicits the sanctity of the day to be pronounced.” Another matter. The wine blessing beautifies whereas the day blessing does not beautify. And the ruling is in accordance with Bet Hillel.	מזגו לו כוס ראשון בית שמיי או' מברך על היום ואחר כך מברך על היין שהיום גורם ליין שיבוא וכבר קדש היום ועדיין יין לא בא ובית הלל אומ' מברך על היין ואחר כך מברך על היום שהיין גורם לקדושת היום שתאמר דבר אחר ברכת היין תדירא ברכת היום תל' אינה תדירה והלכה כדברי בית הלל.
3. It is a precept that a man must cheer up his children and the other members of his household on a festival. How do they cheer them up? With wine, as it is written “Wine gladdens the heart of man.” [Psalms 104:15] Rabbi Yehudah states, “Women, with what is suitable for them and small children with what is suitable for them.”	מצוה על האדם ¹⁰⁹ לשמח בניו ובני ביתו ברגל ¹¹⁰ במה משמחן ביין כדכת' ויין ישמח לבב אנוש רבי יהודה או' נשים בראוי להם וקטנים ¹¹¹ בראוי להם.

¹⁰¹ Vienna reads *tasev* which means *you recline* (*she reclines* is grammatically feasible but unlikely due the lack of any feminine referent. Berlin reads *he reclines*).

¹⁰² The smallest unit of text within the Mishnah is also called a *mishnah*, and the equivalent in the Tosefta is called a *halakbab*. The terminology can be confusing given that *halakbab* is usually understood as “rule” or “law,” but this is the common practice.

¹⁰⁷ Berlin reverses the order (new/old then straight/mixed).

¹⁰⁸ Berlin: ‘ad sheyehe bo ta’am v’reah (as long as it has the taste and fragrance).

¹⁰⁹ Berlin: omits definite article

¹¹⁰ Berlin: *b’pesah* This is a significant difference because the term *regel* can apply to any of the three festivals (Passover, Pentecost, and Tabernacles) so that the statement as it reads in Vienna could have been associated with a general reference to such holidays. The Berlin variant specifies Passover, and therefore the text is relevant only here.

¹¹¹ Berlin: adds the definite article *haq’tanim*.

4. The attendant pounds the intestines and serves them to the guests. Even though there is no proof of the matter, there is a hint of it [in Scripture, Jeremiah 4:3] as it is said, “Pound the fallow ground for yourselves, and do not sow among the thorns.”¹¹² As to the one who calls out the <i>Hallel</i> they follow him and he does not follow them. He who calls out [i.e. reads to] his minor sons and daughters needs to answer with them. In the place where they answer he answers. He gets to “Blessed is he who comes” he says with them “In the name of the LORD”. He gets to “Blessed are you” he answers with them “From the House of the LORD.”¹¹³	השמש¹¹⁴ מכביט¹¹⁵ בבני מעים¹¹⁶ ונותן¹¹⁷ לפני האורחין אע"פ¹¹⁸ שאין ראייה לדבר זכר לדבר שנאמר¹¹⁹ נירו לכם ניר ואל תזרעו אל קוצים המקרא את ההלל¹²⁰ הם¹²¹ הולכין אצלו וקוראין והוא אין¹²² הולך אצלם¹²³ המקרא את בניו ובנותיו קטנים צריך להיות עונה עמה¹²⁴ במקום שעונין באיזה מקום עונין הוא עונה הגיע לברוך הבא אומ' עמה¹²⁵ בשם יי הגיע לברכנוכם אומ' עמה¹²⁵ מבית יי .
5. Residents of a city who have no one able to call out the <i>Hallel</i> go to the synagogue and read the first section. They leave and eat, drink, return and go to finish the whole	בני העיר שאין להן¹³⁰ מי שיקרא את ההלל הולכין¹³¹ לבית הכנסת וקורין פרק ראשון והולכין ואוכלין ושותין וחוזרין ובאין וגומרין את כולו ואם אי אפשר להן גומרין את כולו הלל¹³² אין פוחתין

¹¹² This peculiar reference will be explained in the commentary, *infra*. Here I would add that the translation is deliberately different from the standard English translations of Jeremiah in order to approximate the connection of the text to this *halakhah*.

¹¹³ These appear to be technical aspects of a reading of a selection of psalms which clearly already have the form of a liturgical unit called *Hallel*. The interpretation of these aspects will be provided *infra*.

¹¹⁴ Printed editions begin a new *halakhah* here, but in the Vienna mss it continues without break from the previous *halakhah*.

¹¹⁵ So Vienna. Other witnesses read *makhbish* and this is the more likely reading given that the root *kav*, *bet*, *tet* is not attested elsewhere in biblical or medieval Hebrew.

¹¹⁶ Berlin appears to have a minor spelling variation here: *mem/yod/ayin/yod/mem*. Vienna lacks the first *yod*.

¹¹⁷ Berlin seems to have a misspelling here: *vav/nun/vav/tav/nun* (final?) *nun*.

¹¹⁸ Berlin precedes *af al pi* with the copulative *vav*.

¹¹⁹ Berlin omits *sbene'emar*.

¹²⁰ Berlin has the more likely final *nun*.

¹²¹ Berlin adds a *vav* (he does not).

¹²² Berlin has the more likely final *nun*.

¹²³ Berlin has the less likely final *mem* here. This does suggest a phonemic fluidity to the issue of whether masculine plurals should end in *mem* or *nun*. Berlin then adds two words not in Vienna, which make the sense of it *he answers with them*.

¹²⁴ Berlin: עונה עמהם

¹²⁵ Ibid.

¹³⁰ Berlin: □□□

¹³¹ Berlin: □□□□□□

¹³² Berlin reads this phrase: “and they go and return and complete the Hallel until the end and if it is not possible for them thus, they finish the entire Hallel.”

of it. And if it is not possible for them they finish all of it. ¹²⁶ They remove nothing of it and they add nothing to it. R. Lazar ben Porta would simplify ¹²⁷ a few words and Rabbi ¹²⁸ would double a few words. ¹²⁹	ממנו ואין מוסיפין עליו ר' לעזר ¹³³ בן פרטא היה פושט בו דברים ר' היה כופל בו דברים
6. R. Lazar said, “They snatch ¹³⁴ <i>matzah</i> [unleavened loaves] around children to prevent them from falling asleep.” R. Yehudah says in his own name, even if he did not eat but one serving (of matzah), and even if he had not dipped one serving of lettuce they snatch matzah for children so that they don’t fall asleep. ¹³⁵ Until what point does he recite? Bet Shammai says	ר' לעזר ¹³⁶ אמר ¹³⁷ חוטפין מצה לתינוקות בשביל ¹³⁸ שלא יישנו ¹³⁹ ר' יהודה או ¹⁴⁰ משמו ¹⁴¹ אפי ¹⁴² לא אכל אלא פרפרת אחת אפי' לא טבל אלא חזרת אחת ¹⁴³ חוטפין מצה לתנוקות ¹⁴⁴ בשביל שלא יישנו ¹⁴⁵ עד היכן הוא אומר בית שמאי או עד אם הבנים שמחה ובית הלל אומי ¹⁴⁶ עד חלמיש למעינו מים וחותם בגאולה אמרו בית שמיי ¹⁴⁷ לבית הלל ¹⁴⁸ וכי כבר יצאו שמזכירין יציאת מצרים אמרו להם בית הלל אפילו הוא ממתין עד קרית ¹⁴⁹ הגבר

Berlin adds the words “until the end” and uses a feminine rather than masculine form for describing the Hallel. Ultimately the sense is the same as Vienna although the variances do suggest some fluidity in the text transmission process.

¹²⁶ There may be a lacuna here. See the discussion below.

¹²⁷ The verb is different, but the inference is that he did remove words.

¹²⁸ The name may have dropped, or this might be a reference to R. Yehudah HaNasi who in later literature was titled simply “Rabbi.”

¹²⁹ The print editions score this as the end of Halakhah 5. In the Vienna ms the halakhah shows no sign of a break and continues directly into the next comment.

¹³³ Berlin: □□□□□

¹³⁴ The verb means *snatch*, *seize* which seems in context to indicate some sort of game with the *matzah*. Jastrow (s.v.) suggests that it simply means allowing the children to eat the matzah before the normal time.

¹³⁵ Vienna ms seems to divide the halakhot here with “until what point” beginning a new halakhah. I’ve maintained the numbering and division of the printed edition in order to simplify citation.

¹³⁶ Berlin: □□□□□

¹³⁷ Berlin: 'אמר the difference of one letter determines whether the sense is “said” (so, Vienna) or “saying” (Berlin).

¹³⁸ Berlin: כדי although does not change the sense.

¹³⁹ Berlin: יישן singular rather than plural.

¹⁴⁰ Berlin: אומר this time in the same tense of Vienna, lacks the abbreviation symbol.

¹⁴¹ Berlin: omits “in his own name.”

¹⁴² Berlin: spells the abbreviation out: אפילו

¹⁴³ Berlin: keeps the sense found in Vienna but phrases slightly differently. אלא לא חזרת לא טיבל אלא “Even if he ate nothing but *bazeret* and dipped *parperet* once...” *Parperet* is used for some sort of bread course so its presence in texts related to Passover is interesting, although of course it can mean the kind of bread or grain suitable to Passover, namely unleavened.

¹⁴⁴ Berlin: singular תנוק

¹⁴⁵ Berlin: יישן singular rather than plural.

¹⁴⁶ Berlin: או

¹⁴⁷ Berlin, sp: שמי

¹⁴⁸ Berlin adds a superfluous לבית here.

¹⁴⁹ Berlin pluralizes (“cockcalls”)

until “A happy mother of children” and Bet Hillel says until, “A flint into a fountain of water” and he seals with redemption. Bet Shammai said to Bet Hillel, “Indeed, they have already mentioned the Exodus from Egypt.” Bet Hillel replied, “Even if he waits until the cock crows they did not depart (Egypt) until the sixth hour of the day, so how can you call out ‘redemption’ when they are not yet redeemed?”	הרי אלו לא יצאו עד שש שעות ביום ¹⁵⁰ היאך ¹⁵¹ אומר את הגאולה ¹⁵² ועדיין לא נגאלו
7. The matzah and the lettuce and the <i>haroset</i> even though <i>haroset</i> is not <i>mitzvah</i> (required). R. Lazar son of R. Tzadoq says “ <i>mitzvah</i> .” And in the Temple, they bring before him the flesh of the Passover offering. It happened that R. Lazar said to the merchants in Lod, “Come and get spices for the <i>mitzvah</i> .”	המצה והחזרת והחרוסת ¹⁵³ אף אל פי שאין חרוסת מצוה ר' ליעזר ¹⁵⁴ בר' צדוק אומ' מצוה במקדש מביאין לפניו גופו של פסח ¹⁵⁵ מעשה ואמ' להם ¹⁵⁶ ר' לעזר בר' תגרי לוד בואו וטלו ¹⁵⁸ לכם תבלי מצוה .
8. They do not end the Passover <i>afiqoman</i> for example (with) nuts, dates, or roasted grain ¹⁵⁹ . A person is required to occupy themselves with the rules of Passover all night whether he is with his son, alone, or	אין מפטירין אחר הפסח אפיקומן ¹⁶⁰ כגון אגוזים תמרים וקליות חייב ¹⁶¹ אדם לעסוק בהלכות ¹⁶² הפסח כל הלילה ¹⁶³ אפילו בינו לבין בנו אפילו בינו לבין עצמו אפילו בינו לבין תלמידו ¹⁶⁴ מעשה ¹⁶⁵ ברבן גמליאל זקנים שהיו מסובין בבית ¹⁶⁶ ביתוס

¹⁵⁰ Berlin omits ביום

¹⁵¹ Berlin uses כיצד which does not change the sense

¹⁵² Berlin has אומ גאולה which does not change the sense

¹⁵³ Berlin renders: מצה וחרוסת וחזרת (each word lacking the definite article).

¹⁵⁴ Berlin: □□□□□

¹⁵⁵ Berlin has the same sense with a different word order: מביא לפניו במקדש גופו של פסח

¹⁵⁶ Berlin: להן

¹⁵⁷ Berlin: ר' אליעזר בר' צדוק which appears to be the better reading based on the repetition of the name.

¹⁵⁸ Berlin: וקחו which does not change the sense of the comment, although it is interesting from the perspective of the accuracy of recalling quotations.

¹⁵⁹ See Lev 2:14

¹⁶⁰ Berlin: אפיקומן which is found in most printed editions.

¹⁶¹ Berlin: וחייב (adding the copula)

¹⁶² Berlin has בהלכות which has the same sense as the reading in Vienna.

¹⁶³ Berlin omits כל הלילה

¹⁶⁴ Berlin renders this phrase: תל תלמידו which has the same sense as Vienna but with the words somewhat confused. The elision reflects the fact that the scribe would often continue writing past the point where he should have known that he did not have sufficient space on the line. That suggests to me that he was writing quickly.

¹⁶⁵ Berlin punctuates this as the beginning of a new halakhah.

¹⁶⁶ Berlin: בביתו

with his disciple. It happened that Rabban Gamliel and the elders were dining in the house of Bethus ben Zonin in Lod and they were discussing the rules of Passover all night long until the cock crowed. They picked themselves up and went to the study hall. Which blessing is recited for Passover? “Blessed (is he) who sanctified us with <i>mitzvot</i> and commanded us to eat the Passover offering.” Which is the blessing for the sacrifice? “Blessed (is he) who sanctified us with <i>mitzvot</i> and commanded us to eat the sacrifice.”	בן זונין¹⁶⁷ בלוד והיו עסוקין בהלכות¹⁶⁸ הפסח כל¹⁶⁹ הלילה עד קרות הגבר הגביהו מלפניהם ונועדו והלכו להן¹⁷⁰ לבית המדרש אי זו היא ברכת הפסח¹⁷¹ ברוך אשר קדשנו במצותיו וצונו לוכל¹⁷² הפסח אי זו היא ברכת הזבח¹⁷³ ברוך¹⁷⁴ אשר קדשנו במצותיו¹⁷⁵ וצונו לוכל הזבח¹⁷⁶.
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Mishnah Pesahim Chapter 10

Translation	Text
[The] eve of Passovers around afternoon¹⁷⁷, a person must not eat before dark; even the poorest Israelite must not eat prior to reclining. They must not provide him with less than four cups of wine even from the charity fund.	עֲרַב פְּסָחִים סְמוּיָהּ לַמִּנְחָה לֹא יֵאָכֵל אֶתְּמָן עַד שְׁתַּחֲשֹׁךְ וְאֶפִּילוֹ¹⁷⁸ עֲנִי שְׁבִישָׁרְאֵל לֹא יֵאָכֵל עַד שִׁיטֵּב לֹא יִפְתָּהוּ לוֹ מְאָרְבָּע כּוֹסוֹת שְׁלִיזִין וְאֶפִּילוֹ מִן הַתְּמַחְוִי

¹⁶⁷ Berlin spells the name זונין

¹⁶⁸ Again: הלכות

¹⁶⁹ Berlin adds אותו “the selfsame night”.

¹⁷⁰ Berlin: להם

¹⁷¹ Berlin adds: אומ (*says or saying*)

¹⁷² Berlin uses the biblical form of the verb rather than the Mishnaic form found in Vienna: לאכול and then follows with the direct object sign missing in Vienna: את

¹⁷³ As before, adds: אומ

¹⁷⁴ Abbreviated in Berlin

¹⁷⁵ Abbreviated in Berlin

¹⁷⁶ Parallel to the first blessing: וציונו לאכול את הזבח

¹⁷⁷ The Hebrew term can mean after noon but before sunset, or it could have the meaning of the hour at which the priests would offer the afternoon meal offering which would be some time in the afternoon. The difference is that one translation conveys no connection to the Temple cult whereas a translation such as “around the time of *minhab* would provide that connection. Another possibility would be “about the time of the afternoon offering.”

¹⁷⁸ Kaufmann A50

2. They mix for him the first cup. Bet Shammai states, “He blesses the day and afterwards he blesses the wine.” But Bet Hillel states, “He blesses the wine, and afterwards he blesses the day.	ב מִזְגֵּי לוֹ כּוֹס רֵאשׁוֹן בֵּית שְׁמַי אוֹ מְבָרֵךְ עַל הַיֵּינִם וְאַחֲרֵי כֵן מְבָרֵךְ עַל הַיַּיִן וּבֵית הִלֵּל אוֹמְרִי מְבָרֵךְ עַל הַיַּיִן וְאַחֲרֵי כֵן מְבָרֵךְ עַל הַיֵּינִם
3. They set before him. He dips twice in¹⁷⁹ the <i>hazeret</i> before he gets to the breaking of bread. They set before him <i>matzah</i>, <i>hazeret</i>, and <i>haroset</i>¹⁸⁰ even though <i>haroset</i> is not a requirement. R. L’azar, son of Rabbi Tzadoq, states that [it is a] requirement. And in the Temple, they set before him the meat of the <i>Pesah</i>.	ג הֵבִיאוּ לִפְנֵי מִטְבֵּל בְּחִצְרָתָא עַד שֶׁהוּא מְגַיֵּעַ לְפָרְפֶּרֶת הַפֶּתַח הֵבִיאוּ לִפְנֵי מִצָּה וְחִצְרָתָא וְחִרְסֵת אֶף עַל פִּי שְׁאֵין חִרְסֵת מִצָּה ר' לְעִזְרָא בְּרַבִּי צָדוֹק אוֹ מִצָּה וּבְמִקְדָּשׁ מְבִיאוּ לִפְנֵי גִּפְסוֹ שֶׁלְפָסַח
4. They mixed for him the second cup. Here the child asks. If the child lacks knowledge, his father teaches him: “How is this night different from all other nights?” “On any night we dip once, but on this night, we dip twice.” “On any night, we eat leavened and unleavened bread, but tonight, only unleavened bread.” “On all other nights we eat meat roasted, boiled or cooked,¹⁸¹ but this night it is all roasted. According to the knowledge of the child his father teaches him. He begins in disgrace and concludes with praise. He expounds from “My father was a wandering Aramaean”¹⁸² until he completes the entire passage.	ד מִזְגֵּי לוֹ כּוֹס שֵׁנִי וְכֵן הֵבִיאוּ שְׂאֵל אִם אֵין דַּעַת בְּבֶן אָבִין מִמְלָמְדוֹ מָה נִשְׁתַּמֶּה הַלַּיְלָה הַזֶּה מִכָּל הַלַּיְלוֹת שֶׁכָּל הַלַּיְלוֹת אֲנוּ מְטַבְּלִין פַּעַם אַחַת וְהַלַּיְלָה הַזֶּה שְׁתֵּי פַעַמִּים שֶׁכָּל הַלַּיְלוֹת אֲנוּ אוֹכְלִין חֶמֶץ וּמִצָּה וְהַלַּיְלָה הַזֶּה כּוֹלֵנוּ מִמִּצָּה שֶׁכָּל הַלַּיְלוֹת אֲנוּ אוֹכְלִין בֶּשָׂר צִלִּי שְׁלֹק וּמִבּוֹשָׁל הַלַּיְלָה הַזֶּה כּוֹלֵנוּ צִלִּי לֶפֶי דַּעַתוֹ שֶׁלְבֶן אָבִין מְלָמְדוֹ מִתְחִיל בְּגִנוֹת וּמִסֵּיִם בִּשְׂכָח וְדוֹרֵשׁ מֵאַרְמִי אוֹבֵד אֶ אָבִי עַד שֶׁהוּא גּוֹמֵר כָּל הַפָּרָשָׁה

¹⁷⁹ The preposition is ambiguous. It could mean *with* in which case the rendering would be “*with the hazeret*.” The problem is that the definition of *hazeret* is not known with certainty and it is therefore difficult to determine whether it was some sort of dip or perhaps something with which one dips. In the modern Passover, most Jews consider *hazeret* to be a green such as Romaine lettuce, and therefore dipping with the lettuce is quite conceivable. But given the lack of definitional certitude, we have to allow for multiple interpretations. We will discuss this further in Chapter 3.

¹⁸⁰ The definition of *matzah* as unleavened bread is secure. The terms *hazeret* and *haroset* are not secure, and care must be exercised not to infer their modern interpretations into this text.

¹⁸¹ The definition of roast for צִלִּי seems reasonably secure, but the two other terms represent variations in cooking methods which are no longer fully understood. Both are often translated as cooked or boiled—more or less interchangeably.

¹⁸² Deut 26:5, a passage which is part of the formula for recitation for the occasion of First Fruits. The celebrant recited a passage redolent with references to the Egyptian history of the people, the Exodus, and the establishment of festivals in the new land. Later generations took this suggestion to mean that the story should

5. Rabban Gamliel used to say, “Anyone who has not mentioned these three things on Passover has not fulfilled his obligation: <i>Pesah</i>, <i>matzah</i>, and <i>bitters</i>. <i>Pesah</i>, because the Omnipresent passed over the houses of our ancestors in Egypt. <i>Bitters</i> because the Egyptians embittered the lives of our ancestors in Egypt. <i>Matzah</i> because they were exiled. Therefore, we are obligated to praise, extol, beautify, elevate, glorify, and magnify the one who created us and these miracles and delivered us from slavery to freedom and let us say before you, Hallelujah!”	ה' רבן גמליאל היה או כל שלא אמר שְׁלֹשָׁה דְּבָרִים אֵילּוּ בְּפֶסַח לֹא יֵצֵא יָדָיו חֲבָתוֹ פֶּסַח מִצֵּה וּמְרוֹרָם פֶּסַח עַל שֵׁם שְׁפֹסַח הַמָּקוֹם עַל בְּתִי אֲבוֹתֵינוּ בְּמִצְרַיִם מְרוֹרִים עַל שְׁמִירָרוֹ הַמִּצְרַיִם אֶת חַיֵּי אֲבוֹתֵינוּ בְּמִצְרַיִם מִצֵּה עַל שֵׁם שְׁנִיגְאָלוֹ לְפָסַח אֲנִי חַיִּיבִים לְהוֹדוֹת לְהַלֵּל לְשַׁבַּח לְפָאֵר לְרוֹמֵם לְנַצֵּחַ לְגַדֵּל לְמִי שֶׁעָשָׂה לָנוּ אֶת כָּל הַנִּסִּים הָאֵלֶּיךָ וְהוֹצִיאָנוּ מֵעֲבָדוֹת לְחֵירוֹת וְנֹאמָר לְפָנֶיךָ הַלְלוּיָהּ ֹ
6. Until where does he recite? Bet Shammai says: “Until <i>A mother of happy children</i>.”¹⁸³ But Bet Hillel says: “Until <i>He turns flint-rock into gushing water</i>” and he seals with redemption.	ו' עַד אֵיכָן הוּא אוֹמֵר בֵּית שְׁמַי אוֹמְרִין עַד אֶם הַבָּנִים שְׂמֵחָה וּבֵית הֵלֵל אוֹמְרִין עַד חֲלָמִישׁ לְמַעְיָנֹו מִים וְחֹפּ וְחוֹתֵם בְּגָאוֹלָה:
7. R. Tarfon says: “He who redeemed us and redeemed our ancestors from Egypt and brought us to this night” and he does not seal. R. Aqiva says: “Indeed the LORD our God and God of our ancestors brought us to festivals that come to us in peace, delighted in the building of your city, joyful in your service, to eat of the Passover offerings and [other] sacrifices, whose blood is thrown upon the side of your altar according to practice and let us thank you (with) a new song because of our redemption, <i>Blessed are you LORD Redeemer of Israel</i>.”	ז' ר' טרפון אומי אשר גאלנו וג' וגאל את אבותינו ממצרים והגיענו ה' הלילה הזה ואינו חותם ר' עקיבה או' כן י' י"א/הינו נאלהי אבותינו יגיענו לרגלים הבאים לקרתינו בשלום שמיחים בבינין עירוד ונששים בעבודתך לזכר מן הפסחים ומן הזבחים אשר גיע דמים על קיר מז מזבחה לרצון ונודה לך שיר חדש על ג גאולתינו ברוך אתה יי' גואל ישראל:
8. They mix for him the third cup. He blesses the meal. Fourth, he completes the <i>Hallel</i> and recites the <i>Blessing of the Song</i>. Between these cups if he desires to drink he may drink. Between the third and fourth he may not drink. They do not leave Passover	ח' מִזְגֵּוּ לוֹ כּוֹס שְׁלִישִׁי מְבָרַךְ עַל מְזוֹנֹו רְבִיעִי גּוֹמֵר אֶת הַהֲלֵל וְאוֹמֵר עָלֶיךָ בְּרַכַּת הַשִּׁיר בֵּין הַכּוֹסוֹת אֲהַאִילוֹ אִם רָצָה לִישְׁתּוֹת יִשְׁתֶּה בֵּין שְׁלִישִׁי לְרְבִיעִי לֹא יִשְׁתֶּה אֵין מִפְטִירִין אַחֵר הַפֶּסַח אֶפִּיקָמוֹן יִשְׁנוּ מִקְצָתוֹן יֹאכְלוּ וְכוּלִם לֹא יֹאכְלוּ רַבִּי יוֹסֵה או' אִם נִתְנַמְנְמוּ יֹאכְלוּ וְאִם נִרְדְּמוּ לֹא יֹאכְלוּ ֹ

be told inclusive of many parts of the Bible and subsequent literature but note that the meaning could be as simple as requiring the recitation of the six verses from Deut 26:5-10.

¹⁸³ Psalms 113:9

<i>afikimon</i>.¹⁸⁴ If a few of them slept, they may eat, but if all, they may not eat. Rabbi Yose says, “If they became drowsy they may eat, but if they fell asleep they may not eat.”	
9. The Pesah after midnight renders the hands [ritually] unclean. The <i>piggul</i>¹⁸⁵ and the <i>notar</i>¹⁸⁶ render the hands [ritually] unclean. He pronounced the blessing of the Pesah, he is exempt from [that of] the sacrifice. If he pronounced the blessing of the sacrifice, he is not exempt from [that of] the Pesah, the words of R. Yishmael. R. Aqiva says, “Neither exempts the other.”¹⁸⁷	הַפֶּסַח אַחֲרֵי חֲצֵי לַיְלָה מְטַמֵּא אֶת הַיָּדִים הַפִּיגּוּל וְהַנּוֹתָר מְטַמֵּאִין אֶת הַיָּדִים בִּירְדּוֹ בְּרֵכַת הַפֶּסַח פֶּטֶר אֶת שְׁלֹזְכָה אֶת שְׁלֹזְכָה לֹא פֶטֶר אֶת שְׁלֵלָפֶסַח דְּבָרֵי ר' יִשְׁמָעֵאל ר' עֲקִיבָה אֵין לֹא זֶה פוֹטֵר זֶה וְלֹא זֶה פּוֹטֵר זֶה:

Manuscript Observations

In both the Mishnah and the Tosefta, these manuscripts demonstrate a consistent text. The variations consist largely of scribal errors and paraphrases.¹⁸⁸ This should not be surprising given that these earliest of manuscripts were written some eight centuries after the initial publication of the sources. If there were manuscripts which contained significantly different versions, they were likely abandoned in favor of the surviving versions.¹⁸⁹ In

¹⁸⁴ This term will be discussed at length *infra*.

¹⁸⁵ A technical term from biblical Hebrew referencing a sacrifice which has become unacceptable. See Lev 7:18, 19:7, Eze 4:14.

¹⁸⁶ A sacrifice which has been “left over” for example, past the time for its normal consumption. This term is found in several texts of the rabbinic era but does not seem to be biblical. Cf. Kritot 3.4, Me'ilah 1.3. Jastrow s.v. יָתַר

¹⁸⁷ Lit: “This one does not exempt this one and this one does not exempt this one.”

¹⁸⁸ I do not mean to suggest that the variations are of no importance. As with all manuscript evidence these variations can reveal subtleties such as regional or scholastic writing habits. In some cases, the variations can indicate differences of theology or opinion. But that does not seem to be the case here. The Parma and Kaufmann manuscripts closely resemble one another. The question we need to wonder about is whether that would still be the case if we actually had manuscript evidence from earlier periods. The simple fact is that all of the extant manuscripts of the Mishnah and Tosefta date from about the same period of time.

¹⁸⁹ Note that the situation for manuscripts of rabbinic texts is vastly different from the experience of Christian documents owing to the scarcity of the former.

addition, they originate in the similar locations, and are written in similar scripts and styles. The variations which do occur suggest that while the themes and content were firmly established, some fluidity of idiom could be tolerated.

The text of the Mishnah seems smoother and perhaps more logical than that of the Tosefta. Perhaps the scribes of the Mishnah treated their text with greater reverence than is apparent with respect to the Tosefta.¹⁹⁰ It is the Mishnah, after all, which formed the basic text of both the Palestinian and Babylonian Talmuds. It attained a level of sanctity exceeded only by Scripture. The groups we now call Masoretes began vocalizing Scripture not long before the era of the Parma and Kaufmann manuscripts and apparently some groups felt that the Mishnah also deserved this treatment which is designed to preserve the key features of the text. There does not seem to have been any effort to vocalize the Tosefta which is to say that no Tosefta mss preserved today are vocalized. All such observations need to be tentative owing to the paucity of evidence.

Commentary

During the period up to and following the destruction of the Temple of Jerusalem, practically all discussion of the holiday of Passover was based on biblical requirements. These focused primarily on refraining from eating leavened bread and the duty of bringing

¹⁹⁰ As we will discuss below, some modern scholars of the rabbinic literature give greater primacy to the Tosefta than the Mishnah. And there are certain problems that are likely to resist resolution given the lack of data. For example, we can say with perfect hindsight that the Mishnah is the more important document since it forms the basis of all subsequent Talmudic discussion, but could the Tanaim involved in the construction of the Mishnah have had any idea that that would be the case?

sacrifices to the priesthood in the Temple.¹⁹¹ There is nothing in Scripture or other sources known in the Second Temple period about a religious service outside Jerusalem or the Temple. Philo, who lived in the period immediately preceding the destruction of the Temple, similarly focuses on requirements to remove leaven and frames the discussion as an allegory as was his intellectual habit: “It was the imperfection of this fruit which belonged to the future, though it was to reach its perfection very shortly, that he considered might be paralleled by the unleavened food, which is also imperfect, and serves to remind us of the comforting hope that nature, possessing as she does a superabundant wealth of things needful, is already preparing her yearly gifts to the human...”¹⁹² Josephus writes after the Temple has already been destroyed but says nothing of observing the requirements of Passover without a Temple. Neither can we find a trace of extra-Temple religious observance of the Passover in early Christian writings.

Both the Mishnah and Tosefta acknowledge the importance of these two ideas in their corpora. Nine out of the ten chapters of the Mishnah deal either with the removal of leaven or with the Temple sacrifice and that is paralleled in the Tosefta. What marks the new

¹⁹¹ The relevant verses are: Ex 12 (all), 13 (all), 23:18, 34:18, 34:25; Lev 23:4-8, and also 9-14; Num 9:1-14, Deut 16:1-17.

¹⁹² Philo, *De Specialibus Legibus*, Loeb edition, VII, p. 403. Unleavened bread is an allegory for the imperfection of produce before it has matured. Especially notable is Philo’s comment that the lawgiver... “wished every year to rekindle the embers of the serious and ascetic mode of faring, and to employ the leisure of a festal assembly to confer admiration and honour on the old-time life of frugality and economy, and as far as possible to assimilate our present-day life to that of the distant past,” *ibid.* p. 405. Frugality and economy might not be consistent with providing four cups of fine wine to every person and guest! On Philo as an allegorist, see for example JE s.v. “Allegorical Interpretation” by Louis Ginsburg who states “All achievements of preceding allegorists, however, were far surpassed by Philo, the most important representative of Jewish Alexandrianism. His philosophy furnished one foundation-stone to Christianity; his Allegorical Interpretation, in an even greater degree, contributed to the Church’s interpretation of the Old Testament; and strange to say neither his philosophy nor his allegorism had the slightest effect upon Judaism” and then quotes Gfrörer (*Philo u. die jüdisch-alexandrinische Theosophie*, Stuttgart, 1831) “It is madness, but there’s a method in it”.

reality for the post-Temple era is the addition of one brief chapter that is partially—and only partially—concerned with observing Passover outside the Temple. Our task for the close reading of this chapter is to see what can be determined about the Tanaitic ritual for the observance of Passover in absence of a Temple. These customs may have been introduced or developed in the home or the community study house or both.¹⁹³

Mishnah and Tosefta 10.1: Four Cups of Wine

Both the Mishnah and the Tosefta begin their descriptions of the extra-Temple ritual of Passover in similar fashion. The break with biblical practice is abrupt and immediate. Despite the usage of the term *minhah* (מנחה) which could connect the text to a Temple service, the key concern is stated as the importance of everyone being able to drink four cups of wine wherever they happen to be celebrating the holiday. There is nothing in the biblical record, nor any other source prior to the Mishnah, that requires the consumption of wine on Passover much less the specific number of four cups.¹⁹⁴ The Tosefta echoes that requirement taking care to specify the strength and character of the wine, and then notes a possible exemption by R. Yehuda. Traditional study of the rabbinic literature applies conventions to determining which tradent is associated with a designated title and name, but

¹⁹³ “Community study house” because the term *synagogue* like the Passover *seder* itself is a term in flux. The point in time where a synagogue becomes a place of prayer or for the purposed of conducting religious rites is by no means clear. What we do know about the first several centuries C.E. is that people gathered in places to read scrolls which would have been far too expensive for most people to own as individuals. See for example, Lee I Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven: Yale University Press, 2005), pp. 81-312.

¹⁹⁴ As noted in Chapter 1, Jubilees 49:6 mentions wine but merely as a description of a festive occasion.

since these designations are not actually documented in the original sources, I am going to refrain from providing identification other than what is provided in the text itself.¹⁹⁵

The requirement to drink four cups of (relatively strong) wine is extraordinary beyond the introduction of a new custom: it also directly contradicts a specific requirement of biblical Passover statutes, namely, that the meal should be eaten in haste. “This is how you shall eat it: your loins girded, your sandals on your feet, and your staff in your hand; and you shall eat it hurriedly: it is a passover offering to the LORD.” (Ex 12:11 NJPS) The modern rationale for failing to follow this biblical requirement is that the rule applies only to the consumption of the Passover offering. If there is no offering, as is the case when there is no Temple, then the instruction need not be followed. However convincing this might seem to modern practitioners, no such explanation is provided in the Tanaitic literature. The first requirement of a Passover meal is four cups of wine, and it is absurd to imagine that this could possibly be consistent with emulating the original Exodus. In the Mishnah, the focus is on declaring it important that even poor people be provided with wine, whereas the Tosefta seems more concerned about the nature and quality of the wine. In either case our introductory passage is an abrupt and jarring discontinuity with anything we might have expected regarding the observance of this holiday. As the texts continue, we will see much more of this.

¹⁹⁵ Hermann Leberecht Strack, *Introduction to the Talmud and Midrash*, 1st Fortress Press ed (Minneapolis: Fortress Press, 1992) provides a good summary of the attribution and name issues, pp. 57-59. In particular, note that some scholars find attributions to have a high degree of accuracy whereas others find no accuracy at all.

Mishnah and Tosefta 10.2: The Role of Wine and Blessings in Holiday Celebration

This section maintains the focus on wine and its role in celebrating the holiday. As in several other places in the Tanaitic literature a dispute is mentioned between “Bet Shammai” and “Bet Hillel.”¹⁹⁶ The term “Bet” indicates that the point was debated not by the tradents Shammai and Hillel but is attributed to a school of the disciples of these tradents. If the attribution is accurate and these schools existed, the time frame would be the early decades of the Common Era when the Temple still stood.¹⁹⁷ The nature of the controversy discussed is the question of the purpose of wine in a liturgical setting. The holiday of Passover arrives when it arrives regardless of whether anyone has pronounced a blessing or not. At sunset on 14th of Nissan it is Passover whether or not a blessing has been recited. Note that there is no biblical source for the use of wine at all and therefore no indication that the priesthood would have been involved in the recitation of such a blessing.

The Tosefta begins with the same language as the Mishnah and then provides additional material which is typical and explains why this collection has its title given that the term “Tosefta” means “additional.” We might have said the Tosefta quotes the Mishnah, but there are also other possibilities. The Tosefta and the Mishnah could both be quoting some older tradition, and it is also possible that the Mishnah is quoting the Tosefta. In the latter

¹⁹⁶ For example, M. Berakhot 8.1ff, M. Demai 1.3, M. Shabbat 1.4, M. Rosh HaShanah 1.1, M. Gittin 9.10, M. Yeb 15.3, Tos. Yeb. 1.10, etc. Interestingly, in the list of tradents captured by Pirkei Avot (technically part of the Mishnah, but possibly added later), Bet Hillel and Bet Shammai are not mentioned. The list jumps from Hillel and Shammai themselves to Rabban Gamaliel (M P.A. 1.12).

¹⁹⁷ This also once again begs the question of whether any such extended meal would likely have been contemplated during the existence of the Temple.

case the Mishnah would be extracting from or abbreviating the Tosefta. It is clear that Jewish communities ever after gave pride of place to the Mishnah—it became the building block for both the Talmud of the Land of Israel and the Babylonian Talmud. That suggests that the Mishnah was held in the highest regard but cannot preclude the other possibilities I have mentioned.

In detail, the Tosefta provides the rationale that Bet Shammai is said to have used in justifying the order of its liturgy as seeing the “day” (i.e. the holiday) as providing the reason why a blessing need be recited at all. The holiday has arrived in its appropriate time and even without the recitation of a wine blessing, the holiday is upon the community. The opinion of Bet Hillel is then provided by the Tosefta stating that on the contrary the wine is the mechanism by which the sanctity of the holiday is recognized and therefore its blessing must be recited before one blesses the holiday itself. The Tosefta goes further and provides an additional reason: wine decorates or beautifies whereas the blessing of the day does not. The Tosefta does not explain this distinction, it apparently expects the community to understand its meaning. Finally, the Tosefta states categorically that standard practice follows Bet Hillel. It is worth noting that the Mishnah does not include this conclusion and therefore if all we have is the text of the Mishnah, we simply have two positions without any resolution of the order one should follow.

This second set of traditions stands in stark contrast to what we know of the observance of the ritual during the Temple period: we have almost nothing in the way of blessings formulated for recitation in the Temple, nor (once again) any special role for wine in the pronunciation of blessings. Both the Mishnah and Tosefta are recounting requirements that seem to have no relationship whatsoever to the religion of the Temple.

Mishnah and Tosefta 10.3: Of Dipping and Vegetables

The Mishnah begins with the statement “They bring before him”. The verb is transitive and normally one would expect an object. Scanning to the end of the paragraph and the quote attributed to R. Tzadok¹⁹⁸ it seems likely that the original statement was something like “They set the sacrifice before him...” Next, we observe the subject dipping twice either “in the *hazeret*” or “with the *hazeret*.” The phrase is difficult because we cannot be certain what *hazeret* means. The word does not occur in Biblical Hebrew although the root *hṣr* is common in post-Biblical Hebrew—a verb meaning *return*. The noun *hazir* meaning *swine* does appear in the Bible, but there doesn’t seem to be a connection to those biblical occurrences here. In the Aramaic of Babylonian Talmud we find a noun *hizra* which means *bran*.¹⁹⁹ One could certainly dip into bran, but that seems unlikely to be the meaning here since bran would be among the forbidden grains for Passover. We are therefore limited to the very small number of uses of this word in the Tanaitic literature. Jastrow cites *Kilaim* 1.2: **הַקָּשׁוֹת וְהַמְּלֻכָּפוֹן, אֵינָם כְּלָאִים זֶה בָּזָה. רַבִּי יְהוּדָה אוֹמֵר, כְּלָאִים. תְּזוּרָת וְחִזְרָת גָּלִים,** **עֲלֵשִׁין וְעֲלֵשִׁי שְׂדֵה, כְּרִישִׁים וְכְרִישֵׁי שְׂדֵה, כְּסֹבֵר וְכִסְבֵּר שְׂדֵה, סֶרְדֵּל וְסֶרְדֵּל מִצְרִי, וְדִלְעָת** **הַמִּצְרִית וְהַרְמוּצָה, וְפֹל הַמִּצְרִי וְהַחֲרוֹב, אֵינָם כְּלָאִים זֶה בָּזָה:** Herbert Danby renders this: “The cucumber and the musk-melon are not accounted Diverse Kinds. R. Judah says: They are accounted Diverse Kinds. **Lettuce and willow lettuce**, chicory and wild chicory, the

¹⁹⁸ The Parma mss vocalizes the name “Tzaduk” but in other places and in most editions the name is written as “Tzadok.”

¹⁹⁹ Michael Sokoloff, *A Dictionary of Judean Aramaic* (Ramat-Gan: Bar Ilan University Press, 2003), s.v. hṣr’

leek and the wild leek, coriander and wild coriander, mustard and Egyptian mustard, the Egyptian gourd and the bitter gourd, the Egyptian bean and the carob are not accounted Diverse Kinds.” Danby does not explain how he arrives at the translations *lettuce* and *willow lettuce*.²⁰⁰

The term *hazeret* is found earlier in the tractate *Pesahim*, 2.6. וְאֵלּוּ יִרְקוֹת שְׂאֶדֶם יוֹצֵא וְאֵלּוּ יִרְקוֹת שְׂאֶדֶם יוֹצֵא בְּהֵן יְדֵי חוֹבָתוֹ בְּפֶסַח, בְּחִזְרָת וּבְעֵלְשִׁין וּבַתְּמָכָא וּבַחֲרָחִינָא וּבַמָּרוֹר. *These are the vegetables by which a person fulfills his obligation on Passover: with hazeret with ‘olshin with tamkha’ with harhavina’ or with bitters.* Danby renders these terms of produce “lettuce, chicory, pepperwort, snakeroot, and dandelion.” For this passage one might wonder which obligation is being referenced. The reference is apparently to the biblical requirement expressed in Ex. 12:8 and Numbers 9:11 which state that a person must eat the meat of the sacrifice “with unleavened bread and *m’rorim* (bitters).” As usual in the Mishnah, the text itself does not explain this. Later commentaries supply the reason, and the explanation certainly makes sense although we must always caution that reading later sources as explanations for earlier ones is methodologically problematic. In his translation, it appears to me that Danby was motivated to look for a more precise definition of *m’rorim* because of the list of specific herbs mentioned. All of them sufficing as “bitters” there must be some specific reason for using the more generic term. Dandelion was a commonly available herb and Jastrow seems to associate the word *maror* with chicory so I believe we can find the rationale for the choice of

²⁰⁰ The term *kilaim* refers to a biblical requirement found in Lev 19:19 and Deut 22:9-11 which prohibits a variety of intermixtures—interbreeding animals, planting different kinds of seeds together, weaving different kinds of fabric into a garment. Danby’s translation and note, p. 28.

vocabulary. The important point is that we are on shaky ground whenever we try to find precise meaning in a vocabulary long lost to us. If everyone knew that *hazeret* was a form of *bitters* well and good, but how do we identify *hazeret* itself? The paucity of references in the vocabulary of the era does not well support the identification of *hazeret* with any commonly understood vegetation. I need to say here that this is a good example of how moderns can read back an explanation which they simply believe they know to be true—people (including scholars who ought to know better) think that they know what *hazeret* is and proceed accordingly.

Jastrow²⁰¹ claims that the term *hazeret* also makes an appearance in one of the most obscure tractates of the Mishnah, Uktzin. *Uktzin* means *stalks* and the entire subject of the tractate has no basis in either in the Torah (which is the main source of most of the tractates or the Mishnah) or in the rest of the Bible nor indeed anywhere else in the Scripture as it came to be defined by the rabbis. The tractate is concerned with ritual impurity related to various plants (hence a possible mention of *hazeret*). It is also notable as containing a statement attributed to Joshua ben Levi (Uktzin 3.12) who is not a Tana at all, but usually described as a member of the first generation of Amoraim.²⁰² When the question arises as to

²⁰¹ Despite the fact that Jastrow's *Dictionary of Targumim, Talmud and Midrashic Literature* is dated and lacks much in the way of etymology and scholarly apparatus, it remains the only comprehensive lexical tool for the Hebrew of the rabbinic literature. Michael Sokoloff has published vastly superior resources for the Aramaic of rabbinic literature, but at least so far has not ventured into Hebrew.

²⁰² The article in EJ by Zvi Kaplan cites B. Sh. 46a, B. Yev. 60b, Y. Meg. 1b (the correct citation, Kaplan has it at 1a), etc. to demonstrate several texts claiming an affinity between Joshua b. Levi and Yehuda HaNasi. The overwhelming majority of quotations attributed to Joshua b. Levi are found in the Gemaras and the later midrashic collections. Horowitz concludes his biography with "Although he was an amora, some of Joshua b. Levi's sayings are attached to collections of tannaitic sayings. The Mishnah concludes with one of his aggadic statements: "In the world to come the Holy One will make each righteous person inherit 310 worlds." (Kaplan 454)

whether the Mishnah should be described as a work of Judah HaNasi, references to Joshua ben Levi among other later tradents is a part of the case to assert that the Mishnah was compiled after R. Judah's lifetime—that is to say, no earlier than mid-to-late third century CE.

The goal here is to see if we can find any contemporaneous material to assist in the identification of *hazeret*. For Uktzin we have a few more manuscript resources than we did for Pesahim. There are two manuscripts in the Biblioteca Palatina (Parma), one numbered 2596 and also catalogued as De Rossi 497. This is a fully vocalized mss although it shows the signs that an earlier unvocalized text was subsequently vocalized by a later scribe.²⁰³ Biblioteca Palatina 3173 (De Rossi 138) is unvocalized for Uktzin (although this was our base text for Pesahim where it was vocalized). In addition to these two Parma mss, we have a manuscript from the Munich collection Bayerische Staatsbibliothek Cod. heb. 95. And finally we also have Kaufmann A 50.

Uktzin 1.2 According to De Rossi 138²⁰⁴

**ב שורשי השום והבצלים והקפלוטות בזמן שהן לחין והפיטמא שלהן בין לחה בין יבישה
והעמוד שהוא מכוון כנגד האוכל שורשי החיזרין והצנן והנפוס דברי ר' מאיר. ר' יהוד' או'
שורש צנן גדול מצטרף הסיב שלו אינו מצטרף שורשי אמיתא והפיגם וירקות שדה וירקות**

Zvi Kaplan, "Joshua Ben Levi," in *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik, 2nd ed., vol. 11 (Detroit, MI: Macmillan Reference USA, 2007), 453–54, <http://link.galegroup.com/apps/doc/CX2587510359/GVRL?u=knox61277&sid=GVRL&xid=db36c034>.

²⁰³ Even in the small selection included here you can see several places where the original scribe wrote the text out using Hebrew letters for the vowels which were then overridden by the scribe who added the vowels.

²⁰⁴ The vocalized version in De Rossi 497: **ב שורשי השום והבצלים והקפלוטות בזמן שהן לחין והפיטמא שלהן בין לחה בין יבישה והעמוד שהוא מכוון כנגד האוכל שורשי החיזרין והצנן והנפוס דברי ר' מאיר. ר' יהודה או' שורש צנן גדול מצטרף הסיב שלו אינו מצטרף שורשי המנתא והפיגם וירקות שדה וירקות גנה שעקרן לשתליון ושיוזה שלשבלת והלבוש שלה ר' אלעזר** **והסיב שלו אינו מצטרף שורשי המנתא והפיגם וירקות שדה וירקות גנה שעקרן לשתליון ושיוזה שלשבלת והלבוש שלה ר' אלעזר** **והסיב שלו אינו מצטרף שורשי המנתא והפיגם וירקות שדה וירקות גנה שעקרן לשתליון ושיוזה שלשבלת והלבוש שלה ר' אלעזר** There are no differences between this text and De Rossi 138 other than a few minor orthographic variations. In most cases, the variations demonstrate less of a propensity to spell out vowel letters, but there is at least one case where this text uses a vowel letter not found in 138. For my purposes the differences are not significant.

גינה שיעקרון לשתלין והשזרה שלשבולת והלבוש שלה ר' לעזר או' אף הסיג שלרצפית הרי
אילו מיטמין ומטמין ומצטרפין:

Roots of garlic, onions, and leeks at the time that they are (still) green and their stems²⁰⁵ are between moist and dry, the core of the edible plant, roots of *hizrin*, round radish and turnip²⁰⁶ --the words of R. Meir. R. Yehuda says, the root of the large round radish is counted but not a fibrous root.²⁰⁷ The roots of mint and rue and field vegetables and garden vegetables which can be uprooted and planted. And the heart of the wheat²⁰⁸ and its sheath. R. Lazar says, also the fuzzy fruit texture²⁰⁹ -- these are susceptible to uncleanness and can convey uncleanness and can be included (in the calculation as to whether there is sufficient material to contaminate).

As can be ascertained from the last sentence, the purpose of this item is to list those edible vegetables which might play some role in determining ritual purity. The reason we are examining it is that references to one of the central parts of the Passover meal are extremely rare. Jastrow and others picked up on the term *היזרין* which I have left untranslated as worthy of inclusion in the definition of *hazeret*. Both manuscripts in the Parma collection have the same term, with De Rossi 497 adding vowels, *היזרין* transliterated as *hizrin*. If this were the only version of the word the connection between it and *hazeret* would be slim. But the other manuscripts provide a slightly different version that is perhaps a bit closer in

²⁰⁵ The *פיטמא* is the upper portion of a fruit where it attaches to the plant.

²⁰⁶ For readability I have chosen a potential interpretation of this word documented by Jastrow and based on the Latin *napus*.

²⁰⁷ The term is *סיב* rendered *bast* by Jastrow. The word is very rare in (as are several other terms in this section of the Mishnah). From context, the intention seems to be to say that when calculating whether some vegetable substance has enough weight to be susceptible to ritual uncleanness, the calculation is made by including substantial, solid vegetable matter but excluding material that seems less substantial. Compare bean sprouts to alfalfa sprouts, for example.

²⁰⁸ Translations using the word *corn* are confusing because the term has migrated in meaning from applying to wheat to maize (which is a New World plant).

²⁰⁹ Additional rare terms which are rendered variously *fruit covering*, *cobweb*.

morphology. Kaufmann A50 renders this word *הַבַּזְרִין* *habazerin* which Jastrow picked up as a plural form for *bazeret*. The Munich manuscript reads as follows:

ב אילו טמאי ומיצטרפין שורשי השום והבצלים והקפלוטות בזמן שהן לחין והפטמא שלהם בין לחה בין יבישה והעמוד שהוא מכון כנגד האוכל ושורשי החזרים והצנן והנפוס דברי ר' מאיר או' שרש צנון גדול מצטרף והסין שלו אינו מצטרף שרשי המיתא והפיגם ירקות שדה וירקו' גינה שיעקרום לשתלים והשזרה של שבולת והלבוש שלה ר' אלעזר או' אף הסיג של רצפים הרי אילו מטמאין ומיטמין ומצטרפין:

This text demonstrates several characteristics of the types of differentiation we find in Mishnah manuscripts. This particular mishnah begins differently than any of the others by opening with a formula of “These are they”: “These are they which convey impurity and can be combined” before continuing in the same vein as De Rossi and Kaufmann. There are many orthographic differences especially as regards the use of the *vav* as a vowel letter—but also inserting or omitting it as a copula. Berlin displays several cases where *nun* masculine plurals in the other manuscripts are spelled with *mem*, and yet ends with a series of *nun* masculine plural verbs. It appears as if the scribes chose *mem* or *nun* on the basis of phonetics or perhaps without even that much of a rationale. Two aspects of the Berlin version are worth noting. First, there is some confusion regarding the first instance of the word *סיג* with Berlin providing *סין* instead. De Rossi 138 also had a reading that differed from the expectation, but in its case the word is rendered *סיב*. It appears that the scribes had some difficulty with the first occurrence of the word, but since all manuscripts agree on the second, it seems we should prefer *סיג* in all instances. However, Jastrow does list both *סיב*

and סיג as correct readings for this passage and provides separate definitions for each.²¹⁰ For our purposes here all that matters is observing the sorts of problems represented in the manuscripts, the precise meanings of these words are not relevant to our topic unless they cast light on the meaning of *hazeret*. The second remarkable point about the Munich manuscript is that it omits the name R. Judah and simply leaves a blank space where the other manuscripts have that name. Perhaps the source manuscript was not legible and this scribe intended to return and fill in the name after learning it, or perhaps it was originally there but was erased.

The plural form *hazarin* makes one more appearance in Uktzim at 2:7.²¹¹ The mishnah reads:

עלי הירקות ירקין מיטמין²¹² מצטרפין ולבנים אינן מצטרפין ר' לעזר²¹³ בר' צדוק או' לבנים מצטרפין באכרוב²¹⁴ מפני שהן אוכל ובחזרין²¹⁵ מפני שהן משמרין את האוכל:

Leaves of green vegetables can convey ritual impurity and are combined (joined, to calculate the quantity) but *l'vanim* are not combined. Rabbi Lazar b'rabbi Tzadok says, *l'vanim* are combined in the case of cabbage because they are food (edible) and in the case of *hazarim* because they protect the food.

This text introduces another rare vocabulary entry, *levanim* (or *levenim*). Herbert Danby (ad loc.) translates the word as *withered* but without any indication of how he found this definition. It is not attested in Jastrow who provides the reference to the biblical sources for

²¹⁰ S.v. סיב Jastrow states “fibrous substance” or “bast” and s.v. סיג he states “growth” or “sproutings.”

²¹¹ 2:8 in De Rossi 138 and Kaufmann A50, 2:9 in Munich (Cod. Heb. 95).

²¹² מיטמין omitted in De Rossi 497, Kaufmann and Munich.

²¹³ Kaufmann A50 spells with א.

²¹⁴ De Rossi 497, Kaufmann A50 and Munich agree with the spelling אכרוב. Although this looks like a case of prosthetic *aleph* (and therefore not significant from a lexical perspective) one wonders why the printed editions dropped it.

²¹⁵ Kaufmann A50 vocalizes ובחזרין .

the bricks that Israelites were making for Egyptian construction projects. Those bricks are either made from, or with the addition of dried reeds as straw which leads to some suggestions akin to Danby's rendering. The most common use of the root *lavan* is to indicate the color white—and there are translations of this mishnah which render the term *white leaves*.²¹⁶ Clearly “white” and “withered” are different ideas, and of course the word may mean neither of these things. I found it interesting that neither Danby nor Sefaria bothered to note the difficulty but simply made their translations as if they knew the correct identification of the term. The issue of “protecting” does suggest a plant like cabbage which has outer leaves that protect the inner, but that is true of many vegetables and sorts of vegetables as for example an onion. The term is important to us only because it reflects on the word *hazarim*. But without knowing its precise definition, it's hard to understand if we can derive any new information about the meaning of that term.

Jastrow's final citation for *hazeret* is to the Talmud of the Land of Israel²¹⁷: מה נפיק מביניהון לקנב חזרין מה דמר שהוא לשעה אסור *What is the difference between them? To clean (or: trim) vegetables (hizrin) what is it to the man that it is a forbidden time?*²¹⁸ The specific issue is not relevant to this discussion, but once again (and apparently for the last time) we are confronted with the word חזרין *hizrin* in a context which suggests it is a vegetable of some sort. Note that

²¹⁶ E.g. Sefaria.org ad loc. https://www.sefaria.org/Mishnah_Oktzin.2?lang=bi (Accessed 6/23/19).

²¹⁷ This is a work in Aramaic and Hebrew which was compiled about the year 400 C.E. It is most commonly referred to as the *Yerushalmi* which means “The Jerusalem [Talmud]”. But no part of it was written in Jerusalem because the various contributors to this text were excluded by Roman law from entering the city. The text itself provides many clues that it was a work composed mostly if not entirely in the Galilee. Some scholars refer to it as the “Palestinian Talmud” but in view of current events that title might be confusing. I generally follow the practice of many scholars at contemporary Israeli and American institutions in using the terminology “Talmud of the Land of Israel” but reserve the right to use the term PT (Palestinian Talmud) for concision.

²¹⁸ Y. Shab 8a, cited in Jastrow s.v. *hazeret*.

this is the same word we found in the Parma manuscripts. Jastrow adds parenthetically “Read חֲזֵרִין” which suggests he wanted to reconcile the form to something closer to the expected plural of *hazeret*.

The conclusion I reach is that *hazeret* is likely a vegetable of some sort. The identification of *hazeret* with “lettuce” is unsupported by anything I have been able to discover. The word does not exist in any biblical book, and even the Tanaitic sources do not connect it to the one term in the Bible that might be relevant, namely *maror*. What needs to be asked, and I think has not been asked much in the discussion of this text, is why our source would not connect *hazeret* to *maror* if such a connection were possible.

Moving on, we note that the mishnah prescribes that someone (the leader?) dip twice either *in* or *with* the *hazeret*. Once again this cannot have anything to do with any ritual documented in Scripture because Scripture says nothing about dipping any number of times, nor does the text explain any rationale for this procedure. At this point the mishnah jarringly provides a sentence mentioning *hazeret* in a list of items necessary for the ritual: *They set before him matzah, hazeret, and haroset*. The order is peculiar since the leader must already have had the *hazeret* presuming that the ritual dipping had already taken place. There are two possible explanations: first, we could have the assembly of two different sets of traditions; second, it could simply mean that a waiter brings additional *hazeret*. If we have the combination of two sets of traditions, one could have introduced the *hazeret* at the early stage but not included it further along, the other might have omitted the first mention of *hazeret*, and a later editor elected to combine the two statements which mentioned *hazeret*. The second possibility could explain the two occurrences without resorting to editorial manipulation but of course

begs the question of why not avoid confusion by using language which would have made this clear.

Before leaving the topic of *hazeret* we should note the location of the traditions about *hazeret* in the Tosefta. The Tosefta breaks with the order of the Mishnah (here: mishnah 3) and relocates instructions about *hazeret* to halakhah 7. “The *matzah* and the *hazeret* and the *haroset* even though *haroset* is not *mitzvah* (required).” As we will soon see in the Mishnah, the Mishnah is also more concerned about the role of *haroset*. The Tosefta merely includes *hazeret* in a list only one item of which can be immediately connected to the biblical requirements of the holiday. For the Tosefta, *hazeret* is some sort of common entity needing little or no explanation or comment.

Returning to mishnah 3, the text now becomes concerned with an element named *haroset* (חֲרֹסֶת). The root exists in the Hebrew Bible but with nothing associated with a foodstuff.²¹⁹ Jastrow provides a definition based on this mishnah and Tosefta halakah 7 which cannot possibly be derived from the oldest sources: “A pap made of fruits and spices with wine or vinegar.” He does not provide a source for this definition which agrees with modern Jewish practice, although likely he knew of such definitions from much later periods.²²⁰ We will see below that assuming the modern understanding of such a term is correct for the period of the Mishnah is dubious and subject to error.

²¹⁹ Brown, Driver, Briggs and Koehler-Baumgartner provide identical lists of occurrences including the allophone חרש ad loc.

²²⁰ The oldest comment and recipe I am aware of comes from Maimonides (d. 1204 C.E.) Mishneh Torah, Hilkhoh Hametz Umatzah, Chapter 7, verse 11: וכיצד: החרוסת מצוה מדברי סופרים זכר לטיט שהיו עובדין בו במצרים, וכיצד: עושין אותה לוקחין תמרים או גרוגרות או צמוקין וכיוצא בהן ודורסין אותן ונותנין לתוכן חומץ ומתבלין אותן בתבלין כמו טיט. “The *haroset* of commandment according to the words of the Scribes is a

We need to discuss the issue which seems to be one of the primary objectives of this mishnah, the question of whether *haroset* is “mitzvah” (מצוה) or not. The word is usually translated as *requirement* or even *commandment* and in the theological systems adjudicated by Tanaitic sources, are usually rooted in some aspect of Scripture, and in particular the Torah. I have already noted that the word *haroset* does not appear in Scripture. In fact, while there is at least a possibility of associating the term *hazeret* with Scriptural *maror*, no such possibility can exist for *haroset*. It is therefore difficult to understand how anyone responsible for this mishnah could reference *haroset* as a requirement. Indeed, the anonymous author holds that *haroset* is not a commandment, but R. Lazar b. Tzadoq disagrees and states blatantly that it is. As is its habit, the Mishnah does not inform us as to whether any consensus was achieved.

While a large portion of these Tanaitic chapters is concerned with post-Temple practices, this third mishnah ends with a memory of the Temple: at this point when the Temple stood, presumably along with the *matzah*, *hazeret* and *haroset*, the meat of the sacrificial animal was presented. There is no doubt that many Judeans consumed the roasted meat of their sacrifices during Passover after journeying to Jerusalem for the event. There is no reason to doubt that they also ate the meat with unleavened bread. And there is also no reason to doubt that they would have attempted to fulfill the biblical mandate of eating the

memorial to the mud [bricks] that they used to make in Egypt. And how do they make it? They take dates and/or dried figs or raisins and (fruits) of that sort and crush them and mix them with vinegar [wine] and add spices that (look) like bricks and then place (the dish) on the table on the evening of Passover.” Note that this is some nine centuries after the time of the Mishnah and Tosefta. Which is not to suggest it is a creation of that time, no doubt *haroset* achieved this sort of meaning long before the time of Maimonides. And not only is it unusual that Maimonides does not provide a source, it is his usual method. The point is simply that we do not have evidence even remotely contemporary to the Tanaitic sources and therefore the meaning of the word could have changed during this long interregnum.

meat and unleavened bread with bitter herbs. But whether that meant *hazeret* or not, and whether they would have been eating *haroset* however that might have been defined while the Temple stood, are questions we cannot answer. But I do want to suggest even at this early juncture that we should be aware that not all Judeans made the journey to Jerusalem. Thousands of people who looked to the Hebrew Bible for religious authority over a large swath of the Roman Empire honored the holiday in places distant from the Temple. Whether or not they found some way to rationalize the lack of ability to eat sanctified meat, perhaps they began finding ways to honor the holiday that allowed them to enjoy the festival by other means. If they began to construct such methods, these would have been available to them after the Temple was no longer an option.

The Fourth Mishnah: Four Questions

A second cup of wine is served, and the Mishnah provides a rare glimpse into the manner in which children might be instructed in its era. The Mishnah states, “If the child lacks knowledge his father teaches him...” which implies that the child recites some sort of teaching if he does have knowledge. But if he does not, his father supplies four clauses which were subsequently understood to be four questions, or three parts to one overriding question, “How is this night different from all other nights?” There is a slight linguistic problem in that only first, overriding question conforms to Hebrew question format. The three sub-clauses could be questions but are actually phrased as statements. These three statements are: 1) “dipping” a second time when normal practice is just once; 2) eating only unleavened bread whereas normally any sort of bread can be consumed; 3) eating only roasted meat when normally any type of cooking will do. Notably the first of these sub-

statements was edited in later versions we presume because communities fell out of the practice of beginning every dinner with “dipping.” Therefore, later versions of the liturgy read, “On all other nights we do not dip even once, but on this night twice.”²²¹ With regard to dipping, note that the Mishnah itself does not explain what this means and so we are back at the question first raised in Mishnah 10.3 regarding *hazeret*. The point raised in sub-statement 3 is interesting because in post-Temple communities, there can be no question that the meat is being prepared in the “official” manner since there is no Temple in which to procure that meat. The statement or question might therefore have been an *entrée* into that issue, but if so it is not detailed in the Mishnah itself. Later generations of Jews did not regard themselves as obligated to follow this instruction, interpreting it as applying only to the sacrifice itself. In fact, only one of these sub-statements forms a continuum with the biblical ritual; namely, the requirement to eat only unleavened bread.²²² The mishnah concludes with a directive in the proper manner of educating the child: in age-old storytelling fashion, to begin in poverty or bad circumstance and conclude with victory over those

²²¹ At PT 70a we find essentially the same formulation as the Mishnah. The Babylonian Talmud (BT Pesahim 116a/b records four questions (adding a question about bitter herbs) and suggests rephrasing the question about dipping so that it would read “...on all other nights we do not dip even once...”). The medieval texts (for example, the formulation of Maimonides (Mishneh Torah, *Halakhot Hametz u-Matzah* 9.3): מה נשתנה הלילה הזה מכל הלילות! שבכל הלילות אין אנו מטבילין אפילו פעם אחת, והלילה הזה שתי פעמים. שבכל הלילות אנו אוכלים חמץ ומצה, והלילה הזה כולו מצה. שבכל הלילות אנו אוכלים שאר ירקות, והלילה הזה מרור. שבכל הלילות אנו אוכלין בין יושבין בין מסובין, והלילה הזה כולנו מסובין. *How is this night different from all other nights? For on all other nights we do not dip even once, but on this night, twice. For on all other nights we eat hametz and matzah* [leavened and unleavened bread] *but tonight all is matzah. For on all other nights we eat any kind of vegetable, but on this night bitter* [vegetables]. *For on all other nights we may eat either sitting or reclining, but on this night, we all recline.* Note that Maimonides retains the language of dipping “not even once.” At this point (twelfth century) the question about roasted meat has disappeared. Bokser (*Origins* p. 101ff) discusses whether the question about roasted meat might have signaled continued consumption sacrificial meat post-Temple. Maimonides substitutes a question about “reclining” to replace it. Most modern versions of the Passover liturgy now follow the formulation of Maimonides with minor variations such as the order of the clauses.

²²² Unless, of course, *hazeret* means *maror*. This may well have been their thought, but they nowhere explain it.

circumstances. The mishnah details how this may be done. “He teaches (expounds, interprets) from ‘My father was a wandering Aramean’ and continues through the conclusion of the passage.”

The Mishnah seems to be quoting Deuteronomy 26:5 וְעָנִיתָ וְאָמַרְתָּ לִפְנֵי יְהוָה אֱלֹהֶיךָ *And you will reply and state before the LORD your God, My father was a wandering Aramean who immigrated to Egypt with a few others and lived there, and there he became a great, powerful and numerous people.*’ It is not immediately apparent from the English translation why this might mean that the Hebrew people began in disgrace, nor does the Mishnah itself trouble to explain this. Later commentators explain that the word אָבִד was interpreted in ways other than “wandering”—it can also mean *erring* or *fugitive*. The Passover liturgy which evolved from the Mishnah used other sources to interpret the verse as “An Aramean sought to destroy my father...” which does some violence to the original language but is not unusual in the hermeneutics of the later rabbis.²²³ Notably, this single verse could satisfy the requirement of the mishnah that celebrants begin in shame and conclude with praise. But the language “until he finishes the entire passage” would seem to

²²³ Rashi and ibn Ezra had vastly different interpretations of this biblical verse and the difference is instructive for our issue. Both of these commentators lived in temporal proximity (Rashi d. ca. 1105, Ibn Ezra d. ca. 1167). Ibn Ezra has several remarks on this verse beginning with his observation that the verb אָבִד is intransitive but seems to be used in a transitive sense here. He then states, כי עני היה כאשר בא אל ארם, ואתה השם הוצאתנו מעבדות ותתן לנו ארץ טובה *Since I did not inherit (the) land from my father, therefore I was poor when I journeyed to Aram, and also when I sojourned in Egypt as but few in numbers. But afterwards he made me into a vast nation. And you God took us from slavery and gave us a good land.* Rashi’s commentary *ad loc.* אַרְמֵי אוֹבֵד אָבִי. מְזִכִּיר חֲסִדֵי הַמָּקוֹם, “אַרְמֵי אוֹבֵד אָבִי”, לָבוֹ בְּקֶשׁ לַעֲקוֹר אֶת הַכָּל בְּשָׂרָה אַחֵר יַעֲקֹב, *An Aramaean sought to destroy my father. This is a reminder of the kindness of the Omnipresent. “An Aramaean destroyed my father”; [this means] Laban sought to eradicate the whole [nation] when he pursued Jacob, and since he planned to do this, the Omnipresent accounted it to him as if he had actually done it.* The translation “sought to destroy” derives from Rashi’s explanation of the text using the verb לַעֲקוֹר which means, uproot. This understanding of the text is redolent of the method of the *midrash*.

argue for a longer discourse. If so, this particular mishnah does not specify further.

Ultimately, this mishnah leaves us with an enigma. Is the father expected to read this specific passage from Deuteronomy, and where should the reading conclude? And why this particular Scripture as opposed to (for example) Exodus 12? In other words, why not begin with slavery and end with freedom?

Mishnah 10.5: Passover Offering, Unleavened Bread and Bitter Herbs

The Mishnah now attributes to Rabban Gamliel a statement about what is necessary on Passover, namely a recitation involving the Passover sacrifice, the unleavened bread, and bitter herbs. The mishnah does not contain enough information to definitively establish whether it is referring to the first or second Gamliel who is addressed as “Rabban” in the Tanaïtic literature. The first Gamliel was a contemporary of Jesus and is mentioned in the Christian Bible.²²⁴ The second Gamliel gained some sort of authority immediately following the destruction of the Temple. Since the passage refers to eating the Passover sacrifice it would appear that the attribution is to the first Gamliel, but there are other possible interpretations. Notice that as stated, the requirement is not to eat the Passover sacrifice, but rather to mention it. Substituting “mention” for “eating” might also have been useful for the hundreds of thousands of worshippers who were unable to get to Jerusalem. But if there was a difficulty associated with eating the sacrifice, no such difficulty appertained to unleavened bread or bitter herbs, so there is a lack of parallelism here. Why not require the mentioning

²²⁴ Acts 5:17-42 and also 22:3. These scant passages were apparently enough to inspire a “Gospel of Gamaliel” which is included in the Christian Apocrypha.

of the sacrifice but the consumption of unleavened bread and bitter herbs? Regardless of this issue, there is no doubt that the material is being quoted in a document composed more than a century after the lifetime of even the second Gamliel. What we therefore have is a third-century reminiscence of either a first-century tradent or his grandson; the grandson who might have been living in the period immediately following the loss of the Temple. We will find time and again that the materials we have represent distant memories of people and events who lived long before the completion of our primary sources.

In this passage, the mishnah clearly identifies the item of importance as מְרוֹרִים *merorim* “bitters” using the precise term found in the Pentateuch in two places (Ex. 12:8 and Num. 9:11). No explicit connection is made between this term and the *hazeret* of 10.3. Looking at the reasons supplied for each of the items, the reason given for mentioning the Passover is to recall that “the Omnipresent passed over the houses of our ancestors in Egypt.” The term translated as “Omnipresent” is nowhere found in Scripture (despite the number of different names of God that are attested therein). And it seems noteworthy to me that the reason is connected with the events in Egypt and not with the Passover offering. To put a point on this, I wonder whether if Rabban Gamliel I might have pointed to the Passover offering which was very much available in his own generation.

The Mishnah concludes with a pleonastic panegyric which is a liturgical form not found in Scripture but which became common in the rabbinic era. Biblical Hebrew is notably deficient in synonyms—I often tell my students that people in the era of the Bible would have had little need for a thesaurus. But in this mishnah we find seven words in a row that essentially mean the same thing, “praise.” The mishnah concludes with a pronouncement that the audience proclaim “halleluyah” (“praise God”). The literary

structure is consistent with rabbinic Hebrew rather than biblical. It is worth considering that we do not know what sort of Hebrew (or Aramaic) Rabban Gamliel might have been familiar with, but this language is definitely at home in the third century. We will consider what is meant by “halleluyah” in the next mishnah.

Mishnah 10.6: The Recitation of Psalms at the Meal

This mishnah is cryptic without knowledge of the rabbinic liturgy. Once again, we will have to keep in mind that it is a significant challenge in cases such as this to refrain from assuming that later information can inform us accurately about the earlier. Nevertheless, it is practically impossible to understand this mishnah without such a reference. We will attempt to evaluate in due course whether there are cases where some reliance may be made on later materials to explain earlier material.

As rabbinic liturgy developed, a unit was composed which is now called the *Hallel*. Even non-Hebraists are familiar with this term as it is the first part of the commonplace “halleluyah”.²²⁵ The term is Hebrew for “praise”. *Hallelu* is the imperative, “Praise!” in the second person plural. “Yah” is one theophoric element which can be combined with other elements to construct some sort of invocation of God. Thus “halleluyah” literally means “All (of you) praise God.” Within the book of Psalms there is a section which runs from numbers 113 through 118 and it is this collection, when surrounded by rabbinic era blessings, that became the liturgical unit called *Hallel*.²²⁶ The mishnah’s expression, “Until

²²⁵ Phonetic spelling. The traditional English spelling *hallelujah* references the *j* as it was pronounced in German.

²²⁶ Psalm 113 both opens and closes with the word *halleluyah*. Psalm 114 does not include the term, but Psalm 115 concludes with it as does 116. Psalm 117 is one of the shortest of the psalms in the Masoretic tradition (the

which point does he recite” indicates a question about the appropriate place to pause in the recitation of these psalms. Bet Shammai states that the appropriate place is “A joyful mother of children.” This can only be a reference to the last verse in Psalm 113, the very first of these Hallel psalms. In other words, Bet Shammai places the logical place for a pause at the conclusion of reading the first psalm. Bet Hillel is quoted as placing the pause rather at “...the flinty rock into a fountain.” Another reference that would be mysterious to a person unfamiliar with Scripture, but to one who is, it clearly references the end of Psalm 114. In other words, Bet Hillel would pause the Hallel only after the recitation of two psalms. The mishnah then continues, “...And he seals with redemption.” This could be a continuation of the statement of Bet Hillel, or it could be the anonymous author of the mishnah adding a comment that would have applied to both Bet Hillel and Bet Shammai. Once again, the comment is cryptic without an understanding of rabbinic liturgy.

Fixed form blessings are absent from Scripture. When we have blessings quoted at all, they tend to be *ad hoc* and free form.²²⁷ We also have little or no information about blessings in our Hellenistic and Roman sources. By the time of the Mishnah, however, there appears to be a relatively well-developed sense of how blessings should be structured. The

Septuagint numbers the chapters and verses differently so that Rahlfs has a much longer 117) and is almost entirely dedicated to *ballehyah*, but with the variation that it begins with הַלְלוּ אֶת־יְהוָה “[Let all nations] praise the Lord” as fully spelled out words, and ends with הַלְלוּ־יְהוָה another variation on the spelling of the term. Finally, Psalm 118 introduces yet another variation on the theme. This psalm both begins and ends with הוֹדוּ לַיהוָה לִי כִּי־טוֹב כִּי לְעוֹלָם חַסְדּוֹ: “Give thanks to the LORD for he is good, his mercy lasts forever.”

²²⁷ For example, Gen 12:2-3; 24:60; 27:28; Exo 23:25; Lev 25:21; Num 6:22-27; Num 24:4-9; Deut 1:11; Deut 28:1-14. While the Hebrew word for *blessing* is found in most of these passages, the format of the blessing is apparently free-form and *ad hoc*. Numbers 6 is of particular interest because it actually frames the recommended structure of a priestly blessing, and yet the rabbis chose to use a different format in the construction of the blessings of their era.

formulation of blessings is treated extensively in the first tractate of the Mishnah (although that does not necessarily mean it is any earlier in construction than other parts of the Mishnah) and they are definitely composed in post-Biblical Hebrew—neither Biblical Hebrew nor the Aramaic which most scholars assume to be the *lingua franca* of the period. Our earlier sources such as Philo, Josephus, the Christian Bible and various works of apocrypha and pseudepigrapha provide little indication of the number and specifics of blessings for various occasions we find in the Tanaitic literature. This therefore appears to be a development specific to that community. These blessings are attested in the third century. But the discussions surrounding the blessings invariably invoke the names of tradents who lived in earlier periods. As our project continues, we will have to address more comprehensively the question of whether these earlier personages were truly acquainted with this material, or whether authors in the third century are retrojecting the controversies of their own times into an earlier context. I intend to show that the latter conclusion is far more consistent with the evidence than the former.

Modern Jews are well acquainted with the formula for a blessing beginning with the Hebrew words, בָּרוּךְ אַתָּה יי, אֱלֹהֵינוּ מֶלֶךְ הָעוֹלָם, *blessed (or: praised) are you LORD our God, ruler of the world...* But the Mishnah seems to have a much more concise formulary. As evidenced by Berakhot Chapter 9, the Mishnah does indeed begin a blessing with בָּרוּךְ but after that single word it launches directly into the blessing. For example, the blessing for experiencing an earthquake is quoted as בָּרוּךְ שְׁפָחוּ וּגְבוּרָתוֹ מְלֵא עוֹלָם *Blessed (or: praised) is [the one] whose power and might fill the world.*

As the liturgy evolved the rabbis formulated blessings differently depending on whether they were brief or lengthy. A brief blessing would begin with the word *barukh*

this evidence is that in the Galilee, the territory often referred to as Palestine or the Land of Israel, blessings were formulated with the word *Barukh* unelaborated, but under the influence of the milieu of Babylonia, the practice changed to providing God with a title using more florid language appropriate to God's majesty over all earthly rulers.

Returning to our mishnah, we are now in a position to understand that "...he seals with redemption" is a reference to a blessing which both opens and closes with the term *barukh*. Regardless of the degree of credence which can be applied to the question of the accuracy of attributions in the Tanaitic literature, it is clear and obvious that at least at the time of the formulation of the Mishnah, there was no agreement about the nature of the blessing that should be recited when one quotes these biblical Psalms. The notion of "sealing with redemption" will receive additional attention below in 10.7.

Mishna 10.7: On Additional Cups of Wine and the Cessation of Drinking

Given the close connection of this mishnah to the previous one, I am unconvinced that the Tanaim intended there to be a separation at all here. The mishnah begins with an attribution to R. Tarfon of an explanation of the "redemption" with which the prior mishnah ended. As is the style throughout the Mishnah, R. Tarfon's benediction provides only the sense of the matter rather than the full text which might have included the opening and/or closing phrases. R. Tarfon flatly contradicts Bet Hillel by insisting that there be no seal. But we now understand that at least according to one view, the redemption is the combination of the Exodus from Egypt with a direct connection to the holiday being celebrated ("this night"). R. Aqiva (who is often juxtaposed with R. Tarfon) then quotes a much lengthier text for this benediction and includes in that text the language for the seal he

requires: *Blessed are you Lord Redeemer of Israel.*²³⁰ R. Aqiva's blessing is notable for its strong reference to the sacrifice which could not be made in the era of the Mishnah. In fact, it is highly unlikely that R. Aqiva ever participated in such a sacrifice. This brings us to the question of the historical veracity of any of the biographical details the rabbinic sources provide. In the case of R. Aqiva, there seems to be an association of the end of his career to his alleged participation in the Bar Kokhba Revolt.²³¹ That event can reasonably be dated to 132 to 135 C.E. during the reign of the Roman emperor Hadrian. The traditional dates for Aqiva have been worked out to 50 C.E. to 135 C.E. Even if the birth year is relatively true, this means that he would have been a child to a young adult while the Temple was available. It is interesting (but hardly conclusive) to note that several of the traditional accounts claim that he was an ignoramus who had little to do with the religion until he was 40 years old. If true, that would mean he might never have witnessed a Passover in the Temple. But the more important point is that if we can rely on his reaching the end of the Bar Kokhba rebellion, unless he was active into his mid-80s, the more likely case is that he was born just before or around the time of the destruction of the Temple. If he was a small child while the

²³⁰ Notice that while this formulation does invoke the divine name, it omits the later formulation "ruler of the world."

²³¹ T.B. Berakhot 61b reports that Aqiva was executed by Rome. The Babylonian Talmud was redacted in about the sixth century C.E. but this report is contained in a *baraita*. A *baraita* (literally, "external") is a quotation in Tanaitic Hebrew from a source which is not found in any of the standard Tanaitic collections such as the Mishnah or the Tosefta. What we have, therefore, is a text of unknown origin which may or may not be older than the Babylonian Talmud asserting facts in a completely legendary context which places Aqiva's death at the hands of the מלכות הרשעה "the evil authority" which is taken by most translators and interpreters to mean Rome. The connections of this and other traces of possibly historical material in other sources (all much later than Aqiva's lifetime) is beyond our scope. But if we accept that Aqiva was killed during the Bar Kokhba revolt, that would place his death in 132 – 135 C.E. Note that while we earlier mentioned that the name of the revolt's leader was Shimon bar Koseba, the event is universally referred to as the "Bar Kokhba Revolt."

Temple existed, he would have lacked direct experience in the Temple rituals. All this leads to the question of the language attributed in our mishnah to R. Aqiva: "...joyful in your service, to eat of the Passover offerings and [other] sacrifices, whose blood is thrown upon the side of your altar according to practice..." The author(s) of the Mishnah, and subsequently the Babylonian Talmud are at pains to demonstrate that they are the true bearers of the traditions of the correct procedure for offering sacrifices in the Temple. The Mishnah's fifth order, Qodashim ("Holy Things") begins with a long tractate, *Zevahim*, devoted to defining all sorts of specifications for the Temple objects and sacrifices. It also goes to great lengths to describe the "correct" procedure for placing sacrifices on the altar and where the sacrificial blood must be used. For example,

אֵיזוֹהוּ מְקוֹמָן שֶׁל זִבְחִים, קִדְּשֵׁי קִדְּשִׁים שֶׁחֵיטְתָן בְּצִפּוֹן, פֶּרֶךְ וְשִׁעִיר שֶׁל יוֹם הַכִּפּוּרִים שֶׁחֵיטְתָן בְּצִפּוֹן, וְקָבִיל דָּמָן בְּכָלִי שְׁרֵת בְּצִפּוֹן, וְדָמָן טָעוֹן הִזְיָה עַל בֵּין הַבָּדִים וְעַל הַפְּרָכֶת וְעַל מִזְבֵּחַ הַזָּהָב. מִתְּנָה אַחַת מֵהֶן מַעֲכָבֶת. שִׁירֵי הַדָּם הִיָּה שׁוֹפֵךְ עַל יְסוֹד מַעֲרָבִי שֶׁל מִזְבֵּחַ הַחִיצוֹן. אִם לֹא נָתַן, לֹא עֲכָב:

What is the [proper] place for sacrifices? The most holy sacrifices are sacrificed on the north [altar]. The bull and goat for the Day of Atonement are sacrificed on the north [altar]. And he receives their blood in a service bowl on the north [side of the altar]. And their required blood is thrown between the staves and against the curtain and on the golden altar. [Just one] function delays [the atonement]. He would cast the remnants of blood on the foundation of the external altar. But if he didn't perform [this] he did not delay [the atonement].²³²

While the precise meaning and technique of these sacrificial acts may elude us, the point which is clearly made is that the rabbinic authorities considered themselves to be the arbitrators of the priestly performance. And this should serve as an explanation of what our

²³² M. Zevahim, 5.2 referencing Lev 8:15 among other biblical texts.

mishnah means when it quotes R. Aqiva as stating “...to eat of the Passover offerings and [other] sacrifices, whose blood is thrown upon the side of your altar according to practice...”

Mishnah 10.8: Last Cups of Wine

Our penultimate mishnah begins by mentioning the third of the four formal cups of wine and then specifying that this is the place for a thanksgiving blessing for the meal. And then the fourth cup. But as an afterthought, the tradent makes an important distinction: between the third and fourth (formal) cups, the celebrants may drink as much as they please. While we might quibble about how strong the “mixed” wine may have been, this makes it quite clear that celebrants were free to drink heavily. Once thanks have been offered for the meal, the only additional wine is the fourth and final cup. Following the fourth cup, the mishnah mentions several more liturgical requirements for the evening. First, the unit called the *Hallel* must be completed. Recall that in mishnah 10.6 there was a dispute posed between Bet Hillel and Bet Shammai as to where the Hallel should be interrupted with the choices being either at the end of Psalm 113 or 114. Although it was not detailed there, from 10.8 we can now understand that that this pause was for the meal. Following the meal, the Hallel must be resumed and concluded. There is not much reason to doubt that this meant the reading of additional Psalms through 118.²³³ Following the completion of the Hallel, the

²³³ As mentioned earlier, in subsequent materials the *Hallel* came to be defined as Psalms 113 to 118 surrounded by blessings composed in post-Biblical Hebrew. My suggestion is that this liturgical unit may be very ancient, indeed anteceding the composition of the Mishnah, but it is likely that the blessings before and after were added later and also experienced some evolution before reaching their current forms.

tradent specifies the recitation of a prayer called בְּרַכַּת הַשִּׁיר “The blessing of the Song” which is not otherwise defined, meaning that the audience was expected to know what this meant. In fact, no one knows exactly what the Mishnah intended here. To satisfy this requirement, modern versions of the Passover liturgy have inserted a long and beautiful prayer from the medieval liturgy called *Nishmat Kol Hai*. נִשְׁמַת כָּל חַי, תְּבָרַךְ אֶת שְׁמֶךָ יְיָ אֱלֹהֵינוּ, וְרוּחַ כָּל בָּשָׂר תִּפְאֶרֶךְ. “The breath of every living thing will praise your name LORD our God, and the soul of all flesh will praise, beautify and raise your memory, our eternal king.” However lovely and appropriate the sentiment might be, there is no evidence this is what the Mishnah meant by *Birkat HaShir* which can be proven very easily by the fact that various medieval commentators differed in opinion about what should be said.²³⁴ מאי ברכת השיר? רב. יהודה אמר: יהללוך ה' אלהינו, ורבי יוחנן אמר: נשמת כל חי. “What is the ‘*birkat hashir*’? Rav Yehuda states, ‘Yehallelukha haShem eloheinu’ (‘Everyone praise the LORD our God’) whereas Rav Yohanan states, ‘*Nishmat Kol Hai*’ (‘The breath of every living thing’)”. It is not important to precisely identify these prayers, all we need to know is that as early as the period of the Babylonian Talmud (edited ca. 500 C.E.) there was doubt as to what the Mishnah meant by “Birkat haShir.” In the opinion of Rav Yehuda, the reference is to a blessing on the psalm (the constituent psalms of the Hallel) whereas Rav Yohanan nominates a poem that had become part of the morning liturgy by then. We do not have a complete text for this prayer until several centuries later, so it is not possible to know how closely the prayer that Rav Yohanan mentions resembles what was placed in liturgical guides to the Passover service. To

²³⁴ B.T. Pesachim 118a.

summarize, the author(s) of this mishnah provide tantalizing hints to their suggestion for the appropriate concluding liturgy following the fourth cup of wine, but we can no longer identify their suggestion with any confidence.

Mishnah 10.8 Afikomon

The eighth mishnah of the chapter uses the word אֶפִיקוֹמֹן *afikomon* in the phrase, “It is inappropriate to end [the evening] by [or: with] *afikomon*.”²³⁵ This text has a parallel in our Tosefta [10.8]: אין מפטירין אחר הפסח אפיקומן כגון אגוזים תמרים וקליות *It is inappropriate to end the Passover afikoman for example: almonds, dates and roasted grain*. In other words, the Tosefta glosses the term “afikoman” with the sort of foods that might be used for desert. Either the Mishnah has abbreviated the tradition, or the Tosefta is attempting to explain it. It is difficult to discern what the Tosefta is getting at here. Perhaps it is suggesting that once the meal is complete it is no longer appropriate to have some sort of desert. Having nuts or dates would certainly have been a common desert. And roasted grain is an interesting choice as well—the term appears in Leviticus 2:14 explaining common meal offerings to the Lord. Over the centuries, Jewish communities have adopted ever more strict rules to avoid eating any sort of grain which might be subject to leavening, but it would be reasonable to imagine that the rules were looser in the era of the Mishnah and Tosefta—perhaps roasted grains (not among the forbidden kinds) were permissible during the meal, but not after the fourth cup. The Babylonian Talmud at Pesachim 119b-121a provides several explanations for the term, one of

²³⁵ I am using the transliteration of the term as it appears in the printed version of the Mishnah. The Parma manuscript vocalizes the word (included here) as *a-fee-kee-mon*.

which is clearly based on our Tosefta. Another explanation is that it means a person is not permitted to move from one person's group to another. And yet another discusses the dessert as it applies to when unleavened bread (*matzah*) should be eaten.²³⁶ If there is one thing that is clear, it is that the commentators of the period of the Babylonian Talmud did not actually understand the word *afikoman*. And, as it turns out, it isn't much less of a mystery today.

Etymologically the word appears to be Greek,²³⁷ and that helps explain why most traditional Jewish sources were unable to render it. Jastrow provides the etymology as

²³⁶ מאי אפיקומן? אמר רב: שלא יעקרו מחבורה לחבורה. ושמואל אמר: כגון אורדילאי לי וגזילאי לאבא. ורב חנינא בר שילא ורבי יוחנן (אמר) (מסורת הש"ס: [אמר]) כגון תמרים קליות ואגוזים. תניא כוותיה דרבי יוחנן: אין מפטירין אחר הפסח, כגון תמרים קליות ואגוזים. אמר רב יהודה אמר שמואל: אין מפטירין אחר מצה אפיקומן. תנן: אין מפטירין אחר הפסח אפיקומן, אחר הפסח - הוא דלא, אבל לאחר מצה - מפטירין - לא מיבעיא קאמר לא מיבעיא אחר מצה - דלא נפיש טעמייהו, אבל לאחר הפסח דנפיש טעמיה, ולא מצי עבדיה - לית לן בה, קמשמע לן. נימא מסייע ליה: הסופגנין והדובשנין והאיסקריטין - אדם ממלא כריסו מהן, ובלבד שיאכל כזית מצה באחרונה. באחרונה - אין, בראשונה - לא. לא מיבעיא קאמר: לא מיבעיא בראשונה - דקאכיל לתיאבון אבל באחרונה דילמא אתי למיכל אכילה גסה - אימא לא, קא משמע לן. מר זוטרא מתני הכי: אמר רב יוסף אמר רב יהודה אמר שמואל: מפטירין אחר המצה אפיקומן. נימא מסייע ליה: אין מפטירין אחר הפסח אפיקומן, אחר הפסח - דלא, אבל אחר מצה - מפטירין. לא מיבעיא קאמר: לא מיבעיא אחר מצה - דלא נפיש טעמיה, אבל לאחר פסח אימא לא - קא משמע לן.

[119b] What is "afikoman"? Rav said: "[This means] they should not move from group to group." And Samuel said, "For me mushrooms, for Abba pigeons." And Rav Hanina bar Shila and Rabbi Yohanan (say) "Things like dates and roasted grain and nuts." It is taught in accordance with Rabbi Yohanan, "they do not finish" (means) dates and roasted grains and nuts. Rav Yehuda quoted Shmuel "Do not leave after *matzah* afikoman." We have learned, "Do not depart from Passover *afikoman*" --after Passover, not. But after *matzah* one may depart [*afikoman*]. They did not intend to say that they didn't seek [to conclude] after *matzah* for which there is no strong taste, but after the Passover sacrifice which has a strong, lasting taste we have no issue [with concluding *afikoman*]. Let's say this supports him: "spongy crackers, honey cakes, *isqritin*--a person may fill his belly with them as long as he eats *matzah* of an olive's bulk at the end [of the meal]. If after--yes. If before [lit: at the outset], no. What he said does not appear to be right. It can't be right. At the beginning, when he is hungry, he fulfills his duty [to eat *matzah*] but at the end when he has already eaten perhaps [we would look at him] as performing an act of gluttony. And so the [Tanaitic] text teaches us that this is not so. Mar Zutra teaches it this way: Rav Yosef quoted Rav Yehuda who quoted Samuel: "They conclude after the *matzah* afikoman. Let's say that the Mishnah supports the position [because] "They do not conclude after the *pesah afikoman*" [means] after the paschal sacrifice. But after *matzah* they can depart [*afikoman*]. This can't be right, it can't be right that "after matza" [it's allowed] when *matzah* does not have a strong taste but following the paschal sacrifice [which has a strong taste] not. Therefore, the language is "not" [i.e. no *afikoman* either after *pesah* or *matzah*].

²³⁷ Wojciech Kosek has posted a paper which claims to demonstrate that the etymology is Hebrew and provides an elaborate set of almost mathematical transformations to demonstrate his point. This is not surprising given that Dr. Kosek is qualified in both mathematics and the Hebrew Bible and whose doctoral dissertation was devoted to the Exodus traditions. Unfortunately, his paper omits references to several of the

ἐπιχωμον which he equates with the Latin *comessatum ire*. The discussion over this term has been treated several times since the mid-twentieth century and I will take it up again in the next chapter. For now, it is best to leave the word untranslated as no definitive translation can be asserted. The eighth mishnah now concludes with a seemingly minor difference of opinion as to whether drowsy or sleeping celebrants may be permitted to continue with the ritual. As we often find, the question resides less in the matter discussed as much as it does in the wonderment that this was among the items important enough to be recorded here.

Mishnah 10.9: Back to the Temple

Our final mishnah concerns a topic which cannot have anything to do with the post-Temple ritual because at least according to the views of the rabbis, sacrifice cannot take place anywhere except within the Temple precincts. The first issue addressed is the fate of the sacrificed flesh after midnight. The Mishnah finds that such sacrifices may no longer be used (consumed). Apparently, that triggers a mnemonic for noting that other sacrifices also become useless (or impermissible) after midnight. The term *מְטַמֵּא אֶת הַיָּדִים* *defiles the hands* can be a bit of a puzzlement. In other places it actually seems to identify permissible rather than impermissible food. This may perhaps be related to some of semantic difficulties with terms

best treatments of the term such as those of Saul Lieberman and Sigfried Stein, and it misses perhaps the most important methodological approach, namely Ockham's Razor. Rather than numerous transformations and emendations, each one of which could be described as a stretch, combined with a decidedly religious approach to authority, we have the possibility of seeing the word as Greek just as many other words in the Tanaitic literature demonstrate signs of the assimilation of vocabulary and grammatical forms from Greek." Wojciech Kosek, "The Passover Afikoman in Light of Its Hebrew Origin," *Academia.Edu* (blog), April 18, 2019, <https://www.academia.edu/38854469/>.

related to holiness such as קדוש *qadosh* (“holy”, “sanctified”) which can have aspects which both allow and forbid their usage. A dispute is recorded involving the proper order and recitation of blessings over the paschal sacrifice. However, this is apparently another part of the claim of the Mishnah that the sages memorialized within had some control over the ritual or liturgy used in the Temple itself. The two tradents named, R. Aqiva and R. Ishmael (ben Elisha), if their various Talmudic biographies are credible, did not themselves participate in the Temple service. There is a tradition that Ishamael was a *cohen*, that is, a priest by lineage, but that tradition also explains that he was a child while the Temple stood. What we can say of a certainty is that a text composed more than a century after the destruction of the Temple discusses the proper form of a blessing to be recited in the presence of priests in the Temple which neither of the disputants is likely to have witnessed.²³⁸

Back to the Tosefta

The Tosefta has been mentioned only sporadically since M Pesahim 10.2 because at that point it departs from the Mishnah’s subject order. Since this is our only other Tanaitic collection on the ritual for the eve of Passover, we need to consider the balance of materials contained therein in order attempt a complete survey of the earliest rabbinic traditions about Passover. Although the Tosefta no longer marches lock-step with the Mishnah, you will see that nevertheless it is addressing the same set of issues as we found in the Mishnah such as

²³⁸ On R. Ishmael, age at the time of the Temple destruction: B. Gittin 58a. Identification as a *cohen* Tosefta Hal. 1:10 and B. Ket 105b.

the meaning of the term *afikoman* and issues relating to the recitation of the liturgy. Unlike the Mishnah, there is no standard numbering of the passages in the Tosefta. The one provided here is based on visible separations in the Vienna manuscript.

Tosefta 10.3: Good Cheer on Passover

The statement that a person is obligated to cheer up the household on a holiday could be generally applied to any holiday—there is nothing in the halakhah²³⁹ that appears to be specifically about Passover and indeed the term *regel* generally applies to any of the three pilgrimage festivals. However, we noted in the Mishnah that this earliest of rabbinic sets of materials sets forth a place for wine which is distinct from the role of wine in the Hebrew Bible. With respect to Passover as with any holiday then, one way to cheer up the family is with wine. The editor then qualifies this by including a reflection attributed to R. Yehudah that wine might not be the best way to cheer up women and children at a celebration. R. Yehudah suggests finding other ways to accomplish this but provides no specifics.

Tosefta 10.4: More on Passover *Hors d'oeuvres*

The fifth halakhah combines two apparently independent ideas. The notion of an attendant “pounding the intestines” may not be appealing to some in our age, but of course that is precisely how many meat appetizers and sausages are made. While this is another case of possibly reading back later conclusions into an earlier text, there appears to be universal

²³⁹ A reminder that the term *halakhah* here is in the technical sense of a unit of tradition rather than the more common understanding of the word as the traditional rules of rabbinic Judaism.

agreement among traditional and modern commentators that the intent here is to suggest a course of such appetizers. The Mishnah also specifies a number of dishes that might be thought of as appetizers such as the requirement to “dip” twice, and the Mishnah also clearly envisions the festive meal to involve considerable ceremonial activities such as having attendants mix the wine and guests sitting on divans. But the Tosefta’s comment here takes those appetizers to another level with the notion of prepared meat such as this. The Tosefta, like the Mishnah, also does not specifically mention the Bible’s command that the meal be simple and eaten in haste. Perhaps that is why the Tosefta adds a biblical verse which it claims supports the idea of serving these appetizers. The phrase “there is no proof of the matter but there is a hint for the matter” most likely means that the author was unable to find support within the Pentateuch (which might have constituted “proof”) but did feel that Scripture provided a sufficient basis via the quoted text. It is a feature of this period of rabbinic literature that such Scriptural supports can rely on tenuous connections to the text. At this point the Hebrew Bible was unvocalized and this allowed the rabbis more latitude to play with the meaning of the words. They might also connect roots which lexicographers would maintain are distinguishable. Nevertheless, the connection of this verse to the idea proffered is thin to say the least.

At this point the halakhah shifts dramatically to a thought which is completely unrelated to appetizers. More than likely this is simply an error in the way the text was divided and the original was intended as a separate halakhah. The Tosefta turns to the subject of the liturgical unit *Hallel* which we explicated above. Since this is among the earliest of texts, it is once again necessary to rely on later information to attempt to understand it, but in this case that explanation seems straightforward enough. The issue of “he follows

them” or “they follow him” is some sort of musical direction which speaks to how the service leader recites the liturgy. Does he read first and then the congregation repeats after him, or vice versa? In any case, it is sufficiently clear that the instruction references the proper manner of reciting the concluding verses of Psalm 118, which is the final psalm in the *Hallel* as it seems to have been recited in the period of the Tanaitic compositions.

Tosefta 10.5: Liturgical Rules Governing the *Hallel*

The Tosefta continues with the explicating its view of the proper recitation of the *Hallel*. Here the question is what to do if a locale has no precentor to call out the liturgy. Although written texts were no longer rare in the late Hellenistic period, still, given the circumstances faced by these communities in the wake of war and likely impoverishment, it is easy to understand why a community would lack them and even if they had them, a person capable of reading them. In fact, the language of the Psalms would be difficult for most of the population which spoke Aramaic or the *koine* form of Hebrew found in the Mishnah, or perhaps even Greek. If, as we have suggested, the new form of the paschal meal was served in the middle of the recitation of the *Hallel*, how could this be managed when there was a scarcity of precentors? The Tosefta’s answer is that they recite the *Hallel* in their synagogue where presumably they have the necessary resources, then return home for the holiday meal, and finally return to the synagogue to complete the *Hallel*. The Tosefta even supplies an additional adjustment—if they are unable to return to the synagogue (the reason this might be is not supplied, but it is not difficult to imagine a number of circumstances that might have applied), then they read the whole *Hallel* at once before going home to the meal. The discussion of the manner of reciting the *Hallel* engenders a final remark noting that different

masters had different customs for its recitation with one, Lazer (Elazar) ben Porta omitting a few words and Rabbi (Yehuda HaNasi) doubling a few words. The Tosefta does not explain this further. In modern times these would be adjustments occasioned by the melody the precentor preferred, and that seems a likely reason here as well—although certainty will once again elude us.

Tosefta 10.6: More on Children’s Games and More on the Liturgy

Having mentioned R. Lazar, the Tosefta continues with another tradition attributed to him, namely, “snatching” *matzah* to keep children attentive. The verb is a bit unusual. It is not a common verb to begin with, and it seems its core meaning refers to some sort of illicit activity such as robbing or plunder. In this context there are two possibilities that have persuaded one or another of the later commentators; either some sort of playful activity with the *matzah* or more commonly, giving the children *matzah* to eat before the normal time for it, or in a variation on that theme, snatching the *matzah* from children so that they will not eat too much which would make them drowsy.²⁴⁰ The ensuing comment by R. Yehuda is some sort of elaboration on this theme, but emphasizes the importance of the master of ceremonies taking steps to gain the attention of children at the table. At this point there is a manuscript issue which illustrates a problem we have dealt with in detail, namely the meaning of the word חזרת *hazeret*. The Vienna manuscript reads חזרת אחת *hazeret abat* “one

²⁴⁰ Lieberman collects a number of commentators on the interpretation of חזרת *hazeret* Šā’ul Mōše Lieberman, *Tōseftā ki-fēšūtā:: be’ūr arōk lē-tōseftā. ḥēleq 4: Seder mō’ed*, Mahādūrā 2 (Yērūšalayim: The Jewish Theological Seminary of America, 1992), Mo’ed 4, p. 653.

hazeret” which might suggest something other than lettuce—although we must be careful not to impute modern notions of nomenclature. The Berlin manuscript omits “one” and if that is the correct reading, it simply puts us back to our original position, namely that we can’t be sure what *hazeret* means. The intriguing aspect of this problem of *hazeret* is its connection to the manner in which the earliest rabbinic Jews sought to fulfill their obligations as they understood them from Scripture. Scripture defines the elements of the holiday meal as sacrificial meat, unleavened bread, and bitter herbs. Sacrificial meat might have been possible if the Jews like the Samaritans who were still carrying on their sacrifices were willing to do so without a Temple.²⁴¹ And what of the required bitter herbs? Is this the role of *hazeret*? If not, it is odd that even in such a short chapter the rabbis would not have explained what to use for bitter herbs.

The Tosefta then shifts to the issue of when to interrupt the *Hallel* for the meal. The Mishnah simply noted the difference of opinion between *Bet Shammai* and *Bet Hillel* on this question, but the Tosefta goes further and provides an explanation for their differences. According to this text, for Bet Shammai the key phrase is “a happy mother of children.” That provides a reasonable place to stop and eat. Bet Hillel objects and the nature of the objection is cryptic. But their point is nevertheless clear: since Psalm 114 opens with the announcement that בְּצֵאת יִשְׂרָאֵל מִמִּצְרָיִם בֵּית יִצְחָק מְעַם לֵעֲזָ: הִיטָה יְהוּדָה לְקִדְשׁוֹ יִשְׂרָאֵל מִמְּשֻׁלֹּתָיו: When Israel departed Egypt, Jacob’s descendants from a foreign land, then Judah became sanctified, Israel

²⁴¹ Of course, they would also have to face the problem of a lack of access to Jerusalem, but since some Judeans had carried on the ritual in Egypt (the temple of Onias) and others might argue that they could return to the portable Tabernacle that allowed Israelites to sacrifice wherever they happened to be, this could have been a resolvable issue.

*his holy land.*²⁴² For Bet Hillel, this seemed the more appropriate place to pause for the meal.

Again, we must note that “Bet Hillel”, if it is even historical, would have been wholly contemporary with the Temple. Presumably they would have eaten their sacrificial meal at the convenience of Temple authorities and not at a specific hour dictated by liturgy.

However that may be, the reply of Bet Hillel to Bet Shammai illustrates the manner in which certain theological motives determined liturgical thinking, and we will return to this topic in Chapter 3

Tosefta 10.7: What is Required for the Holiday?

The Tosefta now considers an issue which reflects on material presented in the Mishnah in M. 10.3 and 10.5, namely the question of which foods are the mandatory minimum requirements for the holiday meal. The Tosefta’s conclusion is similar to that of the Mishnah: *matzah*, *hazeret*, and *haroset*. The difference of opinion is not centered on *hazeret*, an item not mentioned in Scripture as is of course also the case with *haroset*. This suggests that the authors considered *hazeret* to be one of the items documented in Scripture and the only viable candidate is *maror*. As we also concluded in our Mishnah study, *hazeret* must be some sort of “bitter herb,” but we are no closer to identifying it than we were in the Mishnah. There is still no good reason to believe the usual translation of “lettuce.” The discussion of *haroset* mirrors the discussion in Mishnah 10.3 but glosses one important clause:

מעשה ואמ' להם ר' לעזר בר' לתגרי לוד בואו וטלו לכם תבלי מצוה *It happened that R. Lazar the son of*

²⁴² Ps 114:1-2 My translation is slightly idiosyncratic attempting to capture the way that the writers of the materials in the Tosefta might have understood these words.

[omitted] said to the merchants of Lod (Lydda) come get your *mitzvah* spices! The statement seems a little confused since we might expect it to say that R. Lazar heard the merchants call this out, but perhaps this was the original intent of the text. The reason for quoting this bit of tradition seems reasonably clear. The merchants are selling spices with which to make the holiday *haroset* and they actually call it the *mitzvah* spices which means spices required for the commandment. The word מעשה *ma'aseh* is common in rabbinic literature and introduces an element of realia, in this case the way in which ordinary people referred to an item. This type of affirmation clearly carried weight within this community. There is no question that *haroset* in some form became a mandatory element in the Passover celebration, but the fact that even so no one can quite agree on its constituent elements at a point in subsequent Jewish literature leads to the conclusion that like *hazeret* we really don't know exactly what the Mishnah or Tosefta meant by it.

Tosefta 10.8: Afikoman Yet Again and More Liturgical Detail

We examined part of this halakhah when we reviewed the evidence for the interpretation of *afikomen* in M. 10.8. The Tosefta glosses the Mishnah with the addition of the words, "...for example nuts, dates or roasted grain." This then becomes one of several scenarios for understanding the term *afikoman* provided in the later Talmudic literature. The text then shifts abruptly to the provision that a person is obligated to educate their child about Passover which apparently engenders a follow up story presented as realia regarding the all-night study session of R. Gamliel with "elders" at the house of Bethus b. Zonin in Lod (Lydda). This Bethus is mentioned in a few other sources and since the results consistently situate him in a circle of post-Temple tradents, we can safely assume that R.

Gamliel is the second person by that name rather than the one mentioned in the Christian Bible.²⁴³ The mention of all night study sessions is intrinsically interesting since this custom was apparently moved at some point to the later (in the calendar) festival of Shavuot (“Weeks” or “Pentecost”). Indeed, the celebration of Passover past midnight is a problem in its own right given that the Bible marks midnight as the end of permissible activity.²⁴⁴ The Tosefta then ends with a listing of two appropriate blessings for Passover, explicating the difference between the specific blessing to be recited over the Passover offering from one which is recited over any offering. Once again, we are reminded that by the time of the Tosefta (whether we date it early or late) no one had recited these blessings for more than a century, and they may never have been recited by the *cobanim* in the Temple. In fact, when considered as a whole, what stands out is the paucity of information contained in these two chapters. What does the community need to do to honor the requirements of one of the

²⁴³ Beithus (or Beitos) is mentioned in the Mishnah at Av Zar 5:2; Baba Mez 5:3 as well as a few places in later Talmudic literature. See Aaron Hyman, *Sefer Toldot Tana'im Ve-Amora'im : Mesudar 'a.p. A.B. 'im Be'urim Ve-Hagahot Ve-Girsa'ot Shonot*, 3 vols. (London: Bi-defus ha-Ekspres, 1910) s.v. ביתוס (1910, p. 270).

²⁴⁴ That being the rabbinic understanding of “this” night. Exodus 12:8 וְאָכְלוּ אֶת־הַבָּשָׂר בִּלְיָלָה הַזֶּה *And you shall eat it this night...* Note that there is nothing which specifically mandates eating the sacrifice no later than midnight. We do have the notion that the slaughter of the Egyptian first-born happened at midnight (Exod 12:29), and the instruction to ensure that nothing of the sacrifice is left over by first light—and this instruction is repeated: Exod 12:8, 23:18, 34:25, Num 9:2 emphasizing the need to observe the holiday בְּמוֹעֵדוֹ “at its appointed time,” Num 9:12 (referencing the 2nd Passover), Deut 16:1 וְעָשִׂיתָ לְפָסַח לַיהוָה אֱלֹהֶיךָ כִּי בַחֹדֶשׁ הָאֲבִיב וְהָיִיתָ אֶת־הַפָּסַח לַיהוָה אֱלֹהֶיךָ מִמָּצוֹת לַיְלָה: “Take care during the month of Aviv that you perform the Passover to the LORD your God because in the month of Aviv the LORD brought you out of Egypt NIGHT.” The term without a preposition of any sort is unusual and would have carried some weight with the rabbis. This pericope continues with, וְלֹא־יָלִין מִן־הַבָּשָׂר אֲשֶׁר תִּזְבַּח בָּעֶרֶב בַּיּוֹם הָרִאשׁוֹן לַבֹּקֶר:

“... and let none of the meat which you slaughter on the evening of the first day reside to the morning.” The sense is clearly that the meat must be eaten (or burned) by dawn but the verb normally has the meaning of “reside.” It is used not only here but in Exodus 23:18 and 34:25 to refer to the paschal sacrifice, and in Lev 19:13 in a different verb pattern (hif'il) to refer to delaying wages, but elsewhere only for humans. Therefore, we can conclude that midnight had significance and that the rabbis would have known of the emphatic prohibition on leaving the paschal sacrifice over past dawn.

three biblically prescribed major festivals? The details become clearer as we examine later and later considerations of the topic, but as far as our earliest materials are concerned, there is much we do not know. We will have much to say about whether the later clarifications elucidate earlier materials or whether they adapt those early materials to the needs of their own times.

This concludes the text and commentary portion of this thesis. We will now move on to a consideration of some of the extended issues suggested by this chapter.

CHAPTER 3: TEXTUAL ANALYSIS AND THE ORIGIN OF THE SEDER

It is important to bear in mind that the text explored in Chapter 2 is a small part of the Tanaitic commentary on the Passover festival. It is one of ten chapters of the Mishnah's Tractate Pesahim, situated within the Order of Mo'ed ("Appointed Times"). The other nine chapters have nothing to do with the ritual of the Seder and even our tenth chapter has several sections that are irrelevant to any home or private ritual. The material which is directly relevant to the Seder is sparse indeed. How do we even know that this chapter describes a Seder? In fact, the word is never used in the Tanaitic materials including the parallel chapter in the Tosefta.

In this chapter I propose to expand on the text and explore the question of whether we have a coherent description of a ritual that would later develop into one of the most important in Judaism, and I believe I can demonstrate that we do. Before I can attempt this I need to comment on one more text from the collection of biblical glosses called the Mekhilta which likely dates to the Tanaitic period and may have some relevance to the observation of the Passover holiday.²⁴⁵ Next, I will consider whether we could construct a ritual from the available data that might serve as a template for the later fully developed

²⁴⁵ I should also note that in addition to the large, collected Tanaitic traditions found in the Mishnah, Tosefta and the halakhic midrash, the gemaras (that is, the later expansions of the Tanaitic materials which comprise the Babylonian and Palestinian Talmuds) also contain statements called *baraitot* ("external [to the Mishnah] passages") also composed in the language of the Tanaim. It is beyond the scope of this dissertation to discuss whether these statements should be regarded as included in the data for the development of the Seder discussed here. Suffice it to say that each later version of the Talmud used the *baraitot* whenever they needed additional or contradictory points to the Mishnah because they operated under the theological principle that a later master (that is, one from the Amoraic era) could not contradict an earlier master (of the Tanaitic era).

Seder. I will also attempt to answer questions about the dating of the evolution of post-Temple liturgy and the historicity of events and persons portrayed in the Tanaitic texts. The conclusion I have reached is that the Tanaitic materials are sufficient to demonstrate the creation of an entirely novel service which serves the needs of the community which looked to the rabbis for leadership.

Sifrei to Deuteronomy 26

Some scholars consider one additional Tanaitic source to be relevant to the Passover liturgy, a source which is found in *Sifrei*²⁴⁶ as well as several other collections, although the scholarly consensus is that *Sifrei* is the oldest of these.²⁴⁷ The text is a Tanaitic commentary on Deuteronomy 26:5-9 and reference to it became embedded in the Seder ritual in the earliest extant versions of the *Haggadah*. My purpose is to ask whether its omission from the Mishnah suggests that the earliest Seder did not incorporate this passage, or whether it might have been used but simply escaped mention. I intend to show that this text sat apart from

²⁴⁶ ש האראוויטץ et al., *בית המדרש לרבנים באמריקה*, (1969) ספרי על ספר דברים, p. 319-20. Scholarly consensus is that *Sifrei* (on both Exodus and Deuteronomy) is among the earliest collections of midrash. Midrash is in general a type of commentary on the books of the Hebrew Bible. Therefore, the earliest layer of rabbinic literature is composed on the one hand of the Mishnah and Tosefta which are not organized on the basis of Scripture, and on the other of midrash which is so organized. Further on *Sifrei*, Strack, *Introduction to the Talmud and Midrash* (revised version), p. 270-273. J. Neusner published an English translation using his “analytical” methodology, *Jacob Neusner, ed., Sifre to Deuteronomy: An Analytical Translation, 2 vols., Brown Judaic Studies, no. 148- (Atlanta, Ga: University of South Florida, 1987).*

²⁴⁷ Although *Sifre* is also by scholarly consensus an eclectic work containing both *halakhic* (legalistic) and *haggadic* (legendary) materials. By the usual measures, the passage under discussion would be among the haggadic, and therefore possibly significantly later than the third-century period usually reckoned for the halakhic materials. Strack, *ibid.* p. 272. Strack/Stemberger assign these various materials to “schools” with labels such as “Aqiba” and “Ishmael” which implies a date for them in the early second century. However, this is another case of constructing a literary history for which there is no evidence. That these materials may be classifiable into various categories and assigned to tradents earlier than the third-century corpora does not mean that their namesakes would have been aware of these materials. I will return to this issue in the conclusions offered in Chapter 6.

any Tanaitic conception of the Seder despite its later incorporation into the Seder liturgy.

Since a midrash is a form of commentary on the biblical text, it begins with a citation to the Bible. The text is often abbreviated, but for the sake of clarity I will cite the full entry:

5 וְעַלִּיתָ וְאָמַרְתָּ לִפְנֵי יְהוָה אֱלֹהֶיךָ אֲרָמִי אֲבִד אֲבִי וַיֵּרֶד מִצְרַיִמָּה וַיֵּגֶר שָׁם בְּמִתִּי מְעַט וַיְהִי־
שָׁם לִגְוֵי גָדוֹל עָצוֹם וְרַב: 6 וַיַּרְעוּ אֹתָנוּ הַמִּצְרִים וַיַּעֲנוּנוּ וַיִּתְּנוּ עָלֵינוּ עֲבָדָה קָשָׁה: 7 וַנִּצְעַק אֶל־
יְהוָה אֱלֹהֵי אֲבוֹתֵינוּ וַיִּשְׁמַע יְהוָה אֶת־קִלְנוּ וַיֵּרָא אֶת־עֲנָנוּ וְאֶת־עֲמָלָנוּ וְאֶת־לַחֲצָנוּ: 8 וַיּוֹצֵאֵנוּ
יְהוָה מִמִּצְרַיִם בְּיָד חֲזָקָה וּבְזֶרַע נְטוּיָה וּבְמָרָא גָּדֹל וּבְאֹתוֹת וּבְמִפְתִּים: 9 וַיְבִאֵנוּ אֶל־הַמָּקוֹם הַזֶּה
וַיִּתֵּן־לָנוּ אֶת־הָאָרֶץ הַזֹּאת אֲרֶץ זָבֶת חֶלֶב וּדְבָשׁ:

5 You shall then recite as follows before the LORD your God: "My father was a fugitive Aramean. He went down to Egypt with meager numbers and sojourned there; but there he became a great and very populous nation. 6 The Egyptians dealt harshly with us and oppressed us; they imposed heavy labor upon us. 7 We cried to the LORD, the God of our fathers, and the LORD heard our plea and saw our plight, our misery, and our oppression. 8 The LORD freed us from Egypt by a mighty hand, by an outstretched arm and awesome power, and by signs and portents. 9 He brought us to this place and gave us this land, a land flowing with milk and honey. (Deut. 26:5-9 NJPS)

The context of this passage in Deuteronomy is a requirement for the offering of First Fruits. In that context it has no specific connection to the holiday of Passover.²⁴⁸ The general tenor of the text is, however, redolent of the main topic of Passover because of the way in which it recalls the Exodus from Egypt. Note that it references the migration to Egypt, the causes of dissatisfaction, the Exodus itself including references to miraculous events which ultimately became centerpieces of the Haggadah. The rabbinic commentator in

²⁴⁸ The Book of Jubilees also connects the holiday to the era of the Patriarchs as mentioned *supra*, see Jub 17-18.

Sifrei; however, makes an emendation which substantially alters the meaning of the text. At the words אָרְמִי אֶבֶד אָבִי the commentator states,

ואמרת לפני ה' אלהיך ארמי אובד אבי מלמד שלא ירד אבינו לעקב לארם אלא על מנת
לאבד ומעלה על לבן הארמי כאילו איבדו.

“And you shall say before the Lord your God, ‘My father was a destroyed²⁴⁹ Aramean’” [this] teaches that our father Jacob only went down to Aram to be destroyed and to be accounted regarding Laban as if he had destroyed him.

This comment on Deuteronomy is somewhat obscure. The translation “destroyed” is obligated by the interpretation or perhaps the pun that the commentator is making by the use of the two possible meanings of the Hebrew root. Some super commentators seem to have a problem with an apparently active voice verb which on its face means if you accept the interpretation “destroy,” “...our father Jacob went down to Aram for the purpose of destroying...” and they suggest that לאבד should be rendered להאבד which would rather mean “Jacob our father went down to Aram to be destroyed.” The emendation is not implausible because a ה can assimilate and often does in rabbinic Hebrew. Perhaps a more plausible suggestion is to observe that the verb even as it stands is used to express the passive voice in Esther 7:4,²⁵⁰ in other words the verb can be understood as passive without emendation. But after all this we are left to wonder what any of this has to do with Passover or the Passover Seder. As we try answer to that conundrum I believe we will solve some aspects of the creation of the Seder as Passover liturgy.

²⁴⁹ Accepting the meaning of the verb as “destroyed” rather than the more usual definition of “wandering.”

²⁵⁰ Esther 7:4 For I have been sold, I and my people, to be destroyed, killed and annihilated [לְאַבֵּד]. I am indebted to Rabbi Jeremy Milgrom for this reference.

Finkelstein places enormous importance on the fact that this *midrash* appears in the oldest texts of the *Haggadah*²⁵¹ as well as several other sources. But all those other sources were compiled centuries after the Sifrei, and indeed many are post-Talmudic, so one wonders why Finkelstein attributes so much importance to it. The most plausible explanation for the provenance of this passage is that it was copied from Sifrei into the later collections, and added to the early versions of the Haggadah because of the recitation of the story of the time of the Israelites in Egypt.²⁵² We now come to the crux: Mishnah Pesahim 10:4 instructs the father in answering the child's questions וְדַרְשׁ מֵאָרָמִי אוֹכֵל אֶבִי "interpret from my father was a wandering Aramean" and the Hebrew verb translated as "interpret" is precisely related to the collections called "midrash" such as Sifrei. In other words, can we conclude that the third-century Mishnah is possibly instructing the community to use a midrash from the third-century Sifrei in explaining the rationale for eating the Passover meal? It is plausible, but there is also the possibility that the Tanna of the Mishnah had a different midrash in mind.

While we are not likely to have any degree of certainty on this issue, if we are seeking the earliest material which describes how the community which survived the destruction of

²⁵¹ The term of art for any liturgical arrangement intended to be used at the home Passover observance.

²⁵² Finkelstein has an interesting theory about a Medieval rabbinic polemic against those Jews who resettled in Egypt, and he may be right about that. But whether plausible or not, there is no reason to believe that anyone reading the midrash as part of Passover liturgy would have understood this. Finkelstein's notion that the midrash can be dated some five to six centuries earlier has long been discredited. His mention of Psalm 119 and historical fragments do not even remotely approach a standard of proof for such a claim. It is plausible that the Sifrei is one of the oldest collections of midrash, but interestingly no one has been able to demonstrate a period for it older than the third Christian century—and that is interesting because it is precisely the time period of the Mishnah itself and the Tosefta. Louis Finkelstein, "The Oldest Midrash: Pre-Rabbinic Ideals and Teachings in the Passover Haggadah," *Harvard Theological Review* 31, no. 4 (1938): 291–317.

the Temple and the later social and military turbulence leading to the expulsion of Judeans from Jerusalem observed Passover, we can now say that there are precisely two; namely, Mishnah Pesahim Chapter 10 and its parallel in the Tosefta. Sifrei should be included in the source materials but serving a supporting role.

Finkelstein's point leads us to make an important clarification, namely, the difference between the *Haggadah* and the *Seder*. The term *Haggadah* is used to describe a formal liturgy for the home (or external to Temple) Passover festival. The earliest such compositions date to the Middle Ages²⁵³ and most versions of the Haggadah do quote the midrash from Sifrei. *Seder*, on the other hand, is a term which references a set of practices that are required to honor the holiday. Recitation of a liturgy is a part of a *Seder*, but the term *Seder* does not necessarily require any specific liturgy. With this distinction we can now explain why Finkelstein's work is hopelessly confused about chronology.²⁵⁴

As we have seen, there are three Tanaitic texts. Mishnah, Tosefta, and now Sifrei. All three by scholarly consensus were complete by the mid-to-late third century C.E. As explained above, it is plausible to suppose that Mishnah 10:4 is referencing the same midrash quoted in Sifrei, although of course we can't be sure about that since it does not fully quote the material it asks that the celebrant "interpret" or "expound." Later, in the Middle Ages, rabbis creating a liturgy for the Passover holiday followed the broad outlines of the Mishnah, and then presuming that they knew exactly what had been intended, added the midrash from

²⁵³ For the history of the Haggadah, see the magisterial survey David Henshke, *Mah Nishtannah The Passover Night in the Sages' Discourse* (Jerusalem, Israel: Magnes Press, Hebrew University, 2016).

²⁵⁴ See Baruch Bokser, "Ritualizing the Seder." *Journal of the American Academy of Religion* 56, no. 3 (1988): 443–471.

Sifrei into their liturgy. The most critical point about the midrash in its setting in Sifrei is that there is not the slightest indication that it had anything to do with the Passover Seder, in fact the underlying biblical reference is to a different holiday entirely.²⁵⁵

The religion of the Tanaim is clearly and directly related to the world described in Scripture. After all, as we just suggested, most of the material in the entire tractate of *Pesahim* is devoted to issues deeply rooted in Scripture, namely, the nature of meal offerings and the animal sacrifice required for the festival. Scripture contains not a clue as to whether believers need to have a ritual outside the Temple to commemorate Passover other than the injunction to remove leaven from their homes. Nothing is said about blessings or wine. The requirement to eat the Paschal lamb with “bitters” is found in just one place where Passover is described, and that requirement also appertains to the Temple milieu rather than the home. To summarize, as far as can be determined from the Hebrew Bible, the agricultural festival of Passover was observed in the home by removing all leaven and then, if possible, bringing an offering to the Temple of Jerusalem.

²⁵⁵ In its own context, Deuteronomy 26 creates a liturgy for a holiday which became known as “First Fruits.” This holiday is separate from and independent of any of the specific pilgrimage festivals such as Passover. In addition to Deut 26:1-11, the requirement to make an offering of “first fruits” is found at Exod 23:19, 34:26, Num 15:17-21, 18:12-13. These references seem to anticipate that the occasion should occur any time an Israelite has the benefit of first fruits. The requirement earns an entire tractate of the Mishnah, *Bikkurim* in the Order devoted to agriculture. In post-Biblical literature, the rabbis associate the holiday with Shavu’ot (Weeks or Pentecost), e.g. Mishnah Bikkurim 1.3. But the offering presumably with this liturgy could continue, again according to the Mishnah, until Hanukkah. But again, there is probably no connection to Passover.

The Tanaitic Seder

What exactly do we know of an extra-Temple ritual from the Tanaitic sources? Before attempt to answer this question, it is important to note that the essence of the word “Seder” is order, and we are once again mindful of the fact that the word does not appear in any of the Tanaitic sources. While it is tempting to imagine that Mishnah Chapter 10 faithfully represents some ordered ritual, there are a few clues that it does not, or at least not entirely. In particular, the final mishnah specifically represents the ritual in the Temple, which is obviously pertinent not in the home ritual, but in that of the Temple. Whether or not the material in that particular mishnah derives from Temple times, it obviously has nothing to do with the home ritual or “Seder.” Several of the other *mishnayot* do at least on the surface seem to follow a logical order. But we must be careful not to assume that the later order of the evening enshrined in the Haggadah already existed in the era of the Tanaim. It would be far more reasonable to imagine that the later Haggadah used Mishnah Chapter 10 to construct its liturgical order of the evening. With those precautions, I propose that we can find sufficient logic to support a conclusion that the Mishnah does appear to be expressing some internal order (*seder*) which could be adapted to the later liturgy (*Haggadah*) without the risk of false assumptions.

What might we expect the first order of business to be in establishing a home, that is non-Temple, ritual for the eve of the Passover?²⁵⁶ Whatever that might be, surely it would

²⁵⁶ Indeed, we might ask whether we are discussing a ritual that might be more comfortably situated in some sort of fellowship gathering than a person's home. The evidence of the Tanaitic sources can be read either way: references to the child asking a parent seem to belong in a home setting, while studying far into the night seems more fitting for a fellowship.

not be a specification for something not mentioned in Scripture as necessary at all. But the Tanaitic sources open with material that is immediately astonishing: the first matter of concern (mishnah 1) is that even the poorest person who is a member of the community (called here “Israel”²⁵⁷) should be provided with a mandatory four cups of wine. The Tosefta (also halakhah 1) adds a few details concerning the necessary strength of the wine. The Tosefta also includes material (in halakhah 3) to the effect that wine is necessary so that women and children can enjoy the holiday—although one tradent, R. Yehuda, adds demurrers here, holding that the wine provided to a poor person may be of low quality as long as it looks and tastes like wine.²⁵⁸ Although it is theoretically possible that this much wine would have been distributed on the Temple Mount, and that the other provisions of the chapter might have been part of the ritual observed there, it strains credulity that the author of these statements is describing the Temple. The notion that such a wine distribution and consumption was happening amid the scene of hundreds if not thousands of sacrifices being performed on the Mount seems unbelievable on its face. Who is mixing this wine? When we speak of *reclining* the image that most commentators (modern or ancient) visualize is one of the Greek and Roman banquets where participants reclined on low benches or divans and discussed the issues of the day or perhaps philosophy. Notice that

²⁵⁷ A term of art used by the community composing the Mishnah to describe their own community. It is not clear from this text how inclusive the term is intended to be. One is left to wonder how the poor who could obtain this wine could observe the ceremonies described in the following passages.

²⁵⁸ There are many tradents named “Rabbi Yehuda” in the rabbinic literature. A substantial set of customary attributions has become part of the mechanisms for the study of the literature. One of those customs is to say that whenever a Tana is named “R. Yehuda” the attribution is to R. Yehuda bar Ilai in the mid-second century (C.E.). The notion is that all other rabbis named Yehuda will be identified by their full patronymics. I have not seen any discussion of testing these various attributive customs for accuracy, but for my purposes here, it would not matter whether the tradent is indeed bar Ilai or some other rabbi Yehuda.

nowhere in the Tanaitic materials do we have an explicit reference to this ritual as taking place in a home or dining hall remote from the Temple, but the mere use of the verb for reclining suggests that it cannot be the Temple, unless we believe that thousands of people brought couches to the Courtyard.²⁵⁹

In the second mishnah we find a discussion of the appropriate benediction for the holiday and conflicting opinions are attributed to the followers of Hillel and Shammai. If one accepts traditional chronology, this places the dispute in early part of the first century C.E. Note that the dispute is unresolved. The editor merely cites the contradictory and says nothing to clarify which tradent should be followed. Perhaps this community supported differing customs.²⁶⁰ This aspect of allowing disputes to stand without explanation or resolution is perhaps the most important reason for denying the claim that rabbinic literature has some sort of antecedent in any form of earlier literature. Neither the Bible nor any other

²⁵⁹ Joseph Patrick and Shlomit Weksler-Bdolah describe a large room adjoining the Temple Mount that was once labelled the “Free Masons Hall” by the first archaeologist to describe it, Charles Warren, in 1867. They now describe this room as a “royal banqueting complex” complete with several dining rooms and a fountain. Such a facility could theoretically have hosted the type of elaborate meal described in the Tanaitic sources, but we have no contemporary evidence that such celebrations specifically in honor of the Passover holiday occurred. Joseph Patrick and Shlomit Weksler-Bdolah, “Old, New Banquet Hall by the Temple Mount,” *Biblical Archaeology Review* 43, no. 2 (2017): 50–54. This is a popular publication, but they provide an additional citation (unavailable to me as I write this) to, Joseph Patrick and Shlomit Weksler-Bdolah, “The ‘Free Masons Hall’: A Composite Herodian Triclinium and Fountain to the West of the Temple Mount,” *New Studies in the Archaeology of Jerusalem and Its Region* 10 (2016), pp. 15–38.

²⁶⁰ The same controversy is reported for other cases and the issue is resolved in discussions that date centuries later than the Mishnah. We are not, of course, relitigating the Karaite attack on rabbinic Judaism when we note that the Mishnah is a composition that offers differing opinions on almost every conceivable issue of the day. The Karaites among others have argued that the lack of declared, resolved custom and practice demonstrated that the Tanaitic rabbis lacked credible credentials of authority. On the Karaite argument see especially, Abraham ben David Ibn Daud, *A Critical Edition with a Translation and Notes of the Book of Tradition: Sefer Ha-Qabbalah*, trans. Gerson D. Cohen, The Littman Library of Jewish Civilization (London: Routledge & K. Paul, 1969), “All shades of Karaite opinion maintained that rabbinic Judaism, with its laws customs and dogmas, was a fabrication of the rabbis of the Talmud, ‘which had no warrant or attestation to Moses and the prophets who succeeded him,’” pp. xliii–xliv.

collection of material prior to the third century C.E. has anything comparable. It is true that the Bible contains contradictory legislation, but these conflicts are only discernable by drawing together source from different locations. The Bible never says anything like, “Moses ruled this way and Aaron that.” Scholars in recent decades have looked to the Dead Sea Scrolls for material which might demonstrate antecedents to various rabbinically discussed traditions or controversies. Whatever the value those antecedents might possess, not one of them is close to the Tanaitic literature in its essential form. The Tanaim again and again and in every tractate pose contradictory opinions and leave them unresolved. It is a literary style which is unmatched anywhere else in the ancient world.

This second mishnah suggests that there was some sort of liturgical formulation for the events of the holiday. The Tosefta still follows the order of the Mishnah at this point and supplements the points made in the Mishnah. That material appears to refute any notion that the Tosefta is earlier than the Mishnah because it seems to quote the Mishnah and then adds details.²⁶¹

²⁶¹ The question of the relationship of the Tosefta to the Mishnah, and indeed to the citations attributed to Tanaim in the Talmuds (*baraitot*) and the collections of halakhic midrash is complex. As noted by Joshua Kulp and Jason Rogoff, there are a few scholars who believe that the Tosefta predates the Mishnah. The standard view has been that the Tosefta, true to its name, is supplemental to the Mishnah, which would mean that it is somewhat later but nevertheless earlier than the *Gemara* components of the Talmud. One scholar who has used a more intricate methodology is Shamma Friedman who sees something of a network of Tanaitic tradition in which units of that tradition can seemingly traverse our sense of period for the various collections. This makes great sense if what we have here are a number of attempts to collect and codify units of tradition which were composed initially without the intention of inclusion in a specific text. See Joshua Kulp and Jason Rogoff, *Reconstructing the Talmud: An Introduction to the Academic Study of Rabbinic Literature*, 2nd edition (New York City, NY: Hadar Press, 2017) p. 18-22 and Shamma Friedman, “The Primacy of Tosefta to Mishnah in Synoptic Parallels,” in *Introducing Tosefta, Textual, Intratextual And Intertextual Studies*, ed. H. Fox and T. Meachem (New York: Ktav, 1999), 99–121. The implications of Friedman’s research as well as others may mean that it is difficult, and often impossible to rely on the inclusion of a text in one or another collection to secure its dating relative to other texts. We will see below in the case of the term *afikoman* how this issue of primacy between the Tosefta and the Mishnah might influence our comprehension of the development of the Seder. And see also,

The third mishnah describes a meal. The Mishnah employs notoriously parsimonious terminology and here states “They set before him.” What is “set” and who is intended by “him” is omitted. We are therefore left to supply these omissions. It is reasonable to assume that “They bring him” refers to some sort of food or dish because of what follows (“he dips”) and “him” refers to the service leader or head of household. At this point we can dismiss any further attention to the previously mentioned “poorest person in Israel.” The remaining sections seem to indicate persons of some higher stature enjoying a banquet. The Mishnah was careful to assure the poor that they would be able to appropriately celebrate with wine, and while that text says nothing about food, since there are collections for the poor, it would seem likely that in these communities they were also provided with whatever else they might need, with the remark about wine being necessary because without it those distributing for the poor might not imagine that they need go so far as to provide that particular item. The nature of the meal makes it virtually impossible to attribute to the Temple area despite the final clause that we will get to shortly. The notion that the Temple Mount could have supported tens of thousands of households with diners reclining on benches and waiters serving hors d’oeuvres either refers to the private dinners outside the Temple precincts, or it is entirely fictional for the Temple period. Those who lived in Jerusalem could have continued some sort of celebration at home, and the wealthier out of town visitors might have rented space, but with Jerusalem crammed to maximum capacity

Yaakov Elman, *Authority and Tradition: Toseftan Baraitot in Talmudic Babylonia* (New York : Hoboken, N.J: Michael Scharf Publication Trust of the Yeshiva University Press ; Ktav, 1994).”

for the holiday, it is surely a fantasy to imagine most visitors being able to eat their holiday meal in such a leisurely fashion.

The order of the meal is stipulated: first “dipping in the *hazeret*” as discussed in Chapter 2, then breaking “bread”. The term is odd given the nature of the Passover holiday since it requires specifically *matzah* and not *pat*, but perhaps the idiom of “breaking bread” explains that issue. The text becomes even stranger with the following clause, “they bring him *matzah*, *hazeret*, *haroset*, and two cooked foods. Two of these items (namely the *hazeret* and the *matzah*) have already been brought! One possibility is that two traditions have been combined, and the editor was unconcerned about the duplication. Later generations chose to honor this by serving multiple courses so that the *hazeret* and the *matzah* would be featured twice. The nature of the “cooked foods” is not specified but apparently did not include the paschal lamb. The mishnah then describes a difference of opinion, this time between R. Eliezer b’rabbi Tzedoq and the composer of this mishnah who is not identified. Again, the dispute is unresolved. The third mishnah concludes with the observation that during the meal the paschal lamb was served when the meal took place in the Temple. And when there is no Temple? Other than our own conclusion that the paschal lamb would not have been served, we are not informed. The formulation of the text “And during Temple times” clearly tells us that this text was written after the destruction of the Temple. Recall that while there are several accounts of the requirements for the holiday recorded in different places, there is explicit reference to the paschal lamb, unleavened bread, and bitter herbs. The Tosefta, in its halakhah 4, contains a passage which seems to be related to the menu and perhaps assigns some symbolism to the dish described as “pounding the intestines.” At this point, the celebration consists of the following: refrain from eating before the evening, wine, reclining,

and a blessing over the holiday and the wine, serve several courses of a meal and include in those courses various foodstuffs not suggested in the biblical requirements for the meal. At this point we cannot even be certain that anything described was intended as the biblically mandated “bitter herbs.”

Another contribution to this discussion appears near the Tosefta’s conclusion in halakhah 7. Here the chief concern seems to be the question of whether *haroset* (as discussed in Chapter 2 a term for some sort of food preparation whose original meaning is obscure) should be considered a requirement for the celebration or not. The Tosefta appeals to a story in which R. Lazar (Elazar) cites merchants who sell the spices used for *haroset* and call out to passers-by, “Come get spices for the *mitzvah*.” The reasoning is that if the merchants use the term *mitzvah* which means “commandment,” then the *haroset* must likewise be considered a requirement. Like the Mishnah, the Tosefta has an anonymous voice, and that voice clearly states that *haroset* should be made and consumed, but that it is not a requirement. The Tosefta, like the Mishnah, does not resolve the issue. To summarize the results of mishnah 3 with notes from Tosefta halakhah 7, various elements of the holiday meal are discussed. Of these we are reasonably certain about the meaning of unleavened bread and the paschal lamb, but the discussion also names food items that cannot be identified with certainty. Later communities supplied these foodstuffs which likely sufficed for the communities in which they were served and consumed.

The fourth mishnah is a liturgy which seems to be inspired by the biblical injunction to teach children the meaning of this holiday. We covered the language in detail in Chapter 2; here I will just mention that the liturgy combines elements explicitly mentioned in Scripture (matzah, maror, and the paschal lamb—albeit not explicitly but rather through the

indirect mention of cooking method)—with at least one element not mentioned in Scripture: “dipping.” It concludes with an instruction to the leader to “interpret” or “expound” the Scripture and then explicitly mentions the passage we discussed above adding, “until he finishes the entire section.” But what is “the entire section”? The later literature of the Haggadah is happy to answer the question by seeing this instruction as an opportunity to introduce quotations and stories from later midrash, the Talmud and early medieval Jewish literature. But the Mishnah itself is silent on what it means by “the entire section.”

The fifth Mishnah quotes “Rabban Gamaliel.” There are several masters by that name with two being prominent and it is difficult to decide whether the first or second is intended here. The first would have lived while the Temple was in use, the second covers the boundary from the Temple period to post-Temple. Whichever Gamaliel is intended, the mishnah reminds the community that the three essential elements of the holiday are the Paschal offering, the unleavened bread and bitter herbs. He is then quoted as uttering a statement which has the form of a panegyric, a type of liturgical expression not used in the Hebrew Bible, but apparently commonplace in later Greek literature.²⁶² As mentioned in Chapter 2, this panegyric contains the blatant neologism לְקַלֵּס by which it means “praise”

²⁶² A possible exception would be Dn 4:34 כְּעֹן אֲנִי נְבוּכַדְנֶצַּר מְשֻׁבָּח וּמְרוֹמָם וּמְהֻדָּר לְמִלָּה שְׂמִיָּא דִּי כָּל־מַעֲבָדֵיהִי קִשְׁט וְאִתְחַתָּה דִּין וְדִי מְהֻלָּקִין בְּגִנָּה יָכֹל לְהַשְׁפִּילָה: “Now, I, Nebuchadnezzar, praise and exalt and glorify the King of Heaven whose works are honest and whose ways are just; and who can topple those who walk in arrogance.” Panegyrics were common in Greek eulogies and Cicero tells us in *De partitione* “A panegyric ... amplifies what is already known. Words should be chosen for their brilliance in a panegyric.” Panegyrics addressed to emperors went to extremes which suggests a possible parallel for addressing a prayer to the king of kings of kings. “The hyperbole of imperial panegyrics makes modern readers wonder how they could be taken seriously. But addresses to the emperor were no occasions for irony. The panegyrist’s art, scholars conclude, was a matter of pushing the limits of exaggeration without descending into self-parody.” Simon Hornblower, Antony Spawforth, and Esther Eidinow, eds., *The Oxford Classical Dictionary*, Fourth edition (Oxford: Oxford University Press, 2012), s.v. Panegyric.

based on Greek and apparently oblivious to the fact that the word means “curse” in the Hebrew Bible. The medieval Haggadah complies with this mishnah by dutifully quoting it in most extant versions. The mishnah ends with the words, “...and let us say before him, ‘Hallelujah.’”

There is good reason to believe that this is a reference to a liturgical unit that has come to be called the “Hallel” and that will become clear in Mishnah 6. This liturgy consists of Psalms 113-118 which begin with the words *Hallu yab* and frequently repeat the theme of praising God. In the earliest Haggadah texts and other liturgical texts, these Psalms are preceded and followed by blessings written in post-Biblical Hebrew. Many if not most commentators suggest that this text represents a reasonable facsimile of the liturgy that was recited in the Temple. But this is highly unlikely. There are no references to this prayer outside rabbinic tradition. Even if these Psalms were recited as a unit in the Temple, it seems highly unlikely that the priests would have used blessings composed in the dialect of the rabbis. There is, as far as I know, no evidence of this dialect of Hebrew prior to the Mishnah, that is, prior to the third century C.E. This is also the likely locus of Tosefta halakhah 4’s mention of the Hallel, although we could place that text as easily in the context of mishnah 6. It is certainly of interest to liturgical historians that we can document some aspects of the recital of the Hallel as early as the Tosefta.

The sixth mishnah continues what began in the fifth. The previous mishnah suggests the recitation of a liturgical composition called the Hallel which consists of a collection of Psalms. In the sixth, we learn that the leader should pause the recitation, but asks the question, what is the logical place where this pause should occur? This is the meaning of “Until what point should he recite...” The mishnah then provides two answers, each

ascribed to a different master. The answers “the mother of children is happy” and “flint to the source of the water” clearly signify two of the Psalms contained in the Hallel unit (113 and 114 respectively). This difference of opinion is attributed to Bet Hillel and Bet Shammai. If they are historical at all, this would be the first several decades of the first century C.E. This is immediately followed by other differences of opinion, this time regarding the precise formulation of the benediction which surrounds the Hallel. These differences are attributed to Rabbis Aqiva and Tarfon. If these persons are historical, they would have lived in the first several decades of the second century. Most scholars have accepted these attributions and used them to construct liturgical histories that run from the Temple era up to the time of the Mishnah itself.²⁶³ I will comment in some detail about the likelihood of the historicity of these various tradents in Chapters 4 and 5. For now, it is enough to note that these

²⁶³ Jacob Neusner deserves credit for mounting the first sustained attacks on blanket acceptance of rabbinic attributions. His student, William Scott Green, provides an excellent summary of the issues in his book chapter, “What’s in a Name? The Problem of Talmudic Biography” in William Scott Green, ed., *Approaches to Ancient Judaism: Theory and Practice*, Brown Judaic Studies, no. 1, 9, 11, 27, 32 (Missoula, Mont: Published by Scholars Press for Brown University, 1978). David Kraemer is more interested in attributions cited in the later Amoraic documents (Palestinian and Babylonian Talmuds) and provides his rationale for limited acceptance of those attributions in Kraemer, “On the Reliability of Attributions in the Babylonian Talmud” concluding, “Thus...biography remains off-limits to historians of classical rabbinic society. On the other hand, other matters of history, dependent though they may be on the dates supplied by rabbinic attributions may legitimately (though cautiously) be pursued.” David Kraemer, “On the Reliability of Attributions in the Babylonian Talmud,” *Hebrew Union College Annual* 60 (1989): 175–90 p. 189. Compare these carefully hedged opinions with a work written 40 years later, Barry L. Schwartz, *Judaism’s Great Debates: Timeless Controversies from Abraham to Herzl* (Lincoln, Neb: University of Nebraska Press, 2012): “Rabbi Yochanan ben Zakkai (ca. 30–90 ce), a disciple of the renowned Hillel, is a figure of major importance in the Talmud and Midrash, which record his life in a blend of fact and legend. He is a leading authority on the interpretation of Scripture and Jewish law” p. 38. This is a work intended for a popular audience and I use it to illustrate how writers of the history of this era, while perhaps a bit more carefully than they once did, still manage to speak of these characters as historical. The texts Schwartz goes on to quote are Amoraic or even later, meaning the texts are describing events and characters several centuries prior. Again, no academic historian of this era writing today would be likely to speak of matters this way, and yet even for them, it would not be unusual to see them mentioning these various tradents as historical characters living in the eras worked out by Strack. I will have more to say about this issue in chapters 4 and 5.

differences of opinion directly contradict the notion that the Hallel was presented in its current formulation in the Temple. To put it bluntly, how credible is it that we would know a liturgical unit that was publicly and frequently recited in the Temple, and yet not know such critical things about it as where the Hallel could be paused and what sort of benediction may have been pronounced around it? And again, note that as for that benediction, saying that such a blessing was recited in the Temple is to suggest that forms of language not documented for another two hundred years were used at that early date.

The Tosefta (halakhah 4) adds a few details to the manner of the liturgical recitation. Apparently, there were parts of the Psalms where the leader would call out a verse and the Tosefta instructs that others present would repeat after the precentor rather than vice versa, and the father was advised to chant together with his children.:

As to the one who calls out the *Hallel* they follow him and he does not follow them. He who calls out [i.e. reads to] his minor sons and daughters needs to answer with them. In the place where they answer he answers. He gets to “Blessed is he who comes” he says with them “In the name of the LORD”. He gets to “Blessed are you” he answers with them “From the House of the LORD.”

In halakhah 5, the Tosefta provides interesting insight into the constituency of its community.

Residents of a city who have no one able to call out the *Hallel* go to the synagogue and read the first section. They leave and eat, drink, return and go to finish the whole of it. And if it is not possible for them they finish all of it. They remove nothing of it and they add nothing to it. R. Lazar ben Porta would simplify a few words and Rabbi would double a few words.

As noted, the meal is situated in the middle of the Hallel unit, with Psalms recited before and after the meal. But what if a community has few or no people sufficiently knowledgeable to recite the Psalms? In some cases, the Tosefta advises celebrants to go to a synagogue so they

can hear such a knowledgeable person, then go home and eat the meal, and then return to the synagogue for the last Psalms. And if the celebrants are unable to manage this, then they are advised to recite the entire Hallel (without eating the meal) and then returning home.

The text provides yet more detail on the recitation of the Hallel in its halakhah 6:

Until what point does he recite? Bet Shammai says until “A happy mother of children” and Bet Hillel says until, “A flint into a fountain of water” and he seals with redemption. Bet Shammai said to Bet Hillel, “Indeed, they have already mentioned the Exodus from Egypt.” Bet Hillel replied, “Even if he waits until the cock crows they did not depart (Egypt) until the sixth hour of the day, so how can you call out ‘redemption’ when they are not yet redeemed?”

Note that we gain here a sense of flexibility of the arrangements to deal with various exigencies. This section mirrors the Mishnah’s issue of deciding the point at which the Hallel can be interrupted, adding the rationalizations of the points of view attributed to Beit Hillel and Beit Shammai.

It seems clear that Mishnah and Tosefta are not in conflict with one another, and the Tosefta is at least in these sections living up to its name as “additional” or “supplemental” material to the Mishnah. However, the Tosefta seems much more disordered than the Mishnah with material related to one or another of the Mishnah’s points scattered over its brief chapter.

The seventh mishnah returns us to the subject of wine. The celebrants are directed to enjoy their third cup, and for our purposes we need to recall that wine is not mentioned neither anywhere in the Hebrew Bible, nor in any post-Biblical literature before the time of the Mishnah as a feature of the Passover holiday. The biblical Passover was observed as an occasion for bringing sacrifices to the Temple and abstaining from leavened bread. If there were other ways to celebrate the holiday during the Temple era, we have no evidence of

them. But we are reminded that however people might have observed Passover outside the Temple precincts, it strains credulity that eating the meal in haste, with girded loins, is consistent with drinking many cups of wine. And here the Mishnah wants celebrants to know that they may drink as many cups as they like as they eat their meal, but when the meal is complete, they will have only a fourth ceremonial cup to enjoy and no more. This mishnah references additional rabbinic compositions for recitation: some formulation to bless the meal and another described as a concluding blessing for the Hallel psalms. This allowed constructions of the Haggadah to include at this point a “grace after meals” and the aforementioned concluding benediction for the Hallel. The grace after meals found in most versions of the Haggadah was composed long after the Tanaitic era. Much of it is post-Talmudic, although there are liturgical historians who will endeavor to find parts of the later composition they believe originated in earlier periods.²⁶⁴ For our purposes, the reality is that the Mishnah knows of a benediction but chooses not to quote it.

²⁶⁴ The most authoritative history of the text of the Haggadah remains Daniel Goldschmidt, *The Passover Haggadah: Its Sources and History* (Mosad Bialik, 1969). With respect to the *Birkat Mazon* (“Blessing of Food” often called the “Grace After Meals”) the author (uncited) of the article in EJ (2007), cites three articles the most recent of which is Joseph Heinemann, “Birkath Ha-Zimmun and Havurah-Meals,” *Journal of Jewish Studies* 13, no. 1–4 (1962): 23–29. This overview follows stereotypical patterns for scholarship on Jewish liturgy. Mention is made of the biblical requirement to give thanks for food (especially Deut 8:10) and sparse citations to a variety of post-biblical sources such as Jubilees (22:6-9) and Josephus. I was unable to find the specific reference in Josephus the EJ intends, but the same theme is found at Ant. IV (22) (Loeb edition), “The very first of the ripe fruits which shall fall to each man’s lot are to be brought to the temple, where, after blessing God for the land which has borne them and which He has enabled them to win, and after performing the sacrifices which the law commands them to offer, let them present the first-fruits thereof to the priests.” The question here, however, is not whether various ancient sources provide evidence that people blessed their food or honored Scripture by adopting a framework of blessings that included references to layers such as the land from which the food derives, but rather, “When we find such blessings coded as a ritual written in a specific form of Hebrew (or Aramaic).” The EJ proceeds to cite a number of passages from Mishnah, Tosefta, and the Gemaras which reference the recitation of a blessing for food. From these it is reasonably clear that something resembling the version of the blessing found in the Haggadah would have been available during the period of the Gemaras—400 to 600 C.E. The notion that this proves that these formulations existed in the time of the Mishnah is an example of *post hoc, ergo propter hoc*. Michael Berenbaum and Fred Skolnik, eds., “Grace after

The eighth mishnah contains the famous admonition that celebrants are not allowed following the celebration (literally “the Pesah”) to “separate out” for *afikoman* or perhaps “conclude” after the *afikoman*. As explained in Chapter 2, Saul Lieberman and later Siegfried Stein saw this unusual word as belonging to the Greek language.²⁶⁵ Stein in particular developed the idea that the Passover celebration as limned in the Mishnah resembles descriptions of symposia such as those described by Xenophon and Plato. In some of these depictions, following the symposium meal, celebrants would continue that celebration long into the evening and beyond.²⁶⁶ According to Stein, the sages of the Mishnah forbade this and insisted that the paschal celebration end with the fourth cup of wine. Many scholars writing since Stein’s article have accepted his argument. Baruch Bokser was among those who challenged the idea that this was an indication of rabbinic affinity for Greek civilization. He saw the Passover Seder as a cultural institution within a rabbinic setting that was distinct from Greek culture. Rather than an acceptance of the notion that the Seder was similar to Greek festivities such as drinking, dancing and ribaldry, Bokser saw this mishnah as an injunction against that sort of revelry. He has a point that the material in this chapter of Mishnah (and Tosefta) seems to describe an evening of instruction with serious purpose.

Meals,” in *Encyclopaedia Judaica*, 2nd ed., vol. 8 (Detroit, MI: Macmillan Reference USA, 2007), 22–23, <http://link.galegroup.com/apps/doc/CX2587507771/GVRL?u=knox61277&sid=GVRL&xid=d36f8208>.

²⁶⁵ Siegfried Stein, “The Influence of Symposia Literature on the Literary Form of the Passover Haggadah,” *Journal of Jewish Studies* 8 (1957): 13–44. Also Baruch M. Bokser, *The Origins of the Seder* (Berkeley: University of California Press, 1984), pp. 62–66 for his refutation of Stein’s ideas citing (among others) Lieberman, *Tōseftā ki-šēšūṭā* 4:655 and *HaYerushalmi Kijshuto* p. 521.

²⁶⁶ By the third century C.E. the classical symposium must have been an established and well understood occasion. After all, Xenophon’s Symposium occurred in 422 B.C.E. and Plato wrote in the period not much later. In other words, by the time of the Mishnah and Tosefta the Symposium had a notable career beginning not less than seven hundred years earlier.

Nevertheless, it fails to account for the rather adamant insistence on four cups of wine.

Rather than an “anti-symposium” as Bokser might have it, it seems rather to be a symposium with a bit more restraint than would be characteristic of a wild party.²⁶⁷

One obstacle to acceptance of *afikoman* as an indication of the influence of Greek culture is the text we find in Tosefta 10:8. Recall that the Tosefta is written in the same Hebrew dialect as the Mishnah, and that current scholarship divides over whether it might slightly older or later than the completion of the Mishnah. This very unusual word *afikoman* occurs also in the Tosefta, and it is difficult to determine whether the Tosefta is quoting the Mishnah (which would argue solidly for a date of composition later than the Mishnah), or whether both the Tosefta and the Mishnah are possibly quoting from some third source. Both contain the language, “They do not depart Passover *afikoman*.” But the Tosefta adds the gloss, “...for example, nuts, dates, or roasted grain.” In fact, if given the symposium notion which is now commonplace in scholarship, it is necessary to translate the Mishnah and Tosefta in different ways.²⁶⁸ The Mishnah would be rendered, “No one should go partying after the Passover” while the Tosefta might be better rendered something like, “After the Passover ritual, no one should have any sort of dessert such as nuts, dates, or roasted grain.” Several scholars have tried to rationalize this difference by claiming that both interpretations are variations on the single theme that with the fourth cup, the Seder is concluded and there is no further celebration. That much is true, but there is still some sense

²⁶⁷ Bokser, op. cit., p. 65.

²⁶⁸ One example of recent acceptance of the symposium feature is found in Philip R. Davies, *On the Origins of Judaism*, BibleWorld (London ; Oakville, CT: Equinox, 2011), p. 144: “It is also probable that the Jewish Passover meal was influenced, perhaps even inspired, by the banquet.”

of cultural difference between suggesting that no desert is permissible after a certain point than placing a restriction on public celebration. The lesson of this material is critical to understanding the nature of the community which is the earliest reflection on dealing with the loss of the principle bases of the communal religion after the destruction of the Temple. Three centuries before, Judeans had fought a civil war at least in part over the question of the extent to which Greek culture could be assimilated into the ancestral religion. The dispute over *afikoman* might be considered another skirmish in that long battle.

The eighth mishnah concludes by suggesting an interpretive disagreement between the anonymous author and a tradent named R. Yose regarding the conditions under which a celebrant's participation must end. The Seder as envisioned in the Tanaitic material is clearly a lengthy ritual with a large meal and the many cups of wine. Celebrants must have had some difficulty remaining awake for the conversations of the evening. The anonymous author opines that if several members of the family or company fell asleep and awaken, they may continue with the ritual. But if they all fall asleep; the ritual is declared complete. R. Yose holds that the distinction is rather regarding drowsiness. He opines that a person who has become drowsy can continue after fully awakening, but if he falls asleep, he is done for the evening. According to the traditional chronology, R. Yose was a student of R. Aqiva which suggests that he taught in the mid-second century.²⁶⁹

With the eighth mishnah, the Mishnah concludes its description of the Tanaitic Seder. There is one more mishnah, a ninth, but it has nothing to do with the Seder. Rather, it

²⁶⁹ For R. Aqiva, Hermann Leberecht Strack, *Introduction to the Talmud and Midrash*, 1st Fortress Press ed (Minneapolis: Fortress Press, 1992), p. 72; R. Yose, *ibid.* p. 76-77.

is a statement about the practice of sacrificing the paschal offering in the Temple. Rabbinic material often appears as a matter of the convenience of some linguistic connection. For example, citing additional matters attributed to a named tradent. In this case, the connection is the consumption of a part of the Passover (but not Seder!) meal after midnight:

The Pesah after midnight renders the hands [ritually] unclean. The *piggul* and the *notar* render the hands [ritually] unclean. He pronounced the blessing of the Pesah, he is exempt from [that of] the sacrifice. If he pronounced the blessing of the sacrifice, he is not exempt from [that of] the Pesah, the words of R. Yishmael. R. Aqiva says, "Neither exempts the other."

This text seems to belong to one of the earlier chapters in the tractate which dealt extensively with the subject of the paschal sacrifice, but its presence here does provide an opportunity for an important observation. The statement about *piggul* and *notar* which refers to various aspects of an animal sacrifice is set into a context of a disagreement between two tradents, R. Yishmael and R. Aqiva.²⁷⁰ It discusses the technique of pronouncing a benediction by the officiant offering the sacrifice. But as we have noted in other places, there is no evidence that the priests used any sort of benediction, and especially any in the language of the rabbis. And if the traditional chronologies have any credence, neither of the two named tradents were likely to have actively participated in the Temple ritual. In summary, we have two post-Temple figures discussing the proper order of a benediction which was likely never pronounced and which neither of them ever witnessed. While this

²⁷⁰ R. Aqiva, Strack, op. cit., Yishmael, Strack, 71-72.

may seem absurd, as we shall see below, it does make perfect sense in the context of the likely mission of the Mishnah as a whole.

While the Mishnah seems better organized and limns a set of practices that could (and did) serve as a blueprint for creating the Seder ritual, the Tosefta's various provisions include several matters lightly touched on or not mentioned at all in the Mishnah. Seemingly haphazardly stitched into the middle of the various provisions for the recitation of the Hallel, halakhah 6 includes instructions for playing with children (by "snatching" matzah) in order to keep them awake for the ritual. This material seems out of place given that halakhah 3 was focused on maintaining the interest of children. Halakhah 8 has a statement mentioning the all-night study of two masters and then moves to a technical issue about the order of recitation of blessings. The Mishnah is not constructed in such a way as to create a complete liturgy for the holiday, but the Tosefta is even more disorganized. The Mishnah, in contrast, while providing information that might best be described as incomplete does at least describe a ritual in what appears to be chronological order. We need again to be careful about assuming this, however. The much later Haggadah clearly used the Mishnah as a guidepost to the creation of the Seder service, and therefore what we are perceiving as good chronological order could be an artifact of its adoption into the later service.

In conclusion and keeping in mind the caveat about post-facto interpretation, with the eighth mishnah we have a reasonably coherent depiction of a ritual containing a number of identifiable elements—and also a few elements that are not identifiable. the Mishnah's order is sequential for some rite that was practiced in the third century, families or guests should arrive having built up an appetite. Note that that the social nature of the gathering is not clarified in any of the Tanaitic sources. The presence of children to ask questions

suggests a family gathering, yet some of the other statements seem to imply a fellowship gathering and of course these need not be contradictory—some might have gathered in fellowship, others in family units. Celebrants are served at least four cups of wine, recite blessings, and consume a meal that would have been very complex for its time—multiple courses with a variety of symbolic foodstuffs. This very complexity argues for a probability that such festivities could only have been conducted by fellowship groups with access to material resources or wealthy families. The very first mishnah stipulates that the poor need be given their four cups of wine even if through public charity, but as to where and how they might celebrate the rest of the requirements we receive no hint. In the realm of familial discourse, the Mishnah suggests topics for explication to children. The Mishnah strongly makes the point that celebrants should recline for their meal as was the custom among the Roman/Greek upper class of their time. In doing so, the Mishnah asserts the elevated social status of their community without a bit of irony in that in doing so they actually contravene the specific demand of Scripture that they consume the meal “in haste.” The Scripture insists that the meal be consumed, with “girded loins” ready to flee Egypt, consuming the symbolic bread which is the epitome of haste—no time for the bread to rise. Yet here the Mishnah depicts an elaborate meal with a lengthy liturgy.

One connection to Scripture is that the meal seems to be a centerpiece that replaces the Paschal offering. It is situated in the middle of the recitation of a liturgy constructed from biblical Psalms, replacing the paschal lamb (eaten with bitter herbs and unleavened bread) during Temple times. The Mishnah discusses the formulation of blessings to surround these Psalms, and when it mentions the specific language of blessings, it is always

that of the Mishnah itself, a dialect which is unattested prior to the third century C.E.²⁷¹

There are a few quibbles among Hebrew linguists with some asserting that a few of the letters found at Wadi Murabba‘at are written in Mishnaic (or early Medieval) Hebrew, and those documents were composed in the few years preceding the end of the Bar Kokhba revolt or 135 C.E. Yochanan Breuer states in his summary article on the history of Mishnaic Hebrew in *Encyclopedia Judaica*, “It is, however, most likely that MH had already existed previously for hundreds of years as a vernacular. Its influence can be detected in the later books of the Bible, e.g., the Chronicles and Esther, but it was not employed as a literary language until after the destruction of the Second Temple.” This argument strikes me as lightly evidenced since its sole support is a connection to books such as Chronicles and Esther which could have as easily been influenced by Aramaic as some form of Hebrew not found in any documents. The Mishnah also recognizes a need for some sort of benediction after the meal, along with additional liturgical elements identified as “*birkat hashir*” (the blessing of the song), and it assumes that the reader will know what is intended.

Afikoman

Both the Mishnah and the Tosefta use a term describing part of the celebration—*afikoman*—but the difference in usage signals a major problem which might be key to understanding the nature of the underlying documents. Scholars are nearly unanimous in

²⁷¹ EJ s.v. “Hebrew Language” p. 638.

dating these Tanaitic documents to the third century C.E.²⁷² The Mishnah seems to think that its readers will know what the term means, the Tosefta provides an interpretation which will color the Passover Seder ever after. And yet, if Lieberman and Sigfried Stein are correct, the Tosefta's explanation is incorrect. What this means is that already within the time bounds of the third century, the people who we would expect to understand the tradition that they are constructing apparently do not. In his essay "A Symbol in the Seder" Lawrence A. Hoffman provides a laboratory on how liturgical history is created apparently *ex nihilo*. From the various contradictory statements about *Afikoman* he ably collects—all of which post-date the Tanaitic sources by a century of more—Hoffman concludes that this part of the Seder should be dated to at least the first century C.E. (!). His methodology bears inspection because it is considered acceptable in many if not most scholarly venues today.²⁷³

First, he concedes that the meaning of the term *afikoman* is obscure.²⁷⁴ "Though the rationale behind the well-known ordinance *ein maftirin abar hapesach afikoman*, may never be unearthed—indeed, syntactically the sentence defies translation—there seems to be sufficient evidence to posit at least the general direction which investigation should take. The widespread diversity of rabbinic interpretation of *afikoman* stemming from the first Amoraic

²⁷² Strack, op. cit. pp. 133-139 (Mishnah), p. 157 for the Tosefta. Strack concludes that the Tosefta must be post-Mishnah "and therefore Amoraic," but then keeps an earlier date by suggesting it belongs to the earliest part of the Amoraic era. I suggested in Chapter 1 that on the basis of contents, language, and lack of reference to Christianity all Tanaitic documents belong to the period prior to the fourth century when the Palestinian rabbinic authorities would have come under Christian rule.

²⁷³ Lawrence A. Hoffman, "A Symbol in the Seder," in *Passover and Easter: The Symbolic Structuring of Sacred Seasons*, ed. Paul F. Bradshaw, Two Liturgical Traditions, v. 6 (Notre Dame, Ind: University of Notre Dame Press, 1999) p. 111 ff.

²⁷⁴ Most modern commentators regard the term *afikoman* as derived from Greek, but it is not entirely clear what Greek they intend. The prefix *epi* is certainly common enough, but there are no commonly used words that resemble the term *afikoman*. The unabridged Liddell and Scott Lexicon, s.v. for example, lists *epikoma-o* to wear long hair, *epikommo-o* to adorn with cosmetics.

generation lends credence to the belief that by the third century it was already so old “...as to have its origins shrouded in mystery.”²⁷⁵ He then goes on to cite a number of quotations from the Babylonian Talmud and notes that in the parallel passage in Mekhilta (which has some claim to being a Tanaïtic era document) the reference is lacking. The *Gemara* sections of the Talmuds are what he refers to as “Amoraic.” These writings are collected in volumes that were redacted in fifth and sixth centuries C.E. It does not trouble Hoffman that what he has actually conceded is that we have a difficult—he calls it “untranslatable”—passage in a third-century document which caused conflicting interpretations in the sixth century to assert that this constitutes a logical basis for understanding the nature of a first-century ceremonial object for which there is no evidence whatsoever that can be dated to the first century. The notion that it requires centuries for a term to lose its meaning is itself without grounds—even in the modern period it is possible for people to forget terminology that evolved just a few years before. It is important to understand that Hoffman is not espousing a conservative, literalist religious position, but one which has received wide acceptance: if texts are quote in the names of a tradent, then the presumption is that the tradent accurately stated the text during his hypothetical lifetime (derived from genealogical charts).

Joseph Tabori provides a more nuanced explanation of *afikoman* although he relies on Bokser’s rendering which was itself based on Lieberman and Stein.²⁷⁶ But his account also

²⁷⁵Paul F. Bradshaw and Lawrence A. Hoffman, eds., *Passover and Easter: The Symbolic Structuring of Sacred Seasons*, Two Liturgical Traditions, v. 6 (Notre Dame, Ind: University of Notre Dame Press, 1999), p. 112 and associated footnotes 11-13.

²⁷⁶Joseph Tabori, “Toward a History of the Paschal Meal,” in *Passover and Easter: Origin and History to Modern Times*, ed. Paul F. Bradshaw and Lawrence A. Hoffman, vol. 5, Two Liturgical Traditions (Notre Dame, IN: Univ of Notre Dame Press, n.d.), 62–80 p. 72-73.

supplies a “third-century” time frame for the Amoraim (tradents who are quoted in fifth and sixth-century sources) and Tabori also uses sources quoted in the Tanaitic literature as though they may be reliably assigned to their purported eras. Tabori is more interested in the history of the practice in the modern Seder of calling a piece of matzah the *afikoman* and finds evidence for that beginning in the twelfth century—although he notes that neither Maimonides nor Alfasi could have had such an understanding since they regarded the *afikoman* as something which is forbidden—from the sense of “They do not leave *afikoman*” that is, the language of both the Mishnah and the Tosefta possibly implying that there is some sort nuance of the forbidden in whatever this *afikoman* might be. Nor is this the only case of observing a disconnect between the language of a text and the use of a term in a radically different meaning. As we observed in our discussion of Mishnah 10.5, the word לְכָלִם is apparently borrowed from the Greek *kalos* meaning “beautify” although the allophone in Biblical Hebrew means, “curse.”²⁷⁷ The meaning of words evolve and perhaps especially so when the word is unfamiliar or deriving from another language. The term *afikoman* might have held different meanings for the originator of the phrase, the redactor of the Mishnah, the redactor of the Tosefta, the Amoraim and those who came even later. With each generation the term seems to have grown new dimensions until in modern times it becomes part of the children’s games with the Tosefta also mentioned more than a thousand years prior.

²⁷⁷ This should not be seen as a case of *addad* both because of the different spelling in biblical Hebrew and because it lacks the lexical ambiguity associated with true cases of *addad*.

Conclusions

At this point, I think we can venture two conclusions about the history of the Seder. First, by the middle of the third century there existed within the community of rabbis and their followers that wrote or compiled the Mishnah a ritual within which we can see the basic ingredients of the medieval and even modern Seder. Second, nothing like it can be seen in any extant literature prior to the middle of the third century. I am not claiming that groups of Judeans did not assemble for communal meals which included liturgies—we know that they did. As Phillip Davies explains the literatures of Qumran and other communities of the Judean desert had clearly established rules for communal meals. But there does not seem to be any relationship between these sorts of regular meals, and the celebration of a holiday or commemoration of biblical stories.²⁷⁸ And *pace* the issue of the resemblance of the Last Supper to a seder (or lack thereof), that is clearly a depiction of a fellowship meal which combined food and story. Mediterranean communities gathered for festive meals and no doubt regaled the assembly with good conversation. But what the Tanaim are suggesting here is that such a meal, when combined with specific liturgical elements, four cups of wine, and specified foods may replace the Temple ritual. None of the texts we examined before—Philo, Josephus or the description of the Last Supper in the Christian Bible posits a replacement for the Temple component of the holiday service. Mishnah/Tosefta Passovers Chapter 10 seems to be the first such argument in the liturgical history of those who followed the rabbis.

²⁷⁸ Philip R. Davies, *On the Origins of Judaism*, BibleWorld (London ; Oakville, CT: Equinox, 2011), pp. 139-140.

While it is reasonable to suggest that the ideas which are encapsulated in the Tanaitic documents had been in development for some period of time prior to the completion of those documents, there is nothing to the assertion that any of these ideas were extant in the first or even the second century. It is reasonable to assume that communities were experimenting with liturgy, and that there may have already been a unit such as the Hallel or various blessings under construction by communities who no longer could rely on priests. But there is no reason to believe that the ideas that are found and explored in the Mishnah could not have been constructed within a decade or two prior to the Mishnah. The fact that Tanaitic literature quotes figures like Aqiva, Gamliel, and Yose does not prove that these men even existed, much less that they are quoted with anything resembling accuracy. In the next two chapters, I will explore the reasons to doubt such attributions and to try to understand what the Tanaitic literature is arguing.

CHAPTER 4: THE LIMITS OF MEMORY AND THE PROBLEM OF ORAL TRANSMISSION

In 2017, Vered Noam of Tel Aviv University published *Shifting Images of the Hasmoneans: Second Temple Legends and Their Reception in Josephus and Rabbinic Literature*. The upshot of Noam's book is that it is possible to construct reliable historical information from rabbinic literature and that this data was collected independently of works of Josephus and other sources known from the Hellenistic and Roman literature. But the earliest manuscripts of the rabbinic corpora date from the Middle Ages, which leads to the argument that the reason why there are no traces of the rabbinic manuscripts during the earliest phases of the documents is that they were transmitted solely as oral lore. The scholarly response to Noam has been generous. Richard Hidary of Yeshiva University wrote that "While previous scholars have assumed that the rabbis drew their stories directly or indirectly from Josephus, Noam's project proves that rabbinic traditions stand independent of Josephus and that both draw upon earlier sets of traditions, many deriving from now-lost Pharisaic sources. Fascinatingly, this means that some details within rabbinic stories may retain greater historical accuracy than discrepancies in Josephus, despite the former composing their works centuries after the latter." In a more nuanced review, Steven Weitzman of the University of Pennsylvania writes, "Once specialists digest Noam's arguments, some will push back as her conclusions challenge the now commonplace scholarly view that rabbinic literature is not a reliable source for understanding the Second Temple period. But one can only be intrigued by the claim of a 'lost Atlantis' of Second Temple era stories hidden in plain sight within

later rabbinic texts.”²⁷⁹ I intend to show that there is greater nuance and complexity than either Noam or other scholars are prepared to concede. The rabbis did not have any need or desire to accurately reflect political history, and they were engaged in a cultural battle designed to assert their authority over what must have seemed to be more likely recipients of authority, namely functionaries such as priests, royals, judges and prophets who are all explicitly mentioned in Scripture. On the other hand, if they simply invented every aspect of their historical and cultural claims, it would have been difficult for them to persuade people of the righteousness of their claims. Therefore, we have an amalgam of materials which likely reflect history and culture that would have been shared across most segments of third-century inhabitants of the region combined with materials that were legendary or completely manufactured by the rabbis.

How Was the Mishnah Published?

More than 70 years earlier than Vered’s work, Saul Lieberman’s brilliant essays still command deep respect. Lieberman considered the question of what might constitute

²⁷⁹ Vered Noam, *Shifting Images of the Hasmoneans: Second Temple Legends and Their Reception in Josephus and Rabbinic Literature* (New York, NY: Oxford University Press, 2017); Richard Hidary, “Perspectives on Judah Maccabee,” Jewish Book Council Blog, November 30, 2018, https://www.jewishbookcouncil.org/_blog/The_ProsePeople/post/perspectives-on-judah-maccabee/; Steven Weitzman, “Review of *Shifting Images of the Hasmoneans*,” *Reading Religion: A Publication of the American Academy of Religion*, July 5, 2018, <http://readingreligion.org/books/shifting-images-hasmoneans>.”

“publication” of Tanaitic sources in one of the essays collected into his volume *Hellenism in Jewish Palestine*.²⁸⁰

Since in the entire Talmudic literature we do not find that a book of the *Mishnah* was ever consulted in case of controversies or doubt concerning a particular reading we may safely conclude that the compilation was *not published in writing*, that a written *ἔκδοσις* of the *Mishnah* did not exist.²⁸¹

Within this essay of 16 pages, Lieberman conducts a master class on discovering and elucidating the significant observations of a process of producing the Mishnah from various notes and systems known to have existed in Late Antiquity and he includes many references to non-Rabbinic classical sources as well. He bends all these sources to his conclusion that:

... the *Mishnah* was not published in writing. But we have good evidence to establish that it was published in a different way. A regular oral *ἔκδοσις*, edition, of the *Mishnah* was in existence, a fixed text recited by the *Tannaim* of the college. The *Tanna* ("repeater", reciter) committed to memory the text of certain portions of the *Mishnah* which he subsequently recited in the college in the presence of the great masters of the Law. Those *Tannaim* were pupils chosen for their extraordinary memory, although they were not always endowed with due intelligence.²⁸²

This oral publication possessed all the traits and features of the written publications of that time. The *Tannaim* were distinguished by all the qualities and characteristics of books in circulation.²⁸³

Although his views are complex and nuanced, nevertheless, we can simply state that Lieberman is claiming that while never written down nor published in any sense that ancient

²⁸⁰ 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.* (New York: Jewish Theological Seminary of America, 1950), 83–99 pp. 83-99.

²⁸¹ *Ibid.*, p. 87.

²⁸² *Ibid.*, p. 88.

²⁸³ *Ibid.*, p. 97. Lieberman is obviously at pains to establish a veracity for an oral recitation which (he claims) is substantially equivalent to written compositions, even to the point of comparing it favorably to "books."

books were published, the Mishnah was nevertheless faithfully transmitted. Indeed as he says that it was no less so than any written documents of its era. The problem with this claim is that no such claims can be supported by any of the many scientific explorations of the transmission of oral literature conducted by anthropologists and neuroscientists since such investigations began in the early twentieth century.

The Mishnah and Tosefta are large units of text. As noted earlier, the Mishnah alone contains six orders, sixty-three tractates divided into chapters and statements which are each called a mishnah. In Chapter 2 we examined just one of the 525 chapters and found that there was reasonably close agreement among the various extant manuscripts as exemplified by both Mishnah and Tosefta Pesahim 10. However, those manuscripts represent some sort of transmission history beginning many centuries after the generally accepted date for the earliest edition of the Mishnah, whether that earliest version was exclusively oral or possibly written without any surviving evidence thereof. What we do not know is whether the texts might have had a greater number of variants—or at least some of them been entirely different—if we could examine the texts closer to their point of origin.

Oral or Written?

Among scholars who like Lieberman have studied the Mishnah and its related literatures, it has been accepted as a settled matter that these literatures were originally transmitted orally. The original texts were never written, but rather passed from master to disciple for generations. Among Orthodox Jews, as well as those scholars who are inclined to trust tradition, it is a theological principle that along with the written rules, the Torah, there was also an oral tradition which elaborated and explained how the Torah was to be

interpreted and implemented. For this group, the Mishnah and related Tanaitic literature is the embodiment of the interpretation of the Torah. In some ways, it is the analog of the work that Philo performed in his *De Specialibus Legibus* but which used a vastly different methodology to reconcile the Torah to his needs and the needs of his community.

More recently there has been something of a refinement in this idea.²⁸⁴ It is perfectly reasonable to suggest that there had to be some sort of interpretive guidelines for performing some of the precepts of the Torah during all stages of the life of a community which accepted the authority of the Torah but did not have the means to perform its various requirements. But there is no reason to believe that the materials preserved in the Mishnah carried any weight outside the group that formulated it. In fact, the entire history of the Second Temple, with its intense factionalism, the Dead Sea Scrolls, the Geniza fragments, the aforementioned Philo—these are all testimonies to wide variance of opinion in the manner in which the Torah should be interpreted.²⁸⁵

²⁸⁴ Several investigators have composed book length considerations of these issues such as Daniel Boyarin, *Border Lines: The Partition of Judaeo-Christianity*, *Divinations: Rereading Late Ancient Religion* (University of Pennsylvania Press, 2006); Shaye J. D. Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties* (Berkeley: University of California Press, 1999); Lawrence H. Schiffman, *From Text to Tradition: A History of Second Temple and Rabbinic Judaism* (Hoboken, N.J.: Ktav Pub. House, 1991). I have discussed some of the results of this research in Chapter 1.

²⁸⁵ Mira Balberg and Simeon Chavel, “The Polymorphous Pesah,” *op. cit.* provides a convenient and comprehensive review of Passover-related texts in the Second Temple era. Chavel reviews the notoriously convoluted and complex biblical record which demonstrates the difficulties involved in understanding how Passover was observed when the Temple was available, and Balberg provides a superb analysis of the post-biblical texts including Jubilees, Philo, Josephus, the New Testament, Rabbinic literature (including Mishnah, Sifre, and Mekhilta. Because the focus of their work was understanding the biblical holiday, Balberg does not reflect on the Seder other than mentioning Bokser’s work and the nature of the Seder as a dramatic presentation.

Discussions of Oral Literature in Greek Classical Literature

And yet scholarly and theological consensus has largely favored a uniformity of tradition communicated through oral tradition. Tales of people who demonstrate spectacular feats of memorization abound in popular culture. And it is true that with practice and some knowledge of methodology people can attain astonishing recollective skills. These are not just modern techniques: Plato's dialogue *Ion* is a testament to the memorization skills that were employed centuries before the Mishnah. Augustine's *Confessions* are in some sense a meditation on the idea of memory. He provides a description of his method of recollection in the *Confessions*, Book XI,

I am about to repeat a Psalm that I know. Before I begin, my expectation is extended over the whole; but when I have begun, how much soever of it I shall separate off into the past, is extended along my memory; thus the life of this action of mine is divided between my memory as to what I have repeated, and expectation as to what I am about to repeat; but "consideration" is present with me, that through it what was future, may be conveyed over, so as to become past. Which the more it is done again and again, so much the more the expectation being shortened, is the memory enlarged: till the whole expectation be at length exhausted, when that whole action being ended, shall have passed into memory. And this which takes place in the whole Psalm, the same takes place in each several portion of it, and each several syllable; the same holds in that longer action, whereof this Psalm may be part; the same holds in the whole life of man, whereof all the actions of man are parts; the same holds through the whole age of the sons of men, whereof all the lives of men are parts.²⁸⁶

²⁸⁶ https://www.gutenberg.org/files/3296/3296-h/3296-h.htm#link2H_4_0011 In Book X, Augustine provided the rubric for a number of modern studies of memory, "I will pass then beyond this power of my nature also, rising by degrees unto Him Who made me. And I come to the fields and spacious palaces of my memory, where are the treasures of innumerable images, brought into it from things of all sorts perceived by the senses. There is stored up, whatsoever besides we think, either by enlarging or diminishing, or any other way varying those things which the sense hath come to; and whatever else hath been committed and laid up, which forgetfulness hath not yet swallowed up and buried." Ibid. Augustine is, of course, later in period than the Mishnah (late fourth, early fifth century C.E.) but modes of education in the Roman world would like not

Classical scholars have long discussed the likely oral transmission of large units of text such as the *Iliad* and the *Odyssey*.²⁸⁷ But while these various demonstrations are impressive, they simply do not apply to the question of whether a work such as the Mishnah could have been composed or recited without written record. The claim of oral transmission also provides a convenient response to the fact that there are no artifacts of any written Tanaitic literature earlier than the oldest documents from the Cairo Geniza ca. tenth century. But this leads to a major problem with the claim: if it is true, then we cannot also claim to have anything resembling an accurate copy of some hypothetical original. This is because we know from modern neuroscience that every sequential transmission of an oral document results in changes to that document.

The Capacity to Learn: Discussion of the Limits of Human Memory

In the modern discussion of the formation and transmission of large units of text there are two tropes that are in apparent opposition. One features the evidence for the ability of some people to demonstrate powerful talents in areas of human memory. Some people report having “eidetic” memory, the ability to recall an image with precision. Under laboratory conditions, however, it is impossible to confirm that eidetic memory exists.

have changed in the interim. For a more specific discussion of the use of memory in the *Confessions* see Tell, Dave. “Beyond Mnemotechnics: Confession and Memory in Augustine.” *Philosophy & Rhetoric* 39, no. 3 (2006): 233–53.

²⁸⁷ Albert Bates Lord, Stephen A. Mitchell, and Gregory Nagy, *The Singer of Tales*, 2nd ed (Cambridge, Mass: Harvard University Press, 2000) a revision of Lord’s original 1960 work, Milman Parry and Adam Parry, *The Making of Homeric Verse: The Collected Papers of Milman Parry* (New York: Oxford University Press, 1987), Mary J. Carruthers, *The Book of Memory: A Study of Memory in Medieval Culture*, 2nd ed, Cambridge Studies in Medieval Literature (Cambridge, UK ; New York: Cambridge University Press, 2008) esp. pp. 54-97 (Kindle Edition); Bart D. Ehrman, *Jesus before the Gospels: How the Earliest Christians Remembered, Changed, and Invented Their Stories of the Savior* (San Francisco: HarperOne, 2016). pp. 159-210 (Kindle Edition).

Certainly, some people have better memory abilities than others, but the fabulous accounts of precision are just that: fabulous. Eidetic memory apparently occurs, to the extent that it does occur, most frequently in children. But strict scientific scrutiny casts some doubt on the completeness or accuracy of such reports.²⁸⁸

The Case of Solomon Shereshevsky

A particularly important case of heightened memory ability is that of Solomon Shereshevsky, known during his lifetime simply as “S.” Shereshevsky was studied over much of his lifetime by Alexander Luria, who would go on to be regarded as one of the founders of modern Neuroscience. Shereshevsky had a condition called synesthesia which according to Luria helps explain his extraordinary mnemonic abilities. Synesthesia is a medical condition whereby multiple senses are stimulated simultaneously, for example, smell and color. The idea is that Shereshevsky was able to use these associations to enhance his mnemonic abilities. Historians interested in the limits of human memory use Shereshevsky as a measure of the outer limits of immense mnemonic power. Consider for example Bart Ehrman’s recitation regarding Shereshevsky in 2016:

²⁸⁸ Reports of eidetic memory in children are commonplace in publications not subject to strict scientific scrutiny. For example, “Children are more likely to possess eidetic memory than adults, though they begin losing the ability after age six as they learn to process information more abstractly. Although psychologists don’t know why children lose the ability, the loss of this skill may be functional: Were humans to remember every single image, it would be difficult to make it through the day.”

<https://www.psychologytoday.com/us/articles/200603/the-truth-about-photographic-memory> (accessed 6/4/2019). To this time, there is not a single scientifically demonstrable case of eidetic memory. Perhaps the most famous example of someone thought to possess this rare ability is Elizabeth Stromeier which was documented by a Harvard vision researcher in the journal *Nature* in 1970. After publication, however, he married the subject and she was never tested by anyone else. Without any ability to reproduce the result, this case has to be considered an unproven singularity. For the original journal article, C. F. Stromeier and J. Psotka, “The Detailed Texture of Eidetic Images,” *Nature* 225, no. 5230 (January 1, 1970): 346–49, <https://doi.org/10.1038/225346a0>.

In his preliminary testing, Luria gave S long sequences of numbers and long lists of words, sometimes meaningful and sometimes nonsense, up to sixty or seventy items altogether. After hearing a list spoken once, S could repeat it back, in order, correctly, without mistake. In fact, when asked, he could repeat the list backward. Luria claims that he never could find a limit to S's memory. Make a list ever so long, and S could memorize it on the spot and flawlessly reproduce it, forward or backward.²⁸⁹

With the description of Shereshevsky as described by Luria we again have a case of extraordinary memory reported by a Jewish scientist examining a Jewish subject. Indeed, both men would suffer greatly on account of their Jewish ethnic affiliation. Could this be another case of a description of extraordinary memory possessed by Jews reciting texts? But my primary concern here is that there is an important missing element from all accounts such as this and that is the lack of scientific verification. It also fails to account for the possibility of differences in modes of memorization applicable to normal speech with ambiguity and nuance. The notion that Shereshevsky could “flawlessly” reproduce complex strings of letters and numbers as well as other forms of extraordinary memory is based on the examination of a single investigator without further corroboration.

A year following the publication of Ehrman's book a partial answer to these questions appeared in an article published in the *New Yorker* written by Reed Johnson, a journalist rather than a scientist. Johnson became intrigued with the Shereshevsky case and managed to track down a close relation of Shereshevsky as well as the prize of Shereshevsky's own journal. Johnson writes:

My search for Solomon Shereshevsky revealed a person who fit uneasily in the story of the Man Who Could Not Forget, as he has so often been

²⁸⁹ Ehrman, op. cit. pp. 163-4; see also Carruthers, op. cit. pp. 93-98 (Kindle Edition).

portrayed. He did not, in fact, have perfect recall. His past was not a land he could wander through at will. For him, remembering took conscious effort and a certain creative genius. He was not a photographer, I've come to think, so much as an artist—a person who painted not from memory but *with* memory, combining and recombining his colors to make worlds only he could see. His extraordinary case also reveals something of how our ordinary minds remember, and how often they do not.²⁹⁰

Johnson goes on to detail several differences of fact between Luria's account and Shereshevsky's notebook. For example, Shereshevsky says that he first met Luria several years later than Luria describes. Shereshevsky states that he was 37 years old while Luria states that he was in his twenties. The discrepancies do not stem solely from documentary issues; Johnson was also able to contact one of Shereshevsky's surviving relatives, a nephew named Mikhail Reynberg who accompanied his uncle for much of his career. It is from Reynberg that Johnson was able to piece together the connection of Shereshevsky's profound difficulties to issues of Jewish ethnicity (with those implied connections to the memorization of vast amounts of Talmudic material), growing in severity through the years of Stalin. Contrary to other reports, Johnson also determined both from the diary and Reynberg that Shereshevsky died from the effects of chronic alcoholism which might have some bearing on his presumptive recollective abilities.

None of this is to deny that Shereshevsky had extraordinary powers of recall. Johnson attributes these abilities both to methods of training similar to those used by entertainers for carnivals (Shereshevsky's primary means of earning a living for most of his life) with a confirmation of the synesthesia documented by Luria. As he follows

²⁹⁰Reed Johnson, "The Mystery of S., the Man with an Impossible Memory," *New Yorker*, August 12, 2017, <https://www.newyorker.com/books/page-turner/the-mystery-of-s-the-man-with-an-impossible-memory>.

Shereshevsky's career, Johnson is led to conversations with other prominent neuroscientists such as Daniel Schacter and Elizabeth Loftus. Schacter balances the issue of memory with that of *imagination*. While it might appear at first that imagination is the antithesis of memory, in fact modern experimental techniques such as MRI scans have demonstrated that imagination is heavily dependent on memory. People who have suffered damage to the part of the brain which is involved in memory storage have corresponding deficits in the ability to imagine. Johnson quotes Schacter, "...arguing that our all-too-fallible recollections of the past are in fact adaptive, providing the flexibility that allows us to reconfigure memory to imagine our possible futures."²⁹¹ And the contribution of Loftus is that the directionality can be reversed. That is, instead of moving from memory to imagination, imagination can implant memories which have no basis in reality. Johnson says, "The creation of false memories is perhaps not entirely unlike Shereshevsky's visualization of made-up scenes in various physical locations, his personal variation on the 'memory palace' technique."²⁹² In other words, the same techniques that can be used to memorize can also be used to create false memories.²⁹³

²⁹¹ Johnson, op. cit. (page numbers and pointers not supplied in the on-line version).

²⁹² The reference is to a mnemonic technique known from antiquity usually referred to as "method of loci" in which the practitioner designs elaborate patterns or buildings and tucks memories into the rooms or even the decorations thereof. The technique was described as early as Greek and Roman rhetoricians, one of which, Quintilian, is even proximate to the era of the Mishnah. For a comprehensive discussion of this method, see Jonathan D. Spence, *The Memory Palace of Matteo Ricci* (New York, N.Y: Penguin Books, 1985), esp. pp. 1-23. On p. 12ff Spence notes that even in the sixteenth century there were critics of the usefulness of this method.

²⁹³ Johnson, op. cit.

The Singer of Tales

It is one thing to speak about the ability of individuals to accomplish a prodigious amount of textual memorization, and quite another to consider whether that person can somehow transfer this knowledge to someone else who will be capable of faithfully transmitting it. That is the question that Milman Parry tried to answer with his mid-twentieth century groundbreaking work (completed by his student Albert Lord) and published by Lord in *A Singer of Tales*.²⁹⁴ Parry was interested in what has become known as “the Homeric question.” Just as Plato’s *Ion* illustrates the issues of prodigious individual memory, the various epics of Homer raise questions regarding the transmission of oral literature from generation to generation. Do we really know who composed lengthy works such as the *Illiad* and is there any evidence that prior to committing these epics to writing that they were transmitted accurately over a period of centuries?

Parry and Lord’s extensive field research among the reciters of sagas in Bosnia resulted in conclusions that ought to be of great importance to students of the Tanaitic literature. They make the critical point that if a culture does not preserve texts using some form of writing, that it is not only impossible for them to verify that a given rendering is accurate, but that such cultures do not even have the same notions about what constitutes accuracy in transmission. Instead, the reciter is actively engaged in making the performance relevant to their audience with the result that every recitation produces differences from the prior recitation. As Lord points out, no two performances of a long epic are ever the same.

²⁹⁴ Albert Bates Lord, Stephen A. Mitchell, and Gregory Nagy, op. cit.

Defenders of the accuracy of oral Homeric tradition might point toward meter and versification as effective mnemonic aids, a topic Perry and Lord also address. At first glance this might seem unconnected to Tanaitic literature given that the Tanaitic corpora are not apparently written in epic verse. But there is a detectible style to the Mishnah and Tosefta and some of the principles elucidated by Lord may well apply to the recitation of these Tanaitic texts. The conclusion of Lord that “The poetic grammar of oral epic is and must be based on the formula. It is a grammar of parataxis and of frequently used and useful phrases” applies well to the Tanaitic corpora. In fact, the structure of the texts of the Mishnah is noticeably more homogeneous than the various works of the Hebrew Bible, and perhaps part of the alteration in style from the Bible to the Mishnah might be explained by influence of Greek epic recitation likely familiar to anyone living in the Near East in the Hellenistic and Roman periods.²⁹⁵

The fourth and fifth chapters of *Singer* also have ideas of relevance to our topic. One of the noticeable aspects of passing tradition from one singer to another, Parry and Lord discovered, was that even the best singers do not merely transmit the material, but also expand it and make it their own.²⁹⁶

As long as one thought of the oral poet as a singer who carried in his head a song in more or less the exact form in which he had learned it from another

²⁹⁵ Lord, Mitchell, and Nagy, op. cit. p. 65. W. R. F. Browning comments, “Oral tradition was not a Christian innovation. It was an established medium of Jewish scribes and rabbis. It was necessary to update the written injunctions of the Torah, so there were many legal stipulations (*halakah*) and homiletic expositions of the OT narratives (*haggadah*), and this oral transmission continued for several centuries until finally established in the Mishnah” W. R. F. Browning, *Oral Tradition* (Oxford University Press, 2010), <https://www.oxfordreference.com/view/10.1093/acref/9780199543984.001.0001/acref-9780199543984-e-1382>.

²⁹⁶ Lord, Mitchell, and Nagy, op. cit., p. 78.

singer, as long as one used for investigation ballads and comparatively short epics, the question of what an oral song is could not arise. It was, we assumed, essentially like any other poem; its text was more or less fixed. But when we look more closely at the process of oral composition and come to appreciate more fully the creative role of the individual singer in carrying forward the tradition, we must begin to query our concept of a song.²⁹⁷

Lord did not find that the singer was engaged in some sort of complete transformation of a song into something entirely “other.” He concludes, rather:

The basic story is carefully preserved. Moreover, the changes fall into certain clear categories, of which the following emerge: (1) saying the same thing in fewer or more lines, because of singers’ methods of line composition and of linking lines together, (2) expansion of ornamentation, adding of details of description (that may not be without significance), (3) changes of order in a sequence (this may arise from a different sense of balance on the part of the learner, or even from what might be called a chiasmic arrangement where one singer reverses the order given by the other), (4) addition of material not in a given text of the teacher, but found in texts of other singers in the district, (5) omission of material, and (6) substitution of one theme for another, in a story configuration held together by inner tensions.²⁹⁸

Ideas such as the use of repetitive units of text are also found in Tanaitic materials, occasionally with variations to make them relevant to the subject at hand. In our text, Mishnah Passover 10.2 we read, “They mix for him the first cup. Bet Shammai states, “He blesses the day and afterwards he blesses the wine.” But Bet Hillel states, “He blesses the wine, and afterwards he blesses the day.” In Mishnah Berakhot 8.8 we read, “When wine arrives after food, and there is nothing other than the one cup, Bet Shammai says, ‘He blesses the wine and then the food.’ But Bet Hillel says, ‘He blesses the food and afterwards

²⁹⁷ Lord, Mitchell, and Nagy, *op. cit.*, p. 99.

²⁹⁸ Lord, Mitchell, and Nagy, *op. cit.*, p. 123.

blesses the wine.”²⁹⁹ The framework for both passages is the same, the one applying to the peculiar circumstances of the Passover holiday, the other the more general occasion of dining.

Lord includes an additional chapter on the interaction of written and oral cultures which is highly relevant to our subject. Lord begins with the observation that we must keep in mind the lack of recording devices meant that anyone desiring to write down the words of a song would have to persuade the singer to sing slowly, stopping often, so that the words could be written. “A written text was thus made of the words of the song. It was a record of a special performance, a command performance under unusual circumstances.” A similar mechanism or process would have had to be used by the Tana'im of the Mishnah, and we might also wonder whether the Mishnah is formulated as some sort verbatim transcript or is it rather a summary based on one or more discussions before the named masters.³⁰⁰

The question of orality versus written composition is also raised with respect to much of biblical literature. In particular, the Psalms have attracted consideration since they are poetic and possibly even musical compositions. Efforts to demonstrate orality have been

ח בִּא לָהֶם יֵין לְאַחֵר הַמִּזוֹן וְאֵין שֵׁם אֶלָּא אוֹתוֹ הַכּוֹס, בֵּית שְׁמַאי אוֹמְרִים, מְבַרֵּךְ עַל הַיֵּין וְאַחֵר כָּף מְבַרֵּךְ עַל הַמִּזוֹן. וּבֵית הַלֵּל אוֹמְרִים, מְבַרֵּךְ עַל הַמִּזוֹן וְאַחֵר כָּף מְבַרֵּךְ עַל הַיֵּין.

³⁰⁰ Lord, Mitchell, and Nagy, op. cit., p. 124. Lord theorizes that scribes might have had some sort of shorthand, which would be less accurate, or there might be two or more scribes writing every second or third verse. But this is pure speculation. For the Tanaitic literature we do have a few references to note takers as discussed by Saul Lieberman (see below). As noted earlier, Stephen Weitzman opined that there is something of a scholarly consensus that “that rabbinic literature is not a reliable source for understanding the Second Temple period.” But the word consensus is surely in appropriate given that the book he is reviewing by a strong scholar of the field does not agree with those scholars who hold such an opinion. For my purposes, moreover, there is an additional dimension: even if we agree that the Tanaitic corpora are not reliable witnesses to the more distant past, might they be nevertheless more reliable witnesses for the post-Temple period?

notoriously difficult, but recently Stephen Coleman has used the tools of cognitive linguistics to suggest a possible new approach.³⁰¹

Is the Question of Oral and Written Necessarily Binary?

We have seen that for various reasons Saul Lieberman found that the Tanaitic materials were not written down as a complete corpus until centuries after the first oral publications of the Mishnah. Nevertheless, as he himself observes, there were various note-takers and other aids to memorization that are part of the written rather than oral culture. It could be argued that while the Mishnah was initially published in oral form, it was not subject to the kinds of successive changes that apply to oral epics, because the rabbis could refer to their written notes to eliminate errors and to bring the text back to its original form. But here we enter a realm which we find often in the discussion of these issues: just because something is possible, does not mean it happened. Factually, we do not have anything other than a few references to Tanaim referring to notes by which to judge how much, if any, influence such notes might have had on the later, compiled versions of the Tanaitic corpora.

In sum, we have an open question as to whether Tanaitic materials were memorized and written down in some skeleton fashion or written from the beginning in a format to be memorized. It is not impossible that multiple mechanisms were brought to bear on the Mishnah. What we can say as a result of the research conducted by scholars like Lord is that

³⁰¹ Stephen Coleman, "The Psalmic Oral Formula Revisited: A Cognitive-Performative Approach," *Biblical Interpretation* 27, no. 2 (May 8, 2019): 186–207, <https://doi.org/10.1163/15685152-00272P02>.

anything that was transmitted orally was subject to embellishment and omission as the material moved from one Tanna to another.

Finally, Lord considers the import of this research of several medieval texts including *Beowulf* and *La Chanson de Roland* among others. His conclusions about the interrelationship of oral composition and written literature may reflect directly our issues regarding Tanaitic texts: “Not only is such textual divergence typical and fundamental in oral style, but also, as we have said earlier, if two texts are nearly word-for-word exact they cannot be oral narrative versions but one must have been either memorized or actually copied from the other or from some original.”³⁰² In other words, when two manuscripts are substantially alike, they reflect a written rather than oral transmission history.

The Passover ritual described in the tenth chapters of Mishnah and Tosefta Pesahim can hardly be identified with the ritual described in the Pentateuch. The Torah prescribes a meal eaten in or near the Temple (in the case of Deuteronomy, near the place of sacrifice for the other texts) with staff in hand, loins girded, ready to flee from Egypt. A banquet with multiple cups of intoxicating beverage and an elaborate set of courses hardly seems consistent with that requirement. At some point, someone or some group of people must have decided to follow that different path. How did they organize that ritual? Who remembered the details of how the new ritual should be observed? When did this new ritual become normative? I intend to show that the Mishnah itself created the new method of

³⁰² Lord, Mitchell, and Nagy, op. cit., p. 208.

accommodation to reality with subsequent generations of the followers of the rabbis organizing and providing detail to the new ritual.

Flashbulb and Gist Memory

Two kinds of memory processes can help us understand how memories may be created of things which never happened. One is called “flashbulb” memory and the other is “gist” memory. “Flashbulb” memory is the ability of a person to recall in detail a dramatic or traumatic event such the attack on the World Trade Center on 9/11. Scientific study suggests that these flashbulb memories can be inaccurate shortly after their origin, but that over time the recollection of those inaccurate memories can be well preserved. This point has considerable significance for our field of study.³⁰³

³⁰³ Mort la Brecque, “Photographic Memory,” *Leonardo* 5, no. 4 (Autumn, 1972) (1972): 347–49. is of particular interest because he mentions Polish Talmudists who he says can demonstrate the “pin trick.” The pin trick is a memory device which relies on the fact that in the long period from the time that the Babylonian Talmud was typeset in an edition edited by R. Elijah ben Solomon Zalman (mid eighteenth century, popularly known as the Vilna Gaon) and how the text was maintained on the page with little or no variation from that edition through each subsequent edition. This meant that it would theoretically be possible to stick a pin through a volume of the Talmud and know which letters the pin would strike page after page. This is the sort of evidence for spectacular feats of memory we often encounter, but in fact there is no evidence that any such people existed. We do not know, for example, whether anyone who performed this exercise could do so for any volume of the Talmud, or just one tractate, and there has never been any scientific verification that anyone could do it at all. As far as I know, no one currently claims to be able to do this or is willing to subject that ability to scientific scrutiny. On “flashbulb” memory, see for example, William Hirst et al., “Long-Term Memory for the Terrorist Attack of September 11: Flashbulb Memories, Event Memories, and the Factors That Influence Their Retention,” *Journal of Experimental Psychology. General* 138, no. 2 (May 2009): 161–76, <https://doi.org/10.1037/a0015527>. and Eugene Winograd and Ulric Neisser, eds., *Affect and Accuracy in Recall: Studies of “Flashbulb” Memories*, Emory Symposia in Cognition 4 (Cambridge ; New York, NY, USA: Cambridge University Press, 1992).

Highly Superior Autobiographical Memory

Yet another form of extraordinary memory has recently been covered in the media called “highly superior autobiographical memory” or HSAM. In a very small percentage of the population, there are some individuals who can recall with great precision events they experienced with just a reminder such as an interviewer providing them with a date decades in the past. Research into this phenomenon is continuing, but for now we already know that while the demonstrations are impressive, these people are subject to memory falsification—that is to say, they can recite as fact events which never happened. As with so many of these types of memory talent, there is no such thing as perfect recall.³⁰⁴

The conclusion from this discussion of extraordinary descriptions of human memory is that some people, whether by a natural phenomenon or by training, have extraordinary memories, but those abilities are also subject to considerable exaggeration. Even if some people do have these extraordinary talents, what evidence is there that the traditions behind the Tanaitic literatures were a product of selecting these individuals for the process of memorization and transmission?³⁰⁵

³⁰⁴ For one of the first descriptions of this phenomenon, see Elizabeth S. Parker, Larry Cahill, and James L. McGaugh, “A Case of Unusual Autobiographical Remembering,” *Neurocase* 12 (2006): 35–49. Lawrence Patihis et al., “False Memories in Highly Superior Autobiographical Memory Individuals,” *Proceedings of the National Academy of Sciences* 110, no. 52 (2013): 20947–20952, <https://doi.org/10.1073/pnas.1314373110>.

³⁰⁵ On so-called “photographic memory” see also Chris Weller, “The Photographic Memory Hoax: Science Has Never Proven It’s Real, So Why Do We Keep Acting Like It Is?,” *Medical Daily*, June 6, 2014, <https://www.medicaldaily.com/photographic-memory-hoax-science-has-never-proven-its-real-so-why-do-we-keeping-acting-it-286984>.

Person to Person Memory Transmission

Bart Ehrman, in discussing the formation of early Christian texts, reflects on the research of FC Bartlett on memory formation. Bartlett suggested that memories are created by having certain disparate data points which the brain then fills in the missing pieces from other similar memories.

Remembering then is not a matter of literally reduplicating the past...In fact, if we consider evidence rather than presupposition, remembering appears to be far more decisively an affair of construction rather than one of mere reproduction. Remembering is not the re-excitation of innumerable fixed, lifeless, and fragmentary traces. It is an imaginative reconstruction, or construction, built out of the relation of our attitude towards a whole active mass of organized past reactions or experience, and to a little outstanding detail which commonly appears in image or in language form. It is thus hardly ever really exact, even in the most elementary cases of rote recapitulation.³⁰⁶

This observation in turn leads Ehrman to a conclusion about memories transmitted from person to person:

It is now perfectly clear that serial reproduction normally brings about startling and radical alterations in the material dealt with. Epithets are changed into their opposites; incidents and events are transposed; names and numbers rarely survive intact for more than a few reproductions; opinions and conclusions are reversed—nearly every possible variation seems as if it can take place, even in a relatively short series.³⁰⁷

To return to Tanaitic manuscripts, the earliest surviving copies date from an era when the preservation of legal tradition through writing was commonplace.

³⁰⁶ Bart D. Ehrman, *Jesus before the Gospels: How the Earliest Christians Remembered, Changed, and Invented Their Stories of the Savior* (San Francisco: HarperOne, 2016), pp. 119-120. (Kindle Edition) citing Frederic C. Bartlett, *Remembering: A Study in Experimental and Social Psychology* (Cambridge; New York: Cambridge University Press, 1995), pp. 204–5, 213.

³⁰⁷ Ehrman, *ibid.*

Written transmission tends to be accurate in the sense of avoiding major shifts in composition. Hence, it is unsurprising that Tanaitic manuscripts demonstrate little variation. What the Geniza fragments show is that there is also good representation of our texts in that collection—again with some normal variation found in all handwritten manuscripts. But even the Geniza collection contains few if any documents earlier than about the eighth century C.E. That is more than five hundred years after the purported date of the construction of the Mishnah. This leads to the question of exactly when were the Tanaitic documents transformed from some oral stage of production to written? Let me refine that question a bit more. I do not mean to suggest that Mishnah, in whole or in part, was ever composed as an oral document to recited. But neither was it invented out of whole cloth. Just as a modern author might attempt a fictional life of Abraham Lincoln based on newspapers, histories, and other written accounts, they might also include bits and reminiscences of family or local lore, songs and stories. In like manner, the author or authors of the various tractates of the Mishnah would have incorporated poems and stories about the many tradents they describe and quote. It seems to me that these processes would have been very similar to those employed by the writers of the Gospels.

As mentioned at the outset, scholars such as Saul Lieberman noted that throughout Late Antiquity there is no evidence that any of the Tanaitic corpora were committed to writing, an observation that recent evidence has further confirmed. As explorations of various loci of ancient documents have been exposed and older ones more completely

explored, there is still not a single authentic instance of any written Tanaitic source prior to the Middle Ages.³⁰⁸

Lieberman is keenly aware of the dangers of oral transmission, and indeed cites rabbinic literature itself as to problems associated with preserving oral literature. One notable text, a Tanaitic source from Tosefta Haggiga states as follows:

משרבו תלמידי שמאי והלל שלא שמשו כל צרכן [הרבו] מחלוקת בישראל [ונעשו כשתי
תורות

From the time that students of Shammai and Hillel grew in number they listened less attentively and thereby compounded disputes in Israel until it seemed as if there were two Torahs.³⁰⁹

The Reliability (or Lack Thereof) of Attributive Statements

The inherent fallibility of oral transmission necessarily raises doubts about attributions. An attribution is the assignation of credit for a given statement or position to a specified individual or collection of individuals. Undoubtedly the most famous collections of attributions are those found in the New Testament Gospels which assign various statements to Jesus. For the past several decades a veritable cottage industry has sprung up in which

³⁰⁸ Scholars often use the term “proto” to describe some of the documents in the Dead Sea Scrolls (so, for example, the Genesis Apocryphon might be termed a “proto-Midrash”), and much is made of the divorce documents of Babatha found in the Wadi Muraba‘at collection which seem to know of certain rabbinic dicta. But despite the existence of these documents, they are nevertheless no proof of the existence of Tanaitic sources either orally or in writing. For example, the very fine analyses provided by Mordechai Friedman prove that certain requirements listed in Tanaitic materials for marriage contracts are documented at least a century earlier than the Mishnah. But what is surprising or new in this information? Why wouldn’t the Tanaitic authorities adopt legal or ceremonial standards from earlier periods? What is entirely absent from Babatha’s documents is any indication that there might have been conflicting standards or that Babatha’s document was in accordance with one standard over another. But it is that sort of matter that is the hallmark of rabbinic materials. See Mordechai A. Friedman, “Babatha’s ‘Ketubba’: Some Preliminary Observations,” *Israel Exploration Journal* 46, no. 1/2 (1996): 55–76.

³⁰⁹ Ibid., p. 92. Lieberman cites the quotation as Tosefta Hagigah 2.9, mss Vienna and provides parallels to the PT and BT. In more readily available editions, the quote is found at Tos Hag 2.4. The words “as if there were two Torahs” are not found in other editions.

reputable academics speculate on the reliability of such statements, essentially asking how credible is it that Jesus actually spoke the words assigned to him?³¹⁰ Scholars have long understood that some of the sayings must have been invented by others (such as the Evangelists themselves). But surely some of them can be attributed to Jesus himself, preserved by the mechanisms of oral transmission.

The mission of the Jesus Seminar was to determine which statements attributed to Jesus should be regarded as authentic, and which had been composed by others in other periods of time. The Seminar was established in 1985 and met for several years with its members, eventually representing the opinions of 200 scholars, presenting learned papers designed to create the criteria for authenticity and to persuade other members of their views. The difficulties with this process are instructive for our own project. Note that there is no evidence that anyone wrote down what Jesus might have said during his own lifetime. The closest author to the time of Jesus is Paul, and Paul openly admits that he never met Jesus. None of the statements attributed to Jesus in the Gospels can be found in Paul. Therefore, according to the preponderance of scholars, there are at least five decades intervening between the last year of Jesus' life and the earliest possible written record of his sayings.³¹¹ None of the methodologies explored avoided the test of subjectivity.

³¹⁰ See especially, Robert Walter Funk and Roy W. Hoover, eds., *The Five Gospels: The Search for the Authentic Words of Jesus: New Translation and Commentary* (New York : Toronto : New York: Macmillan ; Maxwell Macmillan Canada ; Maxwell Macmillan International, 1993). A summary of the results of the Seminar can be found at <https://www.westarinstitute.org/projects/the-jesus-seminar/> (accessed 6/6/2019).

³¹¹ This is not intended to trivialize the opinion of James Grossley, mentioned above. But he is in a distinct minority of scholars dating Mark to the 40s and accepting his position raises other problems for such things as explaining the absence of quotations in Paul. For my points here it is enough to say that other than Paul, the vast majority of compositions in the Christian testament were composed half a century or more subsequent to the crucifixion.

Ultimately, the members of the Seminar voted, and unsurprisingly to most scholars they failed to reach consensus on most issues. But in addition to the lack of certainty within their own ranks, those scholars who were not members of the seminar were quick to point out that the group suffered, among other things, from selection bias. That is to say, the opinions were formed and argued among a group which self-selected itself to be amenable to opinions which are not necessarily historically true, and this might lead them to argue for authenticity for statements that are simply, again, in accord with the person they wanted Jesus to be.

Using the tools of literary analysis, a similar issue has long been considered “settled,” namely, which of the Pauline epistles should be regarded as authentic and which are more likely to fall into the category of pseudepigrapha. Seven of the canonized epistles are considered authentic by consensus, the remaining six have varying degrees of support or relegation to pseudepigrapha.³¹² But there is a marked difference between this body of texts and those we have been considering: the epistles have always been reckoned as written sources, each by a single author, not as documents dependent on oral transmission. While that does not prevent intrusions such as pseudepigrapha, it does mean that they are not prone to the vagaries of oral transmission which have been the subject of this chapter.

³¹² Margaret Mary Mitchell, “Gentile Christianity,” in *The Cambridge History of Christianity*, v. 1 (Cambridge ; New York: Cambridge University Press, 2006), p. 106.

Attributions in the Tanaitic Literature

The Tanaitic literature, by contrast, is composed almost exclusively of statements by attribution, either from its anonymous author(s) or from named tradents. Consider, for example, our Mishnah, Pesahim, 10.2: *They mix for him the first cup. Bet Shammai states, "He blesses the day and afterwards he blesses the wine." But Bet Hillel states, "He blesses the wine, and afterwards he blesses the day."* The dispute mentioned is between two sources which are not even named tradents, but rather "schools" or some sort of collection of tradents. Chronologically, these "schools" would be composed of tradents who lived in roughly the same period as Jesus. Here, they are quoted in a collection of texts which dates in its oral form (assuming that the Mishnah did begin in oral form) approximately 200 years later. And the earliest written version of these statements cannot be confirmed to have existed prior to the Middle Ages.

And so it is with the entire corpus of Tanaitic literature. How did these sayings come to be collected and preserved? Many modern scholars have considered this question and developed theories which might explain the phenomenon. A tradent such as Rabbi Aqiva might have had devoted disciples just as did Jesus. These disciples would have collected the wisdom of their master, which could be recited in the presence of some later master. This master in turn could then compare it with the recitations of disciples of, for example, R. Tarfon. The problem with such theories is that they require the accurate transmission of oral tradition over a period of centuries. In the best of times, this is impossible, as we have shown throughout this chapter. But these were hardly the "best of times." Bet Hillel and Bet Shammai would have lived during the heyday of the Temple. But in that period, it defies any understanding of their roles as depicted in sources such as Josephus that they would have

been consulted by the priesthood, the Sadducees and the Royals. Philo accepts the authority of the officials of the Temple. The Dead Sea Scrolls seem to be the heritage of sects similar to those mentioned in Josephus which retreated from official Jerusalem owing to a refusal to accept the authority of the powers installed there—but even if so, they had no power of their own to follow their traditions or the rites they might have been innovating within the Temple precincts.

Between Bet Hillel and Bet Shammai and the earliest possible date of the Mishnah would lie the Roman Jewish War, the destruction of the Temple, various laws penalizing Judean populations and practices, the Bar Kokhba revolt and the decimation of the Judean population with the accompanying deprivation of life, property, and legal rights. This is the historical reality of the period from Bet Hillel to the court of R. Judah HaNasi. The notion that accurate oral transmission of large volumes of attributive statements could have survived this chaos when this is not possible even in peaceful periods is untenable. Whatever the attributive statements of the Mishnah might be, they simply cannot be assumed to be the accurate transmission of oral tradition dating from the era of Bet Hillel. And in truth, we have little ability to confirm the existence of Hillel himself or his followers. For that we must simply accept the value of the Tanaitic corpora that far. Recall that Gamaliel is the only rabbinic personage named in the Tanaitic documents who is mentioned in a work external to the Tanaim. My position is not that these various people were all invented in the third century C.E. any more than I believe that Jesus was invented by the Christian sources

despite the lack of corroborative testimony.³¹³ Rather, I am saying that just as with Jesus, there are likely accurate memories, distorted memories, and invented memories. In general, these various memories become closer to historical reality the closer they come to the texts of origin. In other words, it is all but certain that Rabbi Judah HaNasi is a historical figure, but far more likely that Hillel and Shammai are figures of legend.

Mishnah and Memory in the Larger Context

Human memory as a physiological and psychological phenomenon is capable of storing and retrieving large quantities of data with great accuracy. However, these abilities are never infallible. The number of people who have such extraordinary talents is small. It is possible that the Tanaitic materials were memorized and recited, and it is likely that such memorization was enhanced by various systems of taking written notes. The problem is that we have essentially no evidence for this in the context of the Tanaitic materials. There is no evidence that large volumes of textual material were transmitted in this way prior to the third

³¹³ The various extra-biblical sources often cited as confirming the existence of Jesus are all substantially later than his lifetime, and therefore potentially products of the Christian writings. For example, Tacitus *Annals* was composed after 100 C.E., Pliny's letter regarding Christians was composed about 112 C.E. Indeed the importance of the so-called Testimonium Flavianum (Josephus, *Antiquities*, 18.3) is that it would be the oldest testimony to the existence of Jesus. But even accepting the majority of scholars who believe that the core of this section is authentic (some of it without doubt added by Christian authors), even this would be a post-Temple authentication given that Josephus composed nothing prior to that event. The literature on the Testimonium is vast. One recent example of the preponderance of opinion is Shaye Cohen's comment "Most modern scholars believe that Josephus could not have written this text as we have it; specifically, he would not have written "He was the Christ." A shorter text was likely revised by Christian copyists who wanted Josephus to endorse Christianity. Scholars disagree about exactly how to reconstruct the original of the passage." Shaye J. D. Cohen, "Josephus," in *The Jewish Annotated New Testament: New Revised Standard Version Bible Translation*, ed. Amy-Jill Levine and Marc Zvi Brettler (Oxford ; New York: Oxford University Press, 2011), p. 576.

century C.E. Neither the Mishnah itself nor any of the other Tanaitic corpora addresses questions of how its materials were gathered and promulgated.

Scholars are reasonably reticent about accepting an argument from silence. So what if texts of the Mishnah or other Tanaitic corpora that date from earlier than the third century C.E. have not yet been discovered? New documents are seemingly exposed with some regularity and all it would take to quash an argument from silence would be to unearth some sort of first or second-century documents that mimic or underlie the later Mishnah. But it is not as if large volumes of documents have not been known or discovered. We have never lacked for quite a large volume of diverse texts which used to be called “Intertestamental” literature. Apocrypha and pseudepigrapha have existed since the earliest years of the canonization process. The Oxyrhynchus Papyri have been known since the late nineteenth century and contain voluminous records including legal codes and documents, many of them related to the Jewish population of Egypt in the relevant period.³¹⁴ The collection covers the period from the third century B.C.E. to the Arab Conquest (seventh century C.E.) and includes material from the apocrypha of both the Hebrew and Christian Bibles, Philo, an onomasticon of Hebrew names, a wide variety of letters and legal documents. It is certainly interesting to contemplate the possible connections between such things as loan receipts where there might be some possible connection to aspects of business practice also documented in Talmudic passages, but caution needs to be exerted to avoid the logical

³¹⁴ Alexander Fuks and Avigdor Tcherikover, eds., *Corpus Papyrorum Judaicarum*, vol. 1–3, 3 vols. (Jerusalem: Magnes Press, 1957), esp. volume II which contains one divorce document and several financial receipts bearing some relevance to descriptions of such documents in the Talmud.

fallacy of *post hoc, ergo propter hoc*. In other words, simply because there might be some shared terminology between loan documents of different communities and periods does not mean that the one is relying on the other or that both are relying on anything other than what was common practice. The Cairo Geniza does not, unfortunately, have any material from the Tanaitic period, but now we have numerous other findings including the Nag Hammadi corpora, documents from Wadi Muraba‘at, and perhaps most famously, the Dead Sea Scrolls.

The Dead Sea Scrolls are identified on a basis of both paleography and carbon-14 tests to the period 150 B.C.E. to about 73 C.E., with the date of the final documents established on the basis of the Roman conquest that concluded the Judean War. Many scholars have tried to find an affinity between documents in this collection with later rabbinic literature. The most obvious example is 1Q20 frequently labelled the *Genesis Apocryphon*. This is a document written in Aramaic which contains interpretation of stories found in the book of Genesis. Those looking for a comparison to rabbinic literature will say that it is a “proto-Midrash.” Another common label is “parabiblical”. The problem is that there is no reasonable comparison of these DSS documents to anything in the rabbinic corpora. Certainly, rabbinic literature is replete with meditations on Scripture. These are found in the Aramaic Targum and the Rabbinic Midrash. But all the Tanaitic sources are replete with the general characteristics of rabbinic literature; namely, a variety of mutually contradictory interpretations ascribed to a similar cast of characters as is found in the Mishnah and Tosefta. Without these elements, all claims to an affinity between the documents of the DSS and rabbinic literature must be regarded as “wishful thinking” or entirely specious. Note that the entire enterprise of establishing a connection between these

“proto” documents and early rabbinic literature directly contradicts the assertion that there were taboos against committing such documents to writing and that transmission was done via oral means.

The manuscript evidence assembled in Chapter 2 leads to the firm conclusion that all extant versions of the Tanaitic materials examined there derive from a written exemplar. The near uniformity of the documents with only slight variations, minor omissions, and confusion over tradents point to written documents, not oral transmissions. Some of the differences between versions are likely the result of different expansions of abbreviations, which is also a function of written rather than oral tradition. These conclusions all point to an early stable text, but not necessarily earlier than the eighth century C.E.

Absent evidence to confirm any assertions of continuous recitation and oral publication of Tanaitic material earlier than the third century, the most logical conclusion is that these materials were assembled and published—whether in writing or via the sort of oral publication methodology endorsed by Saul Lieberman—no earlier than the third century. The large cast of characters, named tradents such as R. Aqiva and amorphous groups of tradents such as the “Men of the Great Synagogue” or “Bet Hillel” should all be regarded as legendary and their quotations a matter of the composition of a third-century document at the earliest. This is not to claim that R. Aqiva did not exist, but simply that if he did we no more know any of the details of his biography or possess accurately quoted statements than we do of Jesus. In fact, the remarkable thing is that we even have to say this coming so long after the certain knowledge that it was the standard practice of all authors and communities in this period to if not invent, then certainly embellish their biographies and the recollections of their statements. The upshot of this finding is that it is completely

reasonable to assert that the various attributions to tradents prior to the third-century of the Mishnah itself are invented or adapted to the needs of the Mishnah. To put it bluntly: the fact that R. Aqiva is quoted in Mishnah Chapter 10 does not mean that R. Aqiva ever celebrated the Passover in the manner described in that Chapter.

In this chapter I have demonstrated the difficulty of asserting any sort of verbatim recording or memorialization of a Seder ritual earlier than the third century. Situating the Tanaitic corpora in the third century provides a more compelling history of the origin of the Passover Seder than attempting to discover its roots in the lives and times of tradents who would have belonged to earlier periods. Of course, it is unnecessary to argue that every aspect of the Seder would have been created at that later date. There is no reason the Redactor(s) of the Mishnah could not have referenced a liturgical unit such as the *Hallel* which might have been known or composed in the first or second centuries. But the institution of a *Seder*, an elaborate ceremonial meal with the various notable reflections of Roman/Greek culture—that would make so much more sense for the third century than any earlier period as I will demonstrate next. This next chapter considers these issues in that social light using the tools of research into the phenomenon known as collective memory.

CHAPTER 5: SOCIAL AND COLLECTIVE MEMORY

In Chapter 4 we asked questions related to the neurological limits of human memory, especially as regards the preservation of narrative information. If we wish to use Tanaitic texts as they have been recited and then written and copied for over a thousand years for the historical information that might be recorded therein, how do we assess the reliability of that information? But there is another dimension to memory because memory is not just the echo of conversations or life experiences as they are stored in an individual consciousness but is also the reflection of how groups of people interact when speaking or writing about those experiences. Marc Brettler writes, “In the rabbinic tradition, following the biblical tradition, memory, often refashioned or newly created memory, was extremely important, especially as it related to religious practice and to group identity.”³¹⁵

For over a century social scientists have been exploring the mechanisms by which people alter memory by group process. A memory does eventually reside in an individual’s mind, but that memory may have been shaped and changed by social interaction. Memory research into these phenomena are generally described as “collective memory.”³¹⁶ While social scientists and neuroscientists may look at memory from different perspectives, they are nevertheless in agreement that memory is always a construct. Memory is never a perfect

³¹⁵ Marc Zvi Brettler, “Memory in Ancient Israel,” in *Memory and History in Christianity and Judaism*, ed. Michael Alan Signer (Notre Dame, Ind: University of Notre Dame Press, 2001), p. 2.

³¹⁶ See especially, Maurice Halbwachs and Lewis A. Coser, *On Collective Memory*, The Heritage of Sociology (Chicago: University of Chicago Press, 1992); Jan Assmann, *Cultural Memory and Early Civilization: Writing, Remembrance, and Political Imagination* (Cambridge ; New York: Cambridge University Press, 2011).

reconstruction of actual events but is always assembled from various components, some real, others imagined, and others changed as a result of social discourse.

If you ask a modern celebrant of the Jewish Passover the meaning of the word *afiqomen* you will almost certainly be told that it is piece of matzah which serves as the pretext for a children's game. More likely than not, celebrants will tell you that their Passover ritual conforms to the most ancient of requirements for the season as set down by Moses in the Torah. Along with unleavened bread, celebrants will mention the consumption of four cups of wine, the serving of an enormous feast, and the reading of the liturgy of an ancient ritual celebrated as the saying goes, from time immemorial. The memories of the past mix with the present in a tapestry of familial and communal retelling of the events of Passovers past and recent. The historical problem is that as we have seen while at least some of these things are indeed mentioned in the Torah, this ritual bears little or no resemblance to any celebration that would have been feasible prior to the third century of the common era, and it is not easy to decide how much of it was celebrated throughout the various habitations of those Jews who belonged to the circles of the rabbis even then. The memories of the ancient Passover are shared by large numbers of people, but they are false memories to the extent that they portray any sort of biblical ritual.

The previous chapter considered the possibilities and limitations inherent to human memories. This chapter will expand this discussion to the ways in which members of a social group or community interact to preserve, alter, enhance and promulgate their shared communal experiences. In this chapter we focus on how the Passover ritual as described in the Tanaitic sources served to create collective memory. Bart Ehrman provides a model for this approach in his discussion of the role of collective memory in understanding the earliest

reports of the life and work of Jesus. He begins with a discussion of the different views of the American Civil War held by some Southerners—who seriously refer to the conflict as the “War of Northern Aggression” and insist that the war was about “States Rights” rather than slavery.³¹⁷ A similar parallel may be observed in one of the best expositors of the principles of collective memory, the sociologist Barry Schwartz. Schwartz first came to notice with his research into the collective memory of Abraham Lincoln in his profound study, “Abraham Lincoln in the Forge of National Memory” in 2000.³¹⁸ But 14 years earlier he had already noticed and discussed the importance of collective memory in understanding modern views of the battle for Masada in the Jewish-Roman War of 66-74 C.E.³¹⁹

As a site of collective memory, Masada has loomed large, perhaps more so in the modern era than at any other time. During the first two decades of the foundation of the modern State of Israel especially, both in the popular and in the scholarly purviews, it dominated the imagination and even helped shape events. The story of a small band of rebels who withstood the might of Rome for three years after the fall of the Jerusalem and its Temple seemed like a metaphor for the resurrection of a Jewish State in the modern world. Archaeological studies written with a popular audience in mind became best sellers.³²⁰

³¹⁷ Bart D. Ehrman, *Jesus before the Gospels: How the Earliest Christians Remembered, Changed, and Invented Their Stories of the Savior* (San Francisco: HarperOne, 2016), pp 211-214.

³¹⁸ Barry Schwartz, *Abraham Lincoln and the Forge of National Memory* (Chicago: Univ. of Chicago Press, 2000).

³¹⁹ Barry Schwartz, Yael Zerubavel, and Bernice M. Barnett, “The Recovery of Masada: A Study in Collective Memory,” *The Sociological Quarterly* 27, no. 2 (June 1, 1986): 147–64, <https://doi.org/10.1111/j.1533-8525.1986.tb00254.x>.

³²⁰ The most recent entry in this genre is Jodi Magness, *Masada* (Princeton, NJ: Princeton University Press, 2019). Yigael Yadin began modern discussion of Masada in 1965 with a publication of his first expedition to that site, Yigael Yadin, “The Excavation of Masada, 1963/64 Preliminary Report,” *Israel Exploration Journal* 15, no. 1–2 (n.d.), and completed in 1989 with Yigael Yadin, *Ḥevrah la-ḥaḳirat Erets-Yiśra’el ve-‘atīḳoteha*, and

In 1966, notably one year prior to the Six Days War, Yigael Yadin published such an account as *Masada, Herod's Fortress and the Zealots' Last Stand*. Reviewing this book for the *American Journal of Archaeology* Michael Eisman paints a laudatory picture which nevertheless notes that despite being written for the general audience, "... the book is valuable for the archaeologist. First, it is the only account presently available which incorporates the finds of the 1964-65 season. More important than this, stripped of its patriotic tenor, it is a clear, concise description of the site itself and the photographic material surpasses anything in the preliminary report." The fact that Eisman feels compelled to say "stripped of its patriotic tenor" demonstrates the extent to which even a well-regarded archaeological work by a prominent expert could be infected with partisanship.

Further along, Eisman comments, "There are items which, even in a report for the general reader, will bother the archaeologist because they are misleading. A more cautious tone could have been used in relating the accounts of Josephus to the actual finds." Eisman concludes, "Although it is emotional rather than scientific in tone, *Masada* is a welcome book."³²¹ It is notable that Eisman recognized these pitfalls so early after the publication of *Masada*. It would take another twenty years—and yet still before the publication of the final

Universitah ha-Ivrit bi-Yerushalayim, eds., *Masada: The Yigael Yadin Excavations 1963-1965: Final Reports*, The Masada Reports (Jerusalem: Israel Exploration Society : Hebrew University of Jerusalem, 1989).

³²¹ Michael M. Eisman, "Reviewed Work: Masada, Herod's Fortress and the Zealots' Last Stand by Yigael Yadin, Moshe Pearlman," ed. Yigael Yadin and Moshe Pearlman, *American Journal of Archaeology* 71, no. 3 (1967): 324–25, <https://doi.org/10.2307/501579>.

excavation report from the 1964 season—for several scholars to begin discussing the sociological aspects of the modern retelling of the Masada story.³²²

Several years later, Yadin went on to excavate Wadi Muraba‘at which contains both textual and non-textual archaeological materials pertinent to the Judean revolt led by Simon bar-Kosba. The generalist book which resulted from these excavations was very much in the spirit of the earlier Masada investigation—tempering genuine historical and archaeological insights with a pro-Israel state narrative.³²³

For decades preceding the investigation of Masada, the Maccabean revolt served a similar role as a signpost of cultural identity among historians. Despite corrective accounts by historians such as Elias Bickerman and Victor Tcherikover, generalists propagated (and continue to propagate) fantastic accounts of the nature of that rebellion as the restoration of “Jewish” rule over the Temple and the State. More recent academic publications, if anything, have placed even greater distance between such notions and our knowledge of the events. The Maccabean Revolt was not so much a revolt at all as a civil war among factions of Judeans competing for both secular power and the right to impose their own religious views on the Temple practice.³²⁴

³²²Barry Schwartz, Yael Zerubavel, and Bernice M. Barnett, “The Recovery of Masada: A Study in Collective Memory,” *The Sociological Quarterly* 27, no. 2 (June 1, 1986): 147–64, <https://doi.org/10.1111/j.1533-8525.1986.tb00254.x>.

³²³ Yigael Yadin, Bar-Kokhba; the Rediscovery of the Legendary Hero of the Last Jewish Revolt against Imperial Rome (London: Weidenfeld and Nicolson, 1971).

³²⁴ Gedalia Alon, “Did the Jewish People and the Sages Cause the Hasmonians to Be Forgotten?,” in *Jews, Judaism and the Classical World: Studies in Jewish History in the Times of the Second Temple and Talmud* (Jerusalem: The Magnes Press, The Hebrew University, 1977), 1–17; E. J. Bickerman, *The Maccabees: An Account of Their History from the Beginnings to the Fall of the House of the Hasmonians*, vol. 6, Schocken Library (New York: Schocken Books, 1947), *The Jews in the Greek Age* (Cambridge, Mass: Harvard University Press, 1988), pp. 13-28, 123-129; Emil Schürer, Géza Vermès, and Fergus Millar, *The History of the Jewish People in the Age of Jesus Christ: 175 B.C.-A.D. 135. Volume 1: ...*, Reprinted (London: Bloomsbury T & T Clark, 2015) pp. 125-173; Seth Schwartz, *Imperialism*

What has the Maccabean Revolt and the episode of Masada, and for that matter, the reputation of Abraham Lincoln, to do with the Passover Seder? The answer is that all three of these events have served as illustrators of the phenomenon of collective memory for social scientists who have made connections in space and time to phenomena and events of seemingly disparate nature. This chapter is devoted to explicating the Seder as an illustration of the process of creating collective memory. The Tanaitic sources describe the outline of a festive meal to celebrate the Passover. How should we regard this meal? Is it typical of the way that people living in the third or later centuries chose to observe the holiday? How does this celebration comport with what is known of the biblical description of holiday observance? How did this description become the standard of practice for rabbinic Judaism ever after the Tanaim? The Seder, not even mentioned as such and occupying less than one chapter as something of an afterthought in the Mishnah, developed into one of the most important rituals of Judaism. And it did so by creating a memory which came to be shared by all those who celebrated Judaism despite the most obvious fact that it cannot possibly have been part of biblical Israel.

The Difference Between Individual and Group Memory

As Maurice Halbwachs was among the first to explain, individual memories are what each of us store in our brains, but the information which is stored is influenced by group

and Jewish Society, 200 B.C.E. to 640 C.E. Jews, Christians, and Muslims from the Ancient to the Modern World (Princeton, N.J.: Princeton University Press, 2001) <Kindle Edition> locations 864-949; Menahem Stern, "The Period of the Second Temple," in *A History of the Jewish People*, ed. Haim Hillel Ben-Sasson (Cambridge, Mass: Harvard University Press, 1976), 185–305, esp. 201-217; Victor Tcherikover, *Hellenistic Civilization and the Jews*, 5. print, Atheneum Paperbacks Temple Books 22 (New York: Atheneum, 1979), pp. 175-234.

interactions.³²⁵ It is perhaps a little ironic that Halbwachs (who was nominally Jewish himself) provides so much of the structure of the modern presentation of Collective Memory, given that his own statements about the relationship of Christianity to Judaism would barely be recognizable by today's students—but which, of course, was the consensus among scholars of Halbwachs' generation:

In the fundamental texts of Christianity—the Gospels and the Epistles—the opposition between the Pharisees and the Christians, between orthodox Judaism [sic] and the religion of the Son of Man, is incessantly repeated. It is taken to be history, and we can say that in its articles of belief, its dogmas, and its rites, Christianity is in effect above all the expression of a moral revolution which was a historical event, the triumph of a religion with spiritual content over a formalistic cult, and, at the same time, of a universalist religion with no reference to races and nations over a narrowly nationalistic religion.³²⁶

In these sentences, Halbwachs demonstrates a stark level of ignorance about the nature of the Christian Bible.³²⁷ For example, he takes the position that Christian opposition to Pharasaism is correctly stated even though it was obvious even in his own times that this is a polemical stance directed at the opponents of Christianity, not all of whom could be identified with Pharisees. And that in other passages, people who are identified as Pharisees (such as Gamaliel) are lauded. He accepts as a given that Judaism was a “formalistic cult”

³²⁵ We should mention at least in passing, the work of George Herbert Meade who worked contemporaneously with Halbwachs and used philosophical methodologies to suggest that the idea of *self* is constructed based on external social interactions. See George Herbert Mead, *The Philosophy of the Act* (Chicago, Illinois: University of Chicago Press, 1938).

³²⁶ Maurice Halbwachs and Lewis A. Coser, *On Collective Memory*, The Heritage of Sociology (Chicago: University of Chicago Press, 1992), pp. 85-86.

³²⁷ As with so much else in the world of religion, the terminology can be bedeviling (so to speak). Jews in general reject the Christian notion that the word “Bible” includes the Apocryphal and Christian books, and the term “New Testament” is even more problematic for them. I use the terminology “Christian Bible” to convey what Halbwachs meant by “the Gospels and the Epistles” and the term “Hebrew Bible” to reference what most Christians term the “Old Testament.”

and “narrowly nationalistic”—again, pejoratives which Halbwachs seems to have absorbed from the air of European intellectualism. We are fortunate that Halbwachs’ sociological ideas and methodologies have withstood the test of time better than these puerile notions of the relationship of Christianity to Judaism. As he continues his explication of the superiority of Christianity to Judaism he raises the specter of Jewish ritual as dead letter:

Undoubtedly, the Christian institutions were established in more or less the same manner as Jewish synagogues, and there were a good many resemblances between the cults of both religions. One prays, reads, and explains the Bible in the synagogue just as in church. But Christianity also eliminates from the Jewish cult all the purely Jewish parts—circumcision and the many ritual interdictions: dead memories that have no more relation to the present.³²⁸

Speaking of early Christianity, Halbwachs opines, now in ideas which are more redolent of the modern understanding that much which is contained in the Christian Bible is late and unverifiable. Halbwachs continues:

It is probable that the Christian traditions—those that relate to Christ as much as to his disciples, to the saints, miracles, persecutions, and conversions—for a time were still maintained in a sporadic state. It must have been decided only relatively late (at a moment when all witnesses were gone, so that direct verification was no longer possible) to gather together the dispersed members of the Christian tradition and to **construct from these a body of doctrinal and legendary accounts**.³²⁹ [emphasis mine]

Having set the stage for his comparison of Christianity to Judaism, Halbwachs at last introduces the reasons why these matters play a role in his sociology of religion, and this leads directly to the core of what will concern us with regard to the Passover Seder:

³²⁸ Ibid., p. 96.

³²⁹ Ibid. p. 102

Thus everything happened as in those cases where an event passes from an individual consciousness or from the narrow circle of a family into the thought of a more extended group and is defined in relation to the dominant representations of that group. The extended group is much more interested in its traditions and ideas than in the event and in what it may have meant for the family or individual who was its witness. Details of time and place, no matter how concrete and animated they may have been for contemporaries, become later translated into general characteristics. Jerusalem becomes a symbolic place, a heavenly allegory...³³⁰

The genius of Halbwach's methodology is that he can be wrong about almost every aspect of his understanding of Christian and Jewish origins and still be right about the role of collective memory in memorializing those origins.

How Tanaim Create Collective Memory

The Tanaim frequently cited episodes which, while not necessarily typical of the events portrayed and indeed perhaps even figments of their imaginations, created the scenarios which have governed rabbinic Judaism ever after.³³¹ Consider for example the portrayal of Herod Agrippa in Mishnah Sotah 7:8, a virtual lesson in the construction of collective memory:

How (does the king perform) the "Chapter of the King"? On the afternoons of the first day of the (Tabernacle) festival,³³² on the eighth as

³³⁰ Ibid.

³³¹ N. Cohn wrote a book length treatise on the use of collective memory by the rabbis to cast the Temple in their image. See Naftali S Cohn, *The Memory of the Temple and the Making of the Rabbis* op. cit. and discussed above in Chapter 1.

³³² In other words, at beginning of the 8th year after the conclusion of a seven-year period of the Sabbatical year. Ex 23:10-11, Lev 25:1-7, and especially Deut 31:10-13 And Moses instructed them as follows: Every seventh year, the year set for remission, at the Feast of Booths, ¹¹ when all Israel comes to appear before the LORD your God in the place that He will choose, you shall read this Teaching aloud in the presence of all Israel. ¹² Gather the people -- men, women, children, and the strangers in your communities -- that they may hear and so learn to revere the LORD your God and to observe faithfully every word of this Teaching. ¹³ Their children, too, who have not had the experience, shall hear and learn to revere the LORD your God as long as they live in the land that you are about to cross the Jordan to possess. (NJPS)

the Seventh was concluding, they construct for him a wooden platform in the courtyard [of the Temple] and he would sit thereon in accordance with Scripture, “At the end of the seven years, in the Festival, etc.” [Deut 31:10] The prayer leader of the assembly (חזן הכנסת) takes the scroll of the law (ספר תורה) and presents it to the assembly leader (ראש הכנסת). The assembly leader gives it to the leader of the priests. The priests’ leader then gives it to the High Priest. The High Priest gives it to the king. The king receives it standing, but reads it sitting. King Agrippa received it standing and read it standing, and the sages praised him. When he reached the verse [17:15] “[...]you shall be free to set a king over yourself, one chosen by the LORD your God. Be sure to set as king over yourself one of your own people;] you must not set a foreigner over you, one who is not your kinsman (NJPS)” his eyes filled with tears. They said to him: “Do not be afraid. You are our brother, you are our brother, you are our brother.” He reads from the beginning, “These are the words” [Deut 1:1] through “Hear Israel” [Deut 6:4] and continues from “Hear” to “And if you listen” [Deut 11:13] “You must tithe” [Deut 14:22], “And when you finish tithing” [Deut 26:12], and the section on kingship [Deut 17:14], and the blessings and curses [Deut 28] until he finishes the entire section.³³³ The blessings which the High Priest intones, the king repeats, although he recites [a blessing] for holy days rather than pardon from sin.³³⁴

King Agrippa referred to here is most likely Marcus Julius Agrippa who was the grandson of Herod the Great and reigned as king of Judea from 41 to 44 C.E.³³⁵ This Agrippa is mentioned in Acts 12 as passing a judgment of execution against Peter, who

³³³ Translators usually suggests that each of these mentions refers to a discrete set of verses such as the *Sh'ma* reaching from 6:4 to 6:9. But the language “until he completes the entire section” could also mean that these are just sign posts on the journey of reading the complete book of Deuteronomy.

³³⁴ פְּרִשְׁת הַמֶּלֶךְ כִּיצַד, מוֹצְאֵי יוֹם טוֹב הָרָאשׁוֹן שֶׁל חַג, בְּשִׁמְיָנִי בְּמוֹצְאֵי שְׁבִיעִית, עוֹשִׂין לוֹ בִּימֵה שֶׁל עֵץ בְּעֶזְרָה, וְהוּא יוֹשֵׁב עָלֶיהָ, שְׁנָאֲמַר (דְּבָרִים ל"א) מִקֵּץ שָׁבַע שָׁנִים בְּמַעַד נָגו'. חֲזַן הַכְּנֶסֶת נוֹטֵל סֵפֶר תּוֹרָה וְנוֹתֵנָה לְרֹאשׁ הַכְּנֶסֶת, וְרֹאשׁ הַכְּנֶסֶת נוֹתֵנָה לְסֵגָן, וְהַסֵּגָן נוֹתֵנָה לְכַהֵן גָּדוֹל, וְכַהֵן גָּדוֹל נוֹתֵנָה לְמֶלֶךְ, וְהַמֶּלֶךְ עוֹמֵד וּמִקְבֵּל וְקוֹרֵא יוֹשֵׁב. אֲגִרְפָּס הַמֶּלֶךְ עֹמֵד וְקִבֵּל וְקָרָא עוֹמֵד, וְשִׁבְחוּהוּ חֻכְמִים. וּבְשִׁהֲגִיעַ (שם י"ז) לֹא תוֹכֵל לָתֵת עָלֶיךָ אִישׁ נָכְרִי, וְלִגְו עֵינֶיךָ דְּמַעוֹת. אָמְרוּ לוֹ, אַל תִּתְּנָרָא אֲגִרְפָּס, אֲחִינוּ אֶתָּה, אֲחִינוּ אֶתָּה, וְקוֹרָא מִתְחִלַּת (דְּבָרִים א') אֱלֹהֵי הַדְּבָרִים עַד שְׁמַע, וְשִׁמַּע (שם ו'), וְהִנֵּה אִם שְׁמַע (שם י"א), עֲשֵׂר תַעֲשֶׂר (שם י"ד). כִּי תִכְלֶה לַעֲשׂוֹר (שם כ'), וּפְרִשְׁת הַמֶּלֶךְ (שם י"ז), וּבְרִכּוֹת וּקְלִלוֹת (שם כ"ח), עַד שְׁגוֹמֵר כָּל הַפְּרָשָׁה. בְּרִכּוֹת שֶׁכֶּהָן גָּדוֹל מְבָרֵךְ אוֹתוֹ, הַמֶּלֶךְ מְבָרֵךְ אוֹתוֹ, אֱלֹא שְׁנוֹתָן שֶׁל רִגְלִים תַּחַת מַחִילַת הָעוֹן:

³³⁵ Demonstrating the looseness of terminology even in good scholarly publications, Encyclopedia Britannica describes Agrippa as having “In Judaea... zealously pursued *orthodox Jewish* policies, earning the friendship of the Jews and vigorously repressing the Jewish Christians.” (Emphasis mine) One can only wonder what the editors imagined was the doctrine of “orthodox” Judaism while the Temple stood and where rabbis had no authority. EB s.v. Herod Agrippa I, accessed 1/13/19.

miraculously escapes punishment. There is no doubt that Agrippa (referred to as “Herod” in Acts) existed, and no reason to doubt the memory that he was hostile to early Christians. But it is necessary once again to place these sources in context.³³⁶ Whether or not Acts was written by the same author as the Gospel of Luke, it was certainly composed after the Judeo-Roman War and the destruction of the Temple. The use of a historical figure lends credence to the description of supernatural elements, composed in a time of intense ideological competition among groups of early Christians and the Judean survivors of the war. Even Josephus is from that same period, and so once again we have to grapple with the reality that we do not have a single source about the events mentioned in Acts and the Mishnah which was composed while the Temple stood.³³⁷

If Josephus or perhaps some source that Josephus used was the basis for the knowledge of the reign of Agrippa, how reliable should we regard the accounts in Acts and the Mishnah of events of which Josephus has no knowledge? The story in reported in Acts 12 is based on Peter’s miraculous rescue by an angel, and the Mishnah speaks of some interaction between Agrippa and the masses for a holiday on the Temple Mount which is suspiciously self-congratulatory given the generally antagonistic relationship most reports seem to find between royal and religious authorities. In other words, neither the account in Acts nor the story in the Mishnah carries much sense of authenticity. Rather, these tales

³³⁶ The most extensive accounts are in Josephus, see for example, *Antiquities* books 18 and 19. In fact, Josephus documents Agrippa’s life so thoroughly that it seems reasonable to speculate that he might have been the source for both the Christian and rabbinic authors who refer to him.

³³⁷ Steve Mason has made a bid for setting a new standard in Josephus scholarship with *A History of the Jewish War, A.D. 66-74* (New York: Cambridge University Press, 2016). Mason also provides incisive analysis of the comments found in Josephus on the nature of Pharasaism, in *Flavius Josephus on the Pharisees: A Composition-Critical Study* (Boston: Brill Academic, 2001).

appear to be constructed on some common perception of the reign of this ruler interestingly at odds with each other. But that is exactly the kind of thing that communities do to create their collective memories. Ever after the publications of Acts and the Mishnah, the respective communities of these works formulated views of Agrippa, the one as a hated opponent, the other as a beloved member of their community.

The setting for the pericope is the *עֲזָרָה* *Azarah*, which refers to the courtyard of the Temple, which would have been appropriate for a king of Judea. But the terminology in the passage is redolent of the later synagogue. It is true that many of the terms such as *hazzan* have dual usage. In earlier texts this word is usually rendered as “leader.” But external to the Tanaitic (and later) corpora, where do we have evidence that non-priestly functionaries had important roles in Temple services? While it is true that the passage gives pride of place to the priests before the King, could they have done anything else? Even in the era of the Tanaim, no one would have given credence to an account that would have displaced the priests with any lay functionaries. Instead, it appears that the Tanaim insinuated their claimed spiritual antecedents into the narrative.

The insinuation did not stop with asserting a role for non-priests in the ceremony. It also suggests that the king would have read from a Torah scroll in accordance with Tanaitic views of the text appropriate for the occasion. It is certainly true that this passages from Deuteronomy are logical to the occasion, but the entire passage is framed as if it is the Tanaim who have constructed the appropriate liturgy for the occasion, complete with a set of blessings which are not attested anywhere in the period prior to the Mishnah.

Consider this pericope in the light of Bart Ehrman’s suggestion that “psychologists ... say that memory is a matter of ‘constructing’ the past and that the construction of

memory happens by recalling traces of what happened and filling in the gaps with similar sorts of information drawn from memory.” The assertion that Agrippa would have behaved in a subservient way to the rabbis is redolent of contrivance, but this became the only source of knowledge of this king for those communities which accepted and preserved the rabbinic literature.³³⁸

The War of Quietus (or Was It Titus?)

Between the Roman Judean War that culminated in the destruction of the Temple in Jerusalem and the next Roman War that saw the collapse of the last defenders of a Judean state under Simon bar Kosiba (ca. 137 C.E.) there was a major uprising of believers in the religion of Israel scattered throughout remote parts of the Roman world and even into Parthia. Enough textual and archaeological data survive to construct an outline history of these conflicts in the Roman provinces of Africa, Egypt, Cyprus, and Parthia—where Trajan was extending the Empire to its greatest limits between 115 and 117 C.E. Josephus seems to have passed from the scene about a decade before, and no one within the Judean community apparently replaced him as a historian. We are therefore limited to the observations of those writing from a Roman perspective, such as Appian (who was an apparent eye witness to riots in Egypt). Historians have long noted the absence of evidence that those Judeans living in the homeland participated in these disturbances.³³⁹ But there is one place in the Mishnah

³³⁸ Bart D. Ehrman, *Jesus before the Gospels*, op. cit.

³³⁹ The primary resource for this period remains Shimon Applebaum, *Jews and Greeks in Ancient Cyrene*, Studies in Judaism in Late Antiquity, v. 28 (Leiden: E. J. Brill, 1979).

where some investigators claim to have found a clue. Mishnah Sotah 9.14 reads in current printed editions:

בְּפֶלְמוֹס שֶׁל אֶסְפִּינּוֹס גָּזְרוּ עַל עֲטָרוֹת חֲתָנִים, וְעַל הָאָרוֹס. בְּפֶלְמוֹס שֶׁל טִיטוֹס גָּזְרוּ עַל עֲטָרוֹת כְּלוֹת, וְשֶׁלֹּא יִלְמַד אָדָם אֶת בְּנוֹ יוֹנִית. בְּפֶלְמוֹס הָאֶחָדוֹן גָּזְרוּ שֶׁלֹּא תֵצֵא הַכֶּלֶה בְּאַפְרִיזוֹן בְּתוֹךְ הָעִיר, וְרַבּוֹתֵינוּ הִתִּירוּ שֶׁתֵּצֵא הַכֶּלֶה בְּאַפְרִיזוֹן בְּתוֹךְ הָעִיר:

In Vespasian's War they forbade grooms from wearing celebratory headgear and the celebratory drum. In Titus' War they forbade the celebratory headgear for brides, and [decreed] furthermore that no one teach their children Greek. In the last war they forbade brides to be transported by palanquin within the city. But our rabbis permitted the bride to be transported by palanquin in the city.

Most historians of the period have focused on whether any factual data regarding the state of affairs in Roman Palestine can be determined from this statement. Was there some sort of insurrection against Rome in the days of Trajan as are attested in Africa, Egypt, Cyprus and even Babylonia? The first problem with that assessment is that the Mishnah says "Titus," which would refer to Vespasian's adopted son who ruled after him from 79 to 81 C.E. The name Titus would have been infamous to any Judean given that it was Titus and not Vespasian who would be connected to the fall of Jerusalem and the destruction of the Temple. Two manuscripts of the Mishnah seem to give the name as "Qitus" rather than "Titus" (in Hebrew as in English, a difference of one consonant) and that could point to an important but lesser known Roman general and governor, Lusius Quietus. Quietus was appointed by Trajan to put down various rebellions in the Mediterranean area and served as governor of Roman Palestine in 117. Thus, if there was any unrest during Trajan's rule, Quietus could well have been the person to have quelled it.

The preeminent historian of these events, Shimon Applebaum, summarizes the evidence this way:

The outstanding fact is that Jewish tradition knows of a “Pulmus Qitos” or “War of Quietus” which took place between the war of the destruction (66-73) and the Ben-Kosba rebellion; the calculations of *Seder Olam Rabba* date in the years 116-117. Smallwood’s argument that the phrase refers to events outside of Judea is to be rejected on the grounds that such expressions invariably refer, in talmudic literature, to occurrences in Eretz Yisrael, which alone interested the Jewish scholars. The appointment by Trajan of Lusius Quietus as governor of Judaea with consular rank, which indicated the existence of an emergency, as the normal grade of the Judaeans governors was praetorian, is known to us from Cassius Dio and other historians. The *Historia Augusta* also writes that Judaea was in a state of rebellion at the beginning of Hadrian’s reign. Alon has summarized a number of later sources (Moses of Chorene, Malalas, Michael Syriacus, Ibn Batrik) and shown that all refer to Judaea when they are listing the centres of the rebellion in Trajan’s reign.³⁴⁰

It is an intriguing tidbit of historical information. But in the end, we are left with an almost complete absence of any historically verifiable data. Even if we accept the emendation of “Titus” to “Qitus,” the Mishnah provides no information other than the observation that someone (who?) placed a restriction on bridal adornment (why?) and the teaching of Greek. We are reasonably certain that Judeans and later Rabbinic Jews continued to learn, read and speak Greek so either this ban was temporary, or it was never enforced. Something may or may not have happened, perhaps at the time of Trajan or perhaps not, and whatever it was didn’t last. The list of sources provided by Applebaum (and discounted by other historians such as Mary Smallwood) looks impressive until one asks exactly what we learn from them, even if they are all pointing to the same event, and it would be difficult to prove that they are.

³⁴⁰ Applebaum, op. cit. p. 300-01.

But despite that negative assessment, we do learn something of significance about the role of the Mishnah in later history. This account would be copied—however inaccurately—and used to justify the claim of the rabbis to have exercised authority well before the publication date of the Mishnah. While the text itself does not identify the author of the ban on Greek, for example, the structure of the last sentence leaves no doubt that the framework here is rabbinic. Someone prohibited, presumably in the time of the Bar Kosba War, bridal processions in the city (we have to assume the reference is to Jerusalem, although that might be problematic for other reasons), but “our rabbis” overruled that prohibition. That is to say, according to this text, rabbis had the authority to make or annul proclamations which all the inhabitants were expected to obey. The fact that this could not possibly be true as historical fact, because authority was ultimately in the hands of priests, royals and Romans--but not rabbis--would not have occurred to the author of the Mishnah, and that set the tone for successive generations of authorities who based their assessments on the texts of the Tanaim. The author (or redactor) of the Mishnah inhabited a universe in which the rulings of the sages were the ultimate authority, and if he knew that the rabbis did not have such authority in the periods being addressed, he never concedes that point. And so it is that the Tanaitic corpora define the terms of the proper observance of the Passover holiday at home, citing only the authorities we can be certain had little or no authority when the Temple stood.³⁴¹

³⁴¹ M. Balberg provides a convenient review of the rabbinic approach to dictating the Passover rite, Mira Balberg and Simeon Chavel, “The Polymorphous Pesah,” *op. cit.* pp. 335-342.

The Ways in Which the Tanaitic Seder Exemplifies Collective Memory

Two apparently contradictory thoughts occur with respect to the ritual described in Mishnah and Tosefta Pesahim 10. The first is that we are seeing snapshots of a ritual that seems to be already well-constructed. What I mean by that is that it represents stages in a celebratory meal for which there is a reasonable expectation that the reader would know how to conduct the parts of the ritual not stipulated. And yet, there is not the slightest evidence of the existence of this ritual prior to the publication time of the Tanaitic documents. One explanation for the lack of detail might be that the Tanaim relied on the more general knowledge, at least among the cognoscenti, of the popular custom of the symposium in Greek and Roman culture which had been explored in widely known writings since the time of Plato and Xenophon. If this is the correct explanation, it means that it would have been understood that a Passover Seder could resemble a symposium except for those elements deemed religiously objectionable, such as continuing the celebration after the conclusion of the religious requirements set forth.

That notion of “continuing the celebration” is the essence of one of the explanations of the term *afiqoman*. But as we have seen, the Mishnah and the Tosefta seem to have quite different ideas about what this term means, and that difference can be used as a model for explaining the concept of collective memory. Despite the primacy of the Mishnah, it was the explanation in the Tosefta that seems to have formed the basis for subsequent interpretation of what this term might mean. Through the various iterations of the Talmud, Maimonides and subsequent commentators, the term became identified with desserts and child’s play to the point where all relationship to the original meaning of the term has been lost—presuming, of course, that it was the Mishnah which had correctly used the term. In

contemporary Judaism, no one particularly cares—because the social memory of the ritual is vastly more important than whatever the original language might have signified.

Let us proceed once more time through our primary text and see how the idea of collective memory can aid us in understanding the position of that text in its own context, and how it might have engendered a future the Tanaim could not have themselves envisioned.

The first mishnah of Chapter 10 instructs the community to arrive at the meal with an appetite. It includes the directive that even the poor must be afforded an opportunity to drink four cups of wine. Already with the first mishnah, we have a radical departure from anything documented before the time of the Mishnah. Nothing in the instructions provided in the Hebrew Bible suggests that ordinary people need drink any wine, much less the four cups specified here. And while there are certainly generalized principles in the Bible that rationalize various requirements to refrain from oppressing the poor, there are no requirements that others need to directly contribute to the poor.³⁴² We have here nothing less than a demand that the community provide the poor with a commodity that Bible itself does not require for the celebration of the festival! The Tosefta covers the same ground but adds the detail “about a quarter measure whether living [= pure] or mixed [with water], whether new or aged” concerning the quality of the wine that must be provided.

³⁴² One of the central themes of the book of Ruth, for example, highlights the requirement that the owner of a field leave the corners of the field for the poor so that they can glean what might be available. But the narrative actually turns on how directly Boaz provides for Ruth to obtain a significant share. We are to understand that under normal circumstances, she would not have been so favored. Lev 23:22, Ruth 2:15-16.

There is an additional issue we might raise with regard to this wine. Why is wine the only item which the Mishnah insists that the community must provide to the poor? What of the biblical requirements of unleavened bread, herbs, and the paschal lamb (or some substitute)? One possible answer is that it would have been obvious that these other foodstuffs need be provided, but not wine. It is not possible to know the answer (barring the discovery of additional evidence) but in the context of the creation of collective memory, it does mark a milestone. From this point forward, no one who ascribed to the tenets of rabbinic Judaism would have a doubt that consuming four cups of wine is a mandatory part of the Passover celebration. And more than likely, since it is mentioned as a requirement so important that even the poorest member of the community must have that mandatory minimum, most adherents to subsequent rabbinic Judaism would say that it was always so. Recall that the various descriptions of the Symposium, especially Plato and Xenophon, but others as well, describe a meal celebrated with copious amounts of wine. None of the biblical passages which describe the requirements for the festival mention wine at all. While Judeans living in areas steeped in pagan Greek culture might have absorbed the need to signify a celebration with wine, it appears that later communities of rabbinic Jews simply adopted the custom without any sense that they were assimilating to ritual more pagan than with a connection to the Torah.

The second mishnah repeats a difference of opinion cited elsewhere in Tanaitic documents about the proper order of the blessings. At this point, we should be able to see that the most salient aspect of this discussion is that it claims a difference of opinion regarding a practice which is not mentioned in any prior literature. The very terms “Bet Shammai” and “Bet Hillel” suggest that the positions could not be associated with any

named tradents. It is more logical to presume that the question of the proper order of the liturgy was a question that occupied the attention of third-century celebrants. They likely framed it as an age-old controversy, moreover, to suggest that the problem had roots in earlier times. But the chronology does suggest another difficulty. Bet Shammai and Bet Hillel would have rendered their opinions at the time when there was still a Temple, and therefore the formal liturgy was controlled not by any antecedents of the rabbis, but by the priests.³⁴³ With respect to Passover and the Temple ritual, it is by no means clear that anyone was pronouncing the formula of blessings which only become known to us beginning with the Tanaitic era—the third century C.E. All this said, beginning with the Mishnah, communities which accepted the validity of that document began using the liturgical formulae contained therein, and it certainly appears that within a short time of the promulgation of the Mishnah that the blessings were seen as ritual that had been observed “from time immemorial.” The Tosefta again reviews the same material and provides a criterion not mentioned by the Mishnah for deciding the order of the ritual. And the fourth halakhah of the Tosefta continues the discussion of the importance of wine for making the celebration joyful for the household.

The third mishnah is a chronologically complex statement. The first part of mishnah explains post-Temple practice, which requires a comment regarding the different practices that prevailed in the Temple era. But in the Temple era the paschal lamb would have been

³⁴³ It is, of course, possible that people would have conducted themselves in ways suggested by their teachers away from the Temple, but here again we are in the realm of speculation. Furthermore, there is no reason to believe that the rabbis or their antecedents were likely consulted by the common people. There were ample priests and levites in the world who would have had pride of place given their attachment to God’s own House.

consumed on or near the Temple mount in rituals dictated by priests.³⁴⁴ No matter, this mishnah anticipates an elaborate meal of some sort—two cooked dishes (not including the lamb), unleavened bread, herbs, and the ever-mysterious *haroset*. While it is certainly possible that large families and groups could manage to provide these foodstuffs, it is more difficult to understand how this could have been done in accordance with the biblical requirement that lamb be consumed in haste, with loins girded, ready to flee Egypt. If there is no such haste, why even ensure that the bread has not had time to rise? Yes, this is a biblical commandment, but so is the instruction to eat in haste! Halakhah 4 of the Tosefta adds detail concerning the preparation and serving of some sort of *hors d'oeuvre* that would make it even more difficult to envision any aspect of this meal to be prepared and served in haste, and halakhah 7 of the Tosefta adds detail regarding *haroset*. Specifically, the Tosefta seems to be concerned with the question of whether *haroset* is a mandatory part of the Passover meal. It cites authorities to the effect that, indeed, it is. This means that the mandatory elements include, according to its memory of the event: unleavened bread, herbs, the paschal offering in Temple times, wine and *haroset*—although as we have noted several times, neither wine nor *haroset* are listed as necessary in any of the Torah texts which define the holiday. This demonstrates that by the early to mid-fourth century we can document in the collective memory a number of elements of the Seder which are unlikely to have existed any time prior to that period.

³⁴⁴ Logically, one could assert that the priests officiated only through the physical act of the sacrifice and thereafter the lamb could be consumed by families and affinity groups envisioned by the biblical texts using whatever rituals they might have preserved, but while this is logical, we have no evidence of any such custom or liturgy.

The fourth mishnah is entirely anonymous. It proposes a specific liturgy for children enumerating the special characteristics of the day. Some of the material of Tosefta halakhah 6 also belongs here as it is concerned with playing games to ensure that children do not go to sleep. Of the various items specified, the first three are based reasonably on Scripture (unleavened bread, bitter herbs, roasted meat) but the fourth, the number of “dips”, has no connection to Scripture whatsoever. As we have discussed in Chapter 3 the Mishnah concludes with a liturgical formulation that must have been intelligible to its community but is insufficiently detailed for an outsider to fully comprehend.

In the fifth mishnah, Rabban Gamliel is quoted as insisting that a formula must be recited: *Pesah*, *matzah*, *maror*. That formula is clearly appropriate to the biblical nature of the holiday. There is, however, an interesting difference among these three elements. *Matzah*, unleavened bread, and *maror* (bitter herbs), are mentioned in a way that is indicative of their place in the Passover observance. But *pesah* is necessary, according to this citation, because the Omnipresent (*Maqom*)³⁴⁵ “passed over” the houses of the Israelites and thereby only struck the houses of the Egyptians. But in the time of Rabban Gamliel, surely the word *pesah* would be used in connection with the Passover offering, the paschal lamb, which is the primary aspect of the observance of the holiday in the Temple. The fact that the Mishnah moves the *pesah* (Passover sacrifice) to the context of the story in Egypt and uses a name for

³⁴⁵ In the Hebrew Bible the word מקום is used to designate the place where God can be found or resides. For example: גִּזְיוֹן קוֹרְקָנוֹ וּמִבִּוּסָּה אֲשֶׁר בְּזֶאֱזֵי נְהָרִים אֶרְצוֹ אֶל־מִקְוֹם שֵׁם־יְהוָה צְבָאוֹת הֶרֶץ־צִיּוֹן. *A powerful nation divided by rivers to the place (maqom) of Yahweh Tsva'ot (Lord of Hosts) Mt. Zion.* While this is a difficult verse, it is clear that the word *maqom* indicates the place of Yahweh and it is possible to see the beginning of how that term might be extended to become a substitute name for God. Nevertheless, I do not believe we can find that substitution earlier than third-century texts. All of Jastrow's citations (s.v.) to the word with this meaning are late.

God that likely was not used prior to the Tanaitic period (third century C.E.) places this pericope solidly in the third rather than the first century. The panegyric which follows is written in the third-century Hebrew dialect and as discussed in Chapter 3 contains obvious borrowing from Greek (such as *l'kales*). In other words, all indications point to this passage representing third-century language ascribed to a first-century personality.

Mishnah 6 discusses a controversy between Bet Shammai and Bet Hillel regarding the recitation of the Hallel liturgy, and additional elements of various disagreements are preserved in the Tosefta, halakhot 4 and 5. One interesting aspect of the Tosefta is that it specifies that the parental obligation to teach children the proper order of recitation of the Hallel extends to daughters as well as sons. One wonders whether this might point to a larger role for women in the community of the Tanaim.

There is a logical flaw displayed here that goes to the heart of our discussion. According to any possible chronology, “Bet Hillel” and “Bet Shammai” both existed entirely within the time bounds of the existence of the Temple. That means that if the claim is that this liturgy was part of the Temple Service, then they, along with everyone else who went up to the Temple, would know precisely where the liturgy could break because the Priests and Levites who controlled the Temple liturgy would be performing it themselves. In other words, the only time when there could be reasonable disagreement over the structure of this liturgy is when the priests no longer controlled it.³⁴⁶ Technically, that could be fairly soon

³⁴⁶ One might be tempted to argue that people could make their own decisions about such matters in their prayer groups, but in the days of Bet Hillel and Bet Shammai, those people who lived near enough to Jerusalem would be participating in rituals at the Temple itself where the priests held sway.

after the Temple was destroyed, but logically as we suggested earlier it would take considerably longer than that because everyone knew that the Temple had been destroyed before and then rebuilt 60 or 70 years afterwards. That interval would take us to the most likely period for the beginnings of our Tanaitic texts! We must not only consider who is cited in the texts, but also who is not. The list of cited authorities is: Bet Hillel, Bet Shammai; R. Eliezer b'rabbi Tzadoq; Rabban Gamliel; R. Tarfon; R. Aqiva; R. Yosi; R. Yishmael. Scripture is cited as well, so it is clear that there is canonical authority. What we do not find in this chapter, as is the case throughout the Mishnah and the Tosefta, is any citation under the authority of the priesthood, the Levites, or any of the other authority figures who are deemed even by Scripture to have such authority. In the case of King Agrippa discussed above, the king appears merely as a foil to the priests who themselves need to rely on figures that the third-century Tanaim regarded as their avatars in earlier periods. The only figures who are given the power to pronounce the rules are the Tannaim.

The seventh mishnah once again places us squarely in a period that can be no earlier than the late second and most likely the third century. Clearly the people it references are enjoying a sumptuous meal with the wine flowing freely. It is a period when a new, non-Temple and non-priestly based liturgy is forming. The Tosefta's 6th halakhah contains some instruction regarding the recitation of the Hallel which is perhaps connected to this mishnah.

With the eighth mishnah we are confronted once again by the mysterious *afiqoman*. It is here that the mishnah and the text in the Tosefta have the greatest divergency. As we noted earlier, the author of the Tosefta's quote about *afiqoman* clearly sees it as the final or dessert course of the meal. If scholarly consensus is correct, the various texts of the Tosefta are roughly from the same period as the Mishnah, and it is abundantly clear that the

Tosefta's interpretation is vastly different from the meaning of the Mishnah, at least as it is understood by Lieberman with a majority of modern scholars. The importance of this is that it is also clear that in later interpretations of the text, it is the version conceived by the Tosefta that set the tone for all subsequent Passover Seder liturgy.³⁴⁷ The "after party" of the Greek Symposium was lost to Jewish memory and replaced by various customs which understand the term differently. To put this another way, the process of collective memory as described by Halbwachs, Assman, Schwartz and others fully explains how Jewish communities could imagine that their Passover Seder *afiqoman* traditions could be consonant with the various instructions for conducting the holiday in the Torah. The memory of the original form of service has been completely replaced by a new service which is nevertheless perceived to be "authentic" and true to the spirit of the holiday. The author(s) of the eighth mishnah continue with a note of concern about people nodding off from the effects of wine—not a likely scenario for eating the sacrifice in the Temple districts.

And finally, we arrive at the ninth and last mishnah. This displays a concern about the recitation of blessings over the Paschal sacrifice and a difference of opinion between R. Aqiva and R. Ishmael. Once again, a third-century text discusses a difference of opinion between two masters who would have had absolutely no authority over the matters under discussion when the paschal sacrifice was actually being offered. And so, once again, what we really have is the assertion of authority which gained acceptance for generations after the

³⁴⁷ I would speculate that this is because the Tosefta glossed the Mishnah's term which was not defined at all in the Mishnah itself. But as we noted in Chapters 3 and 4, the Tosefta's gloss does not seem to fit with the grammar and usage of the term in the Mishnah.

time of the Tanaitic materials. In the collective memory of what was becoming Judaism, Rabbis Aqiva and Ishmael were critically important authorities, but in the historical context, they exercised none at all.

The last halakhah of the Tosefta, which besides the aforementioned interpretation of *afiqoman*, contains instructions for the holiday which fell out of use in later observance. And that despite being couched in terms of that appear to make those things mandatory. The issue of studying the laws all night was eventually relocated to festival of *Shavuot* (“Weeks” or Pentecost). One might hazard a guess that after four or more cups of wine and an elaborate feast, most people would not have been able to do much other than go to sleep, which is in itself one of the subjects of mishnah 8.

The Passover as an Act of Collective Memory Formation

One of the topics of discussion among social scientists concerned with collective memory is their conclusion that people tend to remember those things which are important to their present context. This is critical to our understanding of the nature of Tanaitic literature, because our observations of various episodes whether relating to our chapter on Passover, or vastly different topics, all present and on almost every page and in every paragraph, a picture of Tanaim controlling every concept related to the practice of their religion. If we wanted to know how the priests or royals or common people or anyone else viewed the proper way to practice the religion through the Tanaitic texts, we would have practically nothing. But as we have seen, as long as the Temple stood and even after, as long as people had some hope that the Temple would be rebuilt, this could not possibly have been the religious reality for other segments of Judean society. The utter absence of Tanaitic

sensibilities from any layer of material we have prior to the third century—and that is a long list which grows longer as new discoveries are made—demonstrates that some evolutionary or perhaps even revolutionary change has occurred with the publication of the Mishnah.

We are now ready to attempt an answer to the questions raised at the beginning of this chapter. Given the lack of evidence of such festive meals from any literary source prior to the third century, and given the certainty that similar kinds of festive meals were celebrated by the Greek communities among which the Tana'im were situated, the most likely conclusion is that in those few households which could support such an elaborate meal and perhaps in communal gathering places of Tana'im, the custom arose to celebrate Passover in some reflection of those Greek festive occasions. It is difficult to believe that this was widespread among the local Jewish populations if only because of the resources required—and despite the admonition of the very first mishnah that the poor must be provided with sufficient wine. It is ironic, to say the least, that one of the critical components of the Passover meal is unleavened bread given that it is called the “bread of poverty” because the poor could little afford the kind of celebration limned in the Mishnah. While such an elaborate occasion is not likely to have been common in third-century Galilee, as the Mishnah and other Tanaitic sources grew to become the central focus among Judeans who subscribed to the authority of the rabbis, the desire and need to emulate the celebration described in the Mishnah would have taken hold and been emulated in larger and larger numbers of households. The chapter has clearly become normative for the communities that wrote and shared the Babylonian Talmud, and it is therefore reasonable to conclude that by fifth century CE a liturgy would have been formed that enshrined the form of the celebratory meal for those generations which followed. Certainly, changes were tolerated—

the formulation of the questions enumerated in mishnah 4 changed in various times and places. The definition of some of the foodstuffs described must have varied with local practices especially as the original meaning of some of the vocabulary may have been forgotten. But what is perhaps the most remarkable outcome of this process of group study, promulgation, and usage of this text is that a social memory was created of a ritual that could not be more distant from the long observance of this holiday in biblical times. Unleavened bread and some sort of herbs were retained. The stories of the bible were studied and transmitted. But the celebration could not be more different from a sacrificial occasion for which the requirement was eating in haste. No sacrificial meat was present, and the meal was conducted far more in the model of the Greek leisurely feast with ample time provided for teaching and discussion. Indeed, if the Tosefta is to be believed, at the outset the discussion was encouraged to go on all night long. But whenever it ended, the Mishnah enjoined that celebrants not depart *afiqoman*. As that term's meaning was lost, rabbinic Jewish communities redefined its meaning suggesting that it referenced dessert. And today just try to find a community that will not explain that the term is a reference to a game intended to keep children awake through the long evening.

The conclusion I take from the evidence presented is that the rabbis of the Mishnah simply created a ritual and then framed it in a way that allowed celebrants to imagine that they were participating in an age-old service. Participants could imagine their ancestors setting up tables for the thousands who arrived in the courtyard of the Temple so that families could eat the paschal lamb with bitter herbs and unleavened bread while reciting a liturgy in a dialect which never echoed in the Temple during its existence. One point that has eluded me in this investigation is the question of whether the rabbis who created this ritual

which would soon be called a *Seder* had any idea that that was what they were doing. It seems to me that they could not have realized this contemporaneously with the period of the Mishnah. Rather, they pursued a conscious plan of inventing and inserting themselves on any occasion where the loss of the Temple created a vacuum. Subsequently, many of these innovations took on lives their own. The Babylonian Talmud [Menahot 29b] imagined a scene of Moses viewing and being astonished at the discussion of his laws in the seminaries of the rabbis. They might also have imagined a scene wherein the Tanaim viewed with astonishment the conduct in more modern times the Seder they had innovated.

CHAPTER 6: CONCLUSIONS

It would be hard to overstate the importance of the Passover holiday and specifically the Seder, the centerpiece of this study, for the history of rabbinic Judaism. Scripture does, of course, frame that importance in terms of the festivals of Israelite worship and even adds components redolent of the process of the creation of collective memory. For example, Exodus 12 not only sets out the ceremonial framework for the holiday but also connects it directly to a claim of shared heritage anchored in Egypt and even posits one of the questions that will be cited in Mishnah in the third century C.E. as instructional material for children:

When your children say to you, “What is this ritual to you?” You should answer them, “This is the Passover for the LORD who passed over the dwellings of the Israelites in Egypt when he struck Egypt, but our houses he spared.”

From our observations of the descriptions of Passovers in Philo, Josephus and the Christian Testament, it is clear that the holiday remained a pilgrimage event centered on Jerusalem and the Temple for as long as there was a Temple where the biblical requirements could be performed. By the time of the earliest rabbinic considerations of the holiday, found in the Tanaitic documents Mishnah and Tosefta, the Temple had not been accessible for more than a century and a half. In both, there are large quantities of material related to unleavened bread and the conduct of the sacrificial ceremonies in the Temple. And in both there is a short stub of material suggestive of a home ritual which eventually came to dominate the landscape of the Jewish religion, namely the Passover Seder. In the centuries to come, rules about unleavened bread would continue to occupy rabbinic Jewish communal attention. But the Seder commanded a level of importance that could not have been predicted simply by reading the biblical requirements for the holiday. Over the centuries, the Haggadah, the term

of art for the liturgy of the Passover Seder, has become the most popular book of Jewish liturgy with hundreds of editions bridging every Jewish community in the world.³⁴⁸

The first task required for understanding the origin of this institution of the Seder and its place in the history of Judaism was to identify as precisely as possible the source(s) for it. There are no allusions to such a custom or meal in any source prior to the Tanaitic materials. No such observance is mentioned in Philo or any of the apocrypha. Nor does Josephus mention it despite his voluminous writing about religious observance in Judea and despite the fact he is writing in the period after the destruction of the Temple. It is perhaps ironic that one of the earliest mentions of a Passover evening meal is the Last Supper, but we must be careful to note that the discussion of this meal is post-Temple (no such custom is mentioned in the writings of Paul) and scholars are not even sure it was a meal specific to the Passover—it may well have been on the day prior, and there is no evidence that anything like the ritual described in the Tanaitic documents was used for it.³⁴⁹ None of the sectarian documents of the Dead Sea Scrolls nor the documents uncovered in Wadi Murabba‘at mention a need for a ritual meal on the eve of Passover much less provide any sort of liturgy for it. The Cairo Geniza does contain copies of writings such as the Wisdom of Ben Sirah which was likely to have been written 180 B.C. or so, but none of the ancient writings preserved as copies in the Geniza published so far mentions a Passover Seder prior to the

³⁴⁸ The most recent entry in the history of the Haggadah is David Henshke, *Mab Nishtannah The Passover Night in the Sages' Discourse* (Jerusalem, Israel: Magnes Press, Hebrew University, 2016).

³⁴⁹ Paul does mention a last meal using language that would subsequently become part of the Gospels' Last Supper narratives at 1 Corinthians 11:23-24 but there is nothing connecting that meal to Passover and the Greek ἄρτον means bread, not the unleavened bread we would expect to be mentioned in that season, e.g. ἐγκρυφίας ἄζύμους translating תִּצְמַח תִּצְמַח (unleavened cakes or loaves) at Exod. 12:39.

Tanaim. Indeed, the only rituals which resemble a Passover Seder to be found anywhere are the non-Judean symposia documented by Plato, Xenophon, and Plutarch which became the focus of the seminal article by Siegfried Stein. In the early period of the scholarly study of Judaism we might have been admonished to refrain from arguing *ex silencio* but with the profusion of books, documents, and realia in the period reaching from the last decades of the Temple until the time of the Mishnah, none of which suggest the existence of a Passover Seder, the silence has become more meaningful. It is in my opinion reasonable to conclude that there were no Passover Seders prior to the third century C.E.

The Tanaitic documents themselves attempt to provide the rationale for suggesting that this custom is well known or ancient. They do this by attributing various statements and customs to personages who lived long before the publication date of the Mishnah. We have, after all, appearances by Bet Hillel and Bet Shammai, Rabban Gamliel, Rabbi Aqiva and Rabbi Tarfon all of whom can be found in our encyclopedias as having lived a century or two before the Mishnah. It is by no means a novel argument that such attributions are unreliable. Almost a century ago, Louis Finkelstein bore the battle scars of having attempted to produce a biography of Rabbi Aqiva by taking many Tanaitic statements as factual and deriving from sources within that sage's lifetime. Finkelstein also produced a scholarly argument for discovering "pre-Maccabean" documents in the Passover Haggadah. It is safe to say that few if any scholars take these arguments seriously today.³⁵⁰

³⁵⁰ Louis Finkelstein, *Akiba: Scholar, Saint, and Martyr* (Northvale, N.J.: J. Aronson, 1990) and Louis Finkelstein, "Pre-Maccabean Documents in the Passover Haggadah," *Harvard Theological Review* 35, no. 4 (1942): 291–332 and Louis Finkelstein, "Pre-Maccabean Documents in the Passover Haggadah (Concluded)," *Harvard Theological Review* 36, no. 1 (1943): 1–38. The rabbinic sources on Aqiva include not only the Mishnah and Tosefta, but

But even if scholars now admit that such hagiographies are some sort of fanciful imagination of what the lives of the sages were like, even with the contributions of Boyarin, Seth Schwartz, and many others, the prevailing notion seems to be that we can still claim to know something of the lives and religious philosophies of these sages. Consider a book review of Holtz's *Akiva* written by Moshe Sokolow. Sokolow lauds Holtz's approach of using "multiple lenses" to discover the life of Akiva and then proceeds to list five major teachings of Akiva with numerous sub-points. But all of these are generalities that might have been said by many philosophers in almost any period. There is not the slightest reason to attach any of this to an early third century sage. Not only that, but Sokolow mentions the famous martyrdom of Akiva without noticing that the tale of the manner of Akiva's death is directly contradicted by another rabbinic source.³⁵¹

The use of attribution to ancient authority is one mechanism in which the Tanaim might have sought to make claims on antiquity and authenticity, but perhaps a subtler strategy is casting the chapter in language which conveys the idea that this was the normative

also the Tanaitic and later works of the Midrash (Scriptural commentary) as well as the Amoritic literature through the sixth century C.E. Jacob Neusner and his students, and in particular William Scott Green, published compelling arguments for viewing the entirety of the rabbinic accounts of the early sages as pure hagiography with little use for the construction of historical events. See, for example, William Scott Green, *The Traditions of Joshua Ben Hananiah*, Studies in Judaism in Late Antiquity, v. 29 (Leiden: Brill, 1981). For a similar analysis of another Tana, Baruch M Bokser, "Wonder-Working and the Rabbinic Tradition. The Case of Hanina Ben Dosa," *Journal for the Study of Judaism in the Persian, Hellenistic, and Roman Period* 16 (1985): 42–92. Remarkably, despite the voluminous refutations of the historical utility and the impossibility of constructing a factual biography, Barry Holtz fearlessly ventured into that territory in 2017 with Barry W. Holtz, *Rabbi Akiva: Sage of the Talmud*, Jewish Lives (New Haven, CT: Yale University Press, 2017).

³⁵¹ Moshe Sokolow, "Barry W. Holtz, Rabbi Akiva: Sage of the Talmud (Yale University Press, New Haven, CT, 2017)," *Journal of Jewish Education* 83, no. 4 (October 2, 2017): 393–95, <https://doi.org/10.1080/15244113.2017.1378560>. For the competing account of Rabbi Akiva's death, see Burton L. Visotsky's review of Holtz in the *Jewish Daily Forward*, 6/11/17 discussing the account in the Midrash to Proverbs (Mishle). Visotzky further mentions that Saul Lieberman had already demonstrated decades ago that rabbinic martyrologies are heavily dependent on Christian and Pagan stories.

way to celebrate Passover. There is not a hint that this might be a *de novo* institution unrelated to the practices of the era when the Temple stood.

One key, perhaps, to suggesting that in fact the Seder was an invention of Mishnah/Tosefta and unknown to any sages who might have lived in earlier periods is precisely the absence of any observations in any other texts ranging from the documentary depositories to the writings of Philo and Josephus, the Christian Bible and the Apocrypha and Pseudepigrapha—surely if there was any widespread ritual of this sort it would have been mentioned somewhere. Rather, it is more likely that the composers of the Mishnah and Tosefta have framed discussions of ritual on these earlier sages, hanging a variety of opinion differences on accepted norms of these ancient authorities. None of this is intended to argue that Rabbi Aqiva himself was an invention of the Mishnah—he almost certainly did exist and teach in the first half of the second century C.E. But just as most scholars have come to acknowledge that we will never be able to demonstrate which sayings attributed to Jesus are authentic and which imagined, so the same is likely with other famous teachers of the era preceding the Mishnah. And just as few scholars today doubt, as at least a few once did, that Jesus himself is a historical person, so most of the sages named by the Mishnah (with the usual caveats about dubious minor players) probably were historical persons.

Having established that the primary, in fact only, sources for the Passover Seder are the two clearly related Tanaitic documents, it remains necessary to determine the nature and dating of our source documents. The oldest manuscripts date to about the eleventh century,

and there are just four major exemplars.³⁵² After a careful comparison of the two primary manuscripts we concluded that the texts are substantially the same. This finding agrees with the consensus that once a source has reached the stage of writing, changes tend to be minor and evolutionary rather than major and transformative. By the eleventh century the Mishnah and Tosefta had likely been copied for some centuries and while there was certainly variation to be found, none of the variants made much difference in the interpretation of the texts. If, as Lieberman and many others contend, the Mishnah and Tosefta began their existence as oral documents, rehearsed and transmitted orally, they would have been subject to the more substantial variants documented, for example, in Lord's *Singer of Tales*. But the fact is that we have nothing with regard to the formulation of the texts before the eleventh century. Indeed, our assessment that the Mishnah and Tosefta do indeed belong to the period of the third century is based on other factors such as the paucity of discussion of Christianity or other religions which characterized the immediate environment of the Galilee from the fourth century and after. The Mishnah and Tosefta do not resemble the sort of document that might have been assembled during the era when the Temple stood given its constant assumption that Tanaim rather than priests and levites controlled the Temple ritual, but neither do they resemble documents that would have been formulated after the fourth century. Many scholars of rabbinic Judaism would likely imagine that it preserves material from at least the second century, but I believe that is unlikely—at least while it seemed

³⁵² I leave for another occasion a discussion of the use of the Amoraic commentary on the Tanaitic corpora for additional witnesses to the text. For now, it suffices to say that our oldest Amoraic manuscripts are no more ancient than the manuscripts of the Mishnah, although as with the Mishnah, there may be some older material to be found in the Geniza.

possible that some sort of royal rule and a rebuilt Temple could be restored to Jerusalem. Several decades after Bar Kosba, when such possibilities had grown dim, seems to be the likely time to imagine that Tanaim would begin their work of documenting and claiming the central role in the religion.

“Early Judaism”

Even scholars in relevant fields have a difficult time refraining from describing the inhabitants of Roman Judea before the destruction of the Temple as “Jewish.” Numerous publications, including complete, scholarly books refer to the religious observances of people living in the period of the Second Temple as “Judaism” or perhaps “Early Judaism” and the adherents to this religion as “Jewish.”³⁵³ But consider the most basic and fundamental characteristics of theology and religious community represented before and after the destruction of the Temple.

Who are the authorities that determine the religious norms? Prior to 70 C.E. authority is vested in several figures. Priests control the Temple and establish every aspect of Temple ritual. Kings and royals, some claiming priestly status, clearly have powerful voices in the standards of worship. Prophets, that is people who may or may not be priests, can claim authority based on direct communication with the Heavenly arena. There are magicians and wonder-workers in whom some place their trust. There are various groups contending for

³⁵³ See above, Chapter 1 pp. 5ff.

some part of the theological pie including but hardly limited to Josephus' popular designation of Pharisees, Essenes, and Sadducees.³⁵⁴ But all of these seem to agree that authority lies with the priesthood even if they believe themselves to be the rightful heirs to those offices rather than those occupying the Temple precincts. As for "rabbis," they are nowhere to be found in any literature earlier than the third century C.E. with the exception of a few uses of the term seeming to mean "teacher" in the Gospels. Of course, the Gospels are themselves all post-Temple compositions.³⁵⁵ The term is not found anywhere in the Epistles and therefore apparently is unknown to Paul. Similarly, it does not appear in Philo, Josephus or the Intertestamental literature. In sum, the term "rabbi" is not found in any literary source during the existence of the Temple, its appearance in the Christian Bible is slight and seems to refer to a teacher rather than a figure of authority, and then it appears

³⁵⁴ For an overview of the authorities of the period, see among many others, Seth Schwartz, *Imperialism and Jewish Society, 200 B.C.E. to 640 C.E.*, Jews, Christians, and Muslims from the Ancient to the Modern World (Princeton, N.J.: Princeton University Press, 2001), Chapter One, *Politics and Society* <kindle locations 618-1431>.

³⁵⁵ ῥαββί, Rabbi, "my master" in Hebrew is found at: Mat 23:7, 23:8, 26:25 26:49, Mark 9:5, 11:21, 14:45, John 1:38, 1:49, 3:2, 3:26, 4:31, 6:25, 9:2, 11:8. Of these, perhaps the most interesting for our purpose are the pair of verses at Mat 23:7-8. These appear in a speech in which Jesus is denouncing "scribes and Pharisees" as follows: 'Then Jesus said to the crowds and to his disciples, "The scribes and the Pharisees sit on Moses' seat; therefore, do whatever they teach you and follow it; but do not do as they do, for they do not practice what they teach. They tie up heavy burdens, hard to bear, and lay them on the shoulders of others; but they themselves are unwilling to lift a finger to move them. They do all their deeds to be seen by others; for they make their phylacteries broad and their fringes long. They love to have the place of honor at banquets and the best seats in the synagogues, and to be greeted with respect in the marketplaces, and to have people call them *rabbi*. But you are not to be called *rabbi*, for you have one teacher, and you are all students. And call no one your father on earth, for you have one Father-- the one in heaven. Nor are you to be called instructors, for you have one instructor, the Messiah.'" (Matthew 23:1-10 NRS) To the modern reader, this can seem as if Matthew is referring to a rabbi as they appear today in a local synagogue. But on closer scrutiny, the reference is clearly to people who are functioning as teachers in communal school houses. It is not difficult to see how people in such positions commanding respect could evolve into the rabbis of the Mishnah, but these references do not yet point to rabbis as figures of authority. See Catherine Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine*, Texte Und Studien Zum Antiken Judentum 66 (Tübingen: Mohr Siebeck, 1997), p. 59.

full force as representing those who have all religious authority in the Tanaitic corpora which, as we have seen, means no earlier than the third century.

The location of all recognized religious activity while the Temple stood was the Temple itself. This is not to argue that were no religious norms applied to people living too far from the Temple to avail of its resources. It is clear that people did study and follow a number of norms prescribed in the Bible, such as refraining from eating various foods, ritual cleansing, and wearing symbolic garments. But subsequent to the Josianic reforms described in 2 Kings, the critical religious functions of sacrifice and atonement were the sole domain of the priests working in the Temple. The term “synagogue” certainly existed, but it referred to a place of study. Even in the second century, when the Gospels situate Jesus in a synagogue, it is in the context of a place to read out from a scroll rather than conduct a religious service.³⁵⁶ And this makes perfect sense: literacy was limited, and scrolls were likely far too expensive for ownership. But by pooling a community’s resources, scrolls for study might be obtained. When the Gospels portray Jesus as teaching in his community, such as the Sermon on the Mount, it is never in a synagogue.

The Tanaitic documents regarding the paschal meal show the crossing of a boundary with respect to the understanding of the function of the synagogue. Consider that the texts suggest that if there is no person able to recite the liturgy at home, that the master (together with his family?) should go to a synagogue to recite it, and furthermore, if the synagogue is

³⁵⁶ Luke 4:17-21 is redolent of the later synagogue service of the Sabbath and it would be odd if a contemporary Jew did not imagine Jesus reading *Isaiah* as a *haftarah*. But that would be another example of retrojecting later customs into earlier texts. There is no reason not to assume that this was simply a communal study house.

too distant to travel for a return after the meal, to recite the Hallel entirely. But this recitation is not some study session, but rather the performance of a ritual. Therefore, our text is evidence that by the early third century the synagogue had moved much closer to its function in medieval and modern Judaism.

The Function of the Seder in Collective Memory

The Tanaitic material collected into both the Mishnah and the Tosefta established the Passover ritual in Jewish collective memory. It is no exaggeration to say that these chapters “set the table.” While some of the elements of the Tanaitic Passover do have a clear basis in Scripture such as the admonition to consume only unleavened bread, these elements are more of the exception than the rule. In a way, the two foci of memory research point in opposite directions. The neuroscience of individual memory explains why our memories can be faulty, and yet seem to be accurate. This explains very well how we can take various events of the distant past and imagine that we have accurate memories of what happened and what individuals may have said at the time. This is looking backward. Collective memory, on the other time, explains how we can take a document or an event and project it forward. From the time of the Mishnah onward, the memory fragment that is Pesachim Chapter 10 would increasingly command attention as the accepted and correct way to observe the holiday and to attribute to it the characterization of ancient custom. So much so, that the communities addressed by the Mishnah seemingly failed to notice that observing the holiday in this manner directly contravened a major Scriptural commandment, namely, that holiday meal be eaten hastily to remind us of the hurried departure from Egypt.

In the early third century the conflicts of the first and second were becoming distant memories. Although the Romans periodically targeted Christians, the surviving Judean communities were largely left alone. The Mishnah describes communities in which some families gathered considerable wealth, and it was understood that some families could afford attendants and elaborate meals. It is in this milieu that a Judean version of a symposium becomes conceivable. The Mishnah suggests that the Passover holiday meal must feature at least four cups of wine and demands that the community provide this wine even to the poorest members of the community for the celebration. This too suggests a third rather than a second-century economic climate. The various wars which devastated the Judean home areas must have taken at least several decades for a recovery that could support the kind of banquets and supports for the poor envisioned in the texts. The Mishnah wishes to credit ancestors for this celebration and through its sections brings to bear many of those famous predecessors—Bet Hillel, Bet Shammai, Rabban Gamliel, R. Aqiva and R. Tarfon all take their ceremonial bows. But as we have suggested, the historical realities of their generations make it difficult to believe that this is anything but a literary creation of the third-century masters.

Now come the generations following the Tannaim. The Seder description provides a blueprint for a celebration which they can accept as part of their “age old” tradition. The Tanaitic documents become the anchor of a collective memory that the Passover had always been celebrated with an elaborate festive meal. A liturgy was soon created which, to be sure, based itself on some of the Scriptural requirements. But the central sacrificial meal was replaced with the Seder meal with all its trappings of special spices, *hazzeret*, *haroset*, four cups of wine, and two cooked dishes. Eventually communities would surround this meal with an

elaborate liturgy both before and after the repast, but as noted, we can already see in the third century the basic theological building block of positioning the meal in the middle of the Hallel—whether or not the formulation of the Hallel is an authentic memory of the service of the Temple. But the implicit argument that the Seder meal has replaced the sacrifice as the center of the service is unmistakable.

Indeed, it was a theme of the rabbis that various alternatives could suffice, and perhaps be even better, aspects of the worship in the Temple. Consider this passage from *Avot de-Rabbi Natan*:

פעם אחת היה רבן יוחנן בן זכאי יוצא מירושלים והיה רבי יהושע הולך אחריו וראה בית המקדש חרב [אר"י אוי לנו על זה שהוא חרב] מקום שמכפרים בו עונותיהם של ישראל. א"ל בני אל ירע לך יש לנו כפרה אחת שהיא כמותה ואיזה זה גמ"ח שנאמר כי חסד חפצתי ולא זבח.

At some time Rabban Yohanan ben Zakkai was departing Jerusalem with Rabbi Yehoshua following him. He saw the Temple ruin [R. Yehoshua saying, “Woe to us because of this having been ruined] the place where Israel’s sins were atoned.” He said to him, “My son, do not be distressed. We have an atonement equal to it.” And what is that? “Acts of kindness, as the prophet stated, ‘Kindness have I desired more than sacrifices. [Hosea 6:6]’

As anyone schooled in Scripture would know, the verse went on to say, “and the knowledge of God is more desirable than burnt offerings.”³⁵⁷ In other words, the passage serves as an explanation for why burnt offerings and other sacrifices are no longer required for the religious life of the people. This passage (which went to amplify many similar notions) is contained in a composition of about the sixth century, half a millennium after the time of Yohanan ben Zakkai. It is an example of how the rabbinical authors created a collective

³⁵⁷ כִּי תִסַּד חֶפְצָתִי וְלֹא-זֶבַח וְדַעַת אֱלֹהִים מַעֲלֹת:

memory of that early period to suggest that from that beginning the rabbis already knew that they need a replacement for the sacrifices. And yet, it almost certainly is a historical fiction. Why would a sage living through that period already conclude that the Temple would not be rebuilt? The quotation from Hosea is interesting because Hosea himself lived prior to the destruction of the first Temple. The rabbis would have been aware that despite the devastation wrought upon Israel and the subsequent destruction of the first Temple, that the Temple would be rebuilt after 70 years. Forecasting the need to replace sacrifice would have been a little premature in the time of R. Yohanan.

Before the events of 70 C.E., Judean Christians too might have contemplated some scenarios where they might have availed themselves of the atonement of the Temple sacrifices, while others likely thought such association unnecessary. After 70, the landscape was completely changed. Followers of Jesus, still not yet “Christians,” too would be casting about for some explanation for why the requirements of the Pentateuch no longer mattered. Some argued that the Torah was completely superseded and replaced by faith in Jesus. As early as the Epistle to the Hebrews (a work variously dated from as early as the period before the destruction of the Temple to decades thereafter), the author writes *καὶ διαθήκης νέας μεσίτη Ἰησοῦ καὶ αἵματι ῥαντισμοῦ κρεῖττον λαλοῦντι παρὰ τὸν Ἄβελ. And to Jesus, mediator of a new covenant, and to the sprinkling of blood which is better than the blood of Abel.* (Hebrews 12:24)

In 1971 George Steiner wrote “Images and symbolic constructs of the past are imprinted, almost in the manner of genetic information, on our sensibility. Each new historical era mirrors itself in the picture and active mythology of its past or of a past borrowed from other cultures...where a community is new or reassembled after a long

interval of dispersal or subjection, a necessary past tense to the grammar of being is created by intellectual and emotional fiat.”³⁵⁸ This practically summarizes the nature of the Passover Seder as it was recalled in subsequent generations from the modest, fragmentary statements we have examined in the Tanaitic sources.

By the third century, Christians had largely cast off any thought of a need for Temple worship but would invoke many of the trappings of that worship for their churches. Rabbinic Jews collected and studied traditions related to that Temple but cast those traditions in ways that in large measure could not possibly have been authentic to the Temple itself. Rather, the Temple with its liturgy, priests and levites served as a foil for the claim that all religious authority was really vested in the rabbinic class. When the Temple stood, the ideal Passover was a pilgrimage to the Temple and the consumption of a sacrificed lamb with herbs and unleavened bread—perhaps purchased at the tables of vendors who lined the streets of Jerusalem. There may have been other sorts of holiday meals served wherever Judeans had settled, but we hear little or nothing of that until the publication of the Mishnah and its sibling Tosfeta. And then, in the early third century, we first learn of a meal requiring (as a religious obligation!) no less than four cups of wine, two cooked dishes, spices and other festive foods that could hardly have been reminiscent of a hard night’s flight from Egypt. And oh, yes—the unleavened bread and bitter herbs mentioned in the Torah. And that description, slight as it may be, became the anchor of communal memory, elaborated and extended until it consumed

³⁵⁸ George Steiner, *In Bluebeard’s Castle*, quoted in Barry Schwartz, Yael Zerubavel, and Bernice M. Barnett, “The Recovery of Masada: A Study in Collective Memory,” *The Sociological Quarterly* 27, no. 2 (June 1, 1986): 147–64, <https://doi.org/10.1111/j.1533-8525.1986.tb00254.x>, p. 147.

many hours of the night—some versions even requiring that it continue through the morning service on the morrow. Few Jewish families today understand that this fabulous feast shares more in common with the revelry described in Plato and Xenophon than it does with Israelites escaping Egypt. Fewer still wonder about the word *afiqoman* but instead remember, as clearly as they remember anything, that an *afiqoman* is a piece of matzah which must be ransomed from children before the holiday can be concluded.

The processes of collective memory act to create historical facts which never happened, except in the minds of the celebrants. In the liturgy of the Seder, today's celebrants conclude the service with a *piyyut* ascribed to Rabbi Yosef Tur-Elam (d. ca. 1040 C.E.). *The Seder has concluded according to its rules, requirements and laws. As we have merited to arrange it, so may we merit to perform it.* The sense of this suggests that by performing the ritual of the Seder, rabbinic Jews earn the value of performing the Passover sacrifice itself. This is as good a way as any to end our journey.

חֲסֵל סֵדוֹר פֶּסַח כְּהִלְכָתוֹ, כָּכֵל מִשְׁפָּטוֹ וְחֻקָּתוֹ. כְּאֲשֶׁר זָכִינוּ לְסֵדֵר אוֹתוֹ כֵּן נִזְכֶּה לַעֲשׂוֹתוֹ

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APPENDIX

The Significance of 4QMMT

In the past quarter-century a lively debate has emerged around a document found among the Dead Sea Scrolls now known as 4QMMT. The name is an acronym for Qumran Cave 4: Miqtzat Ma'aseh haTorah (*a few matters of the Torah*, quoted from the document itself). This document certainly deserves the attention it received, if only for the intellectual achievement of its primary investigator Elisha Qimron who assembled it from six different greatly damaged fragments. The document must have been considered important by the Dead Sea sect to be represented in that number of fragments which were apparently copied over a lengthy period of time.³⁵⁹

The contents of the document describe the ways that the author believed that various rituals ought to be carried out. It contains calendrical requirements which were a frequent source of conflict among the various Judean sects, here similar to the requirements of *Jubilees*; about twenty rules which many investigators term *halakhot* (loosely “rules” but a term redolent of the nature of rabbinic Judaism); and various statements of a sectarian nature. On the basis of the rules some scholars have called it “The Halakhic Letter.” One example of this is a similar position to that of the Mishnah on whether an animal born of a pregnant sacrificial victim may be eaten.³⁶⁰ Various scholars have suggested that the author

³⁵⁹ Elisha Qimron et al., *Miqṣat Ma'ase Ha-Torah*, Qumran Cave 4 5 (Oxford: Clarendon Press, 1994).

³⁶⁰ Mishnah Hullin, 4.1 בְּהֵמָה הַמְקֻשָּׁה לִילָד, וְהוֹצִיאָהּ הָעֶבֶר אֶת יָדוֹ וְהִקְזִירָהּ, מִתֵּר בְּאֵכִילָהּ 4.1. *An animal having a difficult delivery, and the unborn thrusts out a limb but pulls it back, is permitted for eating.* 4QMMT {38} [...] do not slaughter in the temple [...]

{39} [...] the mother and son [...] on the same day

{40} [...] w]e think that one can eat the son

{41} [...] this is so and that this matter is written down; the pregnant (cited from

was a Pharisee writing to other Pharisees or that the document was a pretext for this particular sect leaving the Pharisees. In one of the earliest considerations of the document, Lawrence Schiffman set out the framework for subsequent discussions. He noted that while apparently taking the form of a letter, the text might have been an apocryphal writing cast as a letter. Schiffman opined that this letter can be understood in exactly one way, “Only one possible explanation can be offered for this phenomenon. The earliest members of the sect must have been Sadducees who were unwilling to accept the situation that came into being in the aftermath of the Maccabean revolt (168-164 B.C.E).” Schiffman consistently refers to the rules discussed in the document as “halakhot” despite the fact that the document does not contain that word and indeed seems to use the Hebrew מַעֲשֵׂה *ma‘aseh* (*deed*) from which the modern title of the document is derived to refer to these principles.³⁶¹

About a decade after Schiffman’s initial proposal Maxine Grossman summarized the discussion of the nature of the document as belonging to one of three genres: epistle, treatise, after-the-fact historicizing texts. Specifically, Grossman explains that the manner in which a historian perceives the genre of a document can color not just the interpretation of the document, but also the historical account the historian builds on its basis.³⁶² Grossman goes on to demonstrate how the various genres can lead historians to several different conclusions about the history and development of the community which wrote it. She is

<http://ccat.sas.upenn.edu/rak/courses/427/texts/4QMMT.htm> adapted from Garcia Martinez (DSSST 77f; DSSSE 4Q394-399) and web sites [[provisional format by RAK]].

³⁶¹ Lawrence H. Schiffman, “The New Halakhic Letter (4QMMT) and the Origins of the Dead Sea Sect,” *The Biblical Archaeologist* 53, no. 2 (June 1, 1990): 64–73, <https://doi.org/10.2307/3210097>.

³⁶² Maxine L. Grossman, “Reading ‘4QMMT’: Genre and History,” *Revue de Qumrân* 20, no. 1 (77) (2001): p. 5

unable to demonstrate that any of the three proposals thus far can be considered conclusive. Instead, she suggests that aspects of these three possibilities can demonstrate a range of possibilities.³⁶³

In 2005, Ian Werrett presented a paper examining the Qimron/Strugnell reconstruction of the text of 4QMMT.³⁶⁴ Werrett finds numerous cases where the reconstructed text seems based as much on imagination as reality. For example, a word reconstructed as □□□□□□□□ *skins* could as easily be □□□□□□□□ *lights* as Strugnell himself admits. But based on the reading of *skins* Qimron makes other reconstructions on analogy with another of the Dead Sea Scrolls, the Temple Scroll. Werrett then goes on to note that Schiffman relies on the restoration of *skins* and the parallels to the Temple Scroll to formulate apparently factual statements about the nature of the document. In Werrett's view, these conclusions cannot be sustained because the document is heavily damaged and the reconstructions by Qimron too dependent on imagination to be used in such a way.³⁶⁵

As an example of the problems with Qimron's restoration, Werrett considers the reconstruction of a passage in 4QMMT which discusses whether the fetus of a slaughtered pregnant animal may be eaten. The reconstruction is based in part on a passage in 4Q396 1–2 i 2–4 and 4Q397 4 1–2, but “The interesting thing about this comment, however, is that

³⁶³ Ibid. p. 22.

³⁶⁴ Subsequently published as Ian Werrett, “The Reconstruction Of 4qmmt: A Methodological Critique,” in *Northern Lights on the Dead Sea Scrolls* (Leiden, The Netherlands: Brill, 2009), https://brill.com/view/book/edcoll/9789047424956/Bej.9789004171633.i-314_012.xml.

³⁶⁵ Ibid. p. 208.

4Q397 4 1–2 contains a total of three damaged words, none of which parallel the extant material in 4Q396 1–2 i 2–4.”³⁶⁶ In other words, this restoration along with several other examples is little better than mere speculation. Or as Qimron himself writes, “...Since this reconstruction is based on the Temple Scroll, it contributes very little which is new to our understanding of this actual law from Qumran.”

The last article I would cite about 4QMMT is one by Charlotte Hempel published in 2010.³⁶⁷ Hempel ably reviews much of the prior scholarship and concedes the lack of agreement regarding the genre of the document and problems with restoration of the text from the six extant copies. She suggests a method of focusing specifically on one of the copies and by excluding reconstructions, narrowing her conclusions to what can be done via the one—and she chose 4Q397.

Our interest lies in the connection, if any, between this document and the Mishnah. Hempel finds such a connection in the middle portion of the document which lists a series of issues upon which the document’s author(s) provide an opinion which presumably differs from the opinion of others. Part of the issue of genre is that it is not possible to tell who the authors and their opponents or discussants might be. As an example, 4Q396 states:

האדם אנחנו אומרים שכול עצם ש...>

ושלמה במשפט? המת או החלל ה?א?<.³⁶⁸

³⁶⁶ Ibid. p. 210.

³⁶⁷ Charlotte Hempel, “The Context Of 4QMMT And Comfortable Theories,” in *The Dead Sea Scrolls* (Leiden, The Netherlands: Brill, 2010), https://brill.com/view/book/edcoll/9789004190764/Bej.9789004167841.i-552_013.xml.

³⁶⁸ <https://maagarim.hebrew-academy.org.il/Pages/PMain.aspx?mishibbur=39394&page=5> [I am indebted to Prof. Galen Marquis for the source.]

Strugnell and Qishon add fragments from 4Q397:

האדם ש?אנחנו? <...ים שב?ול? <...ט המת או הח?ל?ל...>

Blending these two as well as other small fragments together yields in their own translation:

{76} the [dead] person we are of the opinion that every bone, whether it
{77} has its flesh on it or not, should be (treated) according to the law of
the dead or the slain.³⁶⁹

In other words, what we have here (if the reconstructions are correct) is a statement of practice which differentiates the author(s) of this document from others who apparently do not agree that bones “with or without flesh” need to be treated in a particular way. The document contains over twenty other examples of this type of statement which explains why some scholars have been eager to label it the “Halakhic Letter.”

Hempel concludes “In my view the halakhic part of MMT, the bulk of the document, is written in the same ‘register’ of legal debate that later found its way into the Mishnah.” She continues:

Prior to the publication of MMT this type of halakhic dialogue was attested in written form only in more formalised ways in the Mishnah. The true significance of MMT is that it provides us significantly earlier testimony to inner-Jewish halakhic debate than previously available.

It is in this connection to the Mishnah that interests us. However, it is my contention that the connection is entirely manufactured by scholars attempting to create a connection that does not actually exist. Rather, we have a highly fragmentary document which does indeed address some sorts of issues in religious practice not at all different from what we have

³⁶⁹ <https://www.loc.gov/exhibits/scrolls/trans5.html>

known long before. As explained, the document is too fragmentary and its re-assembly too insecure to even establish its genre. And yet, somehow, it is now a “halakhic” document comparable to the Mishnah.

At the outset, and on the first occasion of her use of the term, Hempel calls the document the “so-called Halakhic Letter” but apparently her qualification of the word with “so-called” applies only to the title. Hempel goes on to use the terms “halakhah” or “halakhic” some 27 times in a short article, and never again with the qualification “so-called.” The problem with this is that she is prejudicing the discussion without ever confronting its applicability in this document. The word “halakhah” does not occur in this document, but in fact the term that the author used to describe the rules they were mentioning is not only contained within the document, but is actually the operative term in the official modern title for the document: *ma’aseh*. Why not call the rules *ma’asim* rather than the later term *halakhah*?

There is no question that 4QMMT has a section which lists a variety of rules about which there were some controversy. But that is nothing new. We know from the collection of our long-standing sources such as Philo and Josephus, the books of the Christian Bible, Apocrypha and Pseudepigrapha that there were various sects who had different notions about the proper way to perform rituals, differences of opinion about ritual purity, etc.

What makes the Mishnah the Mishnah is not that it is a digest of rules, but rather a compendium written in consistent format from end to end in a particular way. In other words, it has a form which instantly allows a reader to know that they are reading the Mishnah (or its close analog the Tosefta) and at least so far, no other document in ancient literature. A paragraph of Mishnah contains a statement followed by dissenting or differing

voices. But perhaps as important as the existence of dissent is the fact that the Mishnah almost never adjudicates that difference. In other words, the foremost feature of the Mishnah is that it allows difference to stand, without stating which opinion must be followed. It is my contention that with respect to genre, the Mishnah is *sui generis*. Whatever the importance of 4QMMT might be, it is not to be regarded as anything resembling a “proto-Mishnah.”

VITA

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