

CRASH COURSE IN ORAL LAW

2011 SUMMER SEMINAR AT MRC

PART 3 - THE FORMATION OF THE MISHNA AND TALMUD

סמנר מדרשת רחל וחיה

A] OVERVIEW OF THE 4 PERIODS OF MESORAH

PERIOD I: MATAN TORAH (1313 BCE) TO PURIM (356 BCE): AGE OF TANACH; PROPHECY; PRE-GALUT

PERIOD II: PURIM (356 BCE) TO THE SEALING OF THE TALMUD (C.500 CE): AGE OF CHAZAL; CRYSTALLIZATION AND FORMALIZATION OF ORAL LAW; MISHNA; GEMARA

PERIOD III: SEALING OF TALMUD (C500 CE) TO SHULCHAN ARUCH (C1500): ANALYSIS AND DEFINITION OF PRACTICAL HALACHA; CODIFICATION; GEONIM; RISHONIM

PERIOD IV: SHULCHAN ARUCH (1500 CE) TO PRESENT DAY: UNIFIED PSAK; ACHARONIM

B] HALACHIC CONTEXT TO THE FORMATION OF THE MISHNA

1. כתיב: (שמות לד) כתוב לך את הדברים האלה, וכתיב: (שם) כי ע"פ הדברים האלה, הא כיצד? דברים שבכתב אי אתה רשאי לאומרו על פה, דברים שבעל פה אי אתה רשאי לאומרו בכתב

גיטין ס:

The Torah states that some aspects of Torah were to be written down and some were to remain oral. It does not however say that they may not be written at all, just that they may not 'said out' from a text

2. מגילת סתרים - שהסתירו מפני שלא ניתנה ליכתוב, וכששומעין דברי יחיד חדשים שאינן נשנין בבית המדרש, וכותבין אותן שלא ישתכחו - מסתירין את המגילה.

רש"י שבת ו:

Nevertheless, those learning Oral Law would written down information to assist their learning but these were not allowed to become a written canon. There are many reasons why Oral Law should not be canonized (see shiur 3):-

(i) To maintain an intimate intellectual connection with G-d; (ii) To maintain our special relationship with G-d, to the exclusion of the other nations of the world; (iii) Written texts will, by definition be ambiguous; (iv) A purely written cannon will be too inflexible to deal with new unforeseen scenarios; (v) A written Torah would be accessible even to those who were not qualified to understand it properly; (vi) Oral Torah maintains a unified psak and prevents schism

From the time of the Anshei Knesset Hagedola there was the beginnings an a fixed oral formation called 'Mishna Rishona'

3. פליגו בה רב פפא ורבנן, חד אמר: שש מאות סדרי משנה, וחד אמר: שבע מאות סדרי משנה.

חגיגה יד.

The gemara refers to the existence of 600 or 700 tractates of Mishnayot. Our Mishna has 6 - what are the rest?

4. ושאלת על אנשי מעשה דע מימות משה רבינו עד הלל הזקן היו שש מאות סדרי משנה כמו שנתנם הב"ה למשה בסיני ומן הלל ואילך נתמעט ונתמסכן העולם וחלשה כבודה של תורה ולא תקנו מהלל ושמואי אלא ששה סדרים בלבד

תשובות הגאונים - שערי תשובה סימן כ

The Geonim explain that the collection of Mishnayot was very ancient, was kept oral and was not an official cannon. From the days for Hillel and Shammai, the Mishna began to take on its current form of 6 tractates

5. שבתחלה כשנשתכחה תורה מישראל עלה עזרא מבבל ויסדה, חזרה ונשתכחה עלה הלל הבבלי ויסדה

סוכה כ.

2 major periods of change for the Oral Law were (i) the coming of Ezra to Eretz Yisrael and the foundation of the Anshei Keneset Hagedola; and (ii) coming of Hillel to Eretz Yisrael and the foundation of the concept of the Mishna as we know it today

Many 'mishnayot' predate the formal Mishna - the gemara calls these 'Mishna Rishona'. Chazal refer to 'the Mishna of R. Natan' and other collections predating our Mishna. R. Yehuda Hanasi took these and reformatted them, keeping much of the original wording which was well known (see Bava Kamma 6b). Many Mishnayot date back to the 2nd and 1st Temple periods and even before

6. ואומר: (תהלים קי"ט) 'עת לעשות לה' הפרו תורתך'. רבי נתן אומר: הפרו תורתך משום עת לעשות לה'.

ברכות נד.

'Eit La'asot Lashem' - the ability of Chazal to invoke emergency powers in times of great need

C] CHAIN OF MESORAH FROM EZRA TO THE MISHNA

I ANSHEI KENESSET HAGEDOLA

c. 370-312 BCE

Ezra and the Great Sanhedrin of 120

- Tanach is closed
- 2nd Temple constructed
- Purim story - 353 BCE

II GREEK ERA

312-35 BCE

Shimon Hatzadik meets Alexander the Great
Antigonus of Socho

- 312 BCE
- Septuagint - translation of Tanach into Greek: 245 BCE
- Emergence of Sadduces

5 Generations of Zugot - Pairs:-

Yose b. Yoezer & Yose b. Yochanan
Yehoshu b. Perachiyah & Nittai Haarbali
Yehuda b. Tabbi & Shimon b. Shetach
Shemaya & Avtalyon

- Chanukah Story and Chasmonean Dynasty - 138 BCE
- Reign of Alexander Yannai and Shlomtzion Hamalka
- Jewish Civil War between Hyrcanus and Aristobulus
- Romans conquer Jerusalem under Pompey - 63 BCE
- King Herod - 35 BCE

Hillel & Shammai

III TANNAIM

35 BCE - 200 CE

1st Generation (c.50CE)

- Beit Hillel and Beit Shammai
- Raban Gamliel the Elder
- Yonatan b. Uziel - *Targum Yonatan*
- R. Yochanan B. Zakkai - Destruction of Temple - 68 CE

2nd Generation (c.90 CE)

- Raban Gamliel of Yavneh
- R. Eliezer
- R. Yehoshua

3rd Generation (c.130 CE)

- R. Akiva - Bar Kochba 135 CE
- R. Yishmael
- Unkelos - *Targum Unkelos*

4th Generation (c.170 CE)

- R. Meir
- R. Shimon b. Yochai - *Zohar*
- R. Yosei

5th Generation (c. 200 CE)

- R. Yehudah Hanais - **Mishna**

C] HISTORICAL CONTEXT TO THE FORAMTION OF THE MISHNA

- 126 Beginning of the Bar Kochba revolt
- 135 The fall of Beitar and end of the revolt
- 139 Death of Hadrian and appointment of Antoninus Pius
- 155 Delegation to Rome headed by R. Shimon Bar Yochai succeeds in achieving the reversal of the anti-Jewish Hadrianic decrees
- 158 Attempts to move the Sanhedrin back to Yavneh fail. Moves instead to Shefar'am. Resurgence of Jewish life in Eretz Yisrael. Many of the Tannaim who had escaped to Bavel during the Hadrianic persecutions return to Israel.
- 161 Antoninus Pius dies and is succeeded by Marcus Aurelius Antoninus
- 163 R. Yehuda son of R. Shimon ben Gamliel II (Rebbi) becomes Nasi. Sanhedrin moves to Beit Shearim and then Tzipori under his leadership
- 170 Rebbi befriends Marcus Aurelius Antoninus and a period of calm and Jewish growth ensues
- 180 Marcus Aurelius Antoninus dies and is succeeded by his son Commodus
- 192 Commodus assassinated
- c.220 Death of R. Yehuda Hanasi
- c.290 *Renewed Roman persecution forces the Rabbis to drop the name 'Sanhedrin'*
- 313 *Roman Empire becomes Christian*
- 330 *Founding of Constantinople and beginning of the Byzantine Empire*
- 358 *The 'Sanhedrin' fixes the Jewish calendar*
- 425 *The Nasi, semicha and the body of the Sanhedrin now made illegal*

D] STRUCTURE OF THE MISHNA

7. **אוצר בלום** - כך מפורש באבות דרבי נתן למה היה ר' עקיבא דומה לעני שנטל קופתו ויצא לשדה מצא שעורים קצר ונתן בה מצא חטין נתן בה וכן פולים וכן עדשים וכשבא לביתו בירר כל מין ומין לעצמו כך ר"ע כשלמד מרבותיו שמע דבר מקרא מרבותיו ואחריו הלכה ואחריו מדרש ואחריו אגדה נתן לבו לחזור עליהן ולגורסן עד שהיו סדורין בפיו ולא אמר אלמוד מקרא לעצמו מדרש לעצמו אבל כשנעשה חכם גדול עשה כל התורה מטבעות מטבעות סידר מדרש ספרי וסיפרא לבדן ושנאן לעצמן לתלמידיו והלכות לעצמן ואגדות לעצמן

רש"י גיטין סז.

Rabbi Akiva was one of the first Tannaim to organize Torah Shebe'al Peh into the format that we have today - halacha, agadda etc.

Writing - Was the Mishna put into writing by Rav Yehuda Hanasi? Rashi - no. Rambam - yes. Everyone agrees that the Mishna was written down later with the gemara - probably c. 9th century

Style - The Mishna was written in the concise style of R. Meir and a 'stam' Mishna is R. Meir

Minority Opinions - were included in the Mishna

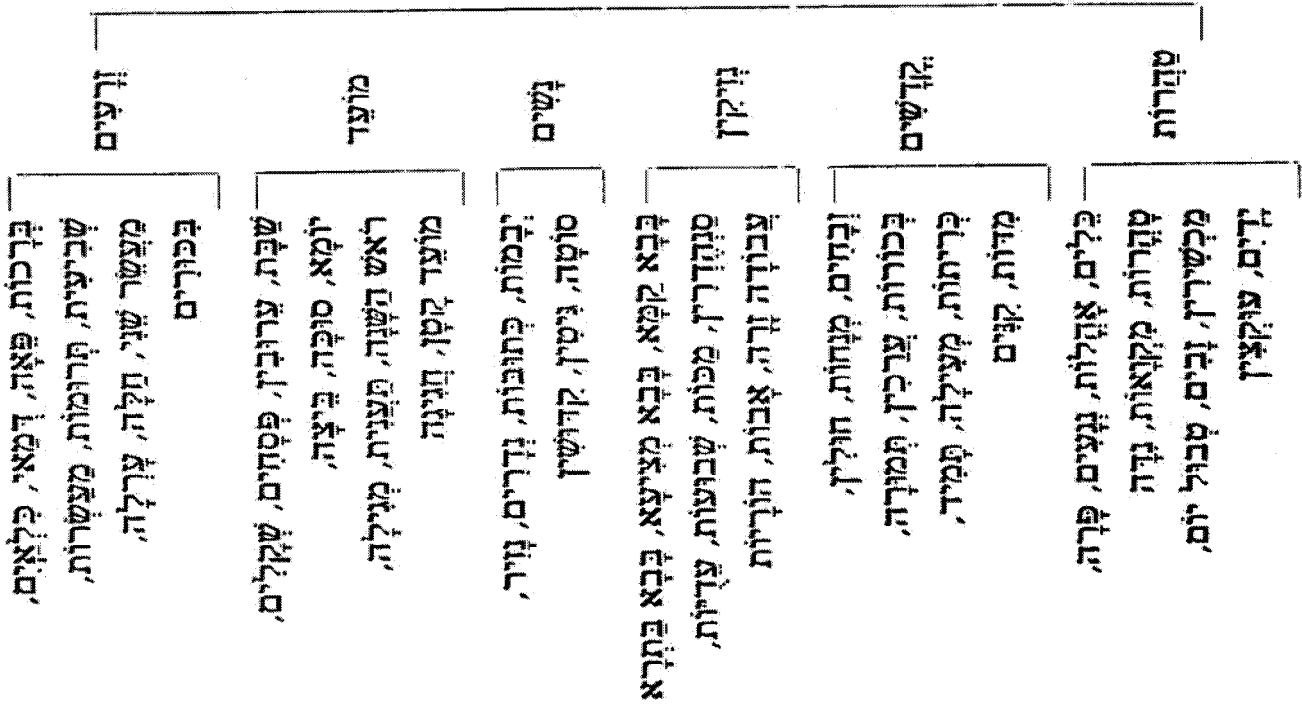
8. ולמה מזכירין דברי היחיד בין המרובין הואיל ואין הלכה אלא כדברי המרובין שאם יראה בית דין את דברי היחיד ויסמוך עליו שאין בית דין יכול לבטל דברי בית דין חברו עד שיהיה גדול ממנו בחכמה ובמנין היה גדול ממנו בחכמה אבל לא במנין במנין אבל לא בחכמה אינו יכול לבטל דבריו עד שיהיה גדול ממנו בחכמה ובמנין:

משנה עדויות א:ה

The reason for the inclusion of minority opinions is so that later Rabbis can rely on them in certain situations

Structure of the Sedarim and Mesechtot:-

משנה



SEDER ZERAIM	SEDER MOED	SEDER NASHIM
BERACHOS	SHABBOS	YEVAMOS
PEAH	ERUVIN	KESUBOS
DEMAI	PESACHIM	NEDARIM
KILAYIM	SHEKALIM	NAZIR
SHEVIIS	YOMA	SOTAH
TERUMOS	SUCCAH	GITTIN
MAASEROS	BEITZAH	KIDDUSHIN
MAASER SHENI	ROSH HASHANAH	
CHALLAH	TAANIS	
ORLAH	MEGILLAH	
BIKKURIM	MOED KATAN	
	CHAGIGAH	

SEDER NEZIKIN	SEDER KODASHIM	SEDER TAHAROS
BAVA KAMMA	ZEVACHIM	KEILIM
BAVA METZIA	MENACHOS	OHALOS
	CHULLIN	NEGAIM
BAVA BASRA	BECHOROS	PARAH
SANHEDRIN	ARACHIN	TAHAROS
MAKKOS	TEMURAH	MIRVAOS
SHEVUOS	KEREISOS	NIDDAH
EDUYOS	MEILAH	MACHSHIRIN
AVODAH ZARAH	TAMID	ZAVIM
AVOS	MIDDOS	TEVUL YOM
HORAYOS	KINNIM	YADAYIM
		UKTZIN

E] WORKS WHICH ACCOMPANY THE MISHNA

Sifra (on Vayikra) and Sifrei (on Bamidbar and Devarim)

Written by Rav (a talmid of Rav Yehuda Hanasi) to expand on the basic principles of the Mishna in a format pasuk by pasuk

Tosefta

Written by R. Chiya (a talmid of Rebbi) to explain the subject matter of the Mishna using the same format as the Mishna. Many commentators understand that these were seen by Rebbi

Beraitot

Compiled by R. Chiya, R. Hoshaya and Bara Kappara (talmidim of Rebbi) including material that was left out of the Mishna. This comprises many collections of earlier 'mishnayot' - The Mishna of R. Eliezer ben Yaacov, the Mechilta of R. Akiva and R. Yishmael, the 'Small Mesechtot' which were left out of the Mishna (on purpose), Avot deRebbi Natan. Many commentators understand that these were not necessarily seen by Rebbi and were said external to his Beit Midrash

F] THE FORMATION OF THE GEMARA

9. תנו רבנן: העוסקין במקרא - מדה ואינה מדה, במשנה - מדה ונטלין עליה שכר, בתלמוד - אין לך מדה גדולה מזו! ... אמר רבי יוחנן: בימי רבי נשנית משנה זו, שבקו כולא עלמא מתניתין ואילו בתר תלמודא

בבא מציעא לג.

The gemara explains that from the time of Rabbi Yehudah Hanassi, there was a major shift in the focus of Torah learning. Up until that point the focus had been 'Mishna' - learning the exegesis (drasha) of the pesukim in Torah and clarifying principles of Torah shebe'al Peh. After his time the focus shifted to 'talmud' - a new exegesis of the Mishna itself, giving clarification and the reasons behind it's laws

10. רבי ורבי נתן סוף משנה, רב אשי ורבינא סוף הוראה

בבא מציעא פו.

Rebbi and Rabbi Natan (c.200 CE) were the generation to bring about the 'end of the period of "Mishna"'. Rav Ashi and Ravina (c.450 CE) brought about the 'end of hora'ah'. We will see in this shiur what that means.

11. **סוף המשנה** - סוף תנאים, עד ימיהן אמרו איש את דבריו בבית המדרש, והיו תלמידים גורסים שמועה שמועה לבדה, ולא היו מסכתות סדורות, וסדר וקבץ על הסדר, והם כללו האמור בדורות שלפניהם וסדרו את המסכתות, ואחריהם לא יוסיפו אלא מעט.

סוף הוראה - סוף כל האמוראין, עד ימיהם לא היתה גמרא על הסדר אלא כשהיתה שאלה נשאלת בטעם המשנה בבית המדרש, או שאלה על מעשה המאורע בדין ממון או איסור והיתר - כל אחד ואחד אומר טעמו, ורב אשי ורבינא סידרו שמועות אמוראין שלפניהם, וקבעו על סדר המסכתות כל אחד ואחד אצל המשנה הראויה והשנויה לה, והקשו קושיות שיש להשיב ופירוקים שראוים לתרץ הם והאמוראים שעמהם, וקבעו הכל בגמרא, כגון: איתיביה מיתיבי ורמינהי איבעיא להו, והתרוצים שעליהן, מה ששיירו אותן שלפניהן, ואותן שאמרו לפניהם הקושיות והתירוצין שעליהם לא קבעום בגמרא על סדר המסכתות והמשנה שסידר רבי, ובאו רב אשי ורבינא וקבעום.

רש"י בבא מציעא פו.

Rashi explains that Rav Ashi edited and organized the material of the Amoraim

12. מימות משה ועד רבי לא מצינו תורה וגדולה במקום אחד. אמר רב אחא בריה דרבא, אף אני אומר: מימות רבי ועד רב אשי לא מצינו תורה וגדולה במקום אחד

גיטין נט.

Rav Ashi was a later equivalent of R. Yehudah Hanassi. He had the ability to combine all of the qualities necessary to bring down Torah in an integrated and accessible way. In this, he was in a select group of Moshe Rabbeinu, Rabbi Yehudah Hanassi and Rav Ashi. (The next in line 700 years later was the Rambam!)

G] HISTORICAL CONTEXT TO THE FORMATION OF THE GEMARA

423 BCE	Destruction of the First Temple and start of the Babylonian community
c.190 CE	Beginning the migration of students of R. Yehudah Hands from Israel to Bavel
c.200	Shmuel leaves Israel to set up a yeshiva in Nehardea in Bavel
220	Rav , a student of R. Yehudah HaNasi emigrates to Bavel setting up yeshivot, eventually the great yeshiva at Sura
228	With the death of R. Yehudah Nessiah (grandson of R. Yehudah Hanasi) the mantle of great Torah leadership passes to Bavel
247	Rav dies
c.235-284	Roman empire declines into anarchy. Jewish life in Israel becomes more difficult. The remaining Rabbinic leaders of Israel include R. Yochanan and R. Shimon b. Lakish . <u>The beginnings of the formation of the Talmud Yerushalmi</u>
c.250	Rav Huna , a student of Rav, takes over in Sura
254	Shmuel dies
257	Rav Yehudah , a students of Rav, founds a new yeshiva in Pumpedisa
259	The Yeshiva in Nehardea is destroyed. Pumpedisa and Sura remain the pre-eminent world yeshivot for the next 800 years.
298	Rav Huna dies and Rav Chisda takes over at Sura
300	Rav Yehudah dies and Rabbah and Rav Yosef take over at Pumpedisa
c.310	Other leading Rabbis in Bavel include Rav Sheshet and Rav Nachman
313	Roman Emperor, Constantine converts to Christianity
325	Christian Counsel of Nicaea
326	Abbaye then Rava becomes the heads of Pumpedisa yeshiva. <u>Rava and Abbeya begin the process of redacting the Talmud Bavli</u>
330	Roman empire splits into Western (in Rome) and Eastern (in Constantinople)
350	Talmud Yerushalmi is produced as Jewish life in Israel draws to a close
352	Rava dies and Rav Nachman takes over in Pumpedisa and Rav Papa , a talmid of Abbaye founds a new yeshiva connected with Sura.
360	Julian 'the Apostate' made Roman Emperor - renounces Christianity and gives permission to the Jews to rebuild the Temple (soon withdrawn when he dies!)
371	Rav Ashi , a talmid of Rava, takes over as head of Sura together with Ravina I
377	Rav Zevid takes over in Pumpedisa
c.400	<u>Rav Ashi undertakes the main redaction of the Talmud Bavli</u>
410	The Sack of Rome
427	Rav Ashi dies
455	Mar b. Rav Ashi takes over as head of Sura
450-500	Increasing persecution for the Jews of Bavel
474	Ravina II takes over as head of Sura.
476	Fall of the Western Roman Empire
c.480	<u>Ravina II completes Rav Ashi's main redaction of the Talmud</u>
500	Ravina II dies and Sura Yeshiva is closed

H] TALMUD BAVLI - QUICK FACTS

- on 4 Sedarim - (1) Moed, (2) Nashim, (3) Nezikin, (4) Kodshim
- analyses the Mishna using other material from the Tannaim (beraita and tosefta)
- its purpose is
 - (i) to explain the reasoning behind the laws of the Mishna
 - (ii) to move towards a final ruling of halacha on differences of opinion between Tannaim and Amoraim
 - (iii) to record the rabbinical decrees and enactments made after the Mishna
 - (iv) to collect and arrange other central Torah ideas including agaddata, hashkafa, historical information, medical advice and much more
- first organized by Abbaye and Rava (c.330), main organization by Rav Ashi (c.400) and Ravina II (c.475)
- final completion by the Savoraim (c. 550) and committed to written form sometime between 6th and 8th Century