

Texte und Studien zum Antiken Judentum

59

Alberdina Houtman

# Mishnah and Tosefta



Texte und Studien zum Antiken Judentum

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Martin Hengel und Peter Schäfer

59



# Mishnah and Tosefta

A Synoptic Comparison of the Tractates  
Berakhot and Shebiit

by

Alberdina Houtman



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Dedicated to  
the loving memory of my father  
Reind Houtman



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## Abbreviations

AAR	American Academy of Religion
AJSR	Association for Jewish Studies Review
BJS	Brown Judaic Studies
BJRUL	Bulletin of the John Rylands University Library
CBQ	Catholic Biblical Quarterly
CBET	Contributions to Biblical Exegesis and Theology
CJ	Conservative Judaism
CRINT	Compendia Rerum Iudaicarum ad Novum Testamentum
EJ	Encyclopaedia Judaica
FJB	Frankfurter Judaistische Beiträge
FS	Festschrift
HUCA	Hebrew Union College Annual
JAGNES	Journal of the Association of Graduates in Near Eastern Studies,
JBL	Journal of Biblical Literature
JBL/MS	Journal of Biblical Studies. Monograph Series
JJS	Journal for Jewish Studies
JQR	Jewish Quarterly Review
JQR/MS	Jewish Quarterly Review. Monograph Series
JSOT	Journal for the Study of the Old Testament
JSQ	Jewish Studies Quarterly
JSJ	Journal for the Study of Judaism
KS	קריית ספר
LCL	The Loeb Classical Library
LLC	Literary and Linguistic Computing
MGWJ	Monatsschrift für Geschichte und Wissenschaft des Judenthums
MLWJ	Monatsschrift für die Literatur und Wissenschaft des Judentums
MWJ	Magazin für die Wissenschaft des Judenthums
PAAJR	Proceedings of the American Academy for Jewish Research
REJ	Revue des études juives
SBL	Society of Biblical Literature
SFS/HJ	South Florida Studies in the History of Judaism
SJT	Scottish Journal of Theology
TSAJ	Texte und Studien zum Antiken Judentum
TSMJ	Texts and Studies in Medieval and Early Modern Judaism
VT	Vetus Testamentum
WCJS	World Congress of Jewish Studies
ZAW	Zeitschrift für die alttestamentliche Wissenschaft
ZDMG	Zeitschrift der Deutschen Morgenländischen Gesellschaft
ZWJ	Zeitschrift für die Wissenschaft des Judenthums



## Prolegomena

The transliteration of the Hebrew is according to the directives of the American Academy of Religion and the Society of Biblical Literature Membership Directory and Handbook. Hebrew words that are used frequently in English are rendered in a simplified spelling; e.g. Mishnah (mishnayot), Tosefta, Midrash, baraita (beraitot), gemara, halakhah, Shema, Tefillah, berakhot, sabbath *etc.* Names of rabbis are anglicized according to G. Stemberger's *Introduction to the Talmud and Midrash*, Edinburgh 1996 (authorized English translation by M. Bockmuehl of *Einleitung in Talmud und Midrasch*, München <sup>8</sup>1992).

In the references to the talmudic literature, the following abbreviations are used: T, Tosefta; M, Mishnah; BT, Babylonian Talmud; PT, Palestinian Talmud.

The names of the tractates are abbreviated according to the list on pages 374–375 of the *Introduction to the Talmud and Midrash*. For references to the Mishnah or the Tosefta, the abbreviated names of the tractates immediately follow the designation of the work, for example 'M<sup>Ber</sup>' for 'Mishnah Berakhot'; or 'T<sup>Sheb</sup>' for 'Tosefta Shebiit'. For references to the Talmuds, the abbreviated name of the tractate is separated from the designation of the work by a space, e.g. 'PT Shab' for 'Palestinian Talmud tractate Shabbat'. For the BT, only the tractate and the folio number are given. The PT is cited by tractate, halakhah, folio number and column.

The translations of passages from the Mishnah and the Tosefta are my own, unless stated otherwise. However they have benefited largely from other translations: especially Danby's translation of the Mishnah; the translation of Tzvee Zahavy of Mishnah and Tosefta Berakhot; and the translation of Louis E. Newman of Mishnah and Tosefta Shebiit. The translations of biblical passages are from the *New English Bible; The Old Testament*, Oxford/Cambridge 1970. The abbreviations of the names of biblical books are according to the directives of the AAR/SBL Membership Directory and Handbook.





## Introduction<sup>1</sup>

### *Background*

The identity of the Tosefta and its relationship to the Mishnah presents a major problem for modern students of halakhic literature. Since Zachariah Frankel published his *דרכי המשנה* in 1859,<sup>2</sup> there has been considerable scholarly discussion on this problem, which has resulted in many divergent theories.

At present three broad streams can be distinguished. The predominant stream does not regard the Tosefta as an independent self-contained corpus: the Tosefta derives its value from its relationship to the Mishnah. Exponents of this stream are, for example, Abraham Goldberg<sup>3</sup> and Jacob Neusner,<sup>4</sup> who maintain that the Tosefta presupposes the Mishnah, in quoting, explaining and supplementing the latter. In fact, they consider the Tosefta as a kind of talmud to the Mishnah. The second stream consists of theories that explain the Tosefta as a collection of beraitot. The best known proponent of this stream is Zachariah Frankel.<sup>5</sup> He treats the Tosefta as a post-talmudic compilation of two baraita collections: one of Ḥiyya and one of Hoshayah. Some variants of this theory were developed later but the basic idea, i.e. that the Tosefta and the Mishnah are primarily two branches of the same tree, remains the same. The main difference between the variant theories is their appreciation of the 'Tosefta branch'. A third stream is associated with the life work of Moses Samuel Zuckermann, who stands quite alone in his daring theory that the Tosefta is the oldest remnant of the Palestinian Mishnah.<sup>6</sup>

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<sup>1</sup> The investigations that have resulted in the present work were supported by the *Foundation for Research in the Field of Philosophy and Theology*, which is subsidized by the *Netherlands Organization for the Advancement of Research* (NWO).

<sup>2</sup> Z. Frankel, *דרכי המשנה; התוספתא מכילתא ספרא וספרי*, Leipzig 1859. I used the undated Tel Aviv reprint.

<sup>3</sup> A. Goldberg, 'The Tosefta – Companion to the Mishna', in: Sh. Safrai (ed.), *The Literature of the Sages*, CRINT II.3.1, Assen/Maastricht 1987, 283.

<sup>4</sup> e.g. J. Neusner, *The Tosefta; Its Structure and Its Sources*, Atlanta 1986, 7.

<sup>5</sup> Z. Frankel, *דרכי המשנה*, 324–325.

<sup>6</sup> e.g. M.S. Zuckermann, *Tosephta Mischna und Boraitha, in ihrem Verhältnis zu einander; oder Palästinensische und Babylonische Halacha*, Frankfurt a.M. 1908–1909; Supplement 1910.

Despite the profound researches of renowned scholars, no *communis opinio* has been reached. That being so, can there be any hope of shedding new light on this question? With due respect to the scholars mentioned and unmentioned, it seems that there is indeed reason to believe that reopening the discussion can be worthwhile.

Firstly, most research as yet has been wittingly or unwittingly influenced by the higher religious status of the Mishnah. The only scholar who dared to criticize the primary and higher status of the Mishnah, Zuckermann, was fiercely reproved for his dangerous view (in the eyes of certain religious authorities). It proved difficult to question an idea that had such deep seated roots.

Secondly, research on the relationship of Mishnah and Tosefta was mainly focused on a single relationship in terms of unidirectional dependence. However, given the present state of research, it seems appropriate to consider also the possibility of *different kinds of* relationship between *parts of* the Mishnah and *parts of* the Tosefta.<sup>7</sup>

Thirdly, most comparative research has been done on the *textus receptus* of the Mishnah and the Tosefta. This starts from the principle that both Mishnah and Tosefta are fixed texts, and have been so ever since their compilation. However a closer look at the available manuscripts reminds one that this is not so. The texts continued to change (albeit moderately) until the first printed edition.<sup>8</sup>

To extricate scholarship from this impasse, a different approach seemed necessary, an approach that takes full account of the three points. That is, studying the material without prejudice for the status of the two corpora, not attempting to give a definite opinion on the relationship of the two corpora as a whole, but bearing in mind that there may be different kinds of relationship in different parts of the text, and extending the comparison over different text versions. A suitable way to give concrete form to such an approach is the compilation of a synopsis, which allows detailed comparison of small textual units.

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<sup>7</sup> Although its purpose was not primarily to study the relationship between Mishnah and Tosefta, the so-called 'Gießen Mishnah' (*Die Mischna; Text, Übersetzung und ausführliche Erklärung mit eingehenden geschichtlichen und sprachlichen Einleitungen und textkritischen Anhängen*, Gießen 1912–35, Berlin 1956–... [hereafter: *Die Mischna*]) is a noteworthy initiative in this respect. Each tractate that was published in this series, also contains a short description of the relation between the tractate and its Tosefta counterpart. From the individual descriptions, it becomes clear that the relation may differ case by case. G. Stemberger, *Introduction to the Talmud and Midrash*, Edinburgh <sup>2</sup>1996, 154–155, summarized several cases.

<sup>8</sup> In fact, one could say that even after the first printed edition the text kept changing, for example by compiling an eclectic edition, such as the earlier issues of *Die Mischna*. See G. Stemberger, *Introduction to the Talmud and Midrash*, 143.

### The Idea of a Synopsis

In his *Introduction to the Talmud and Midrash*, Günter Stemberger remarked that the multitude of different connections between the Tosefta and the Mishnah is similar in essence to the synoptic problem in New Testament studies and that it is therefore plausible to take methodological stimuli from that research. In this view, the compilation of a synopsis of the Tosefta and the Mishnah is an obvious step.<sup>9</sup>

This notion is not new. Even in 1926, the New Testament scholar Gerhard Kittel drew attention to the similarity of the relationships between the Synoptic Gospels and the relationships between different works in tannaitic literature.<sup>10</sup> And as New Testament scholarship had long developed the excellent tool of the synopsis to support gospel research,<sup>11</sup> it seemed obvious to use the same sort of tool for research on the relationships between the tannaitic works.

In 1928, Alexander Guttman was the first to employ the method of synoptic comparison in Jewish studies for his research on the relationship between the Mishnah and the Tosefta.<sup>12</sup> This pioneering endeavour was awarded the Lewy prize.<sup>13</sup> In 1951, Morton Smith returned to the issue of the similarity of the relationships between the Synoptic Gospels and the relationships between different works in tannaitic literature and illustrated it with an example.<sup>14</sup> In 1983, Shaye J.D. Cohen emphasized the issue once more in his review article on Neusner's *Judaism; The Evidence of the Mishnah*.<sup>15</sup> However in 1986, Jacob Neusner challenged both Smith and Cohen in his highly critical article 'The Synoptic Problem in Rabbinic Literature; The Cases of the Mishna, Tosefta, Sipra and Leviticus Rabba'.<sup>16</sup> The disagreement between the two parties clearly

<sup>9</sup> G. Stemberger, *Introduction to the Talmud and Midrash*, 152.

<sup>10</sup> G. Kittel, *Die Probleme des Palästinischen Spätjudentums und das Urchristentum*, Stuttgart 1926, 65.

<sup>11</sup> J.J. Griesbach was the first to make a synopsis of the Gospels. He published it originally as part of the first edition of his Greek New Testament, *Libri N.T. historici*, Halle 1774.

<sup>12</sup> Before Kittel's suggestion, A. Lukyn Williams had already incorporated a 'Synopsis of Contents' in the introduction to his annotated translation of tractate Berakhot (*Tractate Berakhot, Mishna and Tosefta*, New York 1921, xx–xxiv).

<sup>13</sup> A. Guttman, *Das redaktionelle und sachliche Verhältnis zwischen Mishna und Tosefta*, Breslau 1928. It is not clear whether his approach was instigated by the remarks of Kittel. It may be a coincidence that he started his work for the competition that was held by the Jewish Theological Seminar in Breslau in the same year that Kittel's book was published.

<sup>14</sup> In an appendix to his *Tannaitic Parallels to the Gospels*, Pennsylvania 1951, Morton Smith gave a synoptic presentation of the texts of Mishnah Peah, Chapters 1–3 and Tosefta Peah, Chapter 1 (in translation).

<sup>15</sup> J. Neusner, *Judaism; The Evidence of the Mishnah*, Chicago 1981; Sh. J.D. Cohen, 'Jacob Neusner, Mishnah, and Counter-Rabbinics; A Review Essay', *CJ* 37 (1983) 48–63, esp. 56.

<sup>16</sup> J. Neusner, 'The Synoptic Problem in Rabbinic Literature; The Cases of the Mishnah, Tosefta, Sipra, and Leviticus Rabba', *JBL* 105 (1986) 499–507. More recently, in 1993,

lay in their different understanding of the word ‘synoptic’ as Smith pointed out in his witty retort to Neusner’s comments.<sup>17</sup>

The word ‘synopsis’ is widely used in three ways: (i) a summary; (ii) a presentation of different texts in parallel columns or rows, to show where these texts agree and where and how they differ; (iii) a synoptic text edition of the first three Gospels. In his article, it is clear that Neusner did not use one of these three generally accepted meanings of the word. He used another, rather restricted connotation of the word synoptic, in limiting the second meaning of the word to texts of which a common origin had already been established. As he said,<sup>18</sup>

What must follow? We cannot link document to document as a common synoptic exercise and present the results as a shared position (“Judaism”). We also cannot show how the authors of document X have used shared materials in a way distinctive from the way in which the authors of document Y have used those same shared materials. Why not? There is no fixed point, no shared source that permits comparison. Without a common point for comparison, information on what is like and what is unlike document X in document Y lacks context, perspective, and therefore also meaning.

Neusner’s first remark is consistent with his idea of the goal of a synopsis. But if one assumes a broader definition of ‘synopsis’, the goal is not (or at least not solely) to present the results of a synoptic comparison as a shared position or as a dissentient position. A more modest goal can surely be the development of a research tool that affords a broad view of the parallel and non-parallel material of different texts. His more general remark that there must be a common point that permits comparison, is of course right. However this common point need not necessarily be a common source.<sup>19</sup> As we shall see later, other points of comparison can be applied as well, such as common *questions* or common *problems*. Since Neusner sometimes availed himself of a synopsis for comparison and presentation of texts, it seems more a confusion of tongues than a fundamental difference of opinion on the usefulness of a synopsis.<sup>20</sup>

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Neusner devoted a whole book to demolishing this work of Smith: J. Neusner, *Are There Really Tannaitic Parallels? A Refutation of Morton Smith*, Atlanta 1993.

<sup>17</sup> M. Smith, ‘The Synoptic Problem in Rabbinic Literature; A Correction’, *JBL* 107 (1988) 111–112.

<sup>18</sup> J. Neusner, ‘The Synoptic Problem in Rabbinic Literature’, 507.

<sup>19</sup> Though a common source may be supposed, such as for instance the halakhic collection of Rabbi Aqiba (in the opinions of Z. Frankel, *הרצ"ה המשנה*, 324 *et al*).

<sup>20</sup> e.g. J. Neusner, ‘The Development of the Merkavah Traditions’, *JSJ* 2 (1971) 149–160; and, recently, even to illustrate the relation between Mishnah and Tosefta: ‘The Tosefta and the Mishnah to Mishnah Tractate Berakhot Chapter Eight Compared’, in his *Introduction to Rabbinic Literature*, New York [etc.] 1994, 139–141. After the completion of my manuscript, I read the announcement of a new project of Neusner, i.e. *The Two Talmuds Compared*, where he will present the material of the two Talmuds in parallel columns of text to make a systematic comparison of the Talmuds possible and accessible.

In conclusion, I am not only convinced that it is feasible to make a synopsis of tannaitic texts, but also that it is urgently needed. However this would be an immense and time-consuming project, especially if one wanted to include parallels from the halakhic midrashim and from the talmudic beraitot. Therefore I decided to develop a systematic approach which could provide insight into the relationship between smaller text parts, while leaving the door open for future extension of the project. In applying this method, some limitations had to be accepted for practical reasons. Firstly, the synopsis was restricted to text traditions of Mishnah and Tosefta. No other parallels, such as talmudic beraitot or parallels from the halakhic midrashim, were included.<sup>21</sup> However the approach still allows for inclusion of other traditions at a later stage. Secondly, the number of tractates was limited. Two tractates seemed to be the utmost that could be achieved within the set time.

Since any bias should be avoided in a comparative study like this, the choice of the two tractates could in principle be arbitrary. However since one of the possible explanations for differences between the two corpora is that they may stem from differences in the local situation, i.e. Babylon and the Land of Israel, there was a slight preference for a tractate from the order Zeraim. Because Shebiit is one of the tractates that deals with halakhot that have practical relevance within the Land of Israel only, it is probable that such differences, if any, will be reflected in this tractate. In view of the intention to extend the project later on, the obvious choice was another tractate from the same order. Among the tractates of Zeraim, Berakhot is exceptional, having nothing to do with agriculture. So this tractate seemed a suitable candidate to check the existence of different types of relationship for different tractates.

### *What to Expect*

In Chapter 1, several aspects of approach are discussed: previous research (§ 1.1); the general design of the project (§ 1.2); the role of the computer (§ 1.3). In the general design, the use of a two-way intertextual comparison is advocated (§ 1.2.1) as well as the use of variant text traditions (§ 1.2.2). The role of the computer in the present project is discussed in five subsections: the preparation of the texts (§ 1.3.1); automatic comparison of different text versions (§ 1.3.2); word frequency (§ 1.3.3); interactive compilation of a synopsis (§ 1.3.4); the advantages of a data base in rabbinic studies (§ 1.3.5).

Chapter 2 is devoted to tractate Berakhot. The subject is introduced by a short account of earlier studies on Berakhot (§ 2.1). Then Tosefta Berakhot

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<sup>21</sup> As tentatively suggested by G. Stemberger, *Introduction to the Talmud and Midrash*, 152.

(§ 2.2) and Mishnah Berakhot (§ 2.3) are examined as autonomous literary productions.<sup>22</sup> In this process, two steps can be distinguished: (i) a literary analysis of the texts which results in a subdivision of the texts into thematic or literary units (§ 2.2.1 and § 2.3.1); (ii) a description of some general features of both text traditions (§ 2.2.2 and § 2.3.2). The two texts are then collated and the result discussed (§ 2.4). Finally, the variant text traditions are investigated with a special view to the light they may throw on the redactional status of the texts and on the interrelationship between them (§ 2.5).

Chapter 3 repeats this sequence for tractate Shebiit.

Chapter 4 concludes the study with a short retrospect on the course of the project (§ 4.1). The results are assembled and summarized (§ 4.2) in order to draw conclusions about the nature of the relationship between the Tosefta and the Mishnah in Berakhot and Shebiit (§ 4.3). Finally, the results are extrapolated to create a tentative model of the relationship(s) between the corpora as a whole (§ 4.4).

To allow easy reference, the proposed synopses of Berakhot and Shebiit are appended in a separate volume.

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<sup>22</sup> The decision to discuss first the Tosefta tractate and then the Mishnah tractate is not entirely arbitrary. I decided to discuss the Tosefta first to avoid the impression that I join the majority in their preferential treatment of the Mishnah.

## Chapter 1

# Methodology

### 1.1 History of Research

Research on the relation between the Mishnah and the Tosefta has a long history. In the course of time, many divergent theories were put forward. In this section, the theories and the different lines of approach that have led to them will be sketched.<sup>1</sup>

#### *Amoraic Period*

In the Amoraic Period, there was no elaborated theory about the relationship between the Mishnah and the Tosefta. In both Talmuds, there are a few references to a 'Tosefta', but this is most likely not the book as we know it now, but a generic term for explanatory additions to the Mishnah.<sup>2</sup>

In the Babylonian Talmud, there is only one place where the Tosefta is cited explicitly, namely in the description of the offerings on the Day of Atonement in BT Yoma 70a, where the teaching of Rabbi Aqiba from TYoma 3.14 is quoted.<sup>3</sup> Apart from this explicit reference, Tosefta is mentioned three times in a

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<sup>1</sup> This survey is far from exhaustive. The main intention here is to introduce the reader in broad outline to methods and results of research through the ages. Other surveys include J.H. Dünner, *Die Theorien über Wesen und Ursprung der Tosephta*, Amsterdam 1874; H. Malter, 'A Talmudic Problem and Proposed Solutions', *JQR* NS 2 (1911/12) 75–95; A. Spanier, *Die Toseftaperiode in der Tannaitischen Literatur*, Berlin 1922, 4–28; L. Gulko-witsch, 'Der Toseftatraktat Berakhot', *Αγγελος* 3 (1930) 129–163, esp. 132–136; S. Zeitlin, 'The Tosefta', *JQR* 47 (1957) 382–399; M.D. Herr, 'Tosefta', in: *EJ* 15, 1283–1285; G. ten Broek, *Theorieën over de Tosefta vanaf 1859 tot 1970* (unpublished thesis), place unknown 1972; G. Stemberger, *Introduction to the Talmud and Midrash*, 149–158.

<sup>2</sup> This was already suggested by some mediaeval exegetes such as Samuel ha-Nagid, Ha-Meiri and Samson of Chinon. See A. Spanier, *Die Toseftaperiode*, 4–14.

<sup>3</sup> N. Brüll, in his 'Begriff und Ursprung der Tosefta', in: *Jubelschrift zum 90. Geburtstag des Dr. L. Zunz*, Berlin 1884, 92–110, esp. 94, seizes upon this quotation to prove that the Babylonian Amoraim, when they use the word Tosefta, actually refer to the halakhic compilation that became known to us under that name. However there is something to be said about the significance of this reference, which does not occur in all the available manuscripts. It is certainly lacking in ms New York JTS Enelow 270, Rab 218/1; in some other textual witnesses it cannot be determined whether it occurs because of their physical state. So this reference may be lacking in more manuscripts. The singularity of the reference, combined with its absence in some manuscripts, suggests a later addition rather than originality.



list of the four main study subjects: הִלְכֵתָּהּ סִפְרָא סִפְרֵי וְתוֹסֵפְתָּא.<sup>4</sup> It is not certain whether this refers to our compilation of halakhot, or whether the word must be read as תוֹסֵפְתָּא, a plural meaning ‘additions’. Only once, in BT Sanh 86a, does the term ‘tosefta’ occur in a more theoretical descriptive passage, where Rabbi Yoḥanan says: ‘[the intermediary of] an anonymous<sup>5</sup> mishnah is Rabbi Meir; of an anonymous tosefta, Rabbi Neḥemyah; of an anonymous [dictum in the] Sifra, Rabbi Yehudah; in the Sifre, Rabbi Simeon; and all are taught according to the views of Rabbi Aqiba’.

In the Palestinian Talmud, there is an explicit reference to a Tosefta in PT Ber 3.2,6b, where a discussion about the behaviour of the bereft and the mourners says ‘Rabbi Simeon from the Tosefta said that things returned to [the way they went in] the past’. However this reference is not traceable to the Tosefta we are discussing. In addition to this reference, a story is related about Rabbi Abbahu, who visited Tiberias.<sup>6</sup> When he returned, his face was shining. When asked the reason for his shining countenance, he answered that he had heard an ancient tosefta being quoted. Although the word ‘tosefta’ clearly does not refer here to the present compilation of halakhot but to a small unit of traditional material, the popularity of the story suggests that this extra-canonical traditional material was held in high esteem by the Palestinian Amoraim.

Thus the Talmuds are not a substantial source of information about the origin and status of the Tosefta.<sup>7</sup> There is only one passage, BT Yoma 70a, where there is an explicit and verifiable reference to our Tosefta. However this particular Tosefta tradition is unfortunately quoted without any assessment of its halakhic status.

### *Sherira Gaon*

The first known explicit inquiry into the origin and purpose of Tosefta is to be found in the answer of Sherira Gaon to one of the questions formulated by Jacob ben Nissim on behalf of the congregation of Kairouan.<sup>8</sup> Taking the authorship of Rabbi Ḥiyya for granted, the interrogator was primarily interested

<sup>4</sup> BT Meg 28b, BT Qid 49b, BT Shebu 41b.

<sup>5</sup> Most translators and interpreters consider this to be the meaning of the word סִפְרָא (the 3<sup>rd</sup> meaning of the word סִפְרָא in the dictionary of M. Jastrow, II.1032. However N. Brüll preferred to translate it in German as ‘im Allgemeinen’. In his opinion, the sense of the passage is not to identify who the anonymous statements in the corpora originate from, but to mention the collectors of the material. In his words, ‘die Mishna’s stammen im Allgemeinen von R. Meir her, Tosefta’s von R. Nehemia, Erläuterungsstücke im Sifra von R. Jehuda, im Sifré von R. Simon’ (‘Begriff und Ursprung der Tosefta’, 103–104).

<sup>6</sup> At three places, namely PT Shab 8.1,11a, PT Pes 10.1,37c, PT Sheq 3.2,47c.

<sup>7</sup> I restrict myself to the Talmuds. For an investigation of the data in the midrashic literature see B. Cohen, *Mishnah and Tosefta Shabbat*, New York 1935, 37–41.

<sup>8</sup> The ‘iggetet Rab Sherira Gaon’, written about 986/987. The question of the date and reason for the Tosefta can be found in § 7 in the paragraphing of M. Schlüter, *Auf welche Weise wurde die Mishna geschrieben?*, Tübingen 1993, 46–47. Sherira’s answer is given in

in the *when* and the *why* of his compilation of the Tosefta in relation to the Mishnah. In his answer, Sherira confirmed Rabbi Ḥiyya's authorship; but, on the basis of the sources, he could not decide whether the work was put together during or after the lifetime of Rabbi. As a reason for the compilation of the Tosefta, he pointed to the condensed nature of the Mishnah. In the Mishnah, Rabbi laid down the basis in succinct formulations in order to prevent the teachings from becoming too extensive. Thereupon Rabbi Ḥiyya ventured to explain the details and the consequences of these succinct rules and their grounds. According to the remark in BT Sanh 86a, he made use of the beraitot which were primarily collected by Rabbi Neḥemyah. The last part of this passage, *וכולוהו אליבא דרבי עקיבא*, is interpreted as 'since they (Yehudah, Neḥemyah and Simeon) are all disciples of Rabbi Aqiba'.<sup>9</sup>

Sherira's approach was primarily historical. With occasional stories and remarks in the amoraic literature, which he took seriously as a source of historical information, he tried to reconstruct the historical development of the tannaitic literature. His opinion had great influence for many generations to come,<sup>10</sup> for example on Maimonides, who acknowledged the authorship of Rabbi Ḥiyya in the preface to his *משנה תורה*, and attributed to him the intention to clarify the words of the Mishnah.<sup>11</sup>

### *Tanna hypothesis*

The mediaeval Spanish talmudist Samuel ha-Nagid,<sup>12</sup> supplemented this general opinion by a more literary approach. In his introduction to the Talmud,<sup>13</sup> he made a clear distinction between Tosefta and baraita. The Tosefta he called *שיור המשנה*, i.e. the remnant of the great mass of traditional tannaitic material. By contrast the baraita consists, in his view, of post-mishnaic material, such as the material collected by Rabbi Ḥiyya and Rabbi Hoshayah, the Mishnah of Rabbi Eliezer ben Jacob, the Mekhilta of Rabbi Yishmael, the Otiyyot of Rabbi Aqiba and the halakhic midrashim.

He observed a literary distinction between the different ways in which the two sorts of material were introduced. The baraita material is generally introduced with the formulae *תני חדא*, *תני רבנן* or *תניא אידך*, whereas Tosefta citations can be recognized by the formula *תנא*.

the § 69–76 (p. 110–122). In the § 52–53 (p. 91–93), there is an oblique remark to the origin and status of the Tosefta with reference to BT San 86a.

<sup>9</sup> This occurs only in the Y recension (in the terminology of Schlüter) or the Spanish recension (in the terminology of Levin *et al*). The B recension (Schlüter) or the French recension (Lewin *et al*) leaves the phrase unexplained.

<sup>10</sup> See M. Schlüter, *Auf welche Weise wurde die Mishna geschrieben?*, 4–12.

<sup>11</sup> Jerusalem 1957–1965, I.9.

<sup>12</sup> Cordova, 993–1055, Granada.

<sup>13</sup> This introduction is incorporated in many BT editions, e.g. the Wilna edition, after tractate Berakhot.

Rabbi Menaḥem ben Solomon, who is usually called Ha-Meiri,<sup>14</sup> approached the question in a similar way in the lucid introduction to his commentary on Abot.<sup>15</sup> He distinguished Mishnah material that was introduced with the formula *תנן*, baraita material that was introduced with *תניא* or *תנו רבנן* or *ורמינהו* and Tosefta material that was introduced with *תנא* or with *תני פלוני*.

His contemporary Samson ben Isaac of Chinon,<sup>16</sup> in his work *ספר כריתות* on talmudic method, also used the introductory formulae to differentiate between the various sources. He stated that the expression *תנא* always introduced a Tosefta sentence.<sup>17</sup> At the same time, he asserted that what the Talmud called 'tosefta' (i.e. those passages introduced by *תנא*) was not the same as the halakhic work we call Tosefta but an addition introduced to explain the Mishnah.<sup>18</sup>

At the end of the 19<sup>th</sup> Century, this 'tanna hypothesis' recurred in the work of David Hoffmann.<sup>19</sup> Hoffmann assumed the redaction of a 'first Mishnah' in the time of second-generation tannaim to which explanatory and amplifying material was subsequently added. Part of this additional material was later embodied in the Mishnah and some remained external, i.e. baraita. Hoffmann also argued that such additions, *תוספתא*, when used in the Talmud, must have been introduced by the formulae *תנא* or *עלה* or *תני*. Like his mediaeval predecessors, he distinguished a 'talmudic tosefta' and 'our Tosefta'.<sup>20</sup>

### *Age of Reason*

In the wake of the Age of Reason, the *haskālā* movement arose in Jewish society.<sup>21</sup> This Jewish Enlightenment brought a new self-awareness, out of which a desire emerged for scientific knowledge of one's own religious heritage. So members of the second *haskālā* generation in Berlin founded an organization for the scientific study of Judaism, the 'Wissenschaft des Judentums'. In the

<sup>14</sup> Provençal scholar and commentator of the Talmud who lived from 1249 to 1316. For a description of his work as a talmudist and philosopher in the school of Maimonides, see M. Halbertal, 'ר' מנחם המאירי: בין תורה לחוכמה', *Tarbiz* 63 (1993/94) 63–118.

<sup>15</sup> Ha-Meiri, *בית הביחור על מסכת אבות*, B.Z. Prag (ed.), Jerusalem 1964, 45.

<sup>16</sup> One of the last tosafists. He lived from 1260–1330.

<sup>17</sup> 'כל תנא תוספתא היא'. See Samson of Chinon, *ספר כריתות*, V.3.73 (edn. S.B.D. Sofer & J.M. Sofer, Jerusalem 1965, 318).

<sup>18</sup> Samson of Chinon, *ספר כריתות*, IV.1.12 (edn. S.B.D. Sofer & J.M. Sofer, 158).

<sup>19</sup> D. Hoffmann, *Die erste Mischna und die Controversen der Tannaim*, Berlin 1882; 'Mischna und Tosefta', *Magazin für die Wissenschaft des Judentums* (1882) 152–163; *Zur Einleitung in die halachischen Midraschim*, Berlin 1887, esp. 1–20; 'Kritische Bemerkungen zur talmudischen Literatur', in: *Jahrbuch der jüdisch-literarischen Gesellschaft* 7 (1909), Frankfurt a.M. 1910, 303–324.

<sup>20</sup> However he is not consistent in the implementation of this distinction. Arthur Spanier criticized the same point in his *Die Toseftaperiode in der tannaitischen Literatur*, Berlin 1922, 19.

<sup>21</sup> e.g. R. Schaeffler, 'Die Wissenschaft des Judentums in ihrer Beziehung zur allgemeinen Geistesgeschichte im Deutschland des 19. Jahrhunderts', in: J. Carlebach, *Wissenschaft des Judentums; Anfänge der Judaistik in Europa*, Darmstadt 1992, 113–131.

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