

General Introduction

The Center and Source of Judaism

Along with mathematics, philosophy, Confucianism, and the great classics of the religious traditions of the Muslim, Christian, Hindu, and Buddhist intellect, the Talmud is one of the enduring writings of human civilization. In common with other classics of humanity, it undertakes the great task of the civilizing intellect: to convey a cogent vision of humanity in a just society—to form of the bits and pieces of the workaday world a coherent conception of the social order. Through the details of normative law and theology, the Talmud records Judaism's master-narrative of the human condition.

But the Talmud carries out in its own way the task of civilization. It does so by showing how intellectuals wrote down details of law, theology, and scriptural exegesis in such a way as to form a coherent, cogent, and critical construction. It conveys a vision of the social order subject to God's dominion. What holds the whole together is a process of rational and rigorous reflection, criticism, and analysis. The emphasis on applied reason and practical logic, on the rationality that is applicable universally, makes it possible for coming generations, as it did for past generations, to reconstruct its pattern of culture anywhere, any time, and under any circumstance. The main lines of structure of the social order, the patterns of behavior and belief, the formation of relationships of family and community, the norms even of private emotion and personal sentiment—all are subject to renewal on the part of those who have mastered the Talmud's disciplines. That power of intellect explains the coherence—without the benefit of the support of unified institutional structures or elaborate organizations—of the communities of Judaism scattered hither and yon. Nearly everywhere the faithful of Judaism have lived, they have found in the Talmud's law and theology the foundations for their society.

The Talmud, accordingly, portrays the universal rational pattern that governs the life of a very particular and local people. That is why it is best described as the written-down norm of the religious culture of Judaism. As the design for a perfect world, the Talmud claims a position in the company of the utopian visions that continue to inspire both secular and religious persons—visions such as Plato's *Republic* and Augustine's *City of God*. It differs from other visions because its medium is not philosophy but law, not abstract theology but the realization of theology in norms of conduct and conviction. That concrete mode of representing norms encompasses historical narratives, as well as accounts of workaday transactions among ordinary folk. In its practical analysis of humble matters the Talmud explores the consequences of the Judaic encounter with God's revelation to Moses at Sinai, the revelation called the Torah. The Judaic sages read this Torah as God's personal letter addressed corporately to the community of Israelites and individually to each person within that community—a letter written that very day.

These extravagant claims on behalf of a piece of writing, which on the surface appears to address petty matters of purely parochial concern, define the challenge of this translation of the Babylonian Talmud, a.k.a., the Bavli. It is not to allege, but to make manifest, a coherent vision of encompassing scope for the restoration of the perfection of the world portrayed by the Torah of Sinai. When readers engage with the Bavli's rigorous analytical

process and absorb its modes of thought, whether concerning law or theology, they will judge for themselves the power of the Talmud to compel a vision of a social order of reason and rationality.

What is the Talmud?

The Talmud consists of a law code and a commentary on that code. The code is called the Mishnah (ca. 200 C.E.), a systematic exposition of sixty topics,* and is held by Judaism to record the originally *oral* part of the Torah that was revealed by God to Moses at Mount Sinai. The commentary is called the Gemara or (somewhat confusingly) simply, the Talmud (ca. 600 C.E.). The Gemara or Talmud is organized around laws of the Mishnah and also contains compositions devoted to Scripture's law and theology, which explain and amplify passages of the *written* part of the Torah of Sinai (known by Christianity as "the Old Testament"). Thus: the Mishnah + the Gemara = the Talmud. Simply stated: the Mishnah presents laws and is about life, while the Gemara analyzes laws and is about the Mishnah.

*The Mishnah is made up of sixty-three tractates, but of these, one, *'Eduyyot*, "testimonies," is organized around the names of Rabbinic authorities, not particular topics. Another, *Abot*, is comprised by wise sayings of a miscellaneous character. A third, *Qinnim*, "bird offerings," is made up of a set of conundrums and does not expound a topic. All the other sixty tractates set forth systematic expositions of their subject-matter, and the order of exposition is dictated by the inner logic of the topic: what is primary and what is subsidiary or subordinate.

The Gemara's analytical, argumentative commentary on the Mishnah's law emphasizes applied reason and practical logic, explains the regular and the routine rules of conduct and conviction, and harmonizes cases where different laws seem to conflict in principle. Its discussions cover the protracted age from Moses at Sinai to the seventh century of the Common Era, thus drawing on nearly two millennia of the Judaic culture, lived out both in the Land of Israel and in Babylonia. Its exposition of law and theology, though cumulative over time, forms a systematic account of the norms of behavior and belief set forth in one brief span of time at Sinai in order to portray a timeless world of reason and order.

Positioning the Talmud in the formative history of normative Judaism

The Mishnah of 200 C.E. and the Gemara of 600 C.E. mark two of the four major stages in the history of the formation of normative Judaism that begins with Scripture and makes its authoritative statement in the Talmud.

The first stage finds its complete presentation in the Pentateuch, the Five Books of Moses, which came to closure, it is commonly supposed, in ca. 450 B.C.E. The Pentateuch defined both the foundations of law and the master-narrative of Judaism.

The second stage is comprised by the long period of oral tradition ca. 450 B.C.E. to 200 C.E. that followed the closure of the Pentateuch and ended with the first steps in the formation of the Mishnah, taken in the first century of the Common Era. During this period oral traditions augmented the laws of the Pentateuch by covering topics not treated in the written part of the Mosaic revelation. This stage is a matter of surmise because we have no surviving written documents in the tradition of the ancient Rabbinic sages deriving from the period between the close of the writing of the Pentateuch and the writing of the Mishnah. We return to this second stage in a moment.

The third stage, that of the formation of the Mishnah as we know it, in the first two centuries of the Common Era, came to realization in particular with the setting down to writing of the Mishnah, ca. 200 C.E. The Mishnah and its companion supplementary collections* organized and systematized the oral traditions that accompanied the written law of the Torah contained in the Pentateuch. These topical expositions will be described, and the religious system for Israel's social order that they constructed will be defined, below.

*The Mishnah fits together with supplementary collections of laws (the Tosefta) and of scriptural exegesis (Midrash) with special reference to legal passages of Scripture.

The fourth stage, that of the Gemara or Talmud, resulted in the systematic clarification and amplification of the Mishnah by the two Talmuds, along with collections of the exegesis of passages of Scripture important in synagogue life. These two works are the Talmud of the Land of Israel (in the Roman Empire) ca. 400 C.E. and the Babylonian Talmud (in the Iranian Empire) ca. 600 C.E. Of the two Talmuds, the Babylonian Talmud (Bavli) provides the conclusive statement of rabbinic Judaism.

How the Talmud came into existence: The Mishnah

Returning to the second stage mentioned above, the code and commentary, the Mishnah and the Gemara, begin in the oral Torah of Moses (Scripture) and in significant measure carry forward the Scripture's law and theology. Judaism maintains that the traditions of law found in the Mishnah derive from God's revelation to Moses at Sinai. That claim registers in the opening sentence of tractate *Abot*, "The Fathers," written ca. 250 C.E., and tacked onto the Mishnah as an explanation of its origin and authority. It states, "Moses received Torah at Sinai and handed it on to Joshua, Joshua to elders, and elders to prophets. And prophets handed it on to the men of the great assembly." This oral Torah is represented by sayings not found in Scripture and was set forth by sages who were not credited with the authorship of scriptural books. What is implicit, then, is that an oral component of the instruction of Sinai alongside the written component of the Scripture form the medium of God's revelation to the Israelite community. The chain of tradition extends to Judaic sages whose names are frequently cited in the Mishnah. The conclusion follows, then, that the Mishnah's contents originate in the oral part of the Torah and complement the written part of the Torah we know as the Hebrew Scriptures.

The narrative of the origin of the Mishnah as the oral Torah of Sinai that is implicit in tractate *Abot* finds its counterpart in an explicit statement within the Mishnah itself, that Scripture's contribution to the Mishnah's topical program is diverse. Some of the topics the Mishnah systematically expounds come directly from Scripture. The exposition of the Day of Atonement in Mishnah tractate *Yoma*, for example, follows the outline of Lev 16 and simply paraphrases that narrative. Other topics draw upon facts of Scripture but fill out a program of exposition that only partially derives from Scripture. The tractates devoted to the civil law, *Baba Qamma* "the first gate," *Baba Mesi'a* "the middle gate," and *Baba Batra* "the final gate," encompass civil laws of Scripture but organize them into a logical construction of their own, which includes numerous topics not documented by Scripture. Still other topics expounded by the Mishnah have no roots in Scripture at all. These come down in oral tradition.

The Mishnah is comprised by sixty topical expositions, called tractates divided into six divisions: (1) agricultural rules; (2) laws governing appointed seasons, e.g., Sabbaths and festivals; (3) laws on the transfer of women and property along with women from one man (father) to another (husband); (4) the system of civil and criminal law (corresponding to what we today would regard as “the legal system”); (5) laws for the conduct of the cult and the Temple; and (6) laws on the preservation of cultic purity both in the Temple and under certain domestic circumstances, with special reference to the table and bed. These divisions define the range and realm of reality.

1. Zera'im “Agriculture”

Berakhot “Blessings”; *Pe'ah* “the corner of the field”; *Dema'i* “doubtfully tithed produce”; *Kilayim* “mixed seeds”; *Shebi'it* “the seventh year”; *Terumot* “heave offering or priestly rations”; *Ma'aserot* “tithes”; *Ma'aser Sheni* “second tithe”; *Hallah* “dough offering”; *Orlah* “produce of trees in the first three years after planting, which is prohibited”; and *Bikkurim* “first fruits.”

2. Mo'ed “Appointed Times”

Shabbat “the Sabbath”; *Erubin* “the fictive fusion meal or boundary”; *Pesahim* “Passover”; *Sheqalim* “the Temple tax”; *Yoma* “the Day of Atonement”; *Sukkah* “the festival of Tabernacles”; *Besah* “the preparation of food on the festivals and Sabbath”; *Rosh Hashanah* “the New Year”; *Ta'anit* “fast days”; *Megillah* “Purim”; *Mo'ed Qatan* “the intermediate days of the festivals of Passover and Tabernacles”; *Hagigah* “the festal offering.”

3. Nashim “Women”

Yebamot “the levirate widow”; *Ketubot* “the marriage contract”; *Nedarim* “vows”; *Nazir* “the special vow of the Nazirite”; *Sotah* “the wife accused of adultery”; *Gittin* “writs of divorce”; *Qiddushin* “betrothal.”

4. Neziqin “Damages or civil law”

Baba Qamma, *Baba Mesi'a*, *Baba Batra* “the first gate, the middle gate, the last gate,” (devoted to civil law, covering damages and torts, then correct conduct of business, labor, and real estate transactions); *Sanhedrin* (institutions of government; criminal penalties); *Makkot* “flogging”; *Shebu'ot* “oaths”; *Eduyyot* (a collection arranged on other than topical lines); *Abodah Zarah* (rules governing dealings with Gentiles); *Horayot* (rules governing improper conduct of civil authorities). *Abot* is generally located in the fourth division.

5. Qodoshim “Holy Things”

Zebachim (everyday animal offerings); *Menahot* (meal offerings); *Hullin* (animals slaughtered for secular purposes); *Bekhorot* “firstlings”; *Arakhin* (vows of valuation); *Temurah* (vows of exchange of a beast for an already consecrated beast); *Keritot* (penalty of extirpation or premature death); *Me'ilah* “sacrilege”; *Tamid* (the daily whole offering); *Middot* (the layout of the Temple building); *Qinnim* (how to deal with bird offerings designated for a given purpose and then mixed up, not a topical exposition but a set of problems to be solved).

6. Tohorot “Purity”

Kelim (susceptibility of utensils to uncleanness); *Ohalot* (transmission of corpse-uncleanness in the tent of a corpse); *Nega ‘im* (the uncleanness described at Lev 13–14); *Parah* (the preparation of purification-water); *Tohorot* (problems of doubt in connection with matters of cleanness); *Miqva ‘ot* “immersion-pools”; *Niddah* “menstrual uncleanness”; *Makhshirin* (rendering susceptible to uncleanness produce that is dry and so not susceptible); *Zabim* (the uncleanness covered at Lev. 15); *Tebul-Yom* (the uncleanness of one who has immersed on that self-same day and awaits sunset for completion of the purification rites); *Yadayim* (the uncleanness of hands); *‘Uqsin* (the uncleanness transmitted through what is connected to unclean produce).

The Talmud’s program: From topical traditions to coherent system

Of the two Talmuds, the Talmud of the Land of Israel of ca. 400 C.E. and the Babylonian Talmud of 600 C.E., the latter is by far the more important, and when people speak of the Talmud, they mean only the Babylonian Talmud. The authors of the Gemara or Talmud in commenting on the Mishnah exercised a great deal of taste and independent judgment in their topical program, ignoring nearly half of the Mishnah’s tractates altogether as well as vast stretches of Scripture. In the Talmud the Mishnah’s cases are transformed into rules and the rules are shown to be coherent with the whole forming a massive, cogent construction of principles embodied in cases. In choosing what requires attention and by imposing its own program, the Gemara forms the received components of the Torah into a statement of its own.

The Gemara, produced in Babylonia beginning in 200 C.E. and concluded in ca. 600 C.E. is a commentary on thirty-seven of the sixty-three tractates of the Mishnah. It contains teachings produced among the heirs of the Mishnah who lived both in the Land of Israel and in Babylonia, but it was brought to closure in the province of Babylonia near present day Baghdad then under Iranian (Sasanian) rule. Jews had lived there in numbers for more than a thousand years stretching back to the time of Jeremiah and the destruction of the first Temple of Jerusalem in 586 B.C.E. The Gemara brought the Mishnah “down to earth” by focusing attention on the application of the laws that continued to pertain in the new environment following the destruction of the second Temple, the Mishnah’s laws found in the second, third, and fourth divisions—Appointed times, Women, and Damages.* At the same time, it systematically expounded the fifth division, on Holy Things, the Temple offerings and the upkeep of its building, in the conviction that the study of the laws of sacrifice would prepare for the day when the rites would be renewed—when the people Israel were restored to the Land of Israel.

*The Talmud of the Land of Israel treats the first through the fourth and ignores the fifth and sixth divisions

What happens to the Mishnah in the Talmud of Babylonia

The Bavli first of all clarifies the language and wording of the Mishnah’s law. Second, it asks about the foundations in the written Torah (Scripture) for the laws of the Mishnah that are set forth without scriptural proof-texts. The Mishnah in contrast only rarely cites scriptural proof-texts for its propositions. Third, the Bavli introduces traditions of laws on

the topics treated by the Mishnah that are not contained within the Mishnah. These external traditions, memorized as authoritative along with the Mishnah, are compared and contrasted against the formulations of law found in the Mishnah. Fourth, it extends to the principles of the cases and episodic rules or laws contained in the Mishnah, that is, it identifies the general rules that are exemplified in the Mishnah's particular cases and investigates the consistency of the application of those principles to other topics. Fifth, it encompasses topical expositions on theological themes and on problems of exegesis of Scripture. These commonly enrich the presentation of the legal program by supplying a theological context for the law. Sometimes these expositions of law, theology, and passages of Scripture stand independent of the normal exposition of the law and only by inference affect the reading of the law.

The Mishnah is read by the Talmud as a composite of discrete and essentially autonomous rules, a set of atoms, not an integrated molecule, so to speak. In so doing, the Bavli obliterates the most striking formal traits of the Mishnah itself. The Mishnah as a whole and its complete statement of an earlier viewpoint no longer exists in the Talmud. What is offered in its stead? The answer is a statement, which, on occasion, recasts details into generalizations encompassing a wide variety of other details across the gaps between one tractate and another. This immensely creative and imaginative approach to the Mishnah vastly expands the range of discourse. The consequence, however, is to deny to the Mishnah both its own mode of speech and its distinctive and coherent message.

The method of the Talmud: Logical analysis and the dispute

The Mishnah assembles masses of conflicting opinion, and the Gemara (Bavli) is laden with disputes. Contention and debate serve a principal purpose in expounding the Torah. Disputes about the law ground matters in a thoroughly-examined foundation of applied reason. In the Talmud disputes—not merely implicit inconsistency in viewpoint but articulated statements of disagreement or alternative choices of interpreting a common text—seem to dominate discourse. In fact, however, they form a medium of expressing coherence. Conflicts between named rabbinic authorities underscore the prevailing consensus about fundamental truth. Indicators of concurrence in deep structures of thought abound. For instance, common denominators among successive readings of a single problem are properly situated in perspective. What is subject to dispute underscores that which sustains an iron-clad consensus. Diverse instances of the same proposition or various concrete particularizations of the same abstract generalization concur. This apparent indeterminate triviality highlights the unstated but implicit fundamental dogma of theology and law alike.

First, disagreements concern secondary and tertiary issues. They therefore reinforce the primary norm by identifying as moot only the trivial details. Thus the generative propositions of the law, tractate by tractate, as well as those of theology, composite by composite, are never called into question by named parties to a dispute. Nor are they subjected to conflicting opinion. When we reach the foundations of a halakhic tractate, its principles and problematics, we encounter a consensus beyond all dispute.

Second, alternatively, halakhic disputes may articulate unresolved conflict over generative principles. Sometimes, in the presentation of topics of the law, disputes not only indicate the range of consensus but bring to expression conflicting alternatives, theories that claim

equal validity but contradict one another. In that case, disputes form a medium for the hermeneutics of the topic, not only outlining what lies beyond all conflict but also legitimating conflicting readings of it.

Third, as yet another trait of disputes, in some presentations of the law and in all presentations of theology where disputes occur, disputes simply gloss details in the application of accepted principles. They form a part of the exercise of legal or theological exegesis, filling in gaps with alternative facts. Where the consensus of the law is firm and its articulation determinate, these disputes serve only to clarify minor matters.

When and why the Bavli came to closure

The Gemara quotes sayings of Rabbinic sages from the conclusion of the Mishnah in ca. 200 C.E. up until about 600 C.E. But though it draws upon ready-made compositions, the Gemara as we know it is the work of those who ultimately put together the received traditions of four hundred years of study into a coherent statement. The uniform program that governs the compositions of the Gemara devoted to the Mishnah and its law, the fixed pattern of rhetoric that prevails, and the consistency, cogency, and economy of the whole, all point to a work of a single, final generation, guided by a coherent policy. Whatever received writings were utilized entered the composite composition on the terms defined by that final generation. The ultimate work of recasting the received traditions and the prior documents and then forming them into a coherent composition was accomplished—had to have been accomplished—by the generation that imparted cogency to the finished document. That explains why the Gemara is cogent, well-organized, purposeful, and why it treats many topics but makes the same points on all of them. The result could accommodate many later additions. Intensive work on the text, following the earlier guidelines, continued until about the foundation of Baghdad in 750 C.E.

From 600 to 1000 C.E.: The Talmud attained hegemony over Judaism

Over the next three centuries after its closure, from 600 to ca. 1000, the Talmud became the normative legal and theological authority for Jews in much of Europe and the Middle East, in both Islamic and Christian lands. From that time onward it would be studied continuously and formed the material of an unbroken intellectual tradition. All contemporary Judaisms refer to the Talmud as a principal source of Judaic law and doctrine. In particular for the vast, diverse Torah-camp of Orthodox Judaism, it is the final authority and source of norms, the starting point for all legal and theological reflection. Today, as for fourteen centuries, it is rigorously studied in the way its framers intended. Now it is studied also in the secular academy and, as in the present anthology, it forms an artifact of general culture, an example of rigorously and rationally thinking through the imperatives of the social order.

The evidence attesting to the completed form of the Bavli after 600 C.E. are found in substantial citations of and comments upon passages of the Talmud. The earliest manuscript evidence of its existence derives from fragments found in the Cairo Geniza, a treasure-trove of Jewish medieval manuscripts dating from the tenth century.* In this connection the noted Geniza-scholar Stefan C. Reif states, “Many of the Talmudic folios from the Genizah are no later than the eleventh and twelfth centuries, and a minority are

undoubtedly earlier.”** No other writings make specific reference to the Talmud as a discrete, literary work. That places the first coherent textual testimonies of the document as a whole at a distance of three or four centuries from the time we assume the Talmud reached closure. Accordingly, it is exceedingly difficult to trace the history of the document as a finished work prior to its closure or afterward for some four centuries.***

*See Stefan C. Reif, *A Jewish Archive from Old Cairo* (Richmond: Curzon, 2000), 127–37. He states in a personal letter dated August 4, 2003, “There are undoubtedly some texts that predate the tenth century, maybe even by a couple of centuries. See M. Bregman in *Tarbiz* 52 (1983):201–22.”

** Reif, 128

*** But we cannot ignore that the Bavli may have been transmitted orally for some time before it was written down and attested in manuscripts. Professor Robert Brody, Hebrew University, provides the following: “The earliest date at which the Talmud is reported to have been written down is mid-8th century (see *Sefer ha-Ittim*, 267); I favor a date about the middle of the 6th century for its final redaction, and so wrote in my article “*Sifrut ha-Geonim veka-Teqst ha-Talmudi*” (*Mehqerei Talmud* I, 280) that approximately 200–250 years appeared to have elapsed during which the Talmud was transmitted exclusively orally.” See Robert Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven: Yale University Press, 1998), 156–61.

Why does the Talmud of Babylonia command a hearing?

The Talmud records an entire culture, so that in places far away from the place of its origin and long after its publication, people can find in its pages the design that enables them to build a new world in the model of the old. It is a commonplace understanding that out of the pages of James Joyce’s *Ulysses*, the Dublin of the time of which he wrote can be reconstructed. So too, the Jewish people for fourteen hundred years have found in the Talmud a virtual and portable homeland. Lacking a physical homeland from 70 C.E. when Jerusalem was lost, to 1948, when the state of Israel once more came into being, the community of Judaism found in the Talmud of Babylonia the source and model of the culture for later ages and distant lands. The faithful of Judaism consult it to find the law and theology that define their way of life and worldview. Commentaries upon its texts, codes commencing with its laws, and interpretations of its statements form the staple of the classical schools of Judaism. The Talmud is important in Judaism because it presents that religion’s law and theology, transforming the Torah of Sinai into the how and why of everyday life. Its processes of thought shape the culture of Judaism, and its propositions, its legal and theological program.

But why does the Talmud command a hearing beyond the limits of the boundaries of Judaism? It is because it records the working of practical reason and applied logic in the construction of a social order and systematically in detail shows how to accomplish that construction. As a foundation-document for a utopian construction that can be realized in everyday life, it claims its place among the most successful pieces of literature of social imagination in the history of humanity. Its success lies in its enduring influence over the very community that from the beginning its authors wished to address.

Common to world-constructing religions is a point of interest that transcends the paramount position each enjoys in its parochial context. What those classics of Christianity, philosophy, as well as those of Islam or Buddhism or Hinduism, share is the power to compel response for many centuries after their original presentation. If we wish

to learn about the power of compelling ideas to shape the historical culture of humanity, we do well to turn to the example of the Qur'an, for example, received by Muslims as God's word and also as source of public policy, or to the Bible—Old and New Testaments—that have been responded to in much the same way by Christians of every generation including our own.

So too, in an unbroken chain, the Talmud has exercised the power to impart its ideals of sanctification and virtue, both moral and intellectual. It has shaped generations of Israel into a single intellectual model—one of enormous human dignity. Its special point of interest should not be missed. It is the capacity to form out of details a coherent picture, and to make the particular into the exemplary and suggestive. That power of generalization and the resulting system-construction concerns both society and intellect, the public and the personal. The Talmud defines the model of what it means to be a human being, made in God's likeness, after God's model. That model embodies all that is rational and refined.