

HALAKHAH IN TANNAITIC LITERATURE,  
AS AFFECTED BY THE DESTRUCTION  
OF THE SECOND TEMPLE

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## DIGEST

The year 70 C.E. brought with it one of the turning points in Jewish history: the destruction of the Second Temple. The introductory section of this paper deals with the historical events during and immediately following this most monumental event. This is followed by the Agadic or non-legal changes in Jewish thinking brought about by the destruction of the Second Temple. Here the question of why the Temple was destroyed is taken up in great depth by the rabbis. They also provided substitutions for the defunct sacrificial system, such as prayer and charity.

The main portion of the paper deals with the changes in Halakhah or legal material in Tannaitic literature because of the destruction of the Second Temple. First, the six major divisions of the Mishnah are analyzed with respect to the changes. In the division Zeraim (Seeds) we find changes in the tithing system and other donations. Sacrifices undergo a radical alteration, as we see in the division Moed (Set Feasts). Also in this division we find further changes in the tithing system. There are also a series of Halakhic changes instituted by Rabbi Johanan b. Zaccai concerning the removal of emphasis on Jerusalem after its destruction. A major innovation is the emphasis placed on the Ninth of Ab as a day of national mourning for both the First and Second Temples. In the division Nashim (Women) a number of changes in the private lives of the

people because of the Destruction are discussed. We also find references in Nezikin (Damages) as well as a number of extra-Mishnaic passages of parallel and supplementary nature in the Tosefta.

The Halakhot of Rabban Gamaliel II take up a special chapter in this paper for he is the example par excellence of a rabbi's response to the problems the Jewish people faced after 70 C.E.

In the summary section there is an ordering of the relevant Halakhot according to three headings: "Offerings," "Holy Days," and "Personal and Public Practices."

Finally, the general conclusion is reached that the changes in the Halakhah were couched in the language of temporality and impermanence so as to include the hope that some day the former laws would again be relevant and supercede the newly-established laws.

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HALAKHAH IN TANNAITIC LITERATURE,  
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I. Introduction

In the seventieth year of the common era the Temple in Jerusalem was destroyed. This event marked the end of the Second Jewish Commonwealth and with it the last vestiges of a sovereign Jewish State were removed until the Twentieth Century. The actual destruction is chronicled for us by Josephus:

"As the seige of the capital in the year 70 began on the day of the Passover sacrifice (Wars V, 13, 7; VI, 9, 3), to which naturally many thousands of pilgrims had arrived from all parts of the country, the number of the besieged was very great. Among them were many from beyond the Euphrates and other foreign lands (Dio Cassius, 66, 4). 1,100,000 men perished during the seige. 97,000 were taken captive (VI, 9, 3), of these only 40,000 were preserved (8, 2), all citizens of Jerusalem (8, 2), the rest were sold for slaves, some sent into the mines in Egypt (9, 2), others distributed among the provinces for circuses."<sup>1</sup>

For the Jewish people the entire holocaust was epitomized with the destruction of the Temple in Jerusalem. Graetz tells us that the Roman general Titus summoned a council of war to decide on the fate of the Sanctuary. It was decided to take the Temple but not to destroy it. But on the ninth day of Ab during the seige one of the Romans:

"...seizing a burning firebrand, mounted upon a comrade's

shoulders, and flung his terrible missile through the so-called golden window of the Temple. The fire blazed up; it caught the wooden beams of the sanctuary, and rose in flames heavenwards. At this sight the bravest of the Judaeans recoiled terror-stricken. Titus hurried to the spot with his troops, and shouted to the soldiers to extinguish the flames. But no one heeded him. The maddened soldiers plunged into the courts of the Temple, murdering all who came within their reach, and hurling their fire-brands into the blazing building. Titus, unable to control his legions, and urged by curiosity, penetrated into the Holy of Holies."<sup>2</sup>

Two awful questions were not in the hearts and minds of all Jews: *וזה* - "why?" and *יחס* - "where from here?" The question of why the Temple was destroyed was to be handled by the rabbis of the time through the use of Midrash. We find that introspection and much self-searching became dominant themes in the homilies of the age. "In the period following the destruction, the quality of self-examination and the concomitant acknowledgement of guilt are dual strains that find frequent expression in Rabbinic utterances."<sup>3</sup> The rabbis thoroughly analyzed the sins of Israel. Midrashim are found in which a defiled ritual instrument or sexual immorality or dishonest business practices, etc., are given as direct causes for the destruction of the Temple.<sup>4</sup> There were also many comparisons drawn between the First and Second Temples in that just as God had to destroy the First Temple so too the

Second Temple was predestined to be destroyed.<sup>4a</sup> In any event, the question of "why" occupied the minds of almost all of the rabbis in the generation succeeding the destruction of the Second Temple.

It is, however, with respect to the second question of *שם* that this paper will mainly deal. We will first briefly discuss the historical events after the fall of the Temple. This will be followed by a sketch of the Agadic view of the changes brought about by the events of 70. Finally, we will delve into numerous sources in Tannaitic literature which reflect changes in the Halakhah brought about by the destruction of the Second Temple.

A. Historical Events Immediately After the Fall of the Temple

The dominating figure of the period just after the destruction of the Temple is Johanan ben Zaccai. The account of his escaping from Jerusalem in a coffin carried by his pupils Eleazar and Joshua has been often retold. The crucial point is that he received permission from Titus to establish a school at Jabneh (Jamnia) where he was able to form "...a sort of Synhedrion in Jabneh, of which he was at once recognized as the President."<sup>5</sup> According to Graetz: "The Synhedrion now bore the name of the Beth-Din (Court of Justice)-- the President was called Rosh-beth-din, and was honored by the title of Rabban (general teacher)."<sup>6</sup> Johanan ben Zaccai made a number of changes in the Halakhah which will be discussed in



full later in this paper. However, it is crucial to note here that he did dissociate the functions of the Beth Din from the site of the Temple and transferred these functions to Jabneh. Thus "...without any opposition whatsoever, Jabneh by this means took the place of Jerusalem, and became the religious national center for the dispersed community."<sup>7</sup> Following Johanan, the names of Gamaliel, Joshua and Eliezer come to the fore as important personages. Johanan ben Zaccai died about 80 C.E. and his place as the Nasi was taken by Gamaliel. During his term as Nasi he instituted many new Halakhot. But his enactments did not go unchallenged. His two primary opponents were Joshua ben Chanania and Eliezer ben Hyrcanus, Gamaliel's own brother-in-law. Finally the opposition forces succeeded and Gamaliel was deposed and his place was taken by Elazar ben Azariah. However, in the end Rabban Gamaliel was returned to his office and Elazar ben Azariah was made head of the court. It must be added that along with Jabneh there were also schools of the rabbis in Lydda, one of which belonged to Rabbi Eliezer.<sup>8</sup> Thus we find that although the destruction was great, thousands of men and women were saved and remained in Judea. Buchler tells us that in the time of Rabbi Akiba there were at least twenty cities of importance in Judea. This, he says, conclusively proves that Judea was still fairly populated after the year 70.<sup>9</sup>

B. An Agadic View of the Changes Brought about by the Destruction of the Second Temple

The rabbis displayed unmitigated grief in their initial reaction to the Destruction. We find in the Mishnah a quotation of R. Eliezer ben Hyrcanus that the standards of the times had been changed due to the resulting havoc and unsettlement caused by the Destruction.<sup>10</sup>

"From the day the Temple was destroyed the sages have become like scribes, the scribes mere teachers, the teachers like the ignorant masses and the condition of the masses increasingly worsens and no one pays any heed. Upon whom shall we depend? Upon our Father in Heaven."<sup>11</sup>

In general, the idea that every new misfortune that came upon the land of Israel was to be attributed to the Destruction is reflected in the Agada:

"Rabban Simeon b. Gamaliel says in the name of R. Joshua: Since the day that the Temple was destroyed there has been no day without its curse; and the dew has not fallen in blessing and the fruits have lost their savour. R. Jose says: The fruits have also lost their fatness."<sup>12</sup>

A teacher of the following generation, Rabbi Eleazar said:

"From the day the Temple was destroyed an iron wall separate Israel and their Father in Heaven."<sup>13</sup>

The phrase "From the day the Temple was destroyed" was to be used quite often for centuries to explain ensuing calamities and disasters.

Further there is the idea of Divine remorse at the

destruction of the Temple with the additional thought that Israel was still in God's favor.<sup>14</sup> Thus the corollary presented itself: through suffering for previous sins and by a thorough moral regeneration Israel will be restored to its pristine glory and will enjoy the former relationship which it knew with God. The converse of the feelings of grief and guilt reflected by the rabbis was the spirit of hope for the restoration of the Temple. In the area of Agada the nostalgia the people had for the Temple is seen in this Midrash:

"The rabbis said: He who did not see the rejoicing at the ceremony of the Water-Drawing never saw rejoicing in his life. He who never saw Jerusalem in its glory never saw a beautiful city. He who never saw the Temple while it stood, never saw a truly magnificent structure."<sup>15</sup>

But along with the hopes for a restoration an immediate substitute for the sacrifices had to be found:

"Lest Israel say: 'In the past we offered sacrifice and engaged in the study of them. Now that there are no longer sacrifices, shall we study them?' God said: 'As long as you study then I account it unto you as though you had offered them.'<sup>16</sup>

Even for those who could not engage in study, the rabbis stressed the great value of proper regard for the man of learning.

"Any man who extends his hospitality and support to men of learning, it is accounted unto him as though he had

sacrificed continual offerings."<sup>17</sup>

Substitutes for the Temple were provided in several areas, such as study and charity. However, it was the Synagogue which served as the primary agency by which the religion of the Jews was fostered and perpetuated. We find the following Baraitot declaring:

"It is prohibited to dwell in a city where there is no synagogue" and "Anyone who has a synagogue in his city and does not attend it to pray is called a bad neighbor."<sup>18</sup>

We find that the efforts of the rabbis after the destruction of the Temple were to bestow upon prayer in the synagogue the same authority as the Temple service and "...to stamp it with the impress of regularity, to make it obligatory upon all Israel and so render the synagogue the acknowledged replacement of the Temple...."<sup>19</sup>

We have briefly sketched an Agadic view of some of the changes brought about by the events of 70. The initial reaction of the people was profound grief and a feeling of doom. The rabbis tried to counter this with the message that God had not utterly abandoned Israel. After the initial grief was dispelled, the hope for a restoration of the Temple took hold. This was especially true from the year 70 to the time of Hadrian.<sup>20</sup> The spiritualizing of the sacrifices became a paramount issue and topic of Midrashim for the Agadists. Thus prayer became the mode of approach to God. As a conclusion to his work, Ross notes that "...nowhere do

the Rabbis picture God as offering sacrifices, but it is stated: God prays (Berakhoth 7a).<sup>21</sup> We turn now to the changes in the Halakhah as brought about by the destruction of the Second Temple bearing in mind that many of the changes in the non-legal portions of the writings of this people are also reflected in the legal sections of the literature. To reiterate, the references quoted are from Tannaitic sources only, as they reflect as closely as possible the immediate reaction (until the year c200 C.E., when the Mishna was compiled) of the rabbis in the area of Halakhah.

## II. "Since the Temple was Destroyed..."--as a Cause for Change of Halakhah in Tannaitic Literature

### A. References in Zeraim (Seeds)

We begin our study of the references of the effects of the destruction of the Second Temple on Halakhah in Tannaitic literature by delving into the Mishnah. We shall analyze the references in the order they appear according to the six major divisions of the Mishnah. In truth, in a majority of instances there seems to be no way to establish the chronological order of the various changes that came about in the Halakhah.

In the tractate Ma'aser Sheni (Second Tithe) we find two major references to changes in the Halakhah after 70. The first is Chapter 5 Mishnah 2:

"The fruit of a vineyard in its fourth year had to be brought up to Jerusalem of a distance up to a days journey from Jerusalem. And what was its limit--Ayeleth to the South, Akrabah to the North, Lod to the West and the Jordan to the East. And when the fruits became too many they decreed that they could be redeemed near the wall; and there was a condition on this matter that whenever they wished the matter should revert to its former state. R. Jose says: "this was the condition after the Temple was destroyed, and there was an understanding that when the Temple should be rebuilt the matter was to revert as aforetime."<sup>22</sup>

Here we see that the rabbis "...abolished the old custom of carrying the fourth year products of the neighborhood vineyards for consumption to Jerusalem."<sup>23</sup> However, as it is

pointed out further on in this Mishnah, R. Jose, who was a contemporary of Akiba and Tarphon, emphasized that the changes were only conditional and when the restoration of the Temple came about the former practice would be reinstated. We see that the hope for restoration here ~~causes~~ the new legislation to assume only a temporary nature.

In Mishnah 9 of Chapter 5 we take up the whole matter of tithing and its role after the destruction of the Second Temple. Most of the material on this question has been thoroughly discussed in a Rabbinic thesis by I. M. Levey entitled "The Observance of the Tithes After the Destruction of the Temple." In general he states "...there is yet sufficient evidence in the literature of the Talmud to establish the fact that the tithes were observed in post-exilic times by vast numbers of the population, though not always in minute conformity to the law."<sup>24</sup>

In Ma'aser Sheni 5:9 we are told that Rabban Gamaliel and the Elders separated the tithes while traveling on ship. Rabban Gamaliel gave his tithe of the produce to R. Joshua, who was a levite, and his poor man's tithe he gave to R. Akiba, who was the provider of the poor. R. Joshua, in turn, gave the tenth of his tithe to R. Elazar ben Azariah, who was a priest.<sup>25</sup> The reason, according to Ross, why the rabbis were scrupulous in their observance of the tithes is once again seen in the constant hope for the restoration of the Temple.<sup>26</sup> Levey cites a number of Tosefta Passages showing the observance

of the tithes by the people even in times of the most deplorable economic pressure.<sup>27</sup> He concludes that tithes were being observed--at least by some--from the period immediately following the destruction of the Temple through the fifth Amoraic generation in Palestine.<sup>28</sup> Therefore we may conclude with Buchler that the laws concerning priestly dues and tithes were observed in spite of changed conditions of property owing to the events of 70.<sup>29</sup> Thus even though the sacrificial system came to an end with the destruction of the Temple "...the tithes were paid to the descendants of Aaron, the corners of the field were left standing for the poor, and every three years the poor-tithes were paid."<sup>30</sup>

We find in another tractate of Zeraim, that of Bikkurim, the following Mishnah (2:3):

"There are rules that apply to priest's-due and tithe but not to first-fruits: for priest's-due and tithe forbid what is on the barn-floor; and they have a definite prescribed quantity; and they must be followed in the case of all produce whether the Temple exists or not....There are rules that apply to priest's-due and to the tithe but not to first-fruits."<sup>31</sup>

In other words, the heave-offering and the second tithe<sup>32</sup> must be set aside whether or not the Temple is standing. But the first-fruits are donated only if the Temple stands. Bertinoro quotes the verse from Deut. 26:4: "And set it down before the altar of the Lord thy God"--and he says that because there is no altar therefore there can be no first-



fruits. We see, therefore, that certain of the donations of the people were perpetuated while others ceased with the destruction of the Second Temple.

#### B. References in Moed (Set Feasts)

In this second major division of the Mishnah we find the greatest number of illustrations of changes in the Halakhah after 70 C.E. We first shall discuss two examples from the tractate Pesachim and their explication, in turn, by Alexander Guttman in his article "The End of the Jewish Sacrificial Cult." M. Pesachim 7:2, in part, tells us:

"They may not roast the Passover offering on a skewer of metal or on a grating. R. Zadok said, 'It once happened that Rabban Gamaliel said to Tabi his slave, 'Go forth and roast for us the Passover offering upon the grating.'"<sup>33</sup> Guttman, in commenting upon this Mishnah, states: "While Yohanan ben Zaccai's successors displayed no negative attitude towards sacrificing, they made no effort to revive the practice. The only Nasi who may have sacrificed the paschal offering after 70 C.E. was Gamaliel II."<sup>34</sup> Guttman takes up the entire question of why the Jewish sacrificial system ended with the destruction of the Temple. Contrary to the notion that predicates sacrifices with the existence of the Temple he declares:

"Regarding the sacrificial cult after 70, at this point, the following facts are significant: one, the rabbis do not proclaim a law or refer to one prohibiting sacrificial cult

after the destruction of the Temple, and, two, they do not ask for its continuation. Instead, they discuss the conditions under which sacrifices may be offered after the fall of the Temple. This means that the sacrificial cult was made optional."<sup>35</sup> In brief, Guttman gives three reasons for the termination of the sacrificial cult, the destruction of the Temple being only one of the reasons. "A second was the reluctance of the rabbinic leadership to revive the power of the priestly caste. A third was the change in the policy of the Romans who, having experienced a major disappointment when the High Priest, their appointee, proved to be worthless to them in the hour of their need, thereafter appointed no more High Priests."<sup>36</sup> Thus political factors played a major role in the abolition of the sacrificial cult. The precedent had been previously that "...the cessation of the sacrificial cult was not an inevitable consequence of the destruction of the Temple..."<sup>37</sup>

The second example from Pesachim further implies that at the time this Mishnah (10:3) the Passover sacrifice was no longer offered.<sup>38</sup> The Mishnah, in part, reads:

"And when the Temple existed they used to bring before him the bones of the Passover offering."<sup>39</sup>

Guttman comments upon this Mishnah:

"The paradox seems to exist that the rabbis do not prohibit the offering of sacrifices and know of instances of the cult in their own day which they do not condemn,

but, on the other hand they presuppose halakhically the non-existence of the sacrificial cult."<sup>40</sup>

We have previously discussed the fact that the first-fruit offering was contingent upon the existence of the Temple. In Sheqalim 8:8 we are again told this plus additional statements:

"The half-shekel dues and the first-fruits were brought in only during the existence of the Temple: but the corn-tithe, the cattle-tithe and firstlings are to be rendered whether the Temple exists or not."<sup>41</sup>

Bertinoro attempts to explain the reasoning behind the prohibition of the Shekel dues and first-fruit offerings. He says that there are no shekel dues because there is no Korban. There is no first-fruit offering because there is no Temple. However, with respect to the corn-tithe, for example, he says that the purity of the land was not changed with the destruction of the Temple.

This Mishnah, according to Guttman, gives crystal clear evidence for the cessation of the public sacrifices after 70 C.E. He stresses: "The ruling that the Sheqel law does not apply after the fall of the Temple implies that no public sacrifices were offered at that time since sacrifices were purchased with the Sheqel dues."<sup>42</sup>

Next in the order of the tractates in the Mishnah is the reference in Sukkah 3:12. However, the crux of this Mishnah is repeated later in Rosh Hashanah 4:3 and will be discussed

when we arrive at this latter Mishnah.

In the first chapter of the tractate Rosh Hashanah we have two references which deal with changes in the Halakhah because of the destruction of the Temple. Chapter 1:3 tells us that the messengers, who would calculate the new moon, would go forth at certain times during the year. The Mishnah ends:

"And while the Temple still existed, they went forth also in Iyyar, because of the Minor Passover ( *לפני נסך* )."<sup>43</sup>

The point is that on *לפני נסך* the passover offering was offered by those who could not observe this on the fourteenth day of Nisan<sup>44</sup> and now that the Temple was destroyed the sacrifice, in turn, was halted. Thus there was no longer a need to send forth messengers for the Minor Passover.

The very next Mishnah reads:

"Because of two months could they (the witnesses) profane the Sabbath; because of Nisan and Tishri, for on them messengers went forth to Syria and by them the Holydays were determined. And when the Temple still stood they could profane the Sabbath indeed for all of them (the twelve months of the year) for the correct regulation of the offering (i.e., Musaf offering)."<sup>45</sup>

Thus the latitude of the messengers was restricted with the destruction of the Temple: since there were no longer sacrifices the only times they could profane the Sabbath (that is, if the witnesses saw the New Moon on the eve of the Sabbath they were permitted to walk even on the Sabbath more than a "Sabbath limit"<sup>46</sup>) only for the sake of the two months

of Nisan and Tishri, which after 70 C.E. were sufficient to fix all the required dates.<sup>47</sup>

We next come to a series of Halakhic changes instituted by Rabbi Johanan ben Zaccai. We have previously discussed his flight from Jerusalem to Jabneh during the siege of the former city. Also it has been noted that he attempted to substitute Jabneh in place of Jerusalem as the center for the newly dispersed Jews. The attempt to substitute the authority of the Sanhedrin in Jabneh for Temple authority is seen in the following examples from tractate Rosh Hashanah, Chapter Four:

Mishnah two: "When the Holyday of the New Year fell on the Sabbath, they used to sound (the Shofar) in the Temple, but not in the provinces. After the Temple was destroyed, Rabban Johanan ben Zaccai ordained that they should sound wherever there was a Court. R. Eliezer said, Rabban Johanan ben Zaccai only instituted this for Jabneh itself. They (the Sages) replied to him, "It is all one whether it was Jabneh or any other place where the Court was."<sup>48</sup>

In explanation of this Mishnah we see that Rabbi Johanan ben Zaccai, in order to make the change of authority from Jerusalem to Jabneh more authoritative, decided to invest the new center with the old privilege enjoyed by Jerusalem thus decreeing that there, too, the ram's horn be blown on the New Year falling on the Sabbath.<sup>49</sup> The latter part of this Mishnah is explained by Bokser in the following way: "R. Eliezer submitted to this decision (of blowing the Shofar in

in Jabneh when the New Year fell on the Sabbath) of his teacher. After the death of R. Johanan, when it became apparent that Jabneh might also have to be abandoned, and the center of Judaism located elsewhere, the colleagues of R. Eliezer declared themselves ready to extend the old privilege of Jerusalem to the new center. This time, R. Eliezer dissented and opposed the suggestion of change.<sup>50</sup> But the Sages overrule R. Eliezer and stress that it is not the place, but the legislative body, the Beth-Din, that will determine the trend of Judaism.<sup>51</sup> The Jabneh scholars thus declared themselves ready to shift the privileges that Jabneh had acquired, should Jabneh also have to be abandoned for some new center.<sup>52</sup> R. Eliezer opposed this. "He did not challenge the reform of R. Johanan b. Zaccai--that was now part of tradition which he accepted--, but he declared himself ready to oppose any further shifting of the religious privileges from Jabneh, even though the center of Jewish life should have to be transferred elsewhere...."<sup>53</sup>

In the third Mishnah of this chapter we read:

"Aforetime the lulav as used (or carried) in the Temple for seven days and in the provinces for one day. After the Temple was destroyed, Rabban Johanan ben Zaccai ordained that the lulav should be used for seven days in the provinces, in remembrance of the Temple, and on the whole of the Day of the Waving, it should be altogether forbidden."<sup>54</sup> The same Mishnah is found in Sukkah 3:12. The key point is to be found in the phrase "Zeker La-Mikdash" which points to ben Zaccai's endeavor

to have the people order their lives as if the Temple were still in existence by perpetuating the old customs. But now they were to be practiced in the provinces instead of in Jerusalem.<sup>55</sup>

A final example from the fourth chapter of the tractate Rosh Hashanah is Mishnah four which, in part, reads:

"Beforetime they used to accept evidence about the New Moon throughout the day (of the New Year)....They then ordained that they should not admit (witnesses) after the Minchah period....After the Temple was destroyed, Rabban Johanan ben Zaccai enjoined that they should accept evidence about the New Moon all day long."<sup>56</sup>

To reiterate what has been mentioned previously, the temporary nature of many of the changes in the Halakhah due to the destruction of the Second Temple is quite prevalent in Rabbinic literature either coinciding with or just after the compilation of the Mishnah. Thus we note that in the Tosefta with respect to the matter of the announcement of the New Moon:

"R. Judah said, these things were inaugurated by Rabbi Johanan b. Zaccai upon the destruction of the Temple and when the Temple will be rebuilt they shall return to their former mode."<sup>57</sup> We may therefore infer from this that the word "change" did not have with it the meaning of permanence. Rather the phrase "necessary changes for the time being" more closely approaches the feelings of the rabbis in their attitude towards the Halakhah and the alterations made because

of the destruction of the Second Temple. These alterations, they believed, could just as quickly be re-altered to their former practice when the Temple was restored to its pristine glory.

In the following tractate titled "Ta'anith" ("Fasts") we find several interesting innovations. In chapter 4:6 we read, in part:

"Five calamities befell our ancestors on the seventeenth of Tammuz and five on the Ninth of Ab. On the seventeenth of Tammuz the Tables (of the Ten Commandments) were broken and the daily burnt-offering (the "Tamid") ceased...."58

Bertinoro explains that the reason why the Tamid ceased was because there were no lambs to sacrifice because the city was under siege. Guttman further goes on to explain that "... 'Ceased' here means that it never was restored for otherwise this would have been recorded, the Tamid being a very important public sacrifice."59

In the latter part of this Mishnah and in the following Mishnah (4:7) we deal with the Fast of the Ninth of Ab. Initially we read:

"On the ninth of Ab it was decreed against our forefathers that they should not enter into the Land (of Palestine), and the Temple was destroyed for the first time and the second time and Betar was taken, and the City (Jerusalem) was ploughed up. With the advent of Ab we should limit rejoicing."60  
The importance of the Fast of the Ninth of Ab as a day of



national mourning for the destruction of both Temples was greatly stressed by the rabbis. Nonetheless, the "Rabbis bent their efforts to make the day one of restrained remembrance rather than extravagant self-mortification."<sup>61</sup> However, as is seen by the phrase: "With the advent of Ab we should limit rejoicing," the doleful character of the day of the Ninth of Ab influenced Rabbinic opinion and caused it to view the whole month with suspicion and distrust.<sup>62</sup> In the following Mishnah (4: 7) we read:

"During the week in which falls the minth of Ab it is forbidden to cut the hair or wash one's clothes, but it is permitted on Thursdays in honor of the Sabbath. On the eve of the ninth of Ab one should not partake of two cooked dishes, nor should one eat meat or drink wine."<sup>63</sup>

However, we note in a Mishnah in tractate Pesachim 4:5 that blatant self-affliction was not encouraged:

"In any place where they are wont to do work on the ninth of Ab they may do so; wheresoever they are accustomed not to do any work they may not do any, but in all places scholars cease work (on the Ninth of Ab)."<sup>64</sup> Thus we find that the rabbis viewed the Ninth of Ab reasonably, attempting to invest it with a dignified type of mourning and therefore opposing suggestions that would smack of coarse self-punishment. They endeavored by way of the observance to perpetuate the remembrance of the Temple.<sup>65</sup>

Our final example from Moed comes from the tractate

"Mo'ed Qatan" ("Minor Festivals") and deals with the suspension of mourning due to the observance of a festival.

"R. Eliezer says, Since the destruction of the Temple the Festival of Weeks is like the Sabbath (and it does not interrupt the 'Shiva' period). Rabban Gamaliel says, The New Year and the Day of Atonement are like the Festivals (and cancel the remaining 'Shiva' days). But the Sages say, It is not according to the opinion of the one or the view of the other, but the Festival of Weeks is like the Festivals (regarding the 'Shiva' and the 'Shloshim') and the New Year and the Day of Atonement are like the Sabbath."<sup>66</sup>

In explanation of the above, Bokser states:

"This emphasis on the significance of sacrifices likewise explains R. Eliezer's position with regard to the status of the feast of Pentecost (Weeks) on a period of mourning. According to an ancient Halakhah, any one of the major festivals suspends the law regarding the seven day period of mourning. This applied not only to Passover and the Feast of Booths, which are of seven day duration, but also to Pentecost. In Temple days this was, of course, a logical rule, for with regard to the holiday sacrifices, Pentecost was also of seven day duration--one was permitted to offer them for the six days following the one day of Pentecost. The other scholars nevertheless continued this rule even after the destruction; they were apparently moved by the inherent importance of the occasion as one of the three major festivals. R. Eliezer

reckoned only with the factor of sacrifices. Since sacrifices were no longer offered, he maintained that Pentecost, like the Sabbath, suspends the period of mourning for only one day.<sup>67</sup>

However, it is to be emphasized that the Sages disagreed with both R. Eliezer and Rabban Gamaliel. The Festivals and the Day of Atonement remained in their consideration of the mourning period as they were before the destruction of the Second Temple.

#### C. References in Nashim (Women)

We find a number of references to the changes in the Halakhah due to the destruction of the Second Temple in the third major division of the Mishnah known as "Nashim." Most of the citations are to be found in the tractate "Sotah," both in the Mishnah and the corresponding Tosefta passages.

Our first reference, however, is from the tractate Nazir and is to be seen as endeavoring to maintain the institutions (in this case, the Nazir) connected with the Temple and which actually had lost their significance with the Destruction.<sup>68</sup>

"...Nahum the Mede said to them, 'If you had known that the Temple was (or was to be) destroyed would you have vowed to be nazirites!' They replied to him, 'No!' And Nahum the Mede released them. And when the matter came before the Sages they said to him, Anyone who made the Nazirite vow before the Temple was destroyed is a nazirite but if after the Temple was destroyed he is not a nazirite."<sup>69</sup>

Thus the matter of the vows of Nazirism was approached

with extreme caution with the probable hope that the situation would return to its former status with the rebuilding of the Temple.

We proceed now to the tractate Sotah and are confronted with a number of citations which have both Halakhic and Agadic import. In chapter 9:11 we read:

"When the Sanhedrin ceased to exist singing was discontinued at the wedding feasts, as it is said, 'They drink not wine with a song....'"<sup>70</sup>

One here notes several occasions in the Tosefta where there is mentioned specific deprivation of something as a token of memorial for the destruction of the Second Temple. In Tos. Sotah 15:12 we read:

"The Wise Men say that everyone must whitewash his house with whitewash and leave over a little bit as a remembrance of Jerusalem."

In the next passage (Tos. Sotah 15:13) is found:

"A man is to prepare all the needs of the meal and he is to leave over a little bit as a remembrance of Jerusalem."

Finally, we read:

"A woman is to make all her jewelry and leave over a little as a remembrance of Jerusalem. As it is written: 'If I forget thee, O Jerusalem.'" (Tos. Sotah 15:14)

We see from these passages the "...prevailing attitude that some signs of sad remembrance should be exhibited on joyous occasions, such as in the building of a house, or in feasting

or in the adornment of one's person in preparation for a pleasant event."<sup>71</sup> However, as has been emphasized before, moderation was the key word in all mourning for the Temple. There are a number of Agadot which attempt to combat ascetic and other self-abnegating trends.<sup>72</sup> In returning to Mishnah Sotah we read, in part, from 9:12:

"When the Temple was destroyed the 'Shamir' and the 'honeycomb of Tsophim ceased to exist....From the day that the Temple was destroyed there has been no day wherein there was no curse...."<sup>73</sup>

This Mishnah has been mentioned previously in our discussion of the Agadic view of the destruction of the Second Temple.

In 9:14 we read:

"During the Vespasian War they decreed against the crowns of bridegrooms and against the tambourine. During the War of Titus they decreed against the diadems of brides and that no man should teach his son Greek...."<sup>74</sup>

Thus what we here find is that during the height of the siege of Jerusalem it was felt that in view of the critical condition of the city it would be incongruous to permit the festivities of normal times to continue without some modification.<sup>75</sup> The latter part of this Mishnah tells us that during the last war, which is taken to mean either the end of the war of the destruction of Jerusalem or the revolt of Bar Kochba,<sup>76</sup> brides were not permitted to go forth in a palanquin (A special

bridal litter made of hangings and materials of a golden color).<sup>77</sup> But the rabbis permitted the bride to do this: thus the amount of restraint was kept to a minimum.

We have previously mentioned the final example in this series in tractate Sotah of changes brought about by the destruction of the Second Temple:

"R. Eliezer the Great says: Since the day when the Temple was destroyed the Sages began to act like school-teachers...."<sup>78</sup>

The character of R. Eliezer ben Hyrcanus has been carefully analyzed by Bokser in his book "Pharisaic Judaism in Transition." He distinguishes R. Eliezer from his contemporaries in the following way:

"But while the other scholars considered the destruction a great calamity and looked forward to a restoration, they, nevertheless, reckoned in a practical way with the new conditions and sought to recognize the non-sacerdotal observances as a self-sufficient formula of Jewish worship. R. Eliezer opposed this, maintaining that without the Temple an adequate Jewish religious life was impossible....R. Eliezer opposed any reorganization of Jewish worship that would detach it from the Temple."<sup>79</sup> Thus it is easy to understand why he painted such a gloomy picture of the general deterioration after the Destruction.

#### D. References in Nezikin (Damages)

We find one major citation in Nezikin with respect to the

changes in Halakhah after the destruction of the Second Temple:

"...R. Joshua said, I have heard (a tradition) that sacrifices may be offered (where the altars stood) even though there is no Temple, and that they may eat of the most holy sacrifices although there are no curtains (to enclose the Courts), and that they may eat of the minor holy sacrifices and of second tithe even if there is no wall because the first sanctification consecrated it for its own time and also sanctified it for the future ('Eduyyoth 8:6)."<sup>80</sup>

This Mishnah is used by Guttman to prove his point that after 70 C.E. the sacrificial cult was made optional. "In addition to pointing to the optional continuation of the sacrificial cult after the fall of the Temple, this Mishnah informs us that after the Temple was destroyed, its place remained holy and suitable for offering sacrifices."<sup>81</sup> Guttman's thesis has been discussed previously in this paper.

With the reference in 'Eduyyoth we close our discussion of the major citations in which changes in Halakhah due to the destruction of the Second Temple can be found in the Mishnah.

#### E. References in The Tosefta

We shall now briefly deal with a number of passages in the Tosefta which add additional information to those citations already quoted from the Mishnah. We have already noted several passages in Tos. Rosh Hashanah and Tos. Sotah.

In Tos. Sheqalim 3:24 we read:

"Why do they say that first-fruits are not to be dedicated except if the Temple stands; because it is written in Scripture (Ex. 23:19): 'The choicest first-fruits of thy land thou shalt bring unto the house of the Lord thy God.' All the time that you have the Temple (in existence) you have first-fruits; if you have no Temple (in existence) you have no first-fruits." (My translation)

Thus we see that the Tosefta attempts to provide Scriptural proof (as we have already seen Bertinoro do when he commented on M. Sheqalim 8:8) for the change of the Halakhah. Bertinoro used a passage from Deuteronomy, while the Tosefta makes use of Exodus.

Next we find in a supplementary passage to M. Rosh Hashanah 1: 3 the following in Tos. Rosh Hashanah 1: 14:

"Because of six months messengers are sent out (to proclaim the time of their appearing). Rabbi ordained that they should go out also because of Second Adar because of Purim." (My translation)

We see here that the importance of Purim (or confusion) during the intercalated years caused the additional statement here of sending forth messengers to establish the beginning of Second Adar.

We find in the Tosefta the following explanation of M. Ta'anith 4:6:

"On the Ninth of the month (of Ab) the city (of Jerusalem)



was broken through on the first and on the second and on the seventeenth. If we say on the seventh of the month why do we say on the tenth of the month? And if we say on the tenth of the month why do we say on the seventh of the month? Rather on the seventh of the month they occupied the Temple and were demolishing it on the seventh, eighth, (and) ninth until the day passed and thus it is written: 'Woe unto us! for the day goeth away, for the shadows of the evening are stretched out. (Jere. 6:4)'"82

The Tosefta concludes with the remark that the fire burned in the Temple until sunrise of the Tenth day of Ab. The Tosefta is here trying to explain the discrepancy between those who state that on the seventh of the month of Ab the crisis occurred and those who say that it fell on the tenth. The answer is that the seventh was the beginning of the process of destruction and the tenth was when the Temple was in total ruins.

In Tos. Sotah 15:7 we are given further explanation of the effects of the destruction of the Sanhedrin:

"Since the Sanhedrin ceased to exist singing was discontinued at the house of feasting (i.e., wedding feast). How was the Sanhedrin useful to Israel? But with respect to the matter as it is written: 'And if the people of the land do any ways hide their eyes...' (Lev. 20:4) When the Sanhedrin existed they were punished by it and now he and his relatives are punished by Him (God), as it is written: 'Then will I set

My face against that man and against his family...!" (My translation)

Here we find an interesting comment on the social order after the destruction of the Second Temple. Previous to the catastrophe, it was the duty of the Sanhedrin to punish the evil-doer. However, now that the institution of the Sanhedrin has ceased man must rely on God to do the punishing (as shown in the second quotation from Scripture). No new institution could replace the Sanhedrin so, therefore, man must rely on God to do what man had previously regarded as his own domain.

The very next passage in Tos. Sotah (15:8) deals with various exceptions to the law in M. Sotah 9:14 with respect to those crowns that bridegrooms are forbidden to wear because of the War of Vespasian. The passage concludes:

The members of Rabban Gamaliel's family were permitted to learn Greek because they had to deal with the government." (My translation)

This latter portion of the passage offers an exception to the law stating that "During the War of Titus they forbade...that a man should teach his son Greek." (M. Sotah 9:14) This rule was waived because of the connection that the family of Rabban Gamaliel had with the government.

We next come to two passages in Tos. Sotah which paint a good picture of the extent to which asceticism grew after the destruction of the Second Temple:

"Upon the destruction of the Temple, asceties multiplied

in Israel who would not eat meat nor drink wine. R. Joshua engaged them in conversation saying: 'My children, why do you abstain from meat?' They answered: 'How can we eat meat when daily the perpetual sacrifice was offered on the altar and now it has ceased?' He asked: 'Why do you not drink wine?' They responded: 'How can we drink wine from which an offering was poured upon the altar and now it has ceased?' Whereupon he said: 'It follows then that we should abstain from figs and grapes since they were brought to the Temple as first-fruits on the Festival, nor should we eat bread in view of the two-loaves and the showbread, nor should we drink water in view of the water libation on Sukkot.' He said to them: 'Not to mourn at all is out of the question since the decree (destroying the Temple) has come to pass, nor is it possible to mourn overmuch. Let us then follow our rabbis advice: 'A man may whitewash his house but leave a small section painted in remembrance of Jerusalem....' #83

Thus we find that mourning was carried to limits which had to be combated. Those deprivations which the rabbis did prescribe and emphasize are mentioned in Tos. Sotah 15: 12-14 and have been discussed earlier in this paper.

We end our references from Tos. Sotah with the optimistic, however Aggadic, statement that:

"All who mourn over Jerusalem will merit and see at the time of her joy (to come), as it is written: 'Rejoice ye with Jerusalem, and be glad with her, all ye that love her:

rejoice ye for joy with her, all ye that mourn for her  
(Isa. 66:10).<sup>184</sup> (My translation)

The time when Jerusalem will be rebuilt looms constantly in front of the minds of the rabbis who framed both the Agadot and Halakhot after the destruction of the Second Temple.

With this reference in Tos. Sotah we end our discussion of the parallel material in the Tosefta to what we have previously discussed in the Mishnah. We are indebted to Dr. Alexander Guttman for providing a complete list of the parallels in the Tosefta to the passages we have discussed in the Mishnah. The complete list is to be found in Appendix I at the end of this paper.

#### F. The Halakhot of Rabban Gamaliel

Before ending our discussion of the Halakhah in Tannaitic literature as affected by the destruction of the Second Temple we will permit ourselves the digression from dealing with specific references and instead discuss various changes in the Halakhah which can only be explained as stemming from the Destruction but not referring to the Destruction directly. Specifically we shall be dealing with a number of changes in the Halakhah as made by Rabban Gamaliel II, who, as we previously mentioned, succeeded R. Johanan b. Zaccai as the Nasi in Jabneh.

"Rabban Gamaliel's legal opinions were prompted by two main considerations. He wanted to make Jabneh the leading place of halacha, and he wished to unite all Israel behind a

common set of religious practices."<sup>85</sup>

It is this latter thought--that of infusing Judaism with unity--that we will come to see was his primary task in all he said and in all he did.<sup>86</sup> In the Mishnah in 'Eruvin 41a we read:

"We do not ordain a fast on the New Moon nor on Hanukah and Purim."

From this Koller concludes that Rabban Gamaliel "...entertained the idea of making halacha easier to observe."<sup>87</sup>

We next deal with Rabban Gamaliel's modification of laws dealing with Shemittah (the Biblical prohibition against cultivating the land during the seventh year). This was an old Halakhah which, even in pre-destruction days, "... often contained demands resulting in severe economic suffering."<sup>88</sup> Now with the Destruction a reinterpretation of the law was imperative.

"The Biblical passage upon which this law is an elaboration reads: 'But on the seventh year shall be a sabbath of solemn rest for the land, a sabbath unto the Lord: thou shalt neither sow thy field, nor prune thy vineyard.' (Lev. 25:4) Using one of the hermeneutic principles developed by the school of Hillel, Rabban Gamaliel equated the meaning of the word "sabbath" in this verse with the meaning of 'sabbath' as it refers to the seventh day. Both refer to rest; the first refers to the abstention from agricultural work in the seventh year while the second is a command to refrain from work on the seventh day. Just as it is permissible to work directly prior

to and immediately after the sabbath day so it is equally proper, reasoned Gamaliel, to cultivate the soil immediately after the seventh year. The result of this ruling was that the people were now allowed to work in the fields until the very first day of the seventh year. The extra time available for cultivation gave to the land a greater productivity potential."<sup>89</sup>

We also see Rabban Gamaliel's leniency in his attitude towards the laws of Passover. Generally, he attempted to reduce the poverty of the people during the difficult times at and following the destruction of the Second Temple. Thus he argued, in reference to the unleavened bread for Passover, that three women may knead dough at the same time and bake it in one and the same oven, even though each must wait her turn. The other scholars, however, disagreed with him.<sup>90</sup>

We now deal with the question of the formalization or fixation of the prayers which "...make their appearance with the advent of Rabban Gamaliel."<sup>91</sup> The quite relevant question of "when the institution of public prayer first began?" has been often discussed both in Rabbinic and modern literature.<sup>92</sup> In any case we agree with Koller when he states:

"Although many Israelites participated in public and private prayers when the Temple was still in existence, such prayers were of secondary significance. The sacrificial cult was all-important. Prayer was, by and large, a private

matter while the sacrifices were ordained and accepted as being the proper form of public worship."<sup>93</sup>

Now that the Temple was destroyed the sacrificial cult was therefore removed and this left the people without a central means of religious unity. It fell to fixed prayer to become the substitute for the former sacrificial system. "Rabban Gamaliel was the first to attempt to formalize the content of the Eighteen Benedictions....Under his direction Simon Pakoli...arranged the Eighteen Benedictions and set them down in an organized form."<sup>94</sup> This attempt was met with strenuous objections by many of the Jabneh scholars, one of which was his brother-in-law Eliezer b. Hyreanus (whom we have previously discussed). Eliezer said that one must pray "...according to the dictates of his heart and in a manner suitable to his needs and a time convenient to him."<sup>95</sup> The scholars also disputed Rabban Gamaliel's introduction of a rigid schedule for the recitation of the Amidah. Each day, he taught, every Israelite is obligated to recite the Tefillah three times.<sup>96</sup> Thus, although Rabban Gamaliel's changes were met with objection "...he was successful in his attempt to standardize the content of prayer and to make their recitation compulsory."<sup>97</sup>

We must also mention the prayers which Rabban Gamaliel used to keep alive the memory of the Temple and the anticipation of its restoration in the future. "Among these prayers are the priestly benediction, the sounding of the

shofar, and the 'Boneh Yerushalaim' of the grace after meals."<sup>98</sup> These prayers are called 'Zecher Lamikdash' prayers.

The Haggadah for Passover served to replace the traditional pre-Temple destruction Paschal offering. As has been stressed often in this paper, the rabbis, including Rabban Gamaliel, considered the changes in the Halakhah to be temporary. Thus the Haggadah and its prayers were substitutes designed to unite the people until the rebuilding of the Temple.<sup>99</sup>

In practice the Haggadah was the surrogate for the Paschal offering (Korban Pesach). No longer being able to bring the proper offering to the Temple, each man must, nevertheless, "...busy himself all night with the laws of Passover, even if he be alone."<sup>100</sup>

We have earlier mentioned that Rabban Gamaliel II was the only Nasi who literally carried out the pre-70 C.E. injunction of offering up the paschal sacrifice (c.f. Pesachim 7:2).

"The Haggadah, in its early stages, was largely the work Gamaliel and his school...Passover thus became, through Rabban Gamaliel's efforts on behalf of the Haggadah, a personal involvement in the great exodus from Egypt."<sup>101</sup>

Finally, we see Rabban Gamaliel's effort to unite the Jewish people manifested in the strict control of the calendar. "The people of Israel, Gamaliel was convinced,



could be unified through a legally binding halacha only when they pledged allegiance to a common calendar."<sup>102</sup>

Thus he used his knowledge of mathematics and astronomy to determine the calendar and the proper time of the holidays.<sup>103</sup>

In conclusion, we see that the Halakhot of Rabban Gamaliel "...emphasized, consciously and advertantly, the thesis that man, Jews especially, begins to be adequately religious only when he discovers that God is greater and more important than any sacrificial or priestly cult. He is limited to neither time nor space and can be worshipped through prayer, observance of law and a 'contrite heart.'<sup>104</sup> Rabban Gamaliel's response to the destruction of the Second Temple was to endeavor to form a binding Halakhah of universal Jewish value. His is one response of Tannaitic Judaism to the destruction of the Second Temple. There were many who disagreed with him and their proposals and arguments also make up the corpus of literature which we have called "Halakhah in Tannaitic Literature, as Affected by the Destruction of the Second Temple."

### III. Summary and Conclusion

#### A. Summary

We shall now offer, by way of summary, a recapitulation of the changes in Halakhah in Tannaitic literature after the year 70 C.E. according to three rubrics: "Offerings," "Holy Days," and "Personal and Public Practices." Many of the changes also may be classified as "lenient" or "stringent" when compared to the law which was in practice previous to the destruction of the Second Temple.

Our first rubric is "Offerings" and here we deal with the sacrificial system and tithing. Specifically, we have seen that sacrifices were made optional after the destruction of the Second Temple but also there is a presupposition that Halakhically the sacrificial cult ended with the year 70 C.E. However, as is pointed out in M. 'Eduyyoth 8:6, even after the Temple was destroyed its place remained holy and suitable for offering sacrifices.

Another Mishnah told us that now that the Temple was destroyed there is no longer any need to send for messengers to establish the month of Iyyar because <sup>167</sup> Adar was now abolished. Also the months on which the messengers could profane the Sabbath was limited to two after the destruction of the Temple because there were no longer any public sacrifices. We specifically read that on the Ninth of Ab the daily burnt-offering (the "Tamid") ceased.

Finally, with respect to the sacrifices we note Rabban

Gamaliel's attempt to substitute the Haggadah as a surrogate for the Paschal sacrifice. Other surrogates for literal sacrifice were discussed in the section dealing with the Agadic view of the changes brought about by the destruction of the Second Temple.

Tithing was also continued after the destruction of the Second Temple although certain tithes were discontinued. Thus the heave-offering and the second-tithe were offered whether or not the Temple stood; but the first-fruits were offered only when the Temple stood. We also learned that the half-shekel dues were brought in only during the existence of the Temple whereas the corn-tithe, the cattle-tithe and firstlings were to be rendered whether the Temple stood or not.

Thus we see that with regard to the sacrificial system and tithing neither was totally abolished with the destruction of the Second Temple. The reasons for this will be reviewed in our concluding remarks.

We come now to our second rubric, which we are calling "Holy Days." Here we find definite examples of leniency or stringency placed upon the people as a result of the destruction of the Second Temple. We first note three of the changes instituted by R. Johanan ben Zaccai. All three of these instances may be placed in the category of "leniency" because the times necessitated a less strict interpretation of the surviving custom. Thus we see that the changing of the blowing of the shofar to Jabneh from Jerusalem, the

privilege of using the lulav in the provinces for seven days instead of the one day as was the custom before 70 C.E. and the revision stating that witnesses coming to testify about the New Moon be accepted all day during Rosh Hashanah instead of limiting them up to Minchah--all three of these customs were changed because of the pressures of the times.

We also make mention of three of the major changes in the Halakhah made by Rabban Gamaliel II. These changes were, according to Koller, brought about by the severe economic conditions which resulted from the destruction of the Second Temple. We see a marked leniency in the following three areas related to Holy Days: No fast was to be ordained on the New Moon nor on Hanukah and Purim. The law of Shemittah was changed (or re-interpreted) to read that people were now allowed to cultivate the soil immediately prior to and immediately after the seventh year; thus extra time was given for cultivation of the land. Finally, Rabban Gamaliel allowed that three women may knead dough at the same time and bake it in one and the same oven. Thus the leniency of the Halakhah not only was affected by religious and political considerations, but also the economic plight of the people is reflected in the changes in the Halakhah.

We now deal with the area of stringency in this rubric of Holy Days. This centers around the Holy Day of the Ninth of Ab. We have earlier discussed the fact that the Ninth of Ab became the day of national mourning for the destruction of

both the First and Second Temple. Thus Ab became a very solemn month during which rejoicing was severely limited. A man was forbidden to cut his hair or wash his clothes during the week in which the Ninth of Ab fell. Many other customs developed with respect to mourning for the Temples, some of which were strenuously objected to by the rabbis, who felt that the lamentation should not be carried to extremes.

We have seen that the new circumstances arising from the destruction of the Second Temple caused various changes in the observance of the major Holy Days. Also that the Ninth of Ab was invested with tremendous importance and became the second (behind Yom Kippur) major fast day of the Jewish calendar.

The third rubric is entitled "Personal and Public Practices" and is the most general of the three areas in our summary. We first call to mind those passages in M. Sotah and Tos. Sotah which call upon the people to deprive themselves of something as a token of remembrance for the destruction of the Temple. Thus singing was discontinued at wedding feasts, a house was not white-washed completely, a woman was to leave over a little of her jewelry, etc., all as remembrances of the catastrophe of 70 C.E. Also various injunctions were instituted during the course of the Roman wars, for example, bridegrooms were not to wear crowns, brides were not to wear diadems and no man was allowed to

teach his son Greek. We also recall that anyone who took the vows of Nazirism after the destruction of the Second Temple was not considered a Nazirite. All of the above may be deemed as stringent measures resulting from the events of 70 C.E.

We come finally in our summary to the effects of one man on the private and public practices of the Jewish people. He was Rabban Gamaliel II and his influence on the formalization of the prayers and especially the Eighteen Benedictions profoundly changed the everyday lives of traditional Jews to this very day. In his attempt to unify the Jewish people after the horror of 70 C.E., Rabban Gamaliel not only organized the Eighteen Benedictions but also set down a rigid schedule for their recitation. The destruction of the Second Temple also caused him to emphasize certain prayers called 'Zecher Lamikdash' in order to keep alive the memory of the Temple and the hope for its restoration in the near future. In his strict control of the calendar we also see the plan of Rabban Gamaliel to unify the Jewish people.

Therefore we see in the rubric of "Personal and Public practices" a dual approach to a common goal. On the one hand, there are the deprivations placed on the people in order to remind them of the suffering and horror because of the loss of the Second Temple. On the other hand, there are the efforts of one man to systematize prayers, introduce new prayers and establish a common calendar. In both of these approaches

we find the common goal of the rabbis is to unify the Jewish people--both in dealing with present-day circumstances and in hoping for the future restoration of the florious way that was. Rabban Gamaliel dealt with the present. The ordinances of deprivation served as symbols to the people of the constant need to remember what was and to hope for what the future could bring.

### B. Conclusion

We have just mentioned in our summary that the changes in Halakhah after the destruction of the Second Temple were caused by various burdens placed upon the people: severe political conditions, a greater poverty than was endured by the people before the catastrophe of 70 C.E., and, most important of all, the destruction of the main fortress of the Jewish religion--the Temple and the cult which was concomitant with it.

But the rabbis of two thousand years ago were probably the best "psychologists" of their time. They knew that change was in order. It was imperative that substitutions and replacements be made for the old and destroyed sacrificial system. And the changes were made. However, they were couched in the language of temporality and impermanence. We remember the statement of R. Jose: "This was the condition after the Temple was destroyed, and there was an understanding that when the Temple should be rebuilt the matter was to

revert as aforetime." (M. Ma'aser Sheni 5:2) We recall the statement of R. Judah when he spoke of the innovations of R. Johanan ben Zaccai: "These things were inaugurated by Rabbi Johanan b. Zaccai upon the destruction of the Temple and when the Temple will be rebuilt they shall return to their former mode." (Tos. Rosh Hashanah 4:3) This was the language and the frame of mind of the men who instituted the changes in Halakhah after the destruction of the Second Temple.

All the changes were approached with the caution that with the restoration of the Temple all would revert to its former way and practice. Thus, for example, Nazirism, although no longer relevant because of the destruction of the Temple, was kept in a state of "suspended animation" until the rebuilding of the Temple. That is to say, this institution, as well as many others, were not allowed to become contaminated because of the belief that it would once again flourish in all its glory at some future time.

Thus, as in the case of Rabban Gamaliel, many changes were made. But these changes served the sole purpose of attempting to bind and unite the Jewish people at a time when their dispersion and their imminent demise was at hand. New forms were introduced, such as the 'Zecher Lamikdash' prayers and practices, the Haggadah, and the emphasis on the ninth of Ab. These new institutions and customs served to rally the Jews and to enable them to realize that all forms are transitory but that God is permanent and may be worshipped



in countless number of ways: if not in sacrifice, then through prayer; if not at the Temple, then at the Synagogue. The specific Halakhot in Tannaitic literature are also only forms. Thus they too were affected by the catastrophe and to Judaism's benefit the new Halakhot were better able to deal with the circumstances dictated by the times.

# APPENDIX I

Mishnaic References to the Affects of the  
Destruction of the Second Temple  
and their Tosefta Parallels  
(Source: Dr. Alexander Guttman)

<u>Mishnah Reference</u>	<u>Tosefta Parallel</u>
Ma'aser Sheni 5:2	5:14
Bikkurim 2:3	(7a)
Pesahim 10:3	10:9
" 7:2	5:11a
Sheqalim 8:8	3:17,18, (19-27)
Rosh Hashanah 1:3	1:14
Ta'anith 4:6	4: (9), 10
Nazir 5:4	(3:19c)
Sotah 9:11	15: (6), 7
" 9:12	13:2, (7), 5:1,2
" 9:14	15:8,9
" 9:15	15:3-5, (10-15)
Gittin 8:5	(8:3b,4)
'Eduyyoth 8:6	3:3b
Bava Qamma 7:7	8:9,10, (11-19)

# FOOTNOTES

<sup>1</sup>Adolph Büchler, The Economic Conditions of Judaea After the Destruction of the Second Temple (London: Jews' College, 1912), pp. 6-7.

<sup>2</sup>Heinrich Graetz, History of the Jews (Philadelphia: Jewish Publication Society, 1956), Vol. 2, pp. 307-308.

<sup>3</sup>Theodore S. Ross, The Attitude of the Rabbis Toward the Destruction of the Second Temple (Unpublished D.H.L. Thesis, H.U.C., 1943), p. 70.

<sup>4</sup>Ibid., p. 72.

<sup>4a</sup>Ibid., p. 75.

<sup>5</sup>Graetz, op. cit., p. 325.

<sup>6</sup>Ibid.

<sup>7</sup>Ibid.

<sup>8</sup>Buchler, op. cit., pp. 18-19.

<sup>9</sup>Ibid., pp. 28-29.

<sup>10</sup>Ben Zion Bokser, Pharisaic Judaism in Transition (New York: Bloch Publishing Co., 1935), p. 10.

<sup>11</sup>M. Sotah 9:15

<sup>12</sup>M. Sotah 9:12

<sup>13</sup>B. Berakhoth 32b

<sup>14</sup>B. Menahoth 53b

<sup>15</sup>B. Sukkah 51b

<sup>16</sup>Leviticus Rabbah III:3

<sup>17</sup>B. Berakhoth 10b

<sup>18</sup>B. Berakhoth 8a

<sup>19</sup>Ross, op. cit., p. 163.

<sup>20</sup>Ibid., p. 167.

<sup>21</sup>Ibid., p. 171.

<sup>22</sup>Philip Blackman, Mishnayoth (6 vols.) (London: Mishna Press, 1954), Vol. I, p. 403.

<sup>23</sup>Bokser, op. cit., p. 57.

<sup>24</sup>Irving M. Levey, The Observance of the Tithes After the Destruction of the Temple (Unpublished Rabbinic Thesis, H.U.C., 1928), p. 35.

<sup>25</sup>Blackman, op. cit., Vol. I, pp. 406-407.

<sup>26</sup>Ross, op. cit., p. 80.

<sup>27</sup>Levey, op. cit., pp. 39-40.

<sup>28</sup>Ibid., p. 41.

<sup>29</sup>Buchler, op. cit., p. 33.

<sup>30</sup>Graetz, op. cit., Vol. II, p. 363.

<sup>31</sup>Blackman, op. cit., Vol. I, p. 474.

<sup>32</sup>Ibid.

<sup>33</sup>Blackman, op. cit., Vol. II, p. 197.

<sup>34</sup>Alexander Guttman, "The End of the Jewish Sacrificial Cult" Hebrew Union College Annual, XXXVIII (1967), p. 146.

<sup>35</sup>Ibid., p. 138.

<sup>36</sup>Ibid., p. 148.

<sup>37</sup>Ibid., p. 147.

<sup>38</sup>Ibid., p. 139.

<sup>39</sup>Blackman, op. cit., Vol. II, p. 217.

<sup>40</sup>Guttman, op. cit., p. 139.

<sup>41</sup>Blackman, op. cit., Vol. II, p. 267.

<sup>42</sup>Guttman, op. cit., p. 140.

<sup>43</sup>Blackman, op. cit., Vol. II, p. 383.

<sup>44</sup>Ibid., p. 384.

- <sup>45</sup>Ibid.
- <sup>46</sup>Ibid.
- <sup>47</sup>Ibid., p. 385.
- <sup>48</sup>Ibid., pp. 398-399.
- <sup>49</sup>Bokser, op. cit., p. 147.
- <sup>50</sup>Ibid., pp. 147-148.
- <sup>51</sup>Ross, op. cit., p. 44.
- <sup>52</sup>Bokser, op. cit., p. 57.
- <sup>53</sup>Ibid., p. 58.
- <sup>54</sup>Blackman, op. cit., Vol. II, p. 400.
- <sup>55</sup>Ross, op. cit., pp. 44-45.
- <sup>56</sup>Blackman, op. cit., Vol. II, p. 401.
- <sup>57</sup>Tos. Rosh Hashanah 4:3
- <sup>58</sup>Blackman, op. cit., Vol. II, pp. 431-432.
- <sup>59</sup>Guttmann, op. cit., p. 140.
- <sup>60</sup>Blackman, op. cit., Vol. II, p. 432.
- <sup>61</sup>Ross, op. cit., p. 137.
- <sup>62</sup>Ibid., p. 139.
- <sup>63</sup>Blackman, loc. cit.
- <sup>64</sup>Ibid., Vol. II, p. 180.
- <sup>65</sup>Ross, op. cit., p. 144.
- <sup>66</sup>Blackman, op. cit., Vol. II, p. 481.
- <sup>67</sup>Bokser, op. cit., p. 78.
- <sup>68</sup>Ross, op. cit., p. 82.
- <sup>69</sup>Blackman, op. cit., Vol. III, p. 302.

- <sup>70</sup>Ibid., Vol. III, p. 379.
- <sup>71</sup>Ross, op. cit., pp. 58-59.
- <sup>72</sup>Tos. Sotah 15:11, Bava Bathra 60b, Ta'anith 119
- <sup>73</sup>Blackman, loc. cit.
- <sup>74</sup>Ibid., p. 381.
- <sup>75</sup>Ross, op. cit., p. 61.
- <sup>76</sup>Blackman, loc. cit.
- <sup>77</sup>Ibid.
- <sup>78</sup>Ibid., p. 382.
- <sup>79</sup>Bokser, op. cit., pp. 75-76.
- <sup>80</sup>Blackman, op. cit., Vol. IV, p. 442.
- <sup>81</sup>Guttmann, op. cit., p. 139.
- <sup>82</sup>Tos. Ta'anith 4:10
- <sup>83</sup>Tos. Sotah 15:11-12 as translated by Ross, op. cit., p. 58.
- <sup>84</sup>Tos. Sotah 15:15
- <sup>85</sup>Israel B. Koller, The Halacha of Rabban Gamaliel II: Its Significance for the Evolution of Rabbinic Judaism (Unpublished Rabbinic thesis, H.U.C., 1961), p. 9.
- <sup>86</sup>Ibid., p. 10.
- <sup>87</sup>Ibid., p. 22.
- <sup>88</sup>Ibid.
- <sup>89</sup>Ibid., p. 23.
- <sup>90</sup>B. Pesachim 48b.
- <sup>91</sup>Koller, op. cit., p. 32.
- <sup>92</sup>Ibid., p. 54. (notes 89 and 90)
- <sup>93</sup>Ibid., p. 32.

<sup>94</sup>Ibid., p. 34.

<sup>95</sup>p. Berakhoth 4:3

<sup>96</sup>Ibid., 4:1

<sup>97</sup>Koller, op. cit., p. 37.

<sup>98</sup>Ibid.

<sup>99</sup>Ibid., p. 41.

<sup>100</sup>Tos. Pesahim 10

<sup>101</sup>Koller, op. cit., pp. 41-42

<sup>102</sup>Ibid., p. 42.

<sup>103</sup>Ibid.

<sup>104</sup>Ibid., p. 48.

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