

TOSEFTA EDUYOT ;
AN ANNOTATED TRANSLATION
AND HISTORICAL INTRODUCTION

Peter Haas

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Referee, Prof. Alexander Guttmann

D I G E S T

Judaism in the first Christian century was split into many factions. The intensity of some of these splits has been described in some detail by Josephus. Only with the Destruction did a new consensus toward a normative Judaism begin to take shape. In general, the widespread acceptance of the academy at Yavneh has been credited to Joḥanan ben Zaccai. Joḥanan ben Zaccai was succeeded by the Hillelite, Rabban Gamliel II. The transfer of power may not have been as smooth as later tradition has made it. Repeated revolts broke out against Rome after the Destruction. The revolts of 117 (Folemos shel Qitus) and 135 (Bar Kokhba) indicate strong Messianic expectations. After the debacle of Bar Kokhba's rebellion, the academies moved to the North, which was less ravaged by war. In the decades following, Palestinian Jewry was able to regain its footing in relative calm. At the accession of the Severi, the relations between Palestine and Rome appear to have been at their best. It was during this period that the Mishna received its final form.

Legal decisions have always been a part of Israelite life. With the destruction of the Temple and the sacrificial cult in 70 C.E., the law took on a special prominence. The Tannaim inherited the old Pharisaic legal

system and greatly expanded and developed it. One of the major concerns of Tannaitic law, to which a good deal of tractate Eduyot is devoted, is levitical purity. Levitical purity may have been a weapon used against the recalcitrant "amei haaretz." Tannaitic law may also have been meant as a guide to a "transcendant" way of life.

Traditional Judaism understood the Tosefta as being a commentary on the Mishna. This view came under increasing criticism by Wissenschaft scholars. Eventually, three views emerged: that the Tosefta forms the basis for the Mishna; that the Tosefta was unknown until the late Amoraic period; and that the Tosefta is in some way a Tannaitic companion to the Mishna. Modern Israeli scholars tend to view the Tosefta as an Amoraic collection of earlier, Tannaitic, material. The question of the relationship between the Mishna and the Tosefta is, in my opinion, by no means settled.

Eduyot is one of the oldest tractates of the Mishna and Tosefta. It shows great concern for the laws of levitical purity. This tractate consists mainly of collections of "testimonies" recording the opinions of earlier sages.

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I N T R O D U C T I O N

HISTORICAL SURVEY

In the decades preceeding the outbreak of rebellion against Rome in the first century C.E., Judaism had become fragmented into numerous "sects" differentiated by politics and theology. Each group represented another proposed answer to the question of survival in the Roman world. Scholars are only now beginning to arrive at some sort of consensus as to the basic differences between the broad movements known as the Saducees, Pharisees and Essenes. Basic questions relating to the topology of Judaism at the turn of the era, the exact meaning of the Qumran community, for example, or the peculiarities of Palestinian and Hellenistic Judaism, are still being debated by scholars (see Sandmel, First Christian Century). Josephus, in Wars of the Jews, describes in great detail the factions into which the Jews were divided even in the face of a common enemy. (Wars IV:3-VI:3). It was in this fragmented state that Judaism had to come to terms with the destruction of the Temple in 70. The importance of Jerusalem was the only matter that most Jews seemed to have been able to agree upon.

With the destruction of the Temple begins the Tannaitic Period and the era of the emergence of a normative Judaism in full strength. Basic differences of opinion existed within the Jewish community for generations to

come, but a general outline of consensus began to congeal. Pharisaic Judaism, which became de facto and then, de jure, the authoritative expression of Judaism, began the process of collation and redefinition which gave birth to Rabbinic Judaism. The literature which represents the first stages of this process is the Mishna, which appeared in more or less final form in the third century, and the Tosephta.

Traditionally, Jewish sources have credited the widespread authority of the academy at Yavneh to Johanan b. Zaccai, a Pharisaic scholar who had opposed the rebellion against Rome. The Talmud relates (Gittin 56a-b) that Johanan b. Zaccai was smuggled out of besieged Jerusalem by his students and brought before the Roman general, Vespasian. Vespasian was favorably impressed with Johanan b. Zaccai's wisdom and cleverness and offered to grant him anything he should ask. Ben Zaccai's wish was for "Javneh and her scholars and the dynasty of Rabban Gamliel." Vespasian, who by that time had already been elected emperor to replace Nero, agreed to this request.

There are a number of serious objections which can be raised in connection with the Talmudic account of the founding of the academy at Yavneh. Josephus relates a very similar story about himself in Wars III:8. There is also a question as to whether a Roman general, or emperor, would grant permission for a new Jewish center to be established on the heels of four years spent quashing a revolution. The Talmudic story was probably

an attempt to dramatically explain the origins of the status quo of several centuries later.¹ Gedaliah Alon has suggested that Yavneh served as an interment camp in which prisoners of war were detained.² This theory, although interesting, has not received general acceptance.³ Heinemann has suggested that Yavneh was already a major center of Jewish public life while the Temple still stood and was therefore the logical place for post-Destruction Jewish leadership to gather. Joḥanan ben Zaccai's role was to form a "caretaker" government until it was safe for the Hillelites (Rabban Gamliel II) to reassume public leadership.⁴

In truth, there is very little that we can say with any certainty about the early days of ben Zaccai at the academy in Yavneh. It is possible that his role as a leading personality in the "peace party" before and during the revolt earned Joḥanan b. Zaccai a certain amount of respect and authority after the destruction.⁵ But the details of his coming to Yavneh remain obscure to us.

Joḥanan b. Zaccai did not live out his days in Yavneh. Only a few years after the Revolution Rabban Gamliel II took over the leadership of the academy at Yavneh and Joḥanan b. Zaccai retired to his private yeshiva in Beror Ḥail. Most scholars now agree that Rabban Gamliel II was assuming his rightful position, since he was of the house of David and Hillel and the son of the last reigning Nasi before the

Destruction. Although no definite evidence exists, it is reasonable to assume that Rabban Gamliel II was able to gain the Nasi-dom only after the last Flavian Emperor, Domitian, died in 96. Domitian himself was something of a despot and would certainly not have been amenable to the re-establishment of the patriarchate in Judea, which his father and brother had spent so much energy conquering. Nerva, who replaced Domitian and the Flavians on the imperial throne, had no such reason to suppress the Jews.

On the contrary, his military position was such that it was necessary to appease internal minorities as much as possible. He, therefore, becomes the logical emperor to have acquiesced to Rabban Gamliel II's assumption to the Nasi-dom. If, indeed, Nerva was emperor when Rabban Gamliel II became head of the academy, we do not know whether imperial recognition was a priori or de facto.

Seen from a later perspective, the transfer of authority from the priesthood to Rabban Johanan ben Zaccai and the rabbis after the destruction of the Temple seems to have been effected with amazingly little dislocation. This at least has been the picture painted by Jewish tradition, especially sources such as Pirke Avot and Sefer Haqabbalah, which were interested in establishing the legitimacy of the Rabbinic tradition. Their reconstruction of the smooth transference of authority has become part of traditional Jewish understanding of the period. The reality, however, must have been much harsher. The Temple was more than a

place to perform sacrifices; it was also a symbol of Jewish independence. Its fall resulted not only in economic and political hardships, but also in the creation of a new religious context with which the Jews would have to come to terms. The continual Jewish revolts against Roman authority in 117 and again in 135 testify strongly that Jewish acquiescence in the destruction of their Temple and their national freedom was not immediate. Furthermore, the repeated outbreak of rebellion as much as two generations after the Destruction must reflect, to some extent, the failure of Rabban Johanan b. Zaccai's predelection for peace to gain widespread popular support. The transfer of authority to ben Zaccai was certainly not as thorough as later tradition made it out to be.

A number of factors entered into the outbreak of rebellion under Trajan which is referred to in Jewish sources as "Polemos shel Qitus." Abramski sees this series of revolts in Cyrenaica, Lybia, Cyprus and Mesopotamia primarily as an intermediate link between the two major revolts of 70 and of 135.⁶ As such, they represent much more than Jewish participation in local insurrections which broke out at the same time. Rather, the Jews in the Empire used the various local outbreaks as opportunities to vent their own frustrations with Roman rule.

Safrai argues that the fact that the revolts broke out from North Africa to Mesopotamia at the same time indicates that they all are interconnected and drew their inspiration

from a common source---messianic expectation.⁷ The Messianic-political aspirations of the Jews after the destruction of the Temple certainly played a role in post-Destruction Jewish life and in the repeated unrest that followed. This period sees the crystalization of Christianity from a Jewish sect to a rival religion, based on a fulfilled rather than an anticipated messiah. The Jews had also not established good relations with their neighbors in many parts of the Diaspora, and confrontations between Jews and Gentiles were not uncommon. Furthermore, the theological implications of the destruction of the Temple certainly pointed to the times of troubles that was understood as preceeding the coming of the Messiah. Many scholars have argued that the revolt of Bar Kochba sprang from similar Messianic hopes. The name Bar Kochba, "son of a star," reflects his claim, or the claim made for him, that he was the Saviour.

Politically, Jewish life had not been easy after the Temple was destroyed. Vespasian, who had been elevated to the imperial throne while in the midst of suppressing the Jewish rebellion in 69, reigned for ten years. He was succeeded by his son Titus who had participated in the rout of the Jews and who had depicted the spoilation of the Temple on his triumphal arch. Following Titus' death, Domitian, his brother, reigned in Rome. Neither of these three emperors could be expected to be sympathetic to the Jewish situation. Domitian was especially tyrannical, although his tyranny was not specifically aimed at the Jews but was part

of his character. He has come down in history as something of a despot. Although many of the accounts reflect their authors' bias, there is no reason to doubt that in essence they are true. The most controversial of Domitian's actions while in power, at least from the point of view of the Jews and the Christians, was his use of the oath upon the genius of the living emperor as a true test of loyalty. Through his insistence on the oath, many Jews and Christians were brought into direct conflict with the law. Domitian further tried to enforce the Augustan laws on morality, and he reactivated such ancient punishments as burying faithless vestal virgins alive.⁸ His high-handedness finally led to conspiracy and in 96 the last of the Flavians fell by the knife of an assassin.

The following emperor proved to be much less oppressive. Many of the more unpopular measures instituted by Domitian were rescinded by Nerva. Most significant for the Jews was the relaxation of pressure on converts and the removal of accusations connected with the Jewish tax. (The inscription "Fisci Judaici Calumnis sublata" appears on coins dating from Nerva's reign.) Some scholars argue that at this time the descendants of Hillel regained the presidency of the academy at Yavneh, and Yoḥanan ben Zaccai retired, or attempted to open a second academy, at Beror Hail. (see above p.3) In connection with this change of leadership, it is interesting to note that at one point Rabban Gamliel II was deposed and Eleazar b. Azariah was elected in his place. Rabban

Gamliel's chief opponent at that time was R. Joshua, a disciple of Johanan b. Zaccai.

Nerva's reign came to a sudden end after only sixteen months. He was succeeded by his "adopted" son, Marcus Ulpius Trajan.

Trajan was primarily interested in military accomplishments. His reign marks a period of expansion and consolidation of the empire's borders. While Trajan was in the eastern frontier supervising the Parthian campaign, revolts began to spread in Mesopotamia and in the eastern Mediterranean. Possibly opponents of Roman rule saw this as a propitious time to attack, the Roman army being tied down on the borders and Trajan preoccupied with crushing the Parthians. Jewish activity seemed to be directed in some cases as much against their Hellenistic neighbors as against their Roman overlords, especially in North Africa. In any event, the Roman army, under the command of Lusius Quietus, succeeded in stamping out the fires of revolution with a good deal of bloodshed. It is still a matter of some debate whether the Jews in Palestine took part in the general uprising as well. It would seem that a movement brought on by Messianic expectation should involve Palestinian Jews as well, but the sources are not entirely clear.

The Jewish community in Palestine was certainly not completely apathetic to the Messianism that swept world Jewry in the decades following the Destruction. In 132, Palestine erupted into one of the most threatening revolu-

tions that shook the empire. The revolt centered around the person of Simon Bar Kosiba, called by his followers Bar Kochba, son of a star, in order to stress his messiah-ship. Although Bar Kokhba never seems to have referred to himself as a Messiah (the sources of the time label him Nesi-Yisrael), there can be little doubt that messianic expectations played a major role in his rise to power as a rebel commander challenging the power of Rome.⁹ His army fought long and well. It was four years before the revolution was quashed, and in Rome the customary greeting "All is well with me and my army" was omitted from the commander's triumphal report to the Senate. Bar Kokhba also enjoyed the support of a number of religious leaders, the most well-known of which was Rabbi Akiba. (L. Finkelstein, however, argues that Akiba never did acquiesce to Bar Kokhba's plans.)¹⁰ On the other hand, his leadership was not accepted by the Christians living in Palestine.¹¹ Whether Bar Kokhba was understood as being the Messiah or not, it is clear that he was able to forge a devoted army out of the Jewish inhabitants of Palestine.

The underlying Messianic hope is clearly alluded to in the processes of Bar kokhba's rule. Although Betar was the principle fortress of the rebels, Jerusalem assumed an overwhelming importance as a symbol. It appears that Jerusalem was occupied by the Jewish revolutionaries in the beginning of the revolt and was held out almost to the end. Many of the coins found which date from the reign of Bar

Kokhba reckon the year from the "liberation" of Jerusalem and not from the "liberation" of Israel. The symbolism on the coins themselves also points to the centrality of Jerusalem in the iconography of the Second Revolt. The coins, almost without exception, depict ritual objects which were connected with the sacrificial cult which was carried on when the Temple still stood. The "Tetradrachma" offers what may be the clearest indication of what Bar Kokhba saw as his mission. On the coin is depicted the Temple of Jerusalem. Above is a star, an allusion no doubt, to Bar Kokhba himself. This coin, then, as well as the others, publicized the intention to reconstruct the Temple in Jerusalem and to reintroduce the cultic worship.¹² Coins of the first year also include the name Eleazar the Priest (Rabbi Eleazar of Modein?) who may have been the High Priest-designate for the restored Temple. Jerusalem and her Temple played a major role in the iconography of Bar Kokhba.

The expectance of the coming of a messiah who would right the wrong done to the Jews in 70 C.E. was an ongoing theme during this time period. Of itself, it does not explain the fierce fighting that broke out under the leadership of Bar Kokhba. The immediate cause probably lies in Hadrian's attempt to rebuild Jerusalem as a Hellenistic polis. Dio Cassius in his Roman History explains the outbreak of war as follows:

At Jerusalem he founded a city in place of the one which had been razed to the ground, naming it Aelia Capitolina, and on the site of the temple

of the god he raised a new temple to Jupiter. This brought on a war of no slight importance nor of brief duration, for the Jews deemed it intolerable that foreign races should be settled in their city and foreign religious rites planted there.¹³

The establishment of a new Hellenistic city rising upon the ashes of the old cultic center would be perfectly in character for Hadrian. The emperors before him, especially Trajan, had been occupied with expanding and securing the borders. With Hadrian began a period of peace and consolidation. At home, Hadrian endeavored to bring a feeling of openness and cooperation into the government. Abroad he tried to spread the blessings of the universal culture of Hellenism.¹⁴

Jerusalem was still in ruins in 130 when Hadrian made his tour of the East. It was then that he probably decided to restore the city and name it after himself and Jupiter--- Aelia Capitolina. For the Jews, this was only adding insult to the injury suffered twelve years earlier. As soon as Hadrian had moved beyond the immediate vicinity of Palestine, the revolt began. It was crushed only very slowly, city by city, and at a tremendous cost to both Jews and Romans.

Hadrian's policy towards Judaea after the rebellion had been extinguished was predictable. Judaea lost its status as a province and was absorbed into Syria. Aelia Capitolina was built and steps were taken to break up the unity of Palestinian Jewry to prevent further conspiracy. Several leading scholars who had supported Bar Kokhba were executed and a ban was decreed on further ordination. Communal prayer

in the synagogues was prohibited lest the meetings become forums for anti-Roman activities. The prohibition on circumcision was strictly enforced, and other customs which could promote strong Jewish identity were declared unlawful: lulav, matzah, tefilin, Hannukah lights. These severe laws, as well as the terrible losses suffered in the years of fighting, both in terms of property and in terms of lives, greatly contributed to the twilight of Palestinian Jewry.

The defeat of Bar Kokhba and the resulting repression on the part of Hadrian destroyed all further attempts of armed revolt against the Empire. For the first time in several generations, Palestine was to be more or less at peace. The efforts of the Jewish leaders left in Palestine were devoted to reorganizing the Jewish community and to reasserting their authority. The academy was moved to the north, to the Galil, which was less ravaged by the war than was the south. At first, the academy convened in Usha, and later in Beth She'arim and finally in the capital of the Galil, Tiberias. Tradition records that the academy moved ten times before settling down. Whether this tradition be true or not, it is fairly clear that some time passed before the academy found permanent headquarters.

The most prominent scholar during this period of reconstruction was Meir, a pupil of Akiba. The head of the Bet Din was Shimon ben Gamliel, who apparently was forced to remain in hiding for several years after the revolt.¹⁵ During the period of several years when the Bet Din in

Palestine was inoperative, the Babylonian community had taken upon itself the right of declaring the new year, intercalation and other practices that were normally reserved for the academy in Palestine. One of the main tasks facing Shimon ben Gamliel was to reassert the authority of the Palestinian community over the Diaspora. In this he was not totally successful, and the Babylonian community retained a good deal of influence in the deliberations of the Palestinian Bet Din.

In 138, Hadrian was succeeded by the peaceful Antonius Pius. Antonius Pius was interested in expanding the power and prestige of the emperor within the Roman world rather than in further expanding the already far-flung borders. He did much to appease the Jews by revoking some of the repressive laws imposed by Hadrian. It was during the more relaxed reign of Pius that Palestinian Jewry was able to reorganize itself and begin to recover from the defeat of Bar Kokhba. Pius' reign remained relatively peaceful except for the revolt that broke out in Egypt in 154 which threatened the grain supply in Rome. The Jews, however, did not seem to have attempted to exploit the unrest by fomenting their own revolt. Pius was followed on the throne by his heir Marcus Aurelius. Aurelius was not a warrior. In 162, the Parthians invaded Rome along the eastern frontier and dealt the Roman armies a stunning defeat. Matters were further aggravated by a plague which apparently was contacted by the armies fighting the Parthians. The plague

spread throughout the Empire and left a feeling of demoralization in the air. Again, the Jews in Palestine did not exploit the weakened state of military affairs to organize a revolt. The Jews, as the Roman Empire in general, were showing signs of turning inward, rather than turning their efforts toward reshaping the political world around them.

In 178, Commodus ascended into the purple. He was a complex ruler and opinions about his character vary. All agree that he was something of a despot and that, later in his reign, he was constantly plagued by fear of assassination or court intrigue. The fourteen years of his rule were peaceful, but it was the calm that precedes a storm. The benign and evenhanded government of Antonius Pius had descended to the neglect and indifference of the paranoid Commodus. When he was strangled to death by his wrestling partner in 192, no clear order of succession had been prepared, and Rome slipped into a period of intrigue and civil war.

Several candidates, backed by varying numbers of army legions, appeared to fill the vacant throne. Septimius Severus was the closest to Rome and lost no time in hastening to the imperial capital. As soon as his position in Rome was secured, he turned his attention to his most serious rival, Pescennius Niger, who was gathering strength in the east. The Jews, who were forced to suffer under the heavy hand of Pescennius Niger, backed Severus in his attempt to remove Niger as a rival. Fortunately for the Jews, Severus triumphed, and a new era of peace for the Jews began.

Relations between the Roman rulers and the Jewish community improved greatly. In fact stories circulated that some of the emperors were toying with the idea of converting to Judaism. Although that is probably an exaggeration, there is little doubt that the synchronistically minded Severi looked with favor upon Judaism and the Jews. Concurrent with the tolerant rule of the Severi, Yehuda HaNasi ascended to the presidency of the Bet Din. Under his strong rule and in the tolerant political climate of the time, the Mishna was redacted more or less in its present form.

HISTORICAL AND SOCIAL INFLUENCES ON MISHNAIC LAW

The Mishna did not originate entirely with Yehuda HaNasi. Its origin is attributed to work done by R. Akiba. Akiba's collection was edited and brought up to date by R. Meir, who passed it on to its final redactor, Yehuda HaNasi. Yet we know that many of the halachot which appear in the Mishna long predate even Akiba. Whole or major parts of tractates deal with a subject matter that only had currency while the Temple still stood (Yoma, for example). Furthermore, a good deal of law had developed in the academies during the century preceeding Akiba. Even if Akiba was the first to arrange the Mishna into something like its present order, he already had a large body of law to work with.

Legal decisions had, of course, been a part of Israelite life from the very beginning. Moses is already portrayed as having to devote time to judging his people (Ex. 18:13). After the return from the Exile in the fifth century B.C.E., the religious leadership of the Jews was in the hands of the priests. They probably governed through the Gerousia and, perhaps, at times also through the instrument of the Knesset HaGedolah, although this is by no means clear. From the Great Assembly, religious authority passed to the Sanhedrin and its heads, the zugot and eventually to the Pharisees in

general. Despite all of the historical vicissitudes which the structure of legal religious authority had to face, there seems to be an essentially unbroken development down to the time of Hillel. With Hillel, the Pharisaic legal apparatus gained a new sophistication. Hermeneutic rules were introduced to control the halacha.¹⁶ Two differing schools of thought developed which approached the formation of law from two different points of view. The halacha was becoming more fully developed and began reaching into more and more areas of daily life. Yet the halacha remained restricted because it did not stem from a recognized governmental authority. The center of the national religious life was still the priestly Temple.

Matters changed drastically after 70 C.E. when the Temple was destroyed and public sacrifices were ended. A huge vacuum had been created in the religious life of the nation that would somehow have to be filled. All of a sudden, Pharisaic law had become the determinant of religious life. There was, of course, the hope that the Temple would soon be rebuilt and that affairs would return to normal once again. The next sixty years or so were to be punctured by repeated attempts to throw off the yoke of Roman rule and rebuild Jerusalem. The crushing defeat suffered by Bar kokhba in 135 drove home the futility of such hopes. The rebuilt Temple was a long way off. Matters did not necessarily seem so futile in 70, however. The question arose

as to whether the academy at Yavneh's function was to be to "fill in" until the Temple service could be restored or to take the lead in redirecting the whole thrust of religious observance. Yoḥanan ben Zaccai chose the latter.

There were historical precedences for maintaining the sacrificial cult when the Jerusalem Temple could no longer serve its function. The Temple in Elephantine and Onias' Temple in Egypt at the time of Antiochus both maintained sacrifices. Yet the sacrificial cult did not survive the destruction of the Temple in 70. A. Guttmann lists three primary reasons. One, of course, was the fact of the Destruction itself. Second was the fact that the Romans had not appointed High Priests who could take the lead in inaugurating a new altar. Thirdly, opposition to sacrifices was forthcoming from the Nasi, Yoḥanan ben Zaccai.¹⁷

There are a number of possible reasons for ben Zaccai's opposition to the reestablishment of sacrifices. Primarily, he seems to have always opposed the Saducees. Thus, although sacrifices would be legal, he would in no way encourage them. To the contrary, ben Zaccai's taqqanot indicate his desire to remove the priests totally from their privileged place in Jewish religious life. Among his taqqanot were the decree that the shofar could be blown in any town with a court on a Rosh HaShanah that fell on a Sabbath.¹⁸ This practice was originally allowed only in the Temple. He also ordained that the lulav could be

carried anywhere for the seven days of Sukkot, as was once the custom only in the Temple. In matters of calendration, a number of decisions reflect his conviction that the Temple would no longer serve as the center of Jewish life. Witnesses of the New Moon were allowed to transgress the Shabbat only for Nisan and Tishri, rather than for every month as a daily sacrificial cult would have required. Also the witnesses were allowed to report at any time since there was no longer a worry that they would interrupt the Minḥah service. Furthermore, a number of priestly prerogatives were curtailed, reflecting ben Zaccai's feeling that the priests would not be returning to their former status.¹⁹

This reformation in the direction of Jewish religious life was carried on by ben Zaccai's successor, Rabban Gamliel II. Gamliel showed great concern for calendration. Yet his greatest achievement was in substituting for the sacrificial cult a program of prayers. Traditionally it is Rabban Gamliel II who ordered the Shemoneh Esreh. Interestingly enough, he did not prohibit the giving of tithes to the priests and Levites, even though they were no longer fulfilling the function that made them eligible to receive the tithes. Possibly Rabban Gamliel II's opposition to the priests was much less deep-seated than was ben Zaccai's.²⁰

Albeck, accepting H. Graetz's view, has stated that Eduyot was one of the first of the Mishnaic tractates to be written

down.²¹ One of the most conspicuous topics of concern was levitical purity. For laws of levitical purity to be included in one of the first collections of teachings, they must have been considered to be of some import. Apparently the laws were directed against the laxness of the so-called "amei ~~ha~~aretz." It is a matter of scholarly debate as to what exactly this term applies. Zeitlin maintains that the term referred originally to farmers and its meaning of "ignoramus" is of late vintage.²² Originally, he argues, the farmers constituted the bulk of the Judean population and bore the responsibility of supporting the Temple establishment through payment of tithes. The advent of Hellenism under the Ptolemies and Seleucidae brought about a change in the economic profile of Judea. Urban centers began to develop and with them a rich urban middle class. The burden of supporting the priests, however, remained on the farmers. They began to resent this unfair "tax" and became lax in fulfilling their responsibility. Soon it became so doubtful whether produce had been tithed or not that the requirement to separate the tithe devolved upon the buyer. As this trend continued, the dislike of the farmers for the city "patricians" and vice versa, changed to hatred.

Furthermore, the refusal on the part of the farmers to separate the tithe presented a serious threat to Pharisaic authority. For Pharisaic or Rabbinic law to be meaningful it had to be binding. It was therefore of utmost importance

that the *amei haaretz* be penalized for their breach. Possibly the earlier "Havurot" were originally established under the pressure of these various considerations. The *haverim* seem to have bound together especially on the issue of tithed produce.²³ Heinemann argues that the *birkat Hazimnun* originated with the communal meals of the "havurah," from which the *amei haaretz* and untithed food were equally excluded.

Later, the laws of levitical purity, then, may have been devised to separate and cast dispersion upon the *amei haaretz*. Zeitlin, in his article, goes on to argue that many of these farmers eventually became involved with the Apocalyptic Pharisees and consequently the Jewish-Christian sects.

After the Destruction, the halacha had to face a number of challenges. It had to successfully and effectively fill the vacuum left by the abolition of the sacrificial cult. At the same time it had to maintain its tie to the past and to tradition in order to safeguard its validity. And it had to be ready to ostracize those members of society, like the *amei haaretz*, who refused to follow its ordinances. Finally, it had to come to terms with the economic disruption which flowed from the ending of sacrifices. By ordaining that the now unemployed priests and Levites should still be supported by the tithe paid by the farmers, Rabban Gamliel was coming to grips with a serious economic problem. At the same time he was further alienating the

farmers who resented that they alone were asked to pay the tithe. Through the medium of levitical impurity, the sages hoped to ostracize the recalcitrant *amei ha'aretz*. It is probably for this reason that *Eduyot*, one of the first tractates of the Mishna, reflects so much emphasis on purity. For it was through the ancient concept of purity and impurity that the academies hoped to be able to add weight to their legislation.

There is, however, another consideration that enters into an understanding of "Mishnaic" halacha. The hope that the Temple would soon be rebuilt suffered a slow death among the Jews. Only after the failure of repeated revolts, and especially after the great debacle in 135, was it clear that the sacrificial cult was not destined to be quickly restored. The hopes and energies of the religious community had to be directed elsewhere. With the failure of "practical" messianism by the crushing defeat suffered by Bar kokhba, it is only reasonable to assume that other ways would be sought to express the people's "other-worldly" aspirations. It cannot be ruled out that a life governed according to the Mishnaic regimen was understood as removing the person somewhat from this world and giving his life a more metaphysical bend. Laws of levitical purity and the like can be understood in a mystical, as well as a practical sense. They could lift a life from the corruption of this world and raise it to the level of a higher, transcendent

reality. If the Messiah could not be realized in physical terms, maybe he could be realized mystically within that select community of those who geared their lives to the transcendent concepts of the Mishna. The great attention paid to the laws of purity, especially in the early tractate, Eduyot, as well as the attention paid to the sacrificial cult (which even to the Pharisees may have symbolized the Messianic Age that they expected) can at least in part be explained by the motivation to achieve the mystical.

THE TOSEFTA'S RELATION TO THE MISHNA

Although it promises to provide much help in understanding the Tannaitic period and the Mishna, that promise has remained unfulfilled. We still do not have a commonly accepted formula by which the Tosefta can be related to the Mishna. Over a century of scientific scholarship on the Tosefta has done little to increase our understanding of its place in Tannaitic literature.

Our first reference to the Tosefta occurs already in the Gemara. Sanhedrin 86a states that an anonymous Mishna stems from R. Meir; an anonymous Tosefta, from R. Neḥemia; an anonymous passage in Sifra from R. Yehuda; and an anonymous passage in Sifra from R. Shimon.

There is some question today as to whether the Talmudic Tosefta is indeed the collection that we call Tosefta today. As a matter of fact there is general agreement among modern scholars that the Tosefta as we have it was unknown to the Amoraim. Nonetheless, medieval scholars took the Gemara as referring to the work they knew as Tosefta and treated it accordingly. Sanhedrin seems to say that the Mishna and the Tosefta developed parallel to each other, through the work of two students of Akiba. Furthermore, each received its final

form at the hand of a later editor.

The earliest post-Amoraic opinion that we have concerning the composition of the Tosefta is that of Sherira Gaon, who lived in the tenth century. In a responsum dated 987, he discussed the relationship between the Mishna and Tosefta. It is not surprising that his answer depends heavily on the tradition recorded in the Gemara. Both of these Tannaitic works, Sherira explained, stem ultimately from the pioneering work of R. Akiba. Upon his death, his work was continued by two of his pupils, R. Meir and Neḥemia. R. Meir and his successor, R. Yehuda HaNasi, proposed to record the developing halacha as briefly as possible, omitting any argumentation that was superfluous to an understanding of the law. Their concise account became the Mishna. On the other hand, R. Neḥemia set himself the task of preserving the various arguments and commentaries to the halacha which were being jettisoned by Rs. Meir and Yehuda. R. Neḥemia's compilation was to serve as a sort of supplement to the Mishna. Hence the name Tosefta.

Sherira Gaon's interpretation of the status of the Tosefta became the standard medieval view. It reappears both in the works of Moses Maimonides (Introduction to Mishnah seder Zeraim) and Menahem Meiri (Bet HaBehira, a commentary to sections of the Mishna). Sherira's view was much more suited to the medieval Jewish world than was the

pure Talmudic version because Sherira assigned to the Tosefta a function vis-a-vis the Mishna. This had two important implications. First of all, the linear and uninterrupted development of the law was maintained. That is, the Tosefta did not represent an independent source of halacha, as the statement in Sanhedrin could imply. Stressing the essential harmony of Tannaitic and Amoraic halacha was especially important at this time due to the threat posed by Karaism. Second of all, the Tosefta was allotted a specific function within the system of Rabbinic literature as it then existed. It was no longer an unofficial collection of Tannaitic sayings, but it was a classical commentary to the Mishna, compiled by the Tannaim themselves.

The Tosefta remained peaceful and unobtrusive in its role as commentary to the Mishna until well into the nineteenth century. The new critical-scientific approach of scholarship, known as the Wissenschaft, was systematically overturning the traditional understanding of Jewish history, literature and religion. Under the influence of Positivism, many scholars were collating reams of documents and sources in an attempt to isolate as much data as possible. Many of the early scholars of the Wissenschaft had received a traditional Jewish training which provided them with a familiarity of broad sweeps of traditional material. Armed with this knowledge and imbued with the new critical spirit of the times,

many researchers opened up whole areas of study, bristling with questions, which were left for later generations to grapple with. It was only to be expected that sooner or later the question of the origin of the Tosefta would come up again. In 1859 Z. Frankel, perhaps unwittingly, opened the Pandora's box.

Darkei HaMishnah is an impressive display of scholarship. It represents a thoroughgoing collection and collation of material dealing with the Mishna. Frankel also dealt with the Tosefta, outlining what he felt were the basic elements of the relationship between it and the Mishna. First of all, the Tosefta would expand on the Mishna where a passage was abbreviated or left out entirely. Second, many Tosefta passages seemed to be directly connected to the Mishna in the form of a commentary. Finally, the Tosefta brought to light arguments and discussions which did not appear in the Mishna. Basing his argument on the foregoing analysis, Frankel concluded that the Tosefta was indeed a commentary to the Mishna, as the tradition maintained. But Frankel's investigation carried him still further. He argued that the Tosefta reached its final form at the time of Rs. Hoshaiia and Hiyya, who were its final redactors. He also pointed out that the Tosefta contains material from other authorities as well---Bar Kappara, for example. The conclusion of his analysis, then, was that the Tosefta is a collection of opinions which was not finalized until sometime after Yehuda HaNasi and that it

therefore cannot be merely R. Neḥemia's commentary to R. Meir's Mishna. By questioning the authorship and date of the Tosefta as provided by the tradition, Frankel was leaving the door wide open for future questioning.

A number of scholars turned their attention to the Tosefta in the 1870's. Among the most important were M.S. Zuckerman and Joseph Z.H. Dünner. Both men had received traditional rabbinic training as had Frankel before them. Zuckerman was a student of Frankel's. Dünner was the head of the rabbinical seminary in Amsterdam and later became the chief Ashkenazic rabbi there. Both men approached the problem of the Tosefta, not from a functional point of view, but by trying to determine its date of compilation. Their answers were diametrically opposed.

M.S. Zuckerman argued that the Tosefta was not a commentary to the Mishna. In fact, the Mishna we have is merely a whittled down version of the Tosefta. As Zuckerman conceived it, our Tosefta was originally the Palestinian Mishna. When it was adopted by the academies in Babylonia it had to be revised so as to be compatible with conditions in the East. The resultant adaption is our present-day Mishna. In time, the Babylonian Mishna became the official version and was (erroneously) prefixed to the Palestinian Gemara (which had as its original Mishna our Tosefta). In this way, in addition, Zuckerman could account for the strong "Palestinian" bias of the Tosefta.

Needless to say, this thesis stirred up a good deal of opposition within the Jewish community. Zuckerman was accused of trying to undercut the authority of the Mishna by claiming that it was a spurious document created for the convenience of the Babylonians. He was also accused of being a Reformer, rejecting the sanctity of all halacha. Stung by the spate of criticism that greeted the publication of his thesis, Zuckerman embarked upon what turned out to be a lifelong project of documenting and proving his thesis. In 1876 he published the first of a series of books, Die Erfurter Handschrift der Tosefta. Among his major works in this connection were the scientific-critical edition of the Tosefta and his massive Tosefta, Mischna und Boraitha in ihrem Verhältniss Zueinander. In the main, his response went as follows: The Babylonian Amoraim did not "falsify" or "misrepresent" the original Mishna. Their efforts were a legitimate use of "drash," adapting the text to their needs. The validity of our work---our Mishna---and the Gemara based on it are in no way compromised. The Babylonian Mishna could have been mistakenly appended to the Palestinian Gemara because originally the Gemaras were circulated in manuscript form without the Mishna text. The Babylonian Mishna and the Palestinian Talmud were effectively welded to each other through the skillful use of "pilpul." Despite Zuckerman's efforts to prove the soundness of his reasoning and to bring

out the close relation between the Yerushalmi and the Tosefta, scholars remained unconvinced.

The second scholar to publish his views in the 1870's was Dünner. Dünner analysed the Tosefta and the baraitot found in the two Talmuds and came to the conclusion that the Tosefta we now have was unknown to the Amoraim. It was, in fact, only compiled near the end of the Amoraic period, albeit out of genuine Tannaitic material.

Here Dünner stood in radical opposition to Zuckermann. For Zuckermann, the Tosefta was the original material out of which the Palestinian Gemara and the Babylonian Mishna were forged. For Dünner, neither Talmud was even aware of the existence of the Tosefta. The critical evaluation of the Tosefta text which had been inaugurated by Frankel had, by the middle of the 1870's, led to a divergence of opinions of major dimensions. It was clear that a re-evaluation of the entire subject would be called for.

The first major scholar to call for a third way was Adolf Schwarz, another student of Z. Frankel. Schwarz opposed Zuckermann on the general grounds that his theory was too radical to be acceptable and that there was no internal evidence to suggest that the Yerushalmi was actually based on the Tosefta. On the other hand, he raised serious questions about Dünner's system. How could it be that the Tannaitic material that forms the basis for the Tosefta was lost all during the Amoraic period, only coming to light near

the completion of the Gemara? And if the Tosefta is indeed late, why are not more Tannaitic baraitot included? Schwarz felt that Dünner could not adequately answer these questions.

Schwarz set himself the task of analyzing the Tosefta and then comparing it with the Mishna in order to ferret out the relationship between them. This he proceeded to do in a series of articles entitled "Studien über die Tosifta" in MGWJ 23 (1874). Schwarz concluded that the compiler of the Tosefta used the Mishna as his model. That is, he made it a point to append to each anonymous halacha the dialectic and/or discussions that preceded it. The Tosefta, he concluded, was not the original of which the Mishna is but a reflection; nor is it a late Amoraic collection of random Tannaitic material that was lost. Schwarz, in effect, returned the problem to square one: that the Tosefta and the Mishna are contemporaneous and that the Tosefta is meant to be a commentary or expansion upon the Mishna. If this, then, was the case, scholarship's task was to compare these two documents to each other and to reconstruct, or rearrange, the one that was more out of order. It had become clear that despite their parallels, the Mishna and the Tosefta display noticeable divergencies in their ordering of halachot. The question, then, was which document most faithfully retained the original order. In Die Tosifta der Ordnung Moed I-II, Schwarz came to the conclusion that the Tosefta could only be understood if

rearranged in accordance with the Mishna.

The exact opposite conclusion was reached by N. Brüll, who outlined his position in "Begriff und Ursprung der Tosefta," which appeared in the Zunz Jubelschrift of 1884 in Breslau. Brüll was a student in Austria under M. Friedmann and I.H. Weiss. M. Friedmann (also known by his pen name, Ish-Shalom) devoted a good deal of his life to producing critical editions of rabbinic Midrashic texts. I.H. Weiss is most noted for his massive study of the development of the oral tradition entitled Dor, Dor v'Dorshav. Also, by the mid-1880's when Brüll's article appeared, S. Buber had already embarked on his lifelong project of collating and publishing manuscripts of lost works. It is understandable, therefore, that Brüll approached the question of the order of the Mishna and Tosefta from an historical, rather than a purely literary, point of view.

Brüll began his argument by outlining the development of the two documents. Both originated from Akiba who determined the order of the halachot. R. Meir expanded Akiba's Mishna by simply reporting new halachic decisions. R. Neḥemia paralleled R. Meir's expansion, but included the argumentation and discussion as well. After demonstrating that the Mishna and Tosefta have the same structure, Brüll moved on to argue that the Palestinian community, which

preserved the Tosefta, was more likely to maintain the original order since Palestine was the original source. The Babylonians, being far removed in place and outlook, could be expected to introduce change, even inadvertently, into the text. Thus, Brüll concluded, the Tosefta reflects the more original order and the Mishnah should be rearranged accordingly.

By the end of the nineteenth century, the initial flurry of activity over the history and composition of the Tosefta had died down. Three major points of view entered into the twentieth century. On the one hand, Zuckermann was still desperately trying to gain an audience for his point of view. He had, in essence, devoted his life to the proposition that the Tosefta is the original Palestinian Mishna. His magnum opus, Tosefta, Mishnah und Boraitha in ihrem Verhältniss Zueinander, appeared in 1908-9. It was an attempt to win scholarly approval of his thesis through overkill. It remained largely unsuccessful. Henry Malter, writing in the Jewish Quarterly Review of 1911-12, admits himself persuaded by Zuckermann, but by and large Zuckermann's idea received no support.

The second trend linked back to the traditional view expressed by Sherira Gaon and Maimonides: that the Tosefta is meant to serve as a commentary or supplement to the Mishna. Lauterbach, in his article "Tosefta" in the Jewish

Encyclopedia, states that the opinions of Sherira, Meiri and Maimonides are the most meaningful because "they alone rest on critical investigation of historical resources."²⁴

Lauterbach, however, did acknowledge that the Tosefta may not be simply a commentary to the Mishna because it sometimes repeats the Mishna verbatim, sometimes it repeats only a few words and sometimes it does not mention the Mishnaic passage at all. He also questioned the traditional view that Ḥiyya was responsible for the final redaction of the Tosefta. All in all, however, Lauterbach felt that our Tosefta stems from Akiba via R. Neḥemia and certainly includes material from Ḥiyya, Hoshaia and other authorities such as Bar Kappara, Samuel, etc. He sees it as an expansion of Yehuda's Mishna, much as did Brüll or Frankel.

The third opinion was that advanced by Dünner, that the Tosefta as we know it was not available to the Amoraim and that it represents a late Amoraic collection of Tannaitic sources. This opinion, as had Zuckerman's at the other end of the spectrum, failed to attract much of an audience.

In Die Tosephtaperiode in der Tannaitischen Literatur (1936), Spanier adopts the general view that the Tosefta is an expansion of the Mishna. According to Spanier, Tannaitic literature developed by a series of "quantum" jumps rather than by gradual accretion. Thus Akiba's Mishna was greatly expanded by his disciple, Meir. Meir's was in turn expanded by Yehuda's, which became the Mishna we know today. But the

process did not stop with Yehudah HaNasi. His mishna in turn acquired glosses and marginal notes which were eventually written into the text to produce the Tosefta. The Tosefta grew out of the Mishna and not parallel to it as many had previously thought. Consequently, it occupies a position somewhere between the present-day Mishna and the Gemara of the Bavli.²⁵

A. Guttmann, in Das Redaktionelle und Sachliche Verhaeltnis zwischen Mišna und Tosephta, also represents the Tosefta as a "quantum" stage proceeding out of the Mishna. Guttmann, however, did not conceive of the Tosefta as an intermediate step between the Mishna and the Gemara. Rather, he understood the Tosefta as being an independent Tannaitic or early Amoraic collection of notes and glosses to the Mishna text. The discrepancies in order between the two documents can be explained by the shuffling of the parchment sheets upon which the glosses and notes were written before final redaction. In a later article published in the Jewish Quarterly Review, Guttmann concluded that the Tosefta was probably redacted about 300 C.E. because it does not deal with Avot, which became part of the Mishna at about that time.²⁶

In the main, the differences of opinion among scholars who accept the Tosefta's role as being auxiliary to the Mishna concern the sources of the Tosefta. Spanier held

that the Tosefta grew out of the Mishna as an expanded text, just as the Mishna had grown out of earlier collections. Guttman saw the origins of the Tosefta in marginal notes. Lauterbach understood the Tosefta as flowing from Akiba, through R. Nehemia and then to R. Ḥiyya and R. Hoshaiah. The question as to who was the final redactor of the Tosefta remained unanswered. M. Higger addressed himself to that problem in 1941 (A Yerushalmi View of the Authorship of the Tosefta). He argued that the Amoraim regarded as authoritative only those baraitot passed on in the names of R. Ḥiyya and R. Hoshaiah. But R. Ḥiyya's views are often quoted in the Tosefta. Therefore, R. Hoshaiah must be the redactor. He then went on to invoke passages from the Yerushalmi which he claimed buttress this view.

Not all twentieth century scholars, however, were willing to accept the Tosefta that we now possess as a purely Tannaitic document. In Mehqarim b'Baraita v'Tosefta, Ch. Albeck, drawing inspiration from Dünner's earlier researches, looked upon the Tosefta as a late Amoraic redaction of Tannaitic material. He points to the fact that the Talmuds do not appear to be aware of the Tosefta, since the Gemara often debates problems whose solutions already appear in the Tosefta. Therefore, as Dünner had previously concluded, the Tosefta only appeared after the Talmudic discussions had already taken place. The word "Tosefta," which appears in

the Gemara may denote a simple addition and not a completed book. Our Tosefta may represent the attempt of an Amora to collect Palestinian Baraitot.

In 1936 Albeck immigrated to Palestine and was appointed to a professorship at Hebrew University. It was in Palestine that his Mehgarim was published. His conclusions concerning the late date of the redaction of the Tosefta has become, in a sense, the "Israeli" point of view. The implications of Albeck's researches are also reflected in the writings of J.N. Epstein, also a professor at Hebrew University. In Mevo'ot LaSifrut HaTannaim, Epstein argues that the Tosefta that we now possess is not the original, but reflects an older collection that inspired the Gemara of the Bavli. The present Tosefta was taught orally down through the Geonic period, and consequently underwent a number of changes and distortions. Our Tosefta, then, stands at the end of a long history of development and only received its final form at a very late date. As a collection, it was unknown to the Amoraim.

B. de Vries, who was professor of Talmud at Tel Aviv University, is the most recent Israeli scholar to try to resolve the Tosefta-Mishna question. In an article entitled "Ba'ayat HaYahas ben HaTosefta u'ven HaTalmudim" in Tarbitz, he tries to draw a consensus from the books by Albeck, Epstein and B. Cohen. He concludes that several toseftas

existed during the Tannaitic and Amoraic periods and that they all served as supplements or commentaries to the Mishna.²⁷ In fact, the Amoraim did use tosefta(s) from which to cull baraitot, but their tosefta(s) was not identical with the one we have preserved today. In effect, de Vries has said that all the analyses of our Tosefta and the baraitot of the Talmuds has been in vain because they all were literary-critical rather than historical. Our Tosefta never existed for the Amoraim.

The Tosefta remains in a sort of limbo. It is not really Tannaitic, but it is not really Amoraic either. It is possibly unconnected to the Mishna although it certainly seems related to it. It sheds a good deal of light on the contents of the Mishna, but most scholars are unsure as how to focus and evaluate that light. In sum, the Tosefta raises more questions than it solves. If it is indeed Tannaitic, we must explain why the Amoraim ignored it. If it is Amoraic, we have to explain why it was compiled when the Gemara was already very much developed. At present, there appears to be no solution that is not fraught with problems.

On the other hand, our knowledge about Jewish life in Palestine and in the Diaspora during the first few centuries after the Destruction is far from complete. Much of the information which we do have comes from documents like the Mishna and Tosefta which are often not reliable sources for

historical data. Our views on the philosophical and religious trends which played so prominent a role are also far from settled. Much work remains to be done before we can begin to see the Tannaitic period clearly in its own terms. Although the solution evades us now, some day we may yet be able to fit the Tosefta into the larger puzzle of early post-Destruction Judaism.

NOTES

¹ Shmuel Safrai, 'Am Yisrael Bimey HaBait HaSheni (Jerusalem: 'Am 'Oved, 1970), p. 124.

² Gedaliah Alon, Toldot HaYehudim b'Eretz-Yisrael bitqufat HaMishnah VeHatalmud (Tel Aviv: Hakibbutz Hameuhad, 1952), vol. I, p. 59ff.

³ For a critique of Alon's theory see Jacob Neusner, A Life of Rabban Johanan b. Zakkai (Leiden: 1970), pp. 243-45.

⁴ Isaak HaLevy, Dorot HaRishonim (Frankfurt a.M: Jüdische Literarischen Gesellschaft zu Frankfurt a.M, 1918), pp. 45, 46.

⁵ For Johanan b. Zakkai's opposition to the revolt see, for example, I.H. Weiss, Dor Dor v'Dorshav (Wilna: 1904), vol. II, p. 2.

⁶ Shmuel Abramski, Bar Kochba, Nasi Yisrael (Tel Aviv: Masada, 1961), p. 23.

⁷ Safrai, 'Am Yisrael Bimey HaBait HaSheni, p. 132.

⁸ Cambridge Ancient History (Cambridge: University Press, 1936), s.v. "The Imperial Peace," p. 42.

Frank Bourne, A History of the Romans (Boston: D.C. Heath, 1966), pp. 414-15.

⁹ Abramski, pp. 54-57.

¹⁰ Louis Finkelstein, Akiba: Scholar, Saint and Martyr (Philadelphia: Jewish Publication Society of America, 1962), p. 271.

¹¹ Abramski, pp. 73-76.

¹² Baruch Kanael, "Ancient Jewish Coins and their Historical Importance," in The Biblical Archaeologist Reader 3, ed. Edward P. Campbell, Jr. and David Noel Freedman (New York: Anchor Books, 1970), pp. 300-301.

¹³ Dio Cassius, Dio's Roman History, vol. VIII of Loeb Classical Library (Cambridge, Mass: Harvard University Press, 1955), p. 447.

¹⁴ Cambridge Ancient History, pp. 294-325.

¹⁵Shmuel Safrai, "Tequfat HaMishnah v'HaTalmud," in Toldat am Yisrael, ed. H.H. Ben-Sasson, vol. I, "Ancient Times." (Tel Aviv: Devir, 1969), pp. 324-25.

¹⁶Alexander Guttman, "Foundations of Rabbinic Judaism," Hebrew Union College Annual 23 (1950-51).

¹⁷Alexander Guttman, "The End of the Jewish Sacrificial Cult," Hebrew Union College Annual 38 (1967).

¹⁸Mishna Rosh HaShanah 4:1.

¹⁹For a fuller discussion see Alexander Guttman, Rabbinic Judaism in the Making (Detroit, Wayne State University Press, 1970), pp. 187-200.

²⁰See further, Guttman, Rabbinic Judaism in the Making, pp. 200-221.

²¹Chanoch Albeck, Mavo LaMishnah (Jerusalem: Mosad Bialik, 1967), pp. 82ff, from H. Graetz, Geschichte IV, p. 36.

²²Solomon Zeitlin, "The Am Haarez," Jewish Quarterly Review 23 (1932-33), pp. 45-61.

²³See, for example, Mishna Demai III:2,3.

²⁴Jewish Encyclopedia, 1906 ed., s.v. "Tosefta," by J.Z. Lauterbach.

²⁵Arthur Spanier, Die Toseftaperiode in der Tannaitischen Literatur (Berlin: Schocken, 1936), pp. 55-56.

²⁶Alexander Guttman, "Tractate Abot---Its Place in Rabbinic Literature," Jewish Quarterly Review 41 (1950).

²⁷Benjamin de Vries, "Ba'ayat HaYahas ben HaTosefta u'ver HaTalmudim," Tarbitz 28 (Jan. 1959).

T R A N S L A T I O N

T O S E F T A E D U Y O T

T O S E P H T A E D U Y O T

Chapter I

1 When the sages convened in the academy at Yavneh, they said that the time is near when a man will look for an item in the Bible and not find it or in the words of the Scribes and not find it, as it is said: "For the days are coming, says Gd, when I will send a famine over the land. It will not be a hunger for bread, nor a thirst for water, but of understanding the words of Gd..." (Amos 8:11) They will look all over for the words of Gd, but they won't find them. "Words of Gd" means prophecy; "Words of Gd" means the end of time; "Words of Gd" means no item of Torah is like any other one. They said: Let's begin with Hillel and Shammai. Shammai says that the Hallah is to be offered for dough containing (at least) one gav and Hillel said (at least) two gavs; the sages, however, say: not according to the one nor to the other, but rather the Hallah is to be offered for dough containing a gav and a half, as it is said: "From the first of your barley-meal you shall offer a Hallah like the offering from the threshing..." (Nu. 15:20) That is, as much as the isah of the desert. And how much is the isah of the desert? One omer, as it is said: "The omer is one-tenth of an ephah." (Ex. 16:36)

2 The sages established its measurement as seven desert rovas plus a little more, which equals five Sepphoris

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rovav which equals one and a half Jerusalem qavs.

3 Hillel says that a full hin of drawn water, twelve logs, renders a mikveh unfit. Shammai says that a full hin of drawn water, thirty-six logs, renders a mikveh unfit. The sages, however, say: not according to the one nor to the other, but rather three logs of drawn water renders a mikveh unfit. Once two weavers came up from Dung Gate in Jerusalem and testified in the names of Phemaiah and Avtalion that three logs of water render a mikveh unfit - and it was decided on their word. Why was the place and their occupation mentioned, for no occupation is more lowly than that of a weaver and no place is more lowly than Dung Gate? Just as our forefathers did not rely on their own opinion when they had an oral tradition, so much the more should we not rely on our own opinions when we have an oral tradition.

4 The Halacha is always according to the majority (view) and the minority (view) is only mentioned along with the majority to (show that they are) cancelled. R. Yehuda says that the minority is only mentioned along with the majority in case at some time it may be necessary to rely on it. The sages say that the minority is only mentioned along with the majority in cases in which one (side) says "pure" and the other says "impure" - as is the opinion of R. Eliezer, then they would say: "You have received R. Eliezer's tradition."

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5 If one consults a sage and he declares something to be impure, he should not consult another sage. If one consults a sage and he declares something to be pure, he should not consult another sage. If there are two (sages) and one prohibits and one permits, or one declares impure and the other declares pure - if there is another sage he should be consulted, and if not - follow the more strict view.

R. Yehoshua ben Qorha says: "In a matter from Torah, follow the strict view; in a matter from the Rabbis, follow the lenient view."

6 If a woman and her husband go to a distant place and if there is peace between him and her and there was peace in the world - if she come and say, "My husband died," she may remarry; "My husband died," she may be taken in levirate marriage. If there is peace between him and her and war in the world, or if there is quarreling between him and her and peace in the world, if she come and say, "My husband died," whether she be crying or not, whether her clothes be torn or not, she is to be believed. R. Yehuda said she is certainly not to be believed unless she come crying and with her clothes torn. If so, they replied, a smart woman could remarry while a woman who is not smart could not remarry. Bet Hillel said: "We have only learned this for the case when the woman comes from the harvest." Bet Shammai replied: "But aren't all the

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seasons of the year harvest times? When the barley harvest is over, the wheat harvest begins; when the wheat harvest is over, the grape harvest begins; when the grape harvest is over, the olive harvest comes; all the seasons of the year are harvest times." Furthermore Bet Hillel said (to Bet Shammai): "We find that brothers do not receive their inheritance on her word." Bet Shammai replied: "But don't we learn from her ketubah where it is written that when you marry another take what is yours according to your ketubah and go?" Then Bet Hillel changed and rendered decisions according to Bet Shammai.

7 There are six cases in which R. Akiba declared an impurity and the sages declared a purity: a reptile and an amphibian (frog) in the public domain, an olive's bulk of flesh from a corpse or an olive's bulk of flesh from carrion, a bone from a corpse or a bone from carrion, a clod of pure earth and a clod from a grave area, a clod of pure earth and a clod of earth from foreign soil, and two paths - one impure and the other pure. R. Akiba declared an impurity and the sages declared a purity. In six cases of doubt, R. Akiba judged impure but the sages judged pure: a spine and a skull from two corpses, a quarter log of blood from two corpses, a quarter gav of bone from two corpses, a dead person's limb from two corpses, or a live person's limb from two people -

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R. Akiba judges them impure but the sages declare them pure.

8 Three matters were brought up before R. Ishmael on which he declared neither a prohibition nor a permissiveness. R. Yehoshua explained (the law concerning) them. If one manipulate an abscess on the Sabbath in order to peel it or make an opening as the physicians do, he is liable; but if to work the puss out, he is exempt.

9 Concerning garlic, unripe grapes and unripe wheat: if one were (already) mashing them while it was still daytime, R. Ishmael says that he may finish after nightfall (on ~~the~~ Shabbat) and R. Akiba says he should not finish, but the priests conducted the matter according to R. Ishmael.

10 Three things were brought up before R. Akiba - two in the name of R. Eliezer and one in the name of R. Yehoshua - and he neither prohibited nor permitted, declared them neither fit nor unfit, declared them neither pure nor impure. The two in the name of R. Eliezer: Is a woman allowed to go out with an "Ir shel Zahav" (on the Sabbath)? He (Akiba) didn't rule on it. R. Eliezer permitted it but the sages prohibited it.

11 Are pigeon racers eligible to give testimony? He (Akiba) declared them neither fit nor unfit. R. Eliezer declared them fit but the sages declared them unfit.

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12 The one in the name of R. Yehoshua: In the case of a (dead) reptile in the mouth of a mole while the mole is walking upon loaves of bread given as Terumah, there is doubt as to whether there is defilement due to contact or not. R. Eliezer declares them to be pure and R. Yehoshua declares them to be impure. The sages say that if it is certain, they are impure; but if it is in doubt, they are pure.

13 In the case of an oven which was originally at least four handbreadths in size and, when broken, whose sherds were at least four handbreadths - although originally they had said three handbreadths - they (the sages) agreed with him (that it was susceptible to defilement). In the case of a wooden sandal or of the shoes of lime workers, the sages did not agree with him that they were susceptible to impurity by midras or that a woman could be rejected for levirate marriage with them or that one could go out with them on the Sabbath.

14 Five things were expounded homiletically by R. Akiba. A man bestows benefit upon his children in regards to five qualities, but the sages say he bestows them only until (the child reaches) puberty. From then on he (the child) must earn them himself. R. Akiba asked: Where have we ever found a case in which someone was a cripple until puberty and when he reached puberty he was restored, or where he was deaf

Eduyot I

until puberty and when he reached puberty he was able to hear, or where he was blind until puberty and when he reached puberty he was able to see? So how could he have the benefit bestowed upon him up to that time? They replied: Because we have found cases in which one was normal until puberty and at puberty became a cripple, and in which one could hear until puberty and at puberty became deaf and in which one could see until puberty and at puberty became blind. From here (we see) that he bestows the benefit upon him (the child) only up to that time.

Concerning the number of generations after him until the messiah will appear. Even though the days and the hours are like a single hair before Gd, He counts only by generations as it is written: "Calling the generations from the beginning" (Is. 41:4) and even though it says: "You shall serve them and they will oppress you for four hundred years" (Gen. 15:13), it is said: "And they shall come back here in the fourth generation." (Gen. 15:16)

15 Now He says: "I will fill the number of your days."

(Ex. 23:26) That is, two generations; and as for the rest of mankind - if he be worthy, his years are completed and if he be unworthy, his years are lessened. Thus says R. Akiba. But the sages say if he be worthy his years are added to and if he be unworthy his years are taken away from. They said to R. Akiba: Look, He says: "I have added fifteen years to

Eduyot I

your life." (II Kings 20:6) He replied: They were added from among his own years. R. Akiba said to them: Look, He says: "Behold, a son shall be born to the house of David, Josiah by name." (I Kings 13:2) and Manasseh hadn't even come into being yet. They replied: Did it say a son shall be born to the house of David, a son of Hezekiah? Did it not say: "Behold, a son shall be born to the house of David" - either from Hezekiah or from the whole house of David?

16 Concerning five shorn sheep, (the fleece of) each weighing one and a half manehs, which is seventy-five selas, R. Dosa says they are subject to the offering of the first of the fleece, but the sages say (this applies to) the fleece of five sheep regardless of weight. R. Nathan says that when R. Dosa says that when one eats an "egg's bulk" it means as much as the egg with its shell, but the sages say without its shell.

17 A woman who says: "I was made a prisoner but I am pure." may eat from the terumah, but if there were witnesses that she was made a prisoner, even if she say she is pure she may not eat of the terumah.

18 In four doubtful cases R. Yehoshua declared an impurity and the sages declared a purity: when a pure person is standing and an impure person passes by, when an impure object is in the private domain and a pure object is in the public

Eduyot I

domain, when a pure and an impure object are in the private domain, and when an impure object is in the public domain. If there is a doubt as to whether they touched or not, or a doubt as to whether they were overshadowed or not or a doubt as to whether they were moved or not - R. Yehoshua declares them impure, but the sages declare them pure.

Eduyot

Chapter II

1 The four cases which R. Eliezer declared pure and the sages declared impure: concerning the combs of a water-sprinkler. R. Eliezer says it does not become impure through the air, but the sages say it does become impure through the air. Concerning a baker's board which is attached by a nail fastened to a joist or beam, R. Eliezer declares it pure, but the sages declare it (susceptible to becoming) impure. Concerning shoe leather (still) on the last, R. Eliezer declares it pure, but the sages declare it (susceptible to becoming) impure. Concerning the case in which they cut the oven of clay into sections and put sand between each section and the next, R. Eliezer declares (the finished product) pure, but the sages say that it is still impure. This was called the oven of Akhnai, about which arguments abounded in Israel.

2 In twenty-four cases Beth Shammai are lenient and Beth Hillel are strict. Beth Shammai say a man can make an oath (lit. vow) committing his son as a nazirite, but Beth Hillel say a man may not make an oath committing his son as a nazirite. Concerning an egg laid on a holiday, others say in the name of R. Eliezer that it, and the hen, may be eaten. In the case of one who has annointed himself with pure oil, become impure and gone to immerse himself (in the Mikveh), Beth Shammai say even if (the oil) slowly drip off him it is pure, but Beth

Eduyot II

Hillel say that if there is enough (oil) to annoint even only a small limb, it is impure; but if there is less, it is pure. R. Eliezer related about R. Zadok: when I was studying Torah with R. Yoḥanan b. HaḤoranit, I saw him eating his bread dry since they were years of drought. I went and told my father. He said to me: Bring him olives. (When) I brought him olives, he took them and, upon inspecting them, saw that they were moist. He said to me: I don't eat olives. I went and told this to my father. He said to me: Go say to him that the cask was perforated in accordance with Beth Hillel, but the lees stopped it up. (This comes) to show that he ate his non-holy food in (accordance with the laws of) purity, for even though he was a disciple of Beth Shammai, he acted in accordance to the decisions of Beth Hillel.

3 The halacha is always according to Beth Hillel; and as for those who wish to be strict with themselves and act according to the stringencies of Beth Shammai and the stringencies of Beth Hillel, Scripture says: "For the fool walks in darkness." (Kohelet 2:14) But those who adopt the lenient (judgments) of Beth Shammai and the lenient (judgments) of Beth Hillel are wicked. Rather, (one should accept) the rulings of Beth Shammai with their leniencies and their stringencies or the judgments of Beth Hillel with their leniencies and their stringencies.

Eduyot II

4. Beth Hillel say that one may not divorce his wife with an "old" get, for the get is not to have more weight than the child. If he writes (the date of the get) in the name of the governor or in the name of the archon or if there were two rulers and he writes in the name of one of them or if he writes in the name of his grandfather, it is valid. With his family name it is invalid unless he is called by that name; then it is valid. R. Shimon b. Eleazar says that they didn't disagree that in the case of a man who divorces his wife and (then) sleeps with her in an inn, she does not need a second get from him. On what did they disagree? In the case he actually had intercourse with her. A man who forswears sex with his wife, Beth Shammai say two weeks, as in the birth of a daughter and Beth Hillel say one week, as in the birth of a son or as in the case of the menstrual period - more than that he must divorce her and fulfill her ketubah. In the case of a basket of fruit (held over) for the Sabbath, Beth Shammai exempt (the fruit from the tithe). R. Yehuda says Hillel prohibited this (for) himself. One who collects fruit to send to his friend may not eat of it until he has taken the tithe. R. Yehuda says Hillel prohibited this (for) himself. If one is transporting figs from one place to another and the Sabbath comes upon him, he may not eat of them until the end of the Sabbath unless he has taken the tithe. R. Yehuda says Hillel

Eduyot II

prohibited this (for) himself. R. Ishmael, the son of R. Yoḥanan Baroka, says that Beth Shammai and Beth Hillel did not disagree about the case in which someone had two groups of witnesses testifying in a contradictory manner, that he is a nazir according to the lesser amount. About what did they disagree? About the case in which one had two witnesses testify for him - for Beth Shammai say that they may disagree as to whether there is a nazirite here (at all), but Beth Hillel say that included in five is two and that he can be (established as) a nazirite for two periods.

5 R. Yehuda says that in (these) five cases Beth Shammai are lenient and Beth Hillel are stringent: (In the case of) the blood of a carcass, Beth Shammai declares it pure, but Beth Hillel declares it impure. But R. Yosi says that R. Yehuda admitted that even when Beth Hillel declared it impure, they declared it impure only for a quarter log of blood (or more) so that if it congeal it be (at least) an olive's bulk (in size). They agree that the egg of an unclean animal is prohibited because its progenitor is prohibited. On what did they disagree? On the egg (found in a) carcass, for Beth Hillel say it is prohibited but Beth Shammai say that if eggs like it are sold in the market it is permitted but if not, then it is prohibited.

Eduyot - II

6 R. Eliezer b. Yaakov says in another matter Beth Shammai are lenient and Beth Hillel are stringent. Beth Shammai say (it takes) two sprinklings of blood to make the sin-offering fit, but only one sprinkling for the rest of the sacrifices. Beth Hillel say that the sin-offering is like all the other sacrifices - one sprinkling makes it either fit or unfit.

7 R. Shimon says in (these) three cases Beth Shammai is lenient and Beth Hillel is stringent: The book of Ecclesiastes does not make your hands impure according to Beth Shammai, but Beth Hillel say that it does make your hands impure. (In the case of) the water of the sin-offering which has been used for its purpose, Beth Shammai declare it to be pure, but Beth Hillel declare it to be impure. How long must a woman in labor (and discharging blood) be relieved of pain to be considered a zavah? R. Eliezer ~~says one 24-hour day~~ and the halachah follows his decision. R. Shimon b. Yehuda says in the name of R. Shimon, Beth Shammai say up to three days, but Beth Hillel say one day.

8 R. Eliezer says in (these) two cases Beth Shammai are lenient and Beth Hillel are stringent. The blood of a woman who has given birth and who has not immersed herself (in the mikvah) causes impurity when it is moist, but it does not cause impurity when it is dry according to

Eduyot II

Beth Shammai. Beth Hillel say it causes impurity (while) moist and (while) dry.

9 In the case of four brothers, two of whom are married to two sisters, and the ones married to the sisters die, they (the sisters) must perform ḥalitza and not marry their brothers-in-law. If they have already married (their brothers-in-law), they must be divorced. R. Eliezer says in the name of Beth Shammai that they (the marriages) should stand, but Beth Hillel say they must be divorced. Abba Shaul says Beth Hillel was lenient in this matter. In the case of someone who has fleeced the first-born of the flock which has no defect and then set (the animal) aside, even if a defect appears later and it is slaughtered, (the fleece) must be buried. In the case of a first-born of the flock which has a defect and from which the fleece was taken, and afterwards it died, Akavia b. Mehallalel permits (the use of the fleece), but the sages prohibit it. R. Yehuda says that Akavia agrees that in this (case) it is prohibited. On what (then) did they disagree? On one which was impure and whose fleece was taken and afterwards was slaughtered - for (in this case) Akavia b. Mehallalel permits (the fleece's use) and the sages prohibit it. R. Yosi says that R. Halaphta agrees in this that it is permitted; but the sages said expressly that you should set

Eduyot II

it aside (the animal) for there is a chance that (the animal) will die and (the fleece) be prohibited, but if it (the animal) is slaughtered it (the fleece) will be permitted. On what (then) did they disagree? On a first-born which became impure and whose fleece was taken and which afterwards died - for (in this case) Akavia b. Meha~~lalel~~ permits it (the fleece's use), and the sages prohibit it.

10 An olive's bulk of flesh torn from a living limb, R.

Eliezer declares impure. They refuted R. Eliezer on three counts. If you are talking (i.e. are strict) about a corpse which contains a rova of putrification, you can not deduce from this (i.e. be stringent in the case of) a limb from a living body which does not contain a rova of putrification. Another argument: What depends on what? Does the limb depend on the flesh or does the flesh depend on the limb? The flesh depends on the limb for is it possible that the flesh become impure through touch, carrying or overshadowing and the limb (remain) pure? R. Shimon says: I would be surprised if R. Eliezer declared it impure. He didn't declare it impure except when there was proper flesh on the limb so that both would be ~~be~~ (susceptible to becoming) impure through touch, carrying and overshadowing. For a (piece of) bone the size of a barley-corn from a body, R. Nahunia declares it impure, but they refuted R. Nahunia

Eduyot. II

on three counts. If you are talking (i.e. are stringent) about a corpse which contains a rova of putrifaction, you cannot deduce from this (i.e. be stringent in the case of) a limb from a living body which does not contain a rova of putrifaction. Another argument: What depends on what? Does the bone depend on the limb or does the limb depend on the bone? Is it possible for the bone to become impure through touch or carrying and the limb (remain) pure? R. Shimon says: I would be surprised if R. Naḥunia declared it impure. He didn't declare it impure except when the flesh contained a bone of (at least) barley-corn bulk so that both would be (susceptible to becoming) impure through touch or carrying. R. Yehoshua replied to both of them. If in the case of a living body, which contains 248 bones, the flesh torn from it is pure, then in the case of a limb of a living body which does not contain 248 bones, isn't it so that the bone and the flesh torn from it are pure? Rabbi replied to R. Yehoshua's argument. No, if you say that that which is torn from a living body is certainly torn from something pure, you (must) say concerning a limb of a living body that it is certainly torn from something impure.

Eduyot

Chapter III

1 R. Zadok testified that the juice of impure locust is pure and is permitted for those who eat from terumah. R. Yehoshua and R. Pappas testified that a baker's board which is attached to a joist or beam and which is fastened by a nail is impure while R. Eliezer declares it pure; but if it isn't fastened sufficiently, everyone agrees that it is impure. They testified that the leap year can be (declared) during all of Adar. Originally they said only until Purim, until R. Yehoshua and R. Pappas came and testified that the whole of Adar was suitable for (declaring) the leap year. Menahem b. Sungai, who was a dyer, testified that the rims of cauldrons (used by) olive seethers were impure while those of dyers were pure. Originally they said the case was the other way around. When they appointed him to the academy, everybody was surprised. He said to them: In this I am the leader for all who come after me.

2 R. Yehoshua b. Batyra testified that blood from carcasses is pure. R. Shimon b. Batyra said that they used to stab wild asses in the courtyard of the king and that the pilgrims would wade in the blood up to their knees and not fear impurity. R. Yehuda b. Baba and R. Yehuda HaCohen testified that the daughter of a cohen becomes married to a cohen (and may eat terumah) when she enters under the hupa

Eduyot III

even though she has had no intercourse - for R. Eliezer said, she must have intercourse (first). R. Eliezer also said that a cohen should not marry a woman until she come of age. A court (decision) after them held that a woman of mixed family is believed in regards to impurity and purity, (in regards) to prohibition and permissibility, (in regards) to eligibility or non-eligibility to marry, but that the widow of mixed family they did not touch.

3 R. Shimon b. Azai said: Once bones were found in a wood shed in Jerusalem and the sages wanted to declare all of Jerusalem impure. R. Yehoshua said to them that it would be an embarrassment and a shame for us if our houses were declared impure. Where are the corpses from the flood, or (the bodies of) those killed by Nebuchadnezzar, or those slain in war up to now? Rather, it is said: If it (the presence of a corpse) is certain, it (the place) is impure; but if it is in doubt, let it be pure. R. Yehoshua said: I have heard that they are (still) slaughtering (sacrifices) although there are no libations (var. gates); that they are eating the holy foods even though the curtains for the Tabernacle no longer exist; less-holy foods and second tithes, even though the wall (around Jerusalem) no longer exists. (This is) because the first sanctification (of the Temple) sanctified for the present and for the future (all of Jerusalem).

Eduyot III

4 The family of Beth Tserefa was in Trans-Jordan and a local tyrant forcibly declared them prohibited for marriage while another family there the local tyrant declared to be fit for marriage. The sages did not want to reveal (their identity), but they passed (the name) on to their sons and their students once every seven years. It is for those like these that Eliahu will come to declare impure or pure, to declare fit for marriage or unfit for marriage. R. Meir says (he will come) only to declare families fit, but not to declare them unfit. R. Yehuda says that it is the other way around. Hanania b. Addia says: Behold, it says, "Now the son of an Israelite woman and of an Egyptian man went out..." (Levit. 24:10) Can't we deduce the case by "Qal v'ḥomer"? If Moses, the teacher of Eliahu, did not want to reveal the names of the mamzerim until they be revealed by themselves, how much the more so should Eliahu, the disciple of Moses, not want to reveal the names of the mamzerim until they be revealed by themselves! He who still has students, his students call him "Rabbi"; when his students are gone (lit. "forgotten"), he is called "Rabban"; when these and the next ones are gone, he is called by his name.

EDUYOT I *

1. Academy at Yavneh --- lit. vineyard in Yavneh.
Look for a Biblical saying and will not find it ---
 that is, the proper Biblical proof-texts for the Halakha
 will be forgotten.
end of time --- destiny, or time when the Messiah will
 come.
Shammai said that the Hallah --- Eduyot 1:2.
2. Seven desert rovas --- an ephah is three seahs or 18
 qavs or 72 logs. Thus an omer, being a tenth of an
 ephah, equals 7.2 logs, which is 7.2 desert rovas.

desert rovas --- three systems of measurement are men-
 tioned here. The "desert" measurements are Biblical
 and were used by the Israelites in the desert. The
 "Jerusalem" system was in use during the Second Common-
 wealth. The "Sepphoris" system was established after
 the Destruction when Sepphoris became an important
 center.
3. Hillel says that a full bin --- compare Eduyot 1:3.

renders a mikveh unfit --- if the drawn water is poured
 into a mikveh which does not yet have its minimum
 requirement of 40 seahs water, the drawn water makes
 the water already in the mikveh like the drawn water,
 thereby rendering the mikveh unfit. This does not
 apply if the mikveh is already full.

Shamaiah and Avtalion --- the fourth zug as enumerated
 in Pirke Avot. They presumably led the Sanhedrin until
 Herod had it destroyed. This may explain why their
 teachings were forgotten by Shammai and Hillel and were,
 by chance, transmitted by two lowly weavers.

Just as our forefathers --- Compare Eduyot 1:4.
4. The sages say --- Compare Eduyot 1:6.
5. he declares something to be pure, he should not consult
 another sage --- implying distrust in the opinion of the
 first sage who declared pure.
6. If a woman and her husband --- Compare Eduyot 1:12; also
Yebamot 15:1-2. Her word is taken as sufficient evidence
 to establish her husband's death.

* All references to Eduyot or other tractates refer to the Mishna unless otherwise stated.

Eduyot I-Notes

a smart woman could remarry --- that is, one who knew that the sages would be obligated to take her word if she cry. A woman who was unfamiliar with the law may purposely hold back her tears and thereby unwittingly bring her credibility into question. Thus, in fairness, a woman must be believed regardless of whether she is crying or her garments are torn or not.

We find that brothers do not receive --- Beth Hillel's view is that a woman is not believed in money matters.

take what is your ketubah --- that is, a woman is believed in money matters.

7. Six cases in which R. Akiba declared an impurity --- For example a dead reptile conveys impurity through contact, while an amphibian does not. Thus, if a person came in contact with either a reptile or an amphibian, but didn't know which, a question arose as to whether he was defiled or not. R. Akiba took the most stringent view. Likewise in the other cases.

a reptile or an amphibian --- Tohorot 5:1.

amphibian --- or more strictly: frog.

An olive's bulk of flesh from a corpse and an olive's bulk of flesh from carrion --- both transfer defilement by contact or carrying, but only the flesh of the corpse transfers defilement by overshadowing.

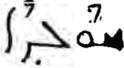
A bone from a corpse and a bone from carrion --- a bone from a corpse conveys defilement by carrying and by contact, while a bone from carrion does not.

A clod of ^(ritually) pure earth and a clod from a grave area --- the pure earth conveys no defilement, but earth from a grave area conveys defilement through carrying and contact.

A clod of earth from foreign soil --- may convey defilement through carrying or contact.
two paths---one impure --- i.e. passing over a grave.

a quarter log of blood from two corpses --- a log of blood is considered the minimum amount of blood to support life. That it is considered a corpse even if from more than one body is based on Levit. 21:11, "He shall not approach the bodies of the dead..."

Eduyot I-Notes

8. Three matters --- Eduyot 2:5.
9. The priests conducted the matter according to R. Ishmael --- not because they were diligent, but because they considered the eating of Trumah a mitzvah, the preparation of which they could carry over into the Sabbath. Concerning garlic --- Eduyot 2:6.
10. Ir shel zahav --- or "yerushalaim shel zahav," a piece of woman's jewelry with an image of Jerusalem embossed or engraved on it. It was seemingly very costly and was worn only by the wealthy. Three things --- Eduyot 2:7.
11. pigeon racers --- i.e. gamblers, people whose moral qualities are in question (Eduyot 2:7).
12. mole --- compare Syriac  - mole.
The one in the name of R. Yehoshua --- Eduyot 2:7.
if it is certain --- that the mole walked on the loaves of bread while holding the reptile or that the reptile touched the loaves.
if it is in doubt --- that the mole touched the loaves; but if the mole did touch the loaves, even if it is doubtful whether it touched the reptiles, the loaves are considered defiled.
13. In the case of an oven --- compare Eduyot 2:8.
four handbreadth --- at this size they were considered whole vessels and thus susceptible to defilement.
shoes of limeworkers --- that were worn to protect the workers' feet from being burned by the lime.
impurity by midras...rejected for levirate marriage...
go out with them on the Sabbath --- that is, the sages did not consider them to be complete or proper shoes and thus not subject to the rules of impurity to which normal shoes were subject.
14. A man bestows benefit --- compare Eduyot 2:9.
five attributes --- beauty, strength, wealth, wisdom and years.
Concerning the number of generations --- compare Eduyot 2:9.
the number of generations after him --- this section along with the following Tosefta seem to be saying that the total number of generations until the coming of the Messiah has been determined already. The length of these generations, however, depends on the merit of each generation and is not predetermined.

Eduyot I-Notes

from among his own years --- that is, Gd had reversed an earlier decision to end his life early. And Manasseh hadn't even come into being yet --- Josiah was born of Manasseh who was born of Hezekiah. However, since Josiah's birth is mentioned in Kings even before Manasseh was born, Akiba argues that originally Josiah was to have been born directly of Hezekiah. He takes this as proof that Hezekiah was originally to have lived longer, but Gd chose to end his life early and thus Manasseh had to be born to fill in the years until Josiah's birth.

16. Concerning five shorn sheep --- Hullin 11:2.
17. A woman who says --- Ketubot 2:5. made a prisoner by idolatry may eat from the trumah --- is considered ritually clean, for a woman who has had intercourse with an idolator is considered defiled. If she, of her own free will, admits she was made a prisoner but maintains she is still pure she is to be believed, for she didn't have to admit her imprisonment in the first place. However, if witnesses saw her being taken prisoner, she is not to be believed since she had to admit being taken prisoner.
18. In four doubtful cases --- compare Eduyot 3:7.

EDUYOT II

1. impure from the air---See Kelim 2:8. If an unclean reptile is hanging in the air. There is a disagreement as to whether the teeth of the dish are part of the clay vessel, thus transmitting impurity or not.

baker's board---if the board (or shelf) is securely fastened to the wall or beam it loses its independent status of being a vessel and thus loses its susceptibility to impurity. Compare Eduyot 7:7.

shoe-leather (still) on the last---the argument is whether it is a finished article, susceptible to impurity or not.

they cut it into sections and put sand...---the argument is whether the sand placed between the sections can be considered as separating the sections from each other or whether the plaster used over them binds them together in such a way as to make them into one vessel capable of being defiled. See Eduyot 7:7, Kelim 5:10.

oven of Aknai---the process described above was used as a legal way to purify ritually unclean clay ovens. Aknai is derived from Aknah (כ) > 7 meaning, according to one opinion, a snake which wraps itself and has the shape of a ring. See Bava Metsia 59ab.

2. committing his son---Compare Nazir 4:6. A man may commit his son until the son reaches puberty.

egg laid on a holiday---Compare Betzah 1:1.

one who has annointed himself---Compare Eduyot 4:1. The argument concerns the maximum amount of oil on a man which can become purified when the person immerses himself in the mikveh.

R. Eliezer related about R. Zadok---This story is repeated in Tosefta Sukkah 2:3.

I don't eat olives---out of fear that the liquid on the olives had rendered them impure.

cask was perforated...but the lees stopped it up---by opening the cask, the owner indicates that he doesn't plan to keep the liquid, and the liquid thereby loses its ability to transmit defilement to the olives. The

Eduyot II-Notes

olives were moist only because the opening in the cask was inadvertantly blocked by the lees. Beth Shammai holds that the liquid is fruit juice and therefore doesn't transmit defilement to begin with.

4. "old" get --- i.e. after the get was written, but before being handed to the woman, she had relations with her husband which may result in the birth of a child. In such a case people may think the child was conceived after the get was presented rather than before, and was therefore born out of wedlock. Eduyot 4:7.

A man who divorces his wife and (then) sleeps with her in an inn --- compare Eduyot 4:7.

A man who forswears sex --- compare Eduyot 4:10 and ketuboth 5:6.

basket of fruit (held over) for the Sabbath --- all food eaten on the Sabbath must be tithed. Here, Beth Shammai allows the fruit to be eaten untithed before the Sabbath, even though it has been designated for the Sabbath. Beth Hillel maintains that since it was designated for the Sabbath, it must be tithed, even if eaten beforehand. See Eduyot 4:10 and Ma'asrot 4:2.

Hillel used to prohibit this (for) himself --- but everyone disagreed with him.

He is a nazir according to the lesser amount --- i.e. if one group of witnesses claimed he swore to be a nazir for five periods and the other group of witnesses claimed he swore for two periods, there was no doubt that he was a nazir for two periods.

Beth Hillel says that included in five is two --- compare to Nazir 3:7 and Eduyot 4:11. Beth Hillel's argument is that if there is a disagreement among the witnesses as to how many vows the nazir took, the court can at least establish that he is responsible for the number on which both witnesses agree. Thus, if one witness maintains he took five vows and the other that he took only two, we can establish that the nazirite took at least two vows. Beth Shammai would declare the person in question to be no nazirite at all since the witnesses disagree on the number of vows.

5. (In the case of) blood of a carcass --- Eduyot 5:1.

They agree that the egg of an unclean animal --- Eduyot 5:1.

Eduyot II-Notes

- On the egg (found in a) carcass --- compare Eduyot 5:1.
- eggs like it are sold in the market --- that is, if its shell is comparable in hardness to the eggs found in the market.
6. two sprinklings of blood --- that is, if only one of the two sprinklings was invalid for some reason, the sacrifice would still be considered valid by Beth Shammai since the other sprinkling was valid. See Tosefta Zevahim 4:9.
7. Book of Ecclesiastes does not make your hands impure --- that is, it is not considered holy, or rather, written by the holy spirit. Eduyot 5:3 and compare Yadaim 3:5.
- water of the sin-offering --- in which the ashes of the red heifer have been placed. According to Nu. 19:21, whoever comes in contact with that water is rendered unclean until evening. See also Parah 12:4.
8. the blood of a woman who has given birth --- compare Eduyot 5:4 and Nidah 4:3.
- immersed herself --- after a week if she gave birth to a son, after two weeks if she gave birth to a daughter.
- Beth Hillel says --- they compare it to the blood of the menstrual period which always defiles whether moist or dry.
9. In the case of four brothers --- Eduyot 3:1 and Yebamot 5:5.
- the fleece must be buried --- that is, not used, since the animal was still consecrated to Gd when the wool was removed.
10. an olive's bulk of flesh... --- See Eduyot 6:3.

EDUYOT III

1. B. Zadok testified --- see Eduyot 7:2.

baker's board --- if it is sufficiently fastened to the wall it becomes part of the wall and loses its independent status as a "vessel" susceptible to defilement.

leap year --- since the Judean lunar calendar had only 354 days in a year, an additional month has to be added occasionally to bring the calendar in line with the solar calendar. This additional month, called "Second Adar," was added every third, sixth, eighth, eleventh, fourteenth, seventeenth and nineteenth year. See Eduyot 7:7.

until Purim --- After Purim, the laws of Pesach came into effect and to then postpone Pesach by intercalation would lead to discrediting the laws of Pesach.

rims of cauldrons --- a rim of clay was added to the cauldrons to prevent the boiling liquid from spilling out. Eduyot 7:8.

2. blood from carcass --- Eduyot 8:1 and also see Eduyot 5:1.

daughter of a cohen becomes married to a cohen --- compare Eduyot 8:2.

woman of mixed family --- see Eduyot 8:3. A woman whose family history is in question and therefore is not eligible to marry a cohen (See Levit. 21:13-15).

3. bones were found in a woodshed --- see Eduyot 8:5. The woodshed was in the Temple area. See Middot 2:5.

Where are the corpses from the flood... --- Noah's flood. The argument is that Jerusalem must be full of bones from dead people, yet it has never been declared impure up to now.

I have heard that they are (still) slaughtering (the sacrifices) --- see Eduyot 8:6.

holy foods --- sin-offerings, cereal-offerings, guilt-offerings; see Numbers 18:9.

less holy foods --- the thanks-offering, peace-offering, paschal sacrifice.

Eduyot III-Notes

(This is) because the first Sanctification --- according to Makkot 3:3, such acts are prohibited and are punishable by forty strips. How is it, then, that the priests are still carrying them out? The answer is that the Temple area is still holy due to the sanctification of the First Temple by Solomon. See Eduyot 8:6.

4. local tyrant --- or strongman; see Eduyot 8:7.

Rabbi --- See commentary Minchat Bikkurim who calls attention to Maimonides' explanation in Hakdamah leSeder Zeraim.

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