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R. JOHANAN'S RELATION TO TANNAITIC
MATERIAL IN THE BABYLONIAN TALMUD

NORMAN KOCH

Thesis Submitted in Partial Fulfillment of
Requirements for Ordination

Hebrew Union College-Jewish Institute of Religion
New York, N. Y.

30 March, 1979

Referee: Professor Michael Chernick

HEBREW UNION COLLEGE - JEWISH INSTITUTE OF RELIGION
New York School

Report on the Rabbinic Dissertation Submitted by Norman Koch
in Partial Fulfillment of the Requirements for Ordination

R. JOHANAN'S RELATIONSHIP TO TANNAITIC MATERIAL IN THE BABYLONIAN TALMUD

R. Johanan's Relationship to Tannaitic Material in the Babylonian Talmud is a well organized study of the "torah" of R. Johanan related to mishnah and baraita texts in the tractates Makkot, Mo'ed Katan, and Kiddushin. The study deals with statements attributed directly to R. Johanan and with statements quoted in R. Johanan's name by tradents. The author attempted to compare the BT's use of Johanan material with PT's use of the same material.

The author found that Johanan mainly enunciated the underlying principles which were the basis of a mishnah's or baraita's ruling. Sometimes the principle was clearly stated, sometimes only implied by the application of a given mishnah or baraita to a new situation or question. However, statements by tradents quoting R. Johanan show a different concern. They are concerned more with the definition of terms in mishnot and baraitot or with deciding the halakah in favor of one tannaitic quthority or another.

The author believes the changes in interest and direction between Johanan's own statements and those quoted in his name are due to the fact that Johanan, a student in Judah Hanasi's court-academy, took the meaning of terms in mishnot and baraitot for granted. He was also well versed in Judah Hanasi's circle's positions on "authoritative", "final" halakah in the cases of arguments. Therefore, in his own exegesis of tannaitica he concentrated on the less obvious "principles behind the law." On the other hand, students and tradents of Johanan were not in a position to take for granted the definitions or "final halakah" traditions of Judah Hanasi's court-academy as he did. Therefore, they stressed the preservation of his definitions of mishnaic and baraita terms and decision making principles in their presentations of tannaitica.

Respectfully submitted,


Michael Chernick
Rabbi

April 1979

לרחל אשתי

אשת חיל מצאתי
בה

Preface

During the research and formulation of this study it underwent an evolution. The original attempt was to determine if R. Johanan b. Nafcha had a particular methodology for explaining Mishnah. The search for an identifiable method of explaining Mishnah was partly derived from a similar search by Baruch Bokser. Bokser's work, Samuel's Commentary on the Mishnah, is an attempt to demonstrate that that early Babylonian Amora was in possession of an actual commentary to the Mishnah.

However, the more I encountered R. Johanan's statements, the clearer it became that my scope had to be widened. What follows, then, is an attempt to view R. Johanan in relation to Tannaitic material in general, Baraitot as well as Mishnayot.

Other realities revealed by research, took me from an obvious explanation of Mishnah by R. Johanan, to the broader realm of what we might call his evident understanding of Tannaitica. That is, while R. Johanan did not usually address himself directly to explaining some aspect of Mishnah or Baraita, his statements reveal an understanding of the principles involved in the Tannaitic material. Therefore, our examination of statements attributed to R. Johanan will not usually focus on how he defines the simple meaning of a Mishnah or Baraita. Rather we will discuss how the issue or principle in Johanan's statement, can be best understood as the basis of the Tannaitic source in question. We will also find many of Johanan's responses to fellow Amoraim actually are "understandings" of a Tannaitic source's principles.

While many thanks are due many people for the aid and support given me, two must be singled out here. My wife Rosalyn, whose balance of understanding, tolerance, and prodding enabled me to overcome the

difficult moments of this thesis' writing; and my advisor, Rabbi Michael Chernick, whose direction and patience enabled me to find and evaluate the "torah" of R. Johanan.

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Chapter I: Introduction

R. Johanan was an early Palestinian Amora who lived c.180-c.279 c.e.. There is little dispute that his life was lengthy and his influence great. Early in his career he taught in Sephoris, but shortly established the academy at Tiberias, where he remained the head until his death.

Our concern here will not be the social details, biographical traditions, or aggadic output of R. Johanan; rather we will be examining his understanding and use of Tannaitic sources of the halacha: Mishnayot and Baraitot.

It is certain that Johanan not only studied in the circle of the students of R. Judah haNasi, but it appears that at some point in his youth studied with R. Judah directly.¹ This holds significance for us, as no matter what view of the Mishnah's editing we adopt, Johanan had to be privy to a late Tannaitic understanding of the Mishnah. Due to this, it is probable that Johanan was far more aware of the underlying principles and issues of the Mishnah than is usually recognized. We may also attribute his apparent lack of concern for an overt explication of simple meaning to this relationship with late Tannaim. It would seem that simple definition was for him, a known thing. What we will see, is that R. Johanan knew, or formulated, concepts, which were based on his understanding of the underlying principles of Mishnayot or Baraitot.

As the founder of the academy at Tiberias, and no doubt due to his longevity, R. Johanan affected a significant number of students, among whom are such notables as Resh Lakish and Abahu. In fact his influence was so great that Maimonides assigns to him the compilation of the Palestinian Talmud.²

1. Pesachim 3b

2. In his Introduction to the Mishnah.

Accepting the premise that Johanan's direct involvement with late Tannaim gave him a particular approach to Tannaitic sources, it should not be surprising that this approach is overshadowed by the different needs and new approaches of later generations. By the time we conclude this study, we will see that Johanan's development of conceptual principles was less important to later Amoraim who tend to cite his opinions to define or clarify words or ideas in Tannaitic sources.

Turning to the scope and methodology of this study it is clear that limits had to be imposed. Analysis of the total range of Johanan's statements in the Talmud could well be a lifetime's work. Therefore, representative samples were taken from a cross section of the Talmud. Primarily, every statement by, or attributed to, R. Johanan in the tractates Makkot, Moed Katan, and a major portion of Kiddushin were examined. Building upon the material in these three tractates each entry in **ס'סא י'סא** related to the Johanan material was examined, in all the study encompassed one hundred entries.

Examination of each entry was made along the following lines.

1) How does it fit into the sugya? 2) If related to the Mishnah without intervening Gemara does it serve as an explanation? 3) Can it be determined if the statement was made in its present context, or brought to that context from another place? 4) If the statement was brought from another context can we determine the extent to which Johanan applied it to both places? 5) If a statement is not original in its present context, has it been applied in a manner consistent with its plain meaning?

To help in answering these questions several aids were employed. First, every statement was cross-checked with parallel material in the Palestinian Talmud. If the statement was found there its usage, relative

to the Mishnah, was compared to what the Babylonian Talmud had. Various Rishonim, such as Rashi, Channanel, Rabbenu Nisim, and the text of Alfasi, proved quite useful in aiding my understanding of the Johanan material. At times their views were able to help me support my analysis of Johanan's statements.

The statements of R. Johanan which I analyzed are organized in the following way. There are four major groupings of material. 1) Statements apparently made by R. Johanan. 2) Statements made by R. Johanan in someone else's name. 3) Statements made by R. Johanan's students in his name. 4) Statements of other Amoraim in R. Johanan's name. The first and third groupings will be subdivided into A) statements related to Mishnayot and, B) statements related to Baraitot. In the second and fourth groupings I will only deal with statements related to Mishnayot.

Material studied under the major headings falls into the following categories: 1) Definition or explanation of specific terms or words found in a Mishnah or Baraita; 2) Application or discussion of the underlying principles or issues of a Mishnah or Baraita; 3) Extension or restriction of the categories covered by a Mishnah or Baraita; 4) Justification or refutation of the position taken by a Mishnah or Baraita; 5) Explanation or delineation of how one fulfills the terms of a Mishnah or Baraita, but originally made in another context.

The material occasionally overlaps several categories. Sources will, for the most, be analyzed in the category to which they fit most clearly. However, some sources serve as an excellent example of more than one category and will therefore be mentioned in more than one.

Chapter II: Statements of R. Johanan in Relation to Tannaitic Material

A. Mishnayot

1. Definition or Explanation of Terms or Words Employed in a Mishnah

Moed Katan 1:6

Moed Katan 1:6 begins with a clear example of definition. The Mishnah provides a list of things which may and may not be done during the festival. Within that list we are told that an ordinary person may sew in the manner he is accustomed to, but a craftsman may only sew with a basting stitch. **ההביוט תופר כדרכו והאומן מכע'ב (מחזיר קטן כ"א מ"ו)**

The Gemara raises the question of what a "basting stitch" is.

R. Johanan answers calling it a cross over stitch. **מא' מכל'ב דה' יוחנן**. So Johanan is clearly giving a simple definition of a term.

Shevuot 3:1

In Shevuot 3:1 the Mishnah begins by telling us that oaths are of two kinds which are really four kinds: I swear that I will eat, I will not eat, I have eaten, I have not eaten. **שבועות שתי סתם ארבע**
שבועה שאוכל ושלא אוכל שאכלתי ושלא אכלתי (שבועות נ"ה"א)

In the ensuing Gemara we find a statement of R. Johanan's which, while not directly in response to the Mishnah, offers an explanation of **שבועות שתי סתם** : a phrase which the Mishnah never explains. The statement is found in a passage which speaks of one who swears he will eat a loaf today and does not eat the loaf. Such a person is not punished by stripes. R. Johanan says that this is so because stripes are not given as punishment for the violation of a prohibition which entails no action:

והא א"מ חייב שבועה שאוכל כבר זה ה"ס ודבר ה"ס ושלא אכלה

רבי יוחנן ור"ל זאמרי תרו"בו אינו עוקה ר' יוחנן אמר אינו
עוקה משום דהוה לאו שאין בו מציצה וכ"ל לאו שאין בו
מציצה אין עוקין עליו (משפוט נא)

This case is parallel to the Mishnah's "I swear I will eat." As Johanan regards this as a negative prohibition, the violation of which entails no action, we are in a position to posit an explanation of "oaths are of two kinds." One kind is the violation of an oath by non-action, and the other is where the violation occurs via an action. An example of the second would be someone eating a loaf after having sworn not to. This division which Johanan seems to hold fits with the Mishnah's subdivision of the two kinds into four. That is, there are two types of oaths, oaths of action and oaths of restraint. These are in fact four: those taken in the present and those taken in the past.

We find two additional usages of this material which lend weight to the claim that Johanan is indeed displaying an understanding of what "oaths are of two kinds" means.

In the Palestinian Talmud we find support for our understanding of R. Johanan's statement. There we find:

משפוט שאוכל בכ"ז
היום ודבר היום ואכלה ר' יוחנן ור"ל עקב תריהון אחרין נאורא
טעמא דאיהן טעמא דרבי יוחנן משום שאינו ראוי לקבל הגזירה
טעמא דר"ל עקב משום שהוא אכל תעשה שאין בו מציצה
(ירושלמי שבועות פ"ג ה"ז)

Despite the fact that the one who took the oath performed an act, since it occurred after the time allotted for the oath's fulfillment it is called a לאו שאין בו מציצה, a violation of a prohibition via non-action.

In this case, the attributions, though problematic, are less important than the meaning of the statement which we get from the Palestinian

Talmud. Though the Palestinian Talmud has the reverse of the positions taken by Johanan and Resh Lakish in the Babylonian Talmud, the understanding of *נשבע אף על פי שהוא* as one of the categories of oaths is clear.

In view of the Palestinian Talmud the statement may not have been R. Johanan's. However, relying on the Babylonian Talmud I have dealt with it as if it were.

The contention that Johanan's proximity to Tannaim obviated a need for him to offer simple definitions or explanations of terms or words used in a Mishnah, is supported by the apparent paucity of such statements. Only two of the almost fifty statements by Johanan himself examined for this study could be construed as definition. It might well be argued that the second of those examples would have fit equally, if not better, under the category to be discussed next.

The import of Johanan's lack of discussion of simple meaning is furthered, as we find a dramatic increase in such simple explanation and decrease in presentation of principles on the part of his students.

2. Application or Discussion of a Mishnah's Underlying Principles

Makkot 2:1

After discussing several exemplary cases of accidental deaths that result in the killer being banished and several where he is not, Makkot 2:1 concludes that the rule is wherever an accidental death is the result of a downward motion the killer is banished and where it is not he is not banished. *זה הכלל כש עברק י'רצו גולה ושלא עברק י'רצו ג' א'נו גולה (מכיון פ"א מ"א)*

In the Gemara we are faced with a lengthy exchange between R. Johanan and R. Abahu, one of his principle students. Prior to the discussion a

Baraita has been introduced in which we find the following: The Baraita explains the various phrases of the verses from Numbers 35 brought as a proof text for the Mishnah's ruling. One of those phrases, "or have cast upon him," is explained as including a downward motion as a prerequisite for an upward motion.

ת"ר... או השליך עליו להביא וירידה שהיא
צורק עליו (מכילתא זי)

Apparently R. Abahu felt a conflict between the two positions, or he simply misunderstood one of them. Abahu asks Johanan when a person is going up a ladder a rung gives way and kills someone below, is the death the result of a downward or an upward movement? Johanan says that this is a case which is answered by the Baraita's position. Abahu, by citing the Mishnah's general rule objects to Johanan's view of the case. The exchange goes on but sheds no further light on our interest in this study.

האמרינן רבי אבהו מרבי יוחנן היה עולה בסולם ונפח השלימה
מיתותיו ונפל והרגה ממו כי הא' גונא עליה היא או ירידה היא או
עליה כפי נפח בירידה שהיא צורק עליו איג'יה צה הכלל וכו' (מכילתא זי)

It seems evident that Abahu was unclear about a simple matter. To what does the principle of downward movement apply? Johanan saw no problem in fitting the case to the principles of both the Mishnah and Baraita. It is clear that the movement of stepping down on the rung, though it was a prerequisite for the man's going up, was the downward motion causing death. Abahu had a problem as he viewed the man's going up as the significant movement. Johanan understands the downward motion of both principles to be the immediate motion causing death.

Shabbat 7:2

The Mishnah begins by telling us that there are thirty nine categories of work on Shabbat. It lists the headings and ends by saying that these

are indeed thirty nine. אבויג מלאכות ארבעים חסר אחת... הי' אלו אמות מלאכות ארבעים חסר אחת (אם ג' חג)

The Gemara opens immediately with the question "why is the number stated?" Johanan has an immediate response, which demonstrates the application of a principle he sees behind the listing. He tells us that the number is stated in order to teach us that if one does all these forbidden acts at one time but without intention to violate the Shabbat he is responsible for a sacrifice for each violated prohibition. מנינא עמה'י

אי' יוחנן שאק דאן כולס בהעלם אחת ח"יג דל כל אחת ואחת (אם ג' חג)
So Johanan sets forth a principle of consecutive responsibility for each act done, as the rationale for the Mishnah's formulation.

This principle of Johanan's is frequently applied in tractate Shabbat. It appears there four more times, 6b, 69a, 70b, and 96b. In each case the opening of Mishnah 7:2 is cited along with Johanan's principle as an answer to the question about the enumeration of labors. Therefore, in each case we find תנן אבויג מלאכות ארבעים חסר אחת וכו' וכו' בה מנינא עמה'י אי' יוחנן שאק דאן כולס בהעלם אחת ח"יג דל כל אחת ואחת (אם ג' חג, 13:103) Note the editorial interpolation, וכו' וכו' , "we asked about it." This indicates clearly that an editor has applied Johanan's principle here, though its original frame may have been different from the frame of Shabbat legislation.

Keritot 1:1

Again we have a Mishnah which gives us both a number and then lists each of the specifics included in the total. The Mishnah tells us, the Torah contains thirty six offenses punishable by Karet, and then lists them.

The Gemara here opens with the same statement of R. Johanan just dis-

cussed in Shabbat 7:2. Again R. Johanan is applying the principle of responsibility for each listed violation, even if all were committed at one time.

מִתְּנָא לְמַה דִּי אִיר' יוֹחֵן אָמַר עֲשָׂן כּוֹסֵם הֵדֵם אֶחָד
ח"ו עַל כֵּל אֶחָד וְאֶחָד (כ"ד ג' ה')

Baba Kama 7:1

While dealing with the issue of making restitution by means of double payment, the Mishnah tells us if you steal something from a thief you need not make a double payment.

אִין הַיֹּנֵג אַחֵר הַנֶּגֶם מַעֲמִיד תַּשְׁלִיחִי
כַּנֵּס (בבא קמא פ"ז ה"א)

In the Gemara to this Mishnah we find a principle brought in R. Johanan's name. Johanan said that if a robber has stolen something and the owner has not abandoned hope of recovering it, neither the thief nor the owner may consecrate it: a) because it is not the thief's and b) because it is not in the owner's possession.

... אַחֵר דִּי יוֹחֵן אָמַר וְדָא גַּם יִיאָסוּ הַדְּעִלִּים שְׁנִין
אִין יְכוּלִים לְהַקְבִּי' זֶה לֹא שֶׁאִין עֲלֵה וְזֶה לֹא שֶׁאִין בְּרִשְׁתּוֹ (ב"ק ס"ה, ס"ז, ס"ח, ס"ט).

R. Johanan's principle is helpful in understanding the Mishnah.

Johanan's statement implies that there are two issues to ownership, 1) title to the object, and 2) possession of the object. It is clear from Johanan's statement that if one does not have both, one's rights are restricted; one may not consecrate it. If we apply this principle of needing both title and possession to the Mishnah, then one who steals a stolen object from a thief is not punished for thieving since he did not take property which belonged fully to anyone. This is true before the owner renounces title, as the thief does not have all the pre-requisites for ownership. However, the Mishnah would not apply after the owner's renunciation of title, as the first thief, who has possession, then would become entitled. Thus, Johanan's statement serves as a principle for comprehending the Mishnah's

law.

Kiddushin 2:8

Within a list of valid and invalid betrothals the Mishnah relates the story that once there were five women, two of whom were sisters, all of whom a man attempted to betroth with a basket of figs. The basket of figs belonged to the women and the figs were produce of the seventh year.

ומצאנו בחמש נשים ובהן שתי אחיות ועיקר אגב אחד כלכלה של
תאנים ועלהן היתה ועל שביעות היתה ואמר הרי כלכם
מקושת עליהם כלכלה זו (קידושין פ"ג מ"ח)

In the sugya dealing with this part of the Mishnah, we again find the statement of R. Johanan about the inability of a thief or an owner to consecrate a stolen article. Its application to the Mishnah here is similar to that in Baba Kama. Since the man attempts to betroth with something that is not his, the question arises as to his rights to the use of the figs. There are, of course, other concerns here as the figs are also produce of the seventh year. However, in part, the principles of ownership put forth by Johanan, i.e. the necessity of both title and possession, bear on the fact that the figs are the women's

Kiddushin 2:10

While listing things which may and may not be used to effect a betrothal the Mishnah tells us that the bird offerings of a leper may not be used; but if they are sold the proceeds may be used to effect a betrothal.

המקדש ... בצ'בורי מצווע ... אינה מקושת מכרן
וקדש בצ'מ'ין מקושת (קידושין פ"ג מ"י)

The Gemara contains an argument between R. Johanan and Resh Lakish. The question is asked, about the point at which one may no longer derive

benefit from a leper's bird offerings? R. Johanan said from the time that they are slaughtered, while Resh Lakish maintained from the time that they were set aside for sacrificial purposes. R. Johanan said from the time they are slaughtered as it is slaughtering which makes them forbidden.

איתאנן צ'נו' מצורע מא'מתי אסור'ס דא' יומן אמו מעט
 מח'ל' ור"ם אמר מעט ע'קוחה ר' יוחנן אמר מעט מח'ל' (קידושין נ"ג)
 מח'ל' ה'א דאסורא ע' (קידושין נ"ג)

While there is further trading back and forth by Johanan and Resh Lakish attempting to strengthen their relative positions, the relationship of this principle to the Mishnah can be seen clearly: - the principle of knowing up to what point one may derive benefit from a leper's bird offerings will determine the Mishnah's definition of "a leper's bird offerings" and their use as vehicles for a betrothal.

Again Johanan is not directly involved with commenting on the Mishnah; but he is involved with a contemporary in debate over principles which will help more clearly define some aspect of the Mishnah.

Kiddushin 3:1

Within Mishnah Kiddushin 3:1 we find that if one told a woman that she would be betrothed to him after thirty days, and someone else betrothed her within the thirty days, she is betrothed to the second.

האומר לאשה הרי את מקודשת לי לאחר שלשים יום ואם אחר
 וקידשה בתוך שלשים יום מקודשת לפי (קידושין נ"ג א"א)

In an exploration of the implications of the Mishnah the Gemara wants to know what happens if no other comes within the thirty days but she withdraws her consent to be betrothed. לא בא אחר וקידשה וחזרה בה אהו (קידושין נ"ג)
 While it is true that this is not a stated concern of the Mishnah, Johanan's response to it will help us understand the Mishnah.

Regarding the question of the woman withdrawing her consent we see a difference of opinion between R. Johanan and Resh Lakish. Johanan says she may withdraw her consent as speech has the power to cancel speech. Resh Lakish says she may not as speech does not have the power to cancel speech.

ו' יוחנן אמר חוצרה אמי ציבור ואמא ציבור ויש לקי
אמר א'נה חוצרה לא אמי ציבור ואמא ציבור (קידושין י.)

Before turning to further evidence which supports assigning the reasoning of speech cancels speech or speech does not cancel speech, to Johanan and Resh Lakish and not a later editor, let us see why this demonstrates a principle, seen by both Johanan and Resh Lakish, which underlies the Mishnah.

The Mishnah offers us no reason as to why the second man's betrothal cancels the first. It would appear that Johanan and Resh Lakish both view the first betrothal, with the condition that it not take effect until after thirty days, as simple speech and not deed. Therefore the second betrothal has the power of cancellation over the first. Even if the second betrothal is not construed as deed, as Johanan holds that speech may cancel speech, it supercedes the first. What is important is that the first betrothal is seen as speech and not deed.

As the sugya continues we find R. Zebid relating the discussion of Johanan and Resh Lakish concerning whether or not speech has the power to cancel speech to Mishnah Kiddushin 4:6. Zebid cites the portion of Mishnah 4:6 which tells us that if she authorized her agent to betroth her and then she went and by herself betrothed herself: if her act of betrothal came first it is valid; if her agent's came first her betrothal is not valid. The Gemara asks what if she did not betroth herself but retracted? In response to this we have the above Johanan - Resh Lakish discussion

cited. וב צביד מתי' להא שמדגמא אהא וכן היא שנתה נסוג לשלוחה לקדשה
 וכלכה היא וקדשה אה צמח. אמר קדמו קידוש' קידושין ואמר של שלוחה קדמו און
 קידוש' קידושין לא קדש אה צמח וחצר' בה מכו רב' יוחנן אמר וכו' (קידושין נ"ג)

Now we are left with the task of demonstrating that the respective rationales of Johanan and Resh Lakish are not supplied by a later editor.

For this point we must turn to the Palestinian Talmud where, in discussion of the Mishnah to which Zebid links the Johanan position, we find our needed proof that the position was Johanan's and not a later editor's. In the Palestinian Talmud Johanan says that a man may cancel his agency by the power of speech.

...רב' יוחנן אמר אדם מביט על שפיתו גו
 דבר' (יבמות' קידושין פ"ג ה"ח) So, then, Johanan holds that speech can cancel speech.

It appears that by taking Johanan out of the context of a given sugya, and placing him in direct context of a Mishnah, or at least by applying his stated principles to a Mishnah, we are able to gain insight into his perceptions of Mishnah. This last example of Kiddushin 3:1 may be the clearest. In the context of the sugya Johanan is answering a question not covered by the Mishnah. However, when we take the principle he employs to answer the question, and place that principle in relation to the Mishnah, we are in a position to argue that, because Johanan understood the principle behind the Mishnah, he was able to apply it to the new question.

3. Justification or Refutation of a Position Taken by a Mishnah

While there is a distinct relationship between this category and the previous one in terms of application of understood principles, the statements in this category stand in a much more direct relation to the Mishnah. Above we saw principles applied to questions similar to, or following from, the Mishnah. Here we will see statements which defend or dispute the

Mishnah.

Makkot 1:1

Mishnah Makkot 1:1 tells us that if "we testify that so and so is liable to banishment, we do not say that he will be banished, but that he receive forty lashes instead."

מצידין אומן בא'ס גליני עבוא
ח"ב גליגות אין אומריס 'אדה צב תחתי אלא עוקה
אנצ'ס (מכור צ"א ח"א).

The Gemara, Makkot 2b, wants to know on what basis this substitution of penalties is made. R. Johanan justifies the position of the Mishnah by the hermenutic of kal v'chomer. He claims that since one who acted with pre-meditation is not banished, how much the more so that one who did not act with premeditation should not be banished.

ר' יוחנן אומר ק"ו
ומה בוא עשה מעשה במצידי איני גולגה הן שאלו עשו מעשה במצידי
איני זין אלא גליג (מכור ק"ו). Thus Johanan offers a support for the Mishnah's substitute penalty.

Makkot 1:10

Makkot 1:10 provides another fairly obvious justification of a Mishnaic position. In discussing the application of the death penalty, the Mishnah informs us that R. Tarfon and R. Akiva would never make use of the death penalty were they members of the Sanhedrin.

ז' רבון ונב'
עק'בא אומריס אלו הי'נן בסנדרין לא צדיק אדם מוולס (מכור ט"א ח"א).

The Gemara is concerned with how it would be possible for Tarfon and Akiva to always avoid the death penalty. We find Johanan and his student Elazar, saying, "did you see whether the victim was afflicted or healthy?"

נב' יוחנן ורמי אלעזר זאמני תרו"הו ראיגם לריבה הנה אלא הנה (מכור ט"א).

The implication is, that were the judges to probe deeply, asking detailed questions which might never be answered, enough doubt would exist to avoid

the death penalty. Thus, the position of Akiva and Tarfon in the Mishnah is justified.

Makkot 3:9

Mishnah Makkot 3:9 begins by telling us that according to R. Hananyah b. Gamliel those who are liable to excision are released from that liability if they have received a flogging instead. כה ח'בי בר' גור שלקו נבלה
 'י' כו' ג'ג' ... דג'ר' כ' ח'נ'י' בן גמלי'אד (מכור פ'א)

R. Johanan apparently knows of other positions as he points out that Hananyah's colleagues disagree with him. אי' יוחנן חלוקין דל'ו חב'יו
 ד' רב' חנני' בן גמלי'אד (מכור כ'ג') Proceeding from R. Johanan's statement the sugya goes on to offer repentance as securing release from karet, rather than substitute penalty. It would appear that, at the least, Johanan is disagreeing with the position of Hananyah in the Mishnah by pointing out a tradition of argument. We might posit that by pointing out the argument he is supporting the colleagues' position.

Makkot 3:5

Further on, in Makkot 3:5 we find another instance of Johanan in support of the Mishnah. Mishnah Makkot 3:5 tells us that one can become liable for violating eight prohibitions by plowing one furrow. They are: plowing with an ox and an ass, using sanctified animals, sowing diverse seeds in a vineyard during the seventh year on a festival, all this done by a priest who is a nazirite on defiled land. י' חור' גל'ס

אח'ז וח'י'ב דל'ו חס'ס ח' לאו'ן בחור'ס בשור וחמור
 והן מוקד'ס'ן וכל'א'יס בבר'ס ודש'א'י'ס' ויו'ס לוא וכהן
 ונ'צ'ר בב'י'ג הלוא'אד (מכור פ'א)

The Gemara, discussing the Mishnah tells us that R. Yanai said "A vote was taken at a convention concluding that one who covers over diverse seeds

is liable to a flogging." *יש חורש גלם יכו' אדנ' נא' בחבורה נאנו*

ואמרו החורש בכלא'ם עוקב (מכור בא:) R. Johanan responds to this by saying that the Mishnah taught it. He then quotes from the Mishnah cited above. The quote is followed by the explanation that, the way one becomes liable for violating the prohibition concerning diverse seeds by plowing a furrow, is that he covers them over as he goes. *אמנו עהן ר' יוחנן לאו*

משגנו היא זו יש חורש גלם אחז וח"ג עליו מוסר שניה לאון
החורש גסור ואחאז והן מוקדשין וכלא'ם בכרם הא' חורש צמח"ג
מוסר בכלא'ם היכי משכח לאו צמ'כס' דהיה דאצ' (מכור בא:)

In Palestine it was the practice to sow first and then plow to cover over.¹ R. Johanan simply pointed out that the Mishnah dealt with it when it said: *יש חורש גלם אחז*. For indeed the Mishnah's liability for covering diverse seeds is based upon the original act of plowing. If we posit that Yanai understood the Mishnah in too literal a fashion, i.e., as merely plowing, it makes sense that he would have need for an outside explanation of the Mishnah. Johanan's reference to the Mishnah meant that he felt it had to be understood in terms of extant Palestinian situations.

Kiddushin 2:1

Mishnah Kiddushin 2:1 offers us another example of Johanan's support of a mishnaic position. The Mishnah tells us that a man may give his daughter to be betrothed if she is a young girl. *הא'ם מקדש א'ר*
גמ' כסביא נציג (קידושין ב' א'א)

This seems to be in conflict with what we find in Mishnah Gittin 6:3. In Gittin we are told that if a young girl is betrothed both she and her father are eligible to receive her writ of divorce. R. Judah disagreed

1. Shabbat 73b *תנא גאון' שואל קא' דנציז' גויא וברר כרמי*

holding that as two could not receive the get, only her father could.

נצרה המאורסה ב"א ואב"ב מקבלין את ג'ט' אחו רבי יהודה אן
 ע"י ר' יוסף זוכיג כמחל אלא אב"ב מקבלין את ג'ט'
 גמ' (ג'ט' ע"י א"ב).

Therefore it appears that in one instance, Kiddushin, the girl is not empowered to act in her own behalf, while in Gittin there is disagreement on this point.

In Kiddushin Resh Lakish tries to claim that, as there was disagreement in Gittin, so to in Kiddushin. R. Johanan objects saying that while there was a dispute about divorce, all agreed that in marriage only her father could act in her behalf.

רבי יוחנן אחי מחלוקת ג'ט' וק"ט
 אלא ע'ק'ז'סין דר' הכ' אב"ב וס'א ה"א (ק'ז'סין א"ב).

The Gemara goes on at length giving reasons to support Johanan's statement. However, it needs no support. The Mishnah of Gittin presents two positions, while in Kiddushin we find only one. It appears that when Resh Lakish tried to extend the dispute from one Mishnah to another, R. Johanan simply said no, the Kiddushin Mishnah gives no indication of a dispute.

Drawing some preliminary conclusions from this category, we might point out that it may be an outgrowth of R. Johanan's proximity to the circle of R. Judah ha Nasi. We can see, particularly in the case of justifying the Akiva-Tarfon position concerning capital punishment, or explaining to Yanai that the Mishnah taught us how plowing could make one liable for sowing diverse seeds, or of this last retort to Resh Lakish in re the argument of Gittin, that Johanan seemed to stand in defense of a Mishnah with a simple surety that he knew what it said and why. It is also clear from things like the argument between Hananya b. Gamliel and his colleagues,

that Johanan knew traditions about the Mishnah not mentioned therein.

4. Statements used as Explanation of a Mishnah, but Originally Made in Another Context

It is moot whether this category should be a subheading of Johanan's response to Tannaitic material, or a chapter unto itself. It is not always clear who was responsible for the juxtaposition of the statements in this chapter to Mishnayot. In many cases it could well have been R. Johanan.

In proceeding we will first turn to previously discussed Johanan material which appears in clearly non-original contexts.

Pesachim 5:4

Mishnah Pesachim 5:4 begins by telling us that one who slaughters the Passover sacrifice while in possession of leaven violates a prohibition.

(השוחט את הנסח על החמץ עובר בלא תעשה (בסחים ב"ה מ"ד)

We have an argument between Resh Lakish and R. Johanan that begins in direct response to the Mishnah but ultimately ends up using a statement from Sevuot 3:1 which we have discussed before¹ as an understanding of the Mishnah's principle:

והא איתמר אבדח שאנל ככר זה היום ודבר היום ולסא
אנל רבי יוחנן ור"ל דאמר תריו"בו א"נ לוקה ר' יוחנן
אמר א"נ לוקה מיסר דהוה לאו סאין בו מעשה וכל לאו
סאין בו מעשה אין לוקין עליו (שבועות כ"א)

The sugya begins with Resh Lakish claiming that one is never liable unless the leaven belongs to the one who is slaughtering, the one who sprinkles the blood, or one of the company, and it is with him in the

1. beginning on p.4

Temple Court. R. Johanan holds that he is liable even if it is not with him in the Temple Court.

אמר רבי שמעון בן לקיש לעולם אינו ח"ג
 עד שיהא החמץ מבוטל או לעצור או לעמוד חמור וצד שיהא חמור
 אעפ"י כי יוחנן אמר אע"פ שאין עמו אעפ"י (משחים 20-25)

The Gemara tries to understand why Resh Lakish and R. Johanan differ over the extent of liability. The Gemara's explanation first posits that Resh Lakish and Johanan differ over the meaning of "with" (עם) in Exodus 34:25¹, the biblical basis for the law. It is claimed that Resh Lakish holds that "with" means near and Johanan claims we do not use "with" in the sense of near.

אולי"ה בעל המזבח קאכ"ה דרבי
 שמעון בן לקיש סבר על במזבח ורבי יוחנן סבר לא אע"פ (משחים 25)

The Gemara tells us that this argument was already gone through once.²

After restating the case and positions from Menachot the Gemara dismisses it and turns instead to our statement from Shevuot 21a. While Johanan and Resh Lakish both agree that one who swore he would eat a loaf that day but did not eat it, was not flogged, they differed as to why. Johanan claimed it was because of the violation of a prohibition which entailed no action and Resh Lakish claimed it was because a doubtful warning is not a warning. When that statement is restated here there is an addition, namely Johanan adds that a doubtful warning is indeed a warning.

זא"ה אמר שבוטל
 שאזכר כבר כי היום וצד היום ולא אכילה כי יוחנן ור"ל דאמר
 תר"ו אינו עוקר רבי יוחנן אמר אינו עוקר מאיס דהיה ליה לא
 מאן בו מעשה וכך לאו שאין בו מעשה אין עוקרין עליו אצל התבואה
 ספק אחר התבואה (משחים 25)

While the Gemara concludes that the explanation from Menachot is the proper one, a case can be made for the difference over doubtful warning

1. "לא תזבח חמץ דם", "Do not slaughter with leaven the blood of My sacrifice:"
2. Menachot 78b, where they say the same thing - haven't they already had this argument? There the reference is to Pesachim 63b.

to be the rationale. If one has leaven with him in the Temple Court we will know about it and the warning against slaughtering the Pascal offering while in possession of leaven will not be a doubtful warning; whereas, if the leaven is not with a person in the Temple Court, any warning about this matter is indeed a doubtful warning; but, according to R. Johanan this doubtful warning still suffices to create a liability for the violation of a prohibition. Resh Lakish does not accept that the doubtful warning creates such a liability.

We have further reason for believing that the difference of opinion concerning the validity of a doubtful warning was indeed the point of argument over this Mishnah. In the discussion concerning this Mishnah in the Palestinian Talmud, we find that R. Johanan and Resh Lakish do indeed hold different positions and the validity of a doubtful warning is the issue between them.

רבי שמעון בן לקיש אמר עד שיבא לשוחט לאחר
מבני חבורה ר' יוחנן אמר לשוחט אם על ש' שאינו
מבני חבורה לאחר מבני חבורה אם"פ שאינו שוחט
ר' אמר אפי' נתון צחו בירושלים ר' שמעון בן לקיש
אמר עד שיב' נתון צחו בעצרה דין בדעתיה ודין
בדעתיה דאופלסין ש' י"ל של גלויות ר' יוחנן אמר
מקדשים בגר"ה עם ספק ושב"ל אמר אין מקדשים
הגר"ה עם ספק הכל מודין אפ"ה נתון כנגדו בחסון
בירושלים מאן דאמר ספק ודאי מאן דאמר בעצרה
בירושלים ה"א (ירושלמי פסחים פ"ה ה"ז)

Makkot 3:1

Mishnah Makkot 3:1 begins "And these receive flogging: one who came (sexually) upon his sister..." (ואלו הן העוין הבא עמו אחותו (מכובת' ע'א))

These violations listed in Makkot are also found in Keritot 1:1. Of course the punishment in Keritot is excision, while in Makkot it is flogging. The Gemara in Makkot is involved in discussing why Scripture mentions punishment for incest between siblings, when Scripture had already clearly made all offenders in the case of unlawful relationships liable to punishment. ר' צחק אומר ח"ו כריתות בעלם היו ועמה ר' אבהו כרת באחיו.

R. Isaac is not the only one to ask the question, for after an answer has been supplied, the same basic question of why the specific listing is asked by the Rabbis, ורמון כרת באחיו עמה ע' (מכובת' ע'א). The question of the Rabbis is answered by borrowing the rationale given by R. Johanan in Keritot 1:1.¹ Thus we are told it is to indicate responsibility for each listed violation even if all were committed at one time.

וכבר ר' יוחנן דאמר ר' יוחנן אשך עשן כולם בהעלם אחז ח"ו
ע' כ' אחת ואחת (מכובת' ע'א).

So, while the statement of R. Johanan is admittedly not native to the discussion on Makkot, as the question regarding the Mishnahs of both Makkot and Keritot are similar, Johanan's response to Keritot 1:1 is brought to Makkot 3:1.

Megillah 1:5

The Mishnah of Megillah 1:5 tells us that the only difference between Shabbat and Yom Kippur is that deliberate violation of one is punishable by man while violation of the other is punished by God through excision.

אין בין שבת ליום הכבוד אלא שצד צדו ג' אדם
וזה צדו כרת (מגילת' ע'א ח"ה)

1. see above pp 8-9

The Gemara in Megillah cites Makkot 3:9, which tells us that according to Hananyah b. Gamliel if one, who is liable to excision, is flogged, he is freed from the liability of excision. Megillah further cites that the response of R. Johanan to Makkot 3:9.¹ Johanan told us that the colleagues of Hananyah b. Gamliel had differed with him on that point.

גמ' התם כד חייב' כד' ג' סלקי נפלו ח'י' כד' תתן
 שפאר ונקדח אח'ק' ע'ני' כ'ין שפדק' ה'י ר'א' כ'א ח'יק'
 ד'ר' ר' ח'ני' בן ג'מלי'א' א'ח' ר' י'חנן ח'לוקין ע'ליו
 ח'ב'רו ע'ל ר' ח'ני' בן ג'מלי'א' (ח'ג'ל'ה ז')

It appeared that the attempt being made in the Gemara is to circumvent the Mishnah on a practical level. If Hananyah's position on Makkot 3:9 were accepted then it would be possible to punish both the violator of Shabbat and Yom Kippur by human agency. Of course, the statement of Johanan, brought from Makkot with the Mishnah, undermines Hananyah's position and supports the position of the Mishnah in Megillah.

Gittin 4:1

Mishnah Gittin 4:1 tells us that once a writ of divorce has reached the wife's hand, the husband cannot cancel it. א'ח' ח'ת'נ' ע'ל ל'י'ג' א'ח' א'ני' י'כ'ל'
(ד'ג'ל'ה ז' ח'ג'ל'ה ז')

In the discussion of this Mishnah we find the principle discussed above in relation to Kiddushin 3:1.² Again we see the question of the relative power of speech to cancel speech. The direct question in Gittin concerns the reusability of a writ of divorce if it had not been used as it was originally intended. As a demonstration of speech's power to cancel speech the statement of R. Johanan from Kiddushin is restated here.

1. see above p. 15

2. see above p. 11

הלכתא כוותיה דר' יוחנן דאמר חוצרת הכי בשתא הית' ד'בור
 The Gemara . וד'בור הוא אית' ד'בור וחדל' ד'בור (גמ'ין ע"א)

understands R. Johanan as referring to the cancellation of agency, not of the writ of divorce. That accords with the view that the writ is deed and the agency empowered by speech.

Kiddushin 2:9

Mishnah Kiddushin 2:9 tells us that according to R. Meir if one deliberately betroths with something consecrated for the Sanctuary, he is betrothed. If the betrothal with consecrated things was inadvertant, he is not betrothed. But, R. Judah holds the opposite view. ובתקרא

אמצ' ד'קידש ובשואל' לא קידש דבר' ר' מאיר ר' יהודה אומר בשואל'
 קידש אמצ' ד'לא קידש (קידושין ע"ב א')

The sugya dealing with this portion of the Mishnah commences in Kiddushin 53b. In a lengthy discussion about hekdesh we find Shekalim Mishnah 7:4 quoted. "If an animal if found between Jerusalem and Migdal Eder or an equal distance in any direction, the males are burnt offerings and the females are peace offerings." מן הית' בהמה שנמצאה

מ'יושלים' למקד' עד' וכאמ'ר' לכל' חז' זכר' ד'עיל' נקרא'
 צה' שלמ' (קידושין נה.)

In this discussion of the Shekalim Mishnah here in Kiddushin, we find two consecutive statements by R. Johanan. In the first Johanan expresses surprise and says "therefore should we tell a man to go and sin in order to achieve merit?" This is immediately followed by another statement of Johanan; "we wait until it is blemished then we bring two animals (in place of the doubtful ones) and stipulate." גה' בה' ר' יוחנן וכי אומר'ם

לו לאק' עמוד' וחדל' בשביל' שזכה' אל' יוחנן מחת'ן ע'
 עד' שמוס' וא"ת' א"ת' בהמ' וחית' (קידושין נה.)

In both of the sugyot where this Baraita appears it is followed immediately by a statement of R. Johanan. Johanan tells us that these do not meet the requirement of overturning the bed. *וא"ר יוחנן שם*
ק"מ כנ"ג ה"מ (מוציא קטן בא"כ) Johanan is telling us that in order to meet one's obligation one must actually overturn the bed, and that merely sitting on or near the ground is not the purpose of *כנ"ג*
ה"מ.

Kiddushin 52b

In Kiddushin 52b we find a Baraita which tells us that R. Judah said she is betrothed while R. Jose says she is not *תנא ר' יהודה אומר*
*מקדשה כ' יום' אומי א"נ מקדשה (קידושין ג:)*¹

This Baraita becomes clearer when placed in the context of Mishnah Kiddushin 2:9, which precedes it, and the statement of R. Johanan which follows it.

Mishnah Kiddushin 2:9 opens by telling us that if one betroths with his portion, whether of the higher or lower sanctity, she is not betrothed.

במקדש גדול או קטן קדש קדשין או קדש קדשין (קידושין ג"ג א')

Against that Mishnah then, we have Judah disputing the Mishnah and Jose supporting it. Following the Baraita we have an interesting pair of statements by R. Johanan. In the first he tells us that both Judah and Jose derive their positions from Numbers 18:9, "This shall be yours of the most holy things, reserved from the fire." Judah says "yours" implies for all your needs; while Jose holds that "from the fire" implies that as the fire is for consumption, so too is his portion for consumption. The second statement goes on to tell us that the matter was resolved by a

1. See *ג"מ קידושין ג: א'* and *יבמות ג' א'*. While Rashi connects this Baraita to the material immediately preceding it, on the basis of the Palestinian Talmud we can see it in its own light.

vote with the ruling of our Mishnah, and of course Jose, becoming the authoritative position.

אמר ר' יוחנן שניהם מקרא אחד דרשו יזה
 יבי' לך מקדש הקדש' מן תאס ר' יהודה סבר לך ולכך צרכי' ור' יוסי
 סבר כ'אס מה אס לאכ'ס' סוף הוא נמי לאכ'ס' אחר ר' יוחנן
 נמי וי'אכו המקדש בחלקו בין קדש' קדש' ו'בין קדש' קדש' לא
 קדש' (קדוש' ג'-ג'-רמ'.)

What emerges from this response of Johanan's is a fascinating picture. It would seem that the contention of Johanan's having first hand knowledge of Tannaitic formulations is borne out here. Johanan clearly seems to know the history of how this Mishnah came into being.

As we conclude this examination of statements made by R. Johanan himself, we certainly have grounds for suggesting that Johanan had a thorough knowledge of Tannaitic material. We can also say that he seemed to take a much more active stance in utilizing principles he knew to underlie Tannaitic material, then in giving simple definition of that material.

Chapter III: Statements of R. Johanan in Someone else's Name, Made
in Relation to Tannaitic Material

While one hundred passages were studied for this thesis, only five involved R. Johanan citing another authority. Four of the five citations were of Tannaim of the school of R. Akiva: R. Shimon ben Yohai twice and R. Meir and R. Elazar b.R. Shimon once each. The one other example of a citation of another authority by Johanan is a citing of the first generation Palestinian Amora, Bardala.

From this data it seems evident that R. Johanan did not often rely upon the statements of others for his understanding of Tannaitic sources.

A. Mishnayot

1. Definition or Explanation of Terms or Words Employed in a Mishnah

Makkot 3:3

In Makkot 3:3 we have a Mishnah which begins by telling us that a man who makes a bald spot on his head is liable to a flogging. הקיות

קרוח ברשא... ח"ג (מכור פ"ג ח"ג)

The Gemara is interested in knowing what constitutes a bald spot, so that question is asked: וכמה שיעור קרוח (מכור כ:) An answer is first provided by Rav Huna, then Johanan, in the name of Elazar b. R. Shimon, tells us a bald spot is one the size of a bean. גבי' וחתן

(מכור כ:) אומר משיק גבי' אפסצז ג"ר מעזין כג"ר (מכור כ:)

Thus, Johanan cites the Tanna in definition of a Mishnaic term.

2. Exploration of a Mishnah's Underlying Principles

Kiddushin 2:10

In Kiddushin, Mishnah 2:10, we are told that if one betroths with a

leper's bird offerings she is not betrothed. However, if he sells them and betroths with their value, she is betrothed. החוקים ... אצ"ר

מכונע... אינא מקדשת מנא יקדש' אצ"ר מן מקדש' (קידושין פ"א מ"א)

The sugya contained a discussion between R. Johanan and Resh Lakish about the time from which a leper's bird offerings may no longer be used for benefit.¹ Johanan maintained from the time they were slaughtered and Resh Lakish maintained from the time they were set aside to be sacrificed.

The connection of all this to the Mishnah, has to do with understanding why a woman is or is not betrothed with the birds set aside for the offering of a cured leper. Knowing up to what point benefit may be derived from the bird offerings is crucial to the determination of the efficacy of a statement of betrothal.

In the debate Johanan quotes from Deuteronomy 14:11-12 in trying to make his case. R. Johanan objects to Resh Lakish saying "Of all clean birds you may eat:" this includes all birds set free. "These are those from which you may not eat:" this includes all slaughtered birds.

א"ת"ב"ר יוחנן לר"ש כל צפור טהורה תאכלו לרבות אג
המטבח וזה אצל לא תאכלו מהם לרבות אג

המטבח (קידושין נ"א) Though the Gemara does not tell us this Midrash is found in ספ' צב"ר²

A bit later on in the text an editor restates Johanan's position and asks if it can be reversed; that is, can the Midrash permit the slaughtered fowl and forbid the freed one? The response, which negates this possibility, comes from a statement made by Johanan in Shimon b. Yohai's name. We are told that there is no case of a living thing being forbidden

1. See above, Chapter II pp.10-11

2. ספ' צב"ר Finkelstein pp 161-162

for beneficial use. אמר ר' יוחנן משום ר"ש בן יוחי לטו מצינ' גזע ח"י"ם שאסור'ם (קידושין נ"ג)

This comment alone, without the Midrash, would suffice as an explanation of the Mishnah. If live creatures are not forbidden, then Johanan's position that a leper's bird offerings are forbidden from the time they are slaughtered, is a correct extension of Shimon b. Yohai's notion.

Kiddushin 2:10

Within Kiddushin 2:10 we find another stipulation, the discussion of which involves R. Johanan citing a Tanna. The Mishnah tells us another thing which, if used for a betrothal, is invalid, but whose value may be used if sold, is the use of sanctified animals slaughtered in the Temple Court. במקדש... וחולין עשהו בעצרה אינן מקודשין חכין יקדש גזמיהם מקודשין (קידושין פ"ג א')

The Gemara wants to know the reason that sanctified animals slaughtered in the Temple Court may not be used to effect a valid betrothal. Johanan answers citing R. Mier who says, "the Torah tells us to slaughter that which is for me (i.e. God) in mine (i.e. the Temple proper) that which is for you in yours. That which is for me, but slaughtered in your domain is forbidden, as is that which is for you, but slaughtered in my domain."

אמר ר' יוחנן משום ר' מאיר אמרה תורה שחול' ע' גזמ' ושל' גזמ' מה של' גזמ' אסור אף של' גזמ' אסור (קידושין נ"ג) The Torah requires that sacred offerings be slaughtered in their proper place; conversely it forbids the use of the Temple precincts for the slaughter of unsanctified animals. Thus, the Mishnah's position is explained.

3. Justification or Refutation of the Position Taken by a Mishnah

Niddah 5:1

The following appears in Niddah 5:1: If there was a cesarian birth the mother is not liable to observe the days of impurity and the days of purification; nor is she liable to bring a sacrifice because of the birth.

י'צא דומא אין יוהאן ער'ו מ' למאכ וי' לברג ואין חייבין ער'ו
קרנן (נצח ב"ה מ'א)

In the Gemara, Johanan again cites Shimon b. Yohai and thereby provides a rationale for the non-application of the normal rules applying to births, e.g. birth defilement and sacrifice. The lack of applicability of birth laws in a cesarian birth is because the blood from the birth does not flow through the birth canal.

... א"ר יוחנן מסיק דש"י מנ"ן אין
האשה למאכ ער' ש'צא מצוה דבר צרותה שפאמח וא"ש אשה ישב
את אשה דובלגה אה צרותה וג' מלמד ש' אין האשה למאכ
ער' ש'צא מצוה דבר צרותה (נצח מ'א)

Hence, through citation of Shimon b. Yohai, R. Johanan has justified the Mishnah's position.

Makkot 3:1

Mishnah Makkot 3:1 gives us a list of offenders who receive a flogging. Among that list are found the one who while unclean ate sanctified produce and the one who entered the sanctuary while unclean.

ואם ה'... ה' יקין... ה' מ'א ש'אם א-הקדש וה'א אום הקדש למא (מכח ב"ה מ'א)

The Gemara has no difficulty understanding the flogging of the one who entered the sanctuary while unclean. However, there appears to be a problem justifying the flogging of the one who ate sanctified produce while unclean.

The central problem is proving there was a biblical passage of forewarning against eating such produce. R. Johanan, citing Bardala, provides the biblical source for the warning as well as the biblical

source for the penalty. Bardala attributes it to the recurrence of the phrase "his uncleanness." Here it says "having his uncleanness upon him he shall be cut off," and there it says "he shall be unclean, his uncleanness is still with him." What is their both penalty and warning is here both penalty and warning.

ר' יוחנן אומר ח' ברבא אביא
 למאכלו למאכלו כחב הכא ולמאכלו עליו ונכרת וכתוב דתם
 למא יב' עיר למאכלו בו מה עתה עיר ואכרה אף כאן
 (מכור' ד:)

Thus, even though we cannot attribute the full explanation to Johanan, his citation of Bardala provides a midrashic basis for both warning against, and punishment for, eating sanctified produce in a defiled state.

Examining Johanan's citation of others' statements yields some observations. When comparing his usage of the statements of others to his own words, Johanan appears to use others to make a statement more directly related to explaining the Mishnah. Further, while in his own name Johanan does not seem to make much direct utilization of midrashic sources, four out of the five citations of others involve midrashic sources.

Chapter IV: Statements of R. Johanan Cited by His Students in
Relation to Tannaitic Material

The statements under discussion in this section will be by Amoraim who studied directly with R. Johanan and cite him in reference to both Mishnayot and Baraitot.

As we proceed through analyses of the various statements cited in this chapter, an interesting difference from Chapter II will be evident. While in dealing with these statements made by Johanan himself, the majority were concerned with the principles and conceptual bases of Tannaitic sources, that is not so here. The majority of Johanan's statements quoted by students will be seen to deal with definitions or explanations of terms in Tannaitic sources. Also, a new category not seen before, emerges with Johanan's students citing him as an authority: extensions of categories or decisions in the Mishnah.

A. Mishnayot

1. Definition or Explanation of Terms or Words Employed in a Mishnah

Makkot 3:2

Makkot 3:2 continues the list of offenses punishable by flogging begun in Makkot 3:1. In the list we find that one who eats of the lesser holy meats or of the second tithe outside the city wall is flogged.

האיכא קרע' קרע' ומה' ע' חוץ לחומה (מכאן ב"ג א"ה)

As "outside the wall" is not a particularly clear reference point, the question arises as to the exact point when one is liable for eating the second tithe outside the walls of Jerusalem. We find R. Assi citing his teacher, R. Johanan, as follows: Rabbi Johanan asks from what point one becomes liable on account of the second tithe. He answers saying

"from the point at which one sees the wall." אמר ר' אסי אמר

ר' יוחנן משני שני מלתא ד'ה'ן עליו משראב פני בחומה (מכאן י'ל)

Clearly "outside the wall," for Johanan, means from the time one can see it.

Moed Katan 1:7

Moed Katan 1:7 offers a list of things restricted and permitted during the festival. Amid that list we are told that "one may interlace ropes for the bed. R. Jose said one may tighten them." ומסגין את

המלצר רב' וס' אורי מחתין (מ'ק פ'א"ז)

Naturally the Gemara raises the question of exactly what these two terms, "interlace" and "tighten" mean. We find R. Dimi telling us that R. Hiyah B. Abia and R. Assi differed. They reported in the names of Hezekiah and R. Johanan claiming one said interlacing means tying crosswise and tightening was in one direction and one said interlacing was in only one direction and tightening was taking up the slack. כי אמר רב

דמי אמר פלג' גב ר' ח"א בר אבא ור' אסי יתרו"הו משא' דחזק' ו' יוחנן חד אמר מסגין ש' וס' ומחתין ש' גסא ערב וחד אמר מסגין גסא ערב ומחתין ש' וס' היה תו' מחתין (מ'ק י')

The question arises as to who said interlacing means tying crosswise and tightening means only in one direction, and who said interlacing was one way only and tightening was taking up slack. In this matter the Palestinian Talmud is helpful, for there we find the traditions of Hezekiah and Johanan clearly identified. רב' יסא אמר א'תלפין

חזק' ו' יוחנן חזק' אמר ס'רו' ש' וס' מ'ג' או ש' או ערב רב' יוחנן אמר ס'רו' או ש' או ערב מ'ת' ה'ג' ר'פ' מחתין (ירושלמי מועד קטן פ'א"ז)

So here the positions are clarified and we know that Johanan defined the

Mishnah's "interlacing" as weaving in one direction or the other and "tightening" as taking up slack.

Moed Katan 2:6

Mishnah Moed Katan 2:6 begins by telling us "they may cover figs with straw. R. Judah says they may even pile them up." מחטין את הקצידות בקס רבי יהודה אומר אסף מעטין (מועד קטן פ"ג ה"א)

The pertinent question for the Gemara is what is meant by "covering" and what is meant by "piling up". We are told that R. Hiya b. Abba and R. Assi differed in the names of Hezekiah and R. Johanan. One is said to have held that "covering" means covering lightly and "piling" means covering heavily. The other is said to hold that "covering" means covering lightly or heavily and "piling" means actually creating a heap.

פ"ג ה"א בה רבי ח"א בר אבא ורבי אמי ורבי יוחנן ורבי שמעון זחל ק"ה
ורבי יוחנן חז אחר מחטין אקדוש מעטין אסמכין וחז אחר מחטין
בין אקדוש בין אסמכין מעטין עושה אותן כהן כרי (מועד קטן פ"ג)

Again we are faced with trying to determine which position is Hezekiah's and which is Johanan's. This time we have no corroborating statement in the Palestinian Talmud. However, parallel literary formulation with the previous example, enables us to claim that the second position, "covering" means covering lightly or heavily and "piling" means actually creating a heap, is Johanan's position. In so much as the same two students are arguing in the same formulation, it is fairly safe to postulate that the second definition here, as before, belongs to Johanan.

2. Extension or Restriction of Categories Covered by a Mishnah

Moed Katan 3:1

Mishnah 3:1 of Moed Katan offers a list of those circumstances under

which laundry may be done during the festival. The Mishnah by saying, "and all others are not permitted," would seem to preclude additions.

ואם לא יאמר... אלא... (אמר ר' יוחנן) (אמר ר' יוחנן)

Though the list is long and though the Mishnah seems to end with a clear prohibition on laundering for unlisted cases, we find R. Assi citing R. Johanan with a clear expansion of the permitted list. We read in their names that anyone who owns but one shirt is permitted to launder it during the festival.

הא דאמר ר' אסי אמר ר' יוחנן כמי שאין
על אדם חליק אחד מותר לנגסו בחול, ע
(אמר ר' יוחנן).

R. Johanan's expansion of the list despite the Mishnah's "and all others are not permitted," is also found in the Palestinian Talmud. There the Mishnah is followed by several cases in which laundering is permitted though these cases are not mentioned in the Mishnah. Among these additions is the Johanan statement cited above, only here it is brought by

R. Abahu, a different student. The fact that this statement of Johanan's is presented here by Abahu as opposed to Assi, lends weight to the contention that this expansion was a well-known tradition of R. Johanan.

Gittin 2:6

Mishnah Gittin 2:6 lists those who are and are not qualified to be bearers of a writ of divorce. It begins by telling us that, "all are qualified to be bearers of a writ of divorce except..." and ends with, "this is the rule, all who are mentally sound at both the beginning and end of the task are qualified."

הכל כשרין להביא את הגט חוץ
מ... זה הכלל כל שפילגו וסוג גזעו כשר (גטין פ"ב א')

The list does not mention slaves, nor would the general rule seem to exclude slaves as long as they are in possession of their faculties when they begin and end their services as bearers of a writ of divorce. However, when the question about slaves' qualifications arises in the Gemara, they are disqualified. There are two justifications given for disqualifying a slave. The second, brought by Assi in Johanan's name, disqualifies slaves from acting as a messenger in this matter because they do not participate in the laws of marriage and divorce.

אמרי נ' יוחנן אין העבד נצטו עליה לקבל גט לאשה ח'ז
העבד לא שאלו אמתו ג'טין וקידושין (ג'טין כג')

Johanan's tradition that a slave could not act as a receiver of a writ of divorce is also found in the Palestinian Talmud. There the question of a slave's qualifications to deliver a writ of divorce is introduced by R. Abba who cites R. Hiya as saying that a slave is disqualified from bearing a writ of divorce.

אמרי ג' ר' אבהו ור' חייא ר' חייא ר' אבהו (יבואשמי ג'טין פגהו)
העבד שהביא את הגט פסול A bit farther

on we have all of this linked to R. Johanan as Hiya tells us in his teacher's name that a slave may be the recipient of a writ granting freedom but may not be the recipient of a writ of divorce.

ר' חייא בשם
נ' יוחנן נאמין דברים שיקבל העבד גט שחרור ואם יקבל
גט אשה (יבואשמי ג'טין ט"ז ה"ו)

We also find in the Palestinian Talmud R. Johanan's reasoning behind prohibiting a slave from receiving a writ of divorce. It is the same as his reasoning in the Babylonian Talmud. In the Palestinian Talmud we find R. Zeira and R. Hiya saying in R. Johanan's name, that a slave may be used in the matter of a writ granting freedom, as he might well receive one and the slave may not be used in the matter of a writ of divorce, as he is not

eligible to receive one. רב' צדורא ורב' חייה אשך רב'
 'וחנן נר אין דברין ש'צבה העצב געט סיחור שיש לו גע
 (וחנן ואם 'צבה געט אשה שאין לו געט אשה (יורש' קיזושין נאויג)
 Thus Johanan holds, that a slave may not act as the recipient of a writ of divorce due to the non-applicability of the law of divorce to him.

So it is clear that it was a general tradition of the students of R. Johanan that their master extended the list of those who may not act as messengers for delivering a writ of divorce to include slaves.

Kiddushin 2:1

Mishnah Kiddushin 2:1 tells us that a man may become betrothed by himself, or through his agent, as might a woman by herself or through her agent. Also, a man might have his under age daughter betrothed by himself, or through his agent. הא'ס מקדש בו ובשלוחו האשך מקדשתה גב ובשלוחה
 הא'ס מקדש את בתו כשהיא נערה בו ובשלוחו (קיזושין ט' ג מ"א)

Regarding this Mishnah and the question of agency, we find the application of R. Johanan's statement above to marriage; however, here it is brought by R. Hiya b. Abba instead of R. Assi. So again we find that a slave may not act as an agent to receive a writ of divorce due to the non-applicability of the laws of marriage and divorce to him. ... א'ו חי'א גי

אגא איר 'וחנן אין העצב נעשג שלוח עקאם געט מ'ז אשדג
 שד אשה ע'פי שאין'ו אגור' געלן וקיזושין (קיזושין מ"א)
 All of the reasoning and references above of course apply in this case as well.

Here, instead of expanding upon the Mishnah however, the thrust is to limit. The Mishnah's broad "his agent," or "her agent," would seem to mean anyone so designated. Johanan's statement is used to limit, as it bars slaves from serving as agents for contracting marriages.

the Tannaitic sources is much more direct.

1. Explanation or Limitation of How One Fulfills the Terms of a Baraita

Moed Katan 22b

A Baraita in Moed Katan 22b tells us that for our deceased we tack rent garments after seven days and completely reweave them after thirty; in the case of deceased parents the rent garments are tacked after thirty days and never rewoven. *על כל המיטות כולם, אולם לאחר שבעה ימים, ואילו למיטות הוריהם (אחרי שלושים ימים) לא תעשה שום דבר אלא תעשה להם שבעה ימים ואין להם שום דבר אחר.*

While the Gemara itself offers no proof that this regulation is indeed a Tannaitic formulation, the *גמרא* does. For in the text of Alfasi (13b) we find the entire list of formulations, "for all the dead we do 'x,' for parents we do 'y;' introduced by *אין יבנה*.

In response to this Baraita we find two citations of R. Johanan by two different students. Following one upon the other they tell us: a) that when Rabin came he told us R. Johanan said for all the dead one rents garments either by hand or with an instrument; for one's deceased parents the rent is made only by hand, and b) R. Hiyah bar Abba said that Johanan held that while for all the dead one rents the garment within, for one's parents one rents the garment without. *כי אמר רבין אמר יוחנן על כל המיטות רצה קורע ורצה קורע ביד ורצה קורע בכלי על אביו ועל אחיו ביד ואין חייב בה אלא אמר יוחנן על כל המיטות כולם, אולם לאחר שבעה ימים ואין להם שום דבר אחר (אמר רבין).*

Initially it seems that neither statement of Johanan's is a response to the immediately prior Baraita. Indeed it probably was not as the Baraita quoted deals with repairing the rent and Johanan's statements with the act of rending. However, if we remove Amoraic comment prior to the cited Baraita we find the following:

*על כל המיטות כולם, קורע
אמר רבין אמר יוחנן על אביו ועל אחיו קורע ביד ואין חייב בה אלא אמר יוחנן על כל המיטות כולם*

אנ"ל לבוש עברה חסידיו אינו קורא אלא ע"פ דם אביו ועל אמו קורא
 את כולם... על כל המיתם כולם שולל לאחד שגדל ומאחר לאחר שלשים
 על אביו ועל אמו שולל לאחר' וסא'נו מאחר' לעולם (מועד קטן כג:)

Now placing the citations of Johanan at the end of this elongated Baraita makes sense as we have two more aspects of how one deals with the rending of garments. We may even make a further supposition based upon literary formulation. As in both citations Johanan uses the same formula as the Baraita, perhaps he was merely citing two parts of that extended Baraita himself.¹

Moed Katan 21b - 22a

The Baraita in Moed Katan 21b - 22a states, הני נבנן אצל' י"מ
הנאיסין'ם בה מחקים קרוב חנה דמהן בה מחקים רחוק חנה לעצמן
מכאן ואילך אט' בה מחקים קרוב חנה לעצמן (מועד קטן כא:)

We find two statements in the name of R. Johanan which qualify the conditions of whether or not the arriving mourner mentioned in the Baraita counts his days of mourning with the others or on his own.

First in response to the one who comes from a local place during the first three days having to count with the others, we find, א"ר ח"א בר אבא
א"ר יוחנן וכו' א"ש גזול הב"ב בב"ב (מ"ק כג:) Thus Johanan adds the qualification that the one who runs the household needs to be present.

Next, in response to the question "what if the head of the household had gone to the cemetery?" R. Hiya bar Abba tells us that Johanan maintained even if the head of the household had gone to the cemetery, he counts with them.

... אמר רבי חי'א בר אבא אמר ר' יוחנן
אנ"ל הלם גזול בב"ב לבית בקרוב חנה דמהן (מ"ק כג:)

1. See A. Weiss פסקי דבר pp. 35-37, 59-60

The Gemara feels that the statements by Johanan seem to contradict each other. However this is not so if we see the second statement as telling us that when the head of the household makes a three day journey to bury the dead, upon his return he counts with the family. Thus, the first statement tells us that when one arrives during the first three days, the head of the household having been home, he counts with them. So we see that when the head of the household is home, mourning follows his count. But, when he goes with the corpse, he follows the family's count; as they started mourning in the home.

Moed Katan 25a

In Moed Katan 25a we find a Baraita which is also to be found in Tosefta Moed Katan, Chapter II. Removing clearly interpolated Amoraic commentary the Baraita tells us that scholars were considered equivalent to immediate relatives and upon their death mourning rites were to be observed.

ובגמ'א חכם שמת הכה קרוביו... הכה קוראין ובהם חולצין עליו
והכה אהרין עליו ברחבה (מועד קטן כה)

However, Johanan is seen to put limitations upon this observance.

R. Hiya bar Abba tells us that Johanan restricts mourning for a scholar to one day.

... אמר ר' חייא בר אבא אמר ר' יוחנן אפילו רבו
שמימי חמאה איני יושב אלא יום אחד (מועד קטן כה)

Moed Katan 19a

The sugya in Moed Katan 19a opens with a lengthy Baraita on the conditions under which one may spin the blue thread for his tzitzit on his thigh. R. Eliezer says he may not use a stone, the Sages say he may.

R. Judah says in Eliezer's name that he may use a stone but not a spindle; yet the Sages permit him to use a stone or a spindle.

גזי טווה אדם על ירכו

תבליט לציציתו אבדל לשו באבן דברי ר' אלעזר וחכמים אומרים אול גאמן ר'
'הורה אחר מחו באבן אבדל לא בפלך וחכמים אומרים אין באבן בין בפלך (מ"ק י"ט).

Johanan is cited as telling us that in this dispute the decision is
with the Sages. אחר ר' יהודה אחר מחו אבדל וכן א"ר ח"א בר אבא

. א"ר יוחנן הלכה בין ביצתן בין בפלך (מועד קטן י"ט).

Apparently this tradition was indeed held by both Johanan and Samuel
for in the Palestinian Talmud it is also in both their names. רבי יהודה

השם מחו אבדל ר' אבהו השם ר' יוחנן ואבדל בפלך (ירושלמי מועד קטן פ"ה).

Moed Katan 20a

In the Baraita found in Moed Katan 20a we again find R. Eliezer and
the Sages in disagreement. Eliezer maintains that the overturning of the
bed must be observed for at least three days prior to the festival in
order to release one from this observance after the festival. The Sages
hold that any observance prior to the festival is enough. ג"ו ק"מ כ"ג

המלה שלש א"מ קיזק הריא א"נ זריק לכבודו אחי הריא דברי רבי
. אלעזר וחכמים אומרים א"נ יום אחד וא"נ שנה אחת (מועד קטן כ).

Again R. Johanan supports the Sages, for we find, אחר ר' הורה אחר
ר' ח"א בר אבא אחר ר' יוחנן ואחר ר' יוחנן ר' ח"א בר אבא ולרב הורה
א"נ יום אחד א"נ שנה אחת (מ"ק כ).

As we saw them do in relation to Mishnayot, the generation of
R. Johanan's students applies his words in a more direct way to Baraitot.
He is usually cited either in an attempt to answer the questions, how do
we fulfill the Baraita, or, if there is disagreement within the Baraita,
whom do we follow.

Chapter V: Citation of R. Johanan by Amoraim Otherthan His Students

A. Mishnayot

1. Definition or Explanation of Terms or Words Employed in a Mishnah

Makkot 3:1

The Mishnah in Makkot 3:1 provides a lengthy list of those offenders who receive flogging for their offense. Among those listed are people who eat meat not properly slaughtered, or the meat of a fatally ill animal, or any abominable or creeping animal. ואם הן העוקין... והאכל גפילות וטריטות. שז'ם ורמס (מכור פ'ג מ'א).

The pertinent sugya, beginning in Makkot 16b, has a discussion by two Babylonian contemporaries. In their discussion Rabbah b. R. Huna says if one made a mash of nine dead ants and added one live ant and the whole concoction was an olive's size he is liable for six offenses, five for the live ant and one for eating גפילה the size of an olive. To this Rabbah responds in Johanan's name even if only two dead ants and one live one were eaten, he would be liable. רבא א"ר יוחנן אטילו שניק והיא (מכור ט'ג).

Thus Rabbah cites R. Johanan as giving a definition of the amount of forbidden food which one must eat to incur the punishment outlined in the Mishnah.

2. Justification or Refutation of the Position taken by a Mishnah

Makkot 3:1

Earlier in the list of the Mishnah referred to above we found among the offenders one who entered the sanctuary while in an unclean state.

ואם הן העוקין... והבא אל המקדש טמא (מכור פ'ג מ'ט).

In commenting on this Rabbah b. Bar Hana, another Babylonian, offers

a citation of R. Johanan as the reason such an offender is liable to a flogging. *אמר רבא בר ג' חנ' אמר ר' יוחנן כל עתה עקרו*

עשה עוקין ע"ו (מכילתא:) That is Johanan holds that the violation of a negative command which is preceded by a positive one results in a flogging for the violation. Since this is the case in the command about entering the Sanctuary in a defiled state,¹ this offender is punished.

Makkot 3:8

Makkot 3:8 is a lengthy Mishnah which describes the method of administering stripes. Within this is a description of the strap with which the lashes are given. Part of that description tells us that one of the thongs is folded in two and then four. *ורצועה ג' ד' ע"ג כפול*

אמר ר' שמעון ושמעון לארבעה (מכילתא פ"ג מ"ח)

In the Gemara we find R. Chisda, another Babylonian Amora, citing R. Johanan in response to how we know the strap is folded. We are told Johanan both asked how we know the strap is folded and answered his own question stating: "it is written: 'and he shall cause him to fall.'"

אמר רב חסדא אמר ר' יוחנן מנין לרצועה שהיא מוכפלת אמר ר' יוחנן (מכילתא פ"ג מ"ח)

Johanan derives the doubling of the strap midrashically. If we turn to *גורא תמ'מח* in reference to Deuteronomy 25:2 we find that the use of the verb *נפל*, fall, instead of *נחב*, bend, indicates degradation. We are then told that flogging in a state of degradation is with a strap doubled and redoubled.²

1. Numbers 19:13,20

2. See, *גורא תמ'מח*, דברים כ"ב: ט' י'

Moed Katan 1:1

The Mishnah, Moed Katan 1:1, details agricultural practices which may and may not be done during the festival. Therefore while an irrigated field may be watered with some types of water, rain water and water from a well bucket may not be used. ...
 משקין מים בשלחין בחורז ובשבי' צ' ג' ...
 אבס אין משקין לא ממי' גמסס ולא ממי' הקידיון (חורז קטן פ"א מ"א)

We find a comment on this brought by a Babylonian Amora in R. Johanan's name. The Gemara has understood why the well water is forbidden in view of effort to bring it up. However, a question is asked concerning rain water since no extra effort is required. The citation of R. Johanan that rain water is prohibited in order to protect the enactment against the use of well water.
 אמר ר' אבס צא אי' יוחנן גצרה מ' גמסס בטל
 מ' קידיון (חורז קטן פ"א)

Moed Katan 1:1

Within the same Mishnah cited above we are told that during the festival inspectors may go out to examine for forbidden mixtures of crops.
 ו' צאין אבס צד הכלאים (חורז קטן פ"א מ"א)

The related sugya brings a reason for this permission brought by a Palestinian Amora in Johanan's name. We are told that as, during the festival, wages are low, the inspectors may set out. אמר ר' יצחק
 אמר רב' יוחנן מוסס סכר גצוה גחוצ' גבן (מק"י)
 As the wages are paid from the public funds it is of course a sensible rationale to employ inspectors at a time when wages are low.

You will recall that in chapter IV¹, a student of R. Johanan had brought a different rationale for the same Mishnah in Johanan's name.

1. See above p. 38

Here again we have seen that the application of principles of the Mishnah to related matters, so frequently found in the statements of Johanan himself, is not present as he is quoted by later Amoraim. The use of statements in Johanan's name by later Amoraim seems, as with Johanan's students, to be in a much more direct response to some aspect of Mishnah.

Chapter VI Conclusions

In the twenty one examples of chapter II, where we find Johanan himself responding to Tannaitic sources, and the five examples of chapter III, where Johanan cites earlier authorities, four things become clear. First, Johanan often displays a conception of principles underlying Tannaitic material, as he extends and applies those principles to other related questions. Secondly, where he is in direct response to a Mishnah or Baraita he is usually justifying, refuting, or applying the Tannaitic formulations or positions. Lastly, it seems that Johanan had very little need to explain terms or other aspects of the simple meaning and did not, in his direct statements, make many rulings.

Regarding his students and later Amoraim as they cite R. Johanan, we see a different picture. In the eighteen examples which comprise chapters IV and V we see three things clearly. First, there is a much greater need to explain simple meaning or define terms. Secondly, we find an increase in declaration of position; i.e. an answer to the question "just what are we to do?" Thirdly, we find very little discussion, application, or displayed understanding of concepts and principles which could be seen to underlie the Tannaitic material.

This difference between Johanan's direct statements and Johanan through the mouths of others, is underscored by the findings of a study on general rules for the determination of the authoritative halacha, רס"ס 1.
It seems that while Johanan appears to be a major source of such רס"ס
it is significant to note that almost all such rules are given in his name by his students. While the students bring him to bear in determining which position is authoritative, Johanan himself did not seem to render judgements as to the final halacha in his personal exegesis to Tannaitic sources.

1. Ellen Weinberg Dreyfus, "An Historical Study of K'lalei P'sak," unpublished Rabbinic Thesis, HUC-JIR N.Y., 1979

Given these facts about the statements of R. Johanan in the Babylonian Talmud, we might construct the following hypothesis, R. Johanan, as head of an early Amoraic academy, himself trained by the late Tannaim, conducted that academy along different lines than came to be the norm in later generations. Johanan had before him a body of legal material, Mishnayot and Baraitot, about which he knew four things. First, he knew the simple meaning, secondly, he was aware of the traditions of formulation. This knowledge yielded the third and fourth things: the authoritative positions and an awareness of conceptual bases and principles.

We further hypothesize, that as Johanan taught he structured his study around concepts and principles. Of course in discussion and debate concerning these concepts and principles his students picked up from him knowledge of simple meaning and authoritative positions. However these latter matters were incidental to Johanan himself, their being so well known to him.

As we grow more removed in time and place from the Tannaitic sources, a change sets in. Thus we find, in our hypothesis, a shift in emphasis as his students become teachers. Not being inculcated with simple meaning authoritative positions, as had been Johanan, they emphasize these aspects on their relation to the Tannaitic material.

There is weight within the tradition for positing this total change of emphasis as we pass from one generation to another. In אמר ר' יוחנן we find an interesting question and answer.¹ In summary the question is if the whole Talmud was always known why do we not find later traditions brought up by earlier authorities? The answer is that the later traditions are so well known at the early stages there was no need to discuss them. Only as doubts and questions arose due to a diminishing ability were these discussions needed.

1. אמר ר' יוחנן B.M. Lewin ed 1921 pp 52-53, 62-63, 68f

So then, it may not be so hypothetical to claim that R. Johanan's proximity in time and place to Tannaim, gave him a different perspective, different concerns, and a different methodology of exegesis, then later Amoraim.

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