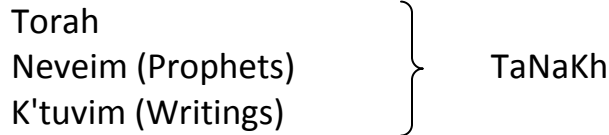


"We are not the people of the book, but  
the people of the interpretation of the book" -Armand Abecassis

"In the Jewish tradition the centrality of the text  
takes the place of theological consistency." -Moshe Halbertal



Jewish Apocrypha (e.g. Ben Sira, Maccabees 1 & 2, Jubilees, 4 Ezra)

Septuagint (3rd Century BCE)

Samaritan Bible

Dead Sea Scrolls (DSS)

Targum Onkelos (c. 110 CE)

Tannaitic Midrash e.g.

- Mekhilta on Exodus
- Sifra on Leviticus
- Sifri on Numbers and Deuteronomy

Post-Talmudic Midrash e.g.

- Midrash Rabba
- Tanna Devei Eliyahu

Rashi (11th Century)

Mikra'ot G'dolot (16th Century)

Zohar (13th Century)

Mishnah

Tosfeta

Talmud Yerushalmi

Talmud Bavli

Mishneh Torah (12th Century)

Arba'a Turim (13th Century)

Shulchan Aruch (16th Century)

## **The Canon: The Written Law**

### **Background: Moshe Halbertal on The Sealed Canon**

There are two basic types of canon: open and sealed. In the open one all the elements are canonical, and other canonical texts may be added at any time. An example of an open canon is a system of legislation that permits the addition of new laws whose legal status will be as binding as the existing law. In a sealed canon, by contrast, the status of the textual elements is exclusive, and no new texts of equal importance may be added. Not all Scriptures are bound and closed; in the Hindu tradition the sacred texts are by far more fluid and open than others. The Bible is the most prominent example of a sealed and exclusive canon.

The chronology of the sealing the Bible is complex. The first aspect of this process is agreement on the list of canonical books, and the second involves the time when those books reached a relatively fixed version. As late as the generation after the destruction of the Second Temple, around 90 C. E., the Sages of Yavneh argue about the place of some books of the canon, although these disputes, for the most part, concern the writings rather than the prophets. There is also testimony of dispute over the book of Ezekiel and its place in the canon at the end of the Second Temple period. Nonetheless the canon seems to have been established during the Second Temple era, apparently during the late Persian or early Hellenistic period, perhaps as early as 150 B.C. Remnants of all the biblical books (aside from the book of Esther) were found among the Dead Sea Scrolls, and Josephus mentions the existence of twenty-two books of the Bible prior to the rabbinic debates over the canon.

The disagreements among the Sages, recorded in the Mishnah in the Tractate *Yadaim*, are about whether to exclude books already part of the canon, and not whether to include new items in the canon. Interestingly, none of the opinions censoring the existing canon was accepted. According to rabbinic tradition, the criterion for inclusion in Scripture depends upon whether or not the book was divinely inspired. (From a rabbinic perspective this is a necessary but not sufficient condition. Thus not every prophecy was included in the Bible, only those that were relevant to future generations.) Since, according to rabbinic tradition, prophecy ceased during the Persian period, any book after that time would by definition be excluded from the canon. Yet the cessation of prophecy is not a likely reason for the exclusion of the Apocrypha from the canon. Perhaps the need to exclude any possible additions to the canon explains how the rabbis determined when prophecy ceased and not vice versa.

It is also very difficult to establish criteria for judging whether a book was divinely inspired, aside from its acceptance as such by the community. Nothing in the book of Ben Sira is particularly problematic, yet it is excluded from the rabbinic canon because of its late date. We can therefore assume that in the rabbinic circles the canon was regarded as sealed before the time of Yavneh, and its sealing is connected to a general view concerning the cessation of prophecy.

On the other hand, although remnants of most of the existing canon were found among the Dead Sea Scrolls at least a century prior to Yavneh, additional authoritative texts were also found there, indicating that the Judean Desert sect might have had a larger canon. Some scholars claim that those texts, such as the Damascus Document and the various *pesharim*, are inspired interpretations of the established canon and not additions to the canon. Others maintain that at least the Temple Scroll is not only an interpretation of Scripture but a new version of Scripture revealed to the members of the sect. In addition, there is good reason to assume that some apocalyptic material that was excluded from the

rabbinic canon, such as the Book of Jubilees, was included in the Dead Sea canon.

In addition to the difficulty of dating the sealing of the canon within rabbinic tradition, it possible that other Jewish groups might have had different canons. We lack sufficient historical knowledge to resolve this issue, however, and I do not intend to add speculation to existing conjectures concerning the chronology of the canon. I will focus on a different problem: the consequences of the sealing of the canon for the formation of the text-centered community.

Rabbinic tradition speaks of the dual sealing of the Scriptures; on the one hand the Torah of Moses, the first five books of the Bible, and on the other, the sealing of the prophetic books and the writings that make up the rest of the Bible. The difference between the two sealing lies not only in the attribution of the Pentateuch to Moses, the greatest of the prophets, but also and primarily in a qualitative difference between the status of the Law of Moses and that of other prophecies. In the view of the Sages, the Torah of Moses is the only legislation allowed through prophecy. The *Sifra* comments on the verse "These are the commandments": "from this we learn that from now on no prophet can add anything new." The other prophets speak out on numerous subjects, but they do not enact new law. A prophet is not permitted to introduce a new festival, although he is allowed to foretell surrender or revolt against a Babylonian king. According to the Sages, if a prophet seems to create a new law it is in fact either a reform enacted without the authority of prophecy or a law emerging from an interpretation of the Law of Moses. The internal sealing of the Torah within the Scriptures served to restrict prophetic activity to a nonlegislative realm, or to put it more extremely, as Maimonides understood it, this internal sealing confined the prophets to the task of admonishing the people to obey the Law of Moses.

Ref: *People of the Book: Canon, Meaning and Authority* (Harvard, 1997)

### **Background: Lawrence Schiffman on The Bible and the DSS**

Among the most significant of the Qumran scrolls are certainly the biblical manuscripts. These documents will shed important new light on the history of the biblical text in Second Temple times.

The last statement is itself much more important than meets the eye. In the early years of Qumran studies, it was thought that the biblical texts from Qumran would somehow illuminate the "original" text that emerged from ancient Israel. This entire notion has been proven wrong. It is now clear that the biblical text has a history of transmission, and that major parts of this history, which indeed testify to the place of Scripture in the Judaism of the post-biblical period, are to be understood from the scrolls. Indeed, we now know that many textual variants result not only from transmission, but from interpretation and linguistic updating, phenomena that, before the discovery of the scrolls, could not have been understood.

Ref: *Qumran and Jerusalem: Studies in the Dead Sea Scrolls and the History of Judaism* (Eerdmans, 2010)

### **Background: Geza Vermes on Textual Comparison**

In Exodus 10:5, both the traditional Hebrew Masoretic text (MT) and the Greek Septuagint (LXX) offer a succinct statement regarding the plague of locusts:

*And they (the locusts) shall eat every tree of yours which grows in the field.* (MT, LXX)

By contrast, the Samaritan version has a longer account which we find also in a Hebrew fragment of Exodus from Qumran Cave 4. (The details supplementary to the traditional are printed in italics.)

[And they (the locusts) shall eat ev]ery *grass of the land and every [fruit of the tree of yours which grows in the field.]* (4Q12, Sam)

Clearly the expansion has no doctrinal import. Hence the Cave 4 variant may, and probably should, be interpreted as an alternative reading of Exodus current among Jews before the parting of the ways with the Samaritans in the sixth century BCE. This reading was then adopted by the Samaritans but it continued to be copied, as the Qumran fragment indicates, by Palestinian Jews as well.

Ref: *The Story of the Scrolls* (Penguin, 2010) pp. 104-105

### **Background: The Masoretic Text**

The Masoretes (ba'alei hamasorah, Hebrew בעלי המסורה) were groups of mostly Karaite scribes and scholars working between the 7th and 11th centuries CE, based primarily in present-day Israel in the cities of Tiberias and Jerusalem, as well as in Iraq (Babylonia).

The Hebrew word *mesorah* (מסורה) in reference to the Masoretic Text regards the diacritic markings of the text of the Hebrew Bible and concise marginal notes in manuscripts (and later printings which note textual details, usually about the precise spelling of words. The Masoretes devised the vowel notation system for Hebrew that is still widely used, as well as the trope symbols used for cantillation.

The Dead Sea Scrolls have shown the MT to be nearly identical to texts of the Tanakh dating to 200 BCE but has numerous differences of both greater and lesser significance when compared to (extant 4th century) manuscripts of the Septuagint, a Greek translation (made in the 3rd to 2nd centuries BCE) of the Hebrew Scriptures that was in popular use in Egypt and Israel and that is believed by scholars to be the source often quoted in the New Testament.

### **Background: Canonization and Rabbinic Judaism**

The moment the text was sealed, authority was removed from the writers of the text and transferred to its interpreters; denied to the prophets and awarded to the Sages. [...] Unlike the authority of the priest, that of the scholar does not rest on the monopoly over ritual. [...] The [Sage] expert's authority is derived not from his exclusive role in the ritual but from his skills as interpreter of the sealed text.

Before the destruction of the Temple in 70 CE, the Sages seem to have been a totally uninstitutionalized force, and historians debate the extent of power and influence they exerted on the Jewish masses. After the destruction of the Temple, the Sages emerged as the only existing elite, and in the 3rd and 4th centuries they reached the height of their institutionalized power, although their actual impact on the general population still needs careful examination. Among the most interesting changes that came with the rise of the Sages was the decline of priestly leadership. According to one view, the priests had been the primary force in the transmission and interpretation of the tradition, and the decline of priestly leadership followed the destruction of the Temple. Hence it began only in 70 CE, and even after this date the priests continued to hold a broader leadership role. According to another view the shift began

before the destruction of the Temple, as early as the Hellenistic period in the 2nd century BCE, for the sages has already formed a popular and influential alternative to the priesthood while the Temple was still in existence.

Ref: *People of the Book: Canon, Meaning and Authority* (Harvard, 1997)

### Three Rabbinic Stories Regarding Canonization

אָמַר רַב יְהוּדָה אָמַר רַב: בְּרַם זְכוּר  
אוֹתוֹ הָאִישׁ לְטוֹב, וְחַנְּנִיָּה בֶן חֻזְקִיָּה  
שָׁמוֹ, שְׁאֵלְמָלָא הוּא נִגְנַט סֵפֶר יְחֻזְקָאֵל,  
שְׁהִיּוּ דְבָרָיו סוֹתְרִין דְּבָרֵי תוֹרָה. מַה  
עָשָׂה? הֶעֱלוּ לוֹ שְׁלֹשׁ מֵאוֹת גְּרִיבֵי שְׁמֹן,  
וַיֵּשֶׁב בְּעֵלְיָהּ וּדְרָשָׁן.

Rav Yehuda said that Rav said: Truly, that man is remembered for the good, and his name is Hananya ben Hizkiya, as if not for him, the book of Ezekiel<sup>N</sup> would have been suppressed because its contents, in many details, contradict matters of Torah. The Sages sought to suppress the book and exclude it from the canon. What did he, Hananya ben Hizkiya, do? They brought him three hundred jugs of oil, for light and food, up to his upper story, and he sat isolated in the upper story and did not move from there until he homiletically interpreted all of those verses in the book of Ezekiel that seemed contradictory, and resolved the contradictions.

Ref: Bavli, Shabbat 13b

אָמַר רַב יְהוּדָה בְּרִיָּה דְרַב שְׁמוּאֵל בַּר  
שִׁילַת מְשֻׁמִּיָּה דְרַב: בְּקִשׁוֹ חֲכָמִים לְגִנּוּז  
סֵפֶר קְהֵלֶת מִפְּנֵי שְׁדָבְרָיו סוֹתְרִין זֶה אֶת  
זֶה, וּמִפְּנֵי מַה לֹּא גִנּוּזוּהוּ – מִפְּנֵי שְׁתַּחֲוִילָתוֹ  
דְּבָרֵי תוֹרָה וְסוֹפֵי דְּבָרֵי תוֹרָה, תַּחֲוִילָתוֹ דְּבָרֵי  
תוֹרָה – דְּכָתִיב: "מַה יִּתְרוֹן לְאָדָם בְּכָל  
עֲמָלוֹ שְׁיַעֲמוֹל תַּחַת הַשָּׁמֶשׁ" וְאָמְרֵי דְבֵי

Since contradictions in Ecclesiastes were mentioned, the Gemara cites additional relevant sources. Rav Yehuda, son of Rav Shmuel bar Sheilat, said in the name of Rav: The Sages sought to suppress the book of Ecclesiastes<sup>N</sup> and declare it apocryphal because its statements contradict each other and it is liable to confuse its readers. And why did they not suppress it? Because its beginning consists of matters of Torah and its end consists of matters of Torah. The ostensibly contradictory details are secondary to the essence of the book, which is Torah. The Gemara elaborates: Its beginning consists of matters of Torah, as

וְאִף סֵפֶר מְשָׁלִי בְקִשׁוֹ לְגִנּוּז, שְׁהִיּוּ דְבָרָיו  
סוֹתְרִין זֶה אֶת זֶה. וּמִפְּנֵי מַה לֹּא גִנּוּזוּהוּ –  
אָמְרֵי: סֵפֶר קְהֵלֶת לֹא עֵינֵינוּ וְאִשְׁבַּחֲנוּ  
טַעֲמָא? הָבָא נָמִי לִיעֵינָן. וּמֵאִי דְבָרָיו  
סוֹתְרִים זֶה אֶת זֶה – כְּתִיב: "אֵל תֵּעַן בְּסוּל  
כְּאוֹלָתוֹ" וְכְתִיב: "עֲנֵה בְּסוּל כְּאוֹלָתוֹ"  
לֹא קְשִׁיָּא, הָא – בְּדָבְרֵי תוֹרָה, הָא בְּמִילֵי  
דְּעֵלְמָא.

And, the Gemara continues, the Sages sought to suppress the book of Proverbs as well because its statements contradict each other. And why did they not suppress it? They said: In the case of the book of Ecclesiastes, didn't we analyze it and find an explanation that its statements were not contradictory? Here too, let us analyze it. And what is the meaning of: Its statements contradict each other? On the one hand, it is written: "Answer not a fool according to his folly, lest you also be like him" (Proverbs 26:4), and on the other hand, it is written: "Answer a fool according to his folly, lest he be wise in his own eyes" (Proverbs 26:5). The Gemara resolves this apparent contradiction: This is **not difficult**, as **this**, where one should answer a fool, is referring to a case where the fool is making claims **about Torah matters**; whereas **that**, where one should not answer him, is referring to a case where the fool is making claims **about mundane matters**.

Ref: Bavli, Shabbat 30b

## The Canon: The Oral Law

### Background: The Mishnah

(Hebrew: משנה, "repetition") is the first major written redaction of the Jewish oral traditions and the first major work of Rabbinic Judaism. It was redacted c. 220 CE by Rabbi Judah ha' Nasi.

The Mishnah reflects debates between 1st century BCE and 2nd century CE by the group of rabbinic sages known as the *Tannaim*. The Mishnah teaches the oral traditions by presenting cases being brought to judgment, usually with the debate on the matter. In this way, it brings to everyday reality the practice of the *mitzvot* as presented in the Bible, and aims to cover all aspects of human living, serve as an example for future judgments, and, most important, demonstrate pragmatic exercise of the Biblical laws, after the Second Temple was destroyed (70 C.E).

The Mishnah consists of six orders (*sedarim*, singular *seder* סדר), each containing 7–12 tractates (*masechtot*, singular *masechet* מסכת; lit. "web"), 63 in total, further subdivided into chapters and paragraphs. The orders and their subjects are: *Zeraim* ("Seeds"), dealing with prayer and blessings, tithes and agricultural laws (11 tractates), *Moed* ("Festival"), pertaining to the laws of the Sabbath and the Festivals (12 tractates), *Nashim* ("Women"), concerning marriage and divorce, some forms of oaths and the laws of the nazirite (7 tractates), *Nezikin* ("Damages"), dealing with civil and criminal law, the functioning of the courts and oaths (10 tractates), *Kodashim* ("Holy things"), regarding sacrificial rites, the Temple, and the dietary laws (11 tractates) and *Tehorot* ("Purities"), pertaining to the laws of purity and impurity, including the impurity of the dead, the laws of food purity and bodily purity (12 tractates).

### Background: Self-Awareness of Canonization

“And why do they record the opinion of the individual against that of the majority, since the law follows the opinion of the majority? So that if a court approves the opinion of the individual it may rely upon him, since a court cannot annul the opinion of another court unless it exceeds it both in wisdom and in number.”

Ref: Mishnah Eduyot 1:5

"What's the difference between the Written Torah and the Oral Torah? To what can it be compared? To a king of flesh and blood who had two servants and loved them both with a perfect love. He gave each of them a measure of wheat and each a bundle of flax. What did the wise servant do? He took the flax and he spun a cloth. He took the wheat and made flour: he cleansed the flour and ground, kneaded and baked it and set it on top of the table. Then he spread the cloth over it and left it until the king would come. The foolish servant, however, did nothing at all. After some time the king returned from his journey and came into his house. He said to his servants: my sons, bring me what I gave you. One servant showed the wheat still in the box with the bundle of flax upon it. Alas, for his shame. Alas, for his disgrace.

When the Holy One Blessed be He gave the Written Torah to Israel, he gave it in the form of wheat for us to make flour from it and flax for us to make a garment from it – using the rules of exegesis."

Ref: *Tanna Devei Eliyahu*, Seder Eliyahu Zuṭa 2 (redacted 10th century)

### **Background: The Talmud**

Sometime between the years 600 and 725 C.E. a group of mostly anonymous collected and edited a vast number of the halakhic discussions that had taken place in the rabbinic academies of Mesopotamia from 200 until the middle of the 5th century. The result was the Babylonian Talmud (the Bavli). Parallel halakhic discussions had taken place in Palestine that eventuated in a Palestinian Talmud (the Yerushalmi). As Palestine was in the Byzantine Empire and Mesopotamia in the Sassanian one, the two different compendia scarcely competed. But when the Muslim conquest in the 7th century united these two worlds, the authority of the caliphs stretched from Persia to the Pyrenees, and struggles between the heads of the Palestinian academies and those of Babylonia for hegemony took on sudden urgency.

This was intensified by the rise of Jewish communities in Egypt, North Africa, and Spain that sought to take advantage of the economic opportunities of the new and vast empire. By 800-825 C.E. the supremacy of the Babylonian Talmud was assured. It became known simply as the Talmud, whose rulings were accepted as normative by Jews throughout the Muslim world (some ninety percent of the Jewish population of the time). The heads of the rabbinical academies in Mesopotamia, the *geonim*, became the acknowledged religious arbiters for the Jewish communities under Islamic rule.

The Talmud's authority spread more slowly in the tiny Jewish communities of Christian Europe. By the time the Ashkenazic community emerged in the late 10th century, the primacy of the Babylonian Talmud was generally accepted there as well, though it was not firmly ensconced until the mid-11th century. Rashi, who died in 1105 C.E., provided the great commentary that made the Talmud more accessible than it had ever been. The Talmud was already normative, but it was (and is) a difficult, abrupt, and in places almost telegraphic text. Its main points are stated, but the linkage of the various points, the flow, is left up to the reader to reconstruct. It is this linkage and flow that Rashi succinctly supplied. With a word or two, Rashi gave a clarity and tightness to the talmudic argument. Each discussion of the Talmud possessed now an unprecedented lucidity.

Nonetheless, the Talmud remained a vast, loosely organized corpus with many overlapping discussions. The tosafists, the great Franco-German glossators of the two centuries following Rashi, undertook the massive project of collating all of the talmudic discussions on a given issue, noting any contradictions among them, and resolving them in good dialectical fashion by distinguishing between two apparently similar cases or seemingly identical legal terms. The founder of the tosafist movement, the man who restored dialectic to the prominent place in halakhah that it had occupied in talmudic times, was Rashi's grandson, R. Jacob ben Meir, known more commonly as Rabbenu Tam, who died in 1171. He ranged freely over the entire Talmud and revolutionized all that he touched; he left, however, little written record of his thoughts. His teachings were preserved by his nephew, Rabbi Isaac, also known as Ri, who, together with his pupils, proceeded to subject every line of the Talmud to relentless, dialectical inquisition. The upshot of the far-ranging analyses in Ri's yeshiva in Dampierre, a tiny hamlet in Champagne, was inscribed by his disciples, and entitled simply "Tosafot" ("additions" [to Rashi]). The Tosafot swiftly spread throughout the diaspora and shaped decisively all subsequent halakhic thought, both in substance and in method. A somewhat abridged version of these glosses has been printed alongside every edition of the Talmud since the 1520s.

Ref: *The People of the Book - Since When?* by Haym Soloveitchik in *The Jewish Review of Books* #12

### **Background: Midrash Agadah**

(Aramaic **אגדה**: tales, lore; pl. *aggadot*) refers to the homiletic and non-legalistic exegetical texts in the classical rabbinic literature of Judaism, particularly as recorded in the Talmud and Midrash. In general, Aggadah is a compendium of rabbinic homilies that incorporates folklore, historical anecdotes, moral exhortations, and practical advice in various spheres, from business to medicine, usually referring to teachings found in a corpus of classical Jewish texts compiled between about 200 and 1000 C.E.

Some of these early works read like verse-by-verse commentaries. Others may have originated in sermons linked to the weekly Shabbat Torah readings. The latter frequently take a form known as *petichta* (Aramaic for "opening"), in which a verse from the Prophets or the Writings is linked through a train of thoughts and associations with the opening verse of the Torah reading.

Despite the editorial appearance of a sequential or running commentary, the rabbis also treated each interpretation of a verse as its own universe of meaning. Multiple interpretations are included side by side, and there was no attempt to give a unified reading of a given story.

Already in the 12th century, Maimonides noticed that some Jews were either taking midrashic teachings too literally, or else writing them off as philosophically unsophisticated. Maimonides argued that midrash had to be approached as a code of metaphors hinting at deeper truths.

Though the early forms of midrash aggadah have long since passed from use, the activity of midrash has left its imprint. Since the advent of printing, Jewish study Bibles have presented multiple interpretations of each verse on the same page with no attempt at resolution.

### **Background: Rashi's Commentary**

Rashi's commentary on the Tanakh — and especially his commentary on the Chumash — is the essential companion for any study. Drawing on the breadth of Midrashic, Talmudic and Aggadic literature (including literature that is no longer extant), as well as his knowledge of grammar, halakhah, and how things work, Rashi clarifies the "simple" meaning of the text so that a bright child of five could understand it. At the same time, his commentary forms the foundation for some of the most profound legal analysis and mystical discourses that came after it. Scholars debate why Rashi chose a particular Midrash to illustrate a point, or why he used certain words and phrases and not others.

### **Background: Mikra'ot G'dolot**

(מקראות גדולות) "Great Scriptures," is an edition of Tanakh (in Hebrew) that includes four elements:

1. The Biblical text according to the masorah in its letters, vocalization, and cantillation marks
2. Masoretic notes on the Biblical text
3. Aramaic Targum
4. Biblical commentaries (most common and prominent are medieval commentaries)



Case Study**Deuteronomy 6:4-9**

ד שְׁמַע, יִשְׂרָאֵל: יְ-הוָה אֶ-לֹהֵינוּ, יְ-הוָה אֶחָד. ה וְאֶהְבֵּת, אֶת יְ-הוָה אֶ-לֹהֶיךָ, בְּכָל-  
 לְבָבְךָ וּבְכָל-נַפְשְׁךָ, וּבְכָל-מְאֹדְךָ. ו וְהָיוּ הַדְּבָרִים הָאֵלֶּה, אֲשֶׁר אֲנֹכִי מְצַוְךָ הַיּוֹם--עַל-  
 לְבָבְךָ. ז וְשִׁנַּנְתָּם לְבָנֶיךָ, וְדִבַּרְתָּ בָּם, בְּשִׁבְתְּךָ בְּבֵיתְךָ וּבְלִכְתְּךָ בַדֶּרֶךְ, וּבְשֹׁכְבְךָ  
 וּבְקוּמְךָ. ח וְקִשְׂרָתָם לְאוֹת, עַל-יָדְךָ; וְהָיוּ לְטֹטְפֹת, בֵּין עֵינֶיךָ. ט וְכָתַבְתָּם עַל-מְזוֹזוֹת  
 בֵּיתְךָ, וּבְשַׁעְרֶיךָ. {ס}

**Hear, Israel, the Lord our God, the Lord is one. And you shall love the Lord your God with all your heart and with all your being and with all your might. And these words that I charge you today shall be upon your heart. And you shall rehearse them to your sons and speak of them when you sit in your house and when you go on the way and when you lie down and when you rise. And you shall bind them as a sign on your hand and they shall be circlets between your eyes. And you shall write them on the doorposts of your house and in your gates.**

Translation: Robert Alter, The Five Books of Moses (Norton, 2004)

## **Mishnah/Seder Zeraim/Tractate Berakhot/Chapter 1**

### **Mishnah 1**

From when may one recite the Shema in the evening?

From the time when the *Kohanim* go in to eat their *terumah*.

Until the end of the first watch – so says Rabbi Eliezer.

And the Sages say: Until midnight.

Rabban Gamliel says: Until the break of dawn.

It once happened that [Rabban Gamliel's] sons came from a house of feasting.

They said to [their father]: "We have not recited the Shema."

He said to them: "If dawn has not broken, you are obligated to recite it."

"[This is true] not only in this case; rather, in all cases where the Sages said that [some precept can be performed only] until midnight — the precept is [still in force] until the break of dawn.

"[For example:] Burning the fats and organs [of the sacrifices, on the Temple altar] — this precept [can be performed] until the break of dawn.

"[Another example:] All [sacrifices] which may be eaten for one day — the precept [of eating them can be performed] until the break of dawn.

If that is so, why did the Sages say, "until midnight"?

To distance a person from transgression.

### **Mishnah 2**

From when may one recite the Shema in the morning?

From when one can distinguish between *techelet* (blue) and white.

Rabbi Eliezer says: [The earliest time for the Shema is when one can distinguish] between *techelet* and the color of leek,

and one must finish reciting it by sunrise.

Rabbi Yehoshua says: [One may recite the Shema] until three hours [of the day],

for such is the way of the sons of kings, to arise at the third hour.

If one recites [the Shema] later than this, he has not lost out,

[but rather is] like one who reads the Torah.

### **Mishnah 3**

The school of Shammai says:

In the evening all people should recline and recite [the Shema], and in the morning they should stand, since it says [in the verse (Deut. 6:7)], "When you lie down and when you arise."

But the school of Hillel says:

Each person may recite it in his usual way (posture),

since it says (ibid.), "When you walk on the road."

If so, why does it say "when you lie down and when you arise"?

—[It means:] at the time when people are lying down, and at the time when people are arising.

Said Rabbi Tarfon:

"I was once traveling on the road,

and I reclined to recite [the Shema] in accordance with the view of the school of Shammai,

and [by doing so] I put myself in danger of [attack by] bandits."

They [the other Sages] said to him: "You would have deserved to be guilty for your own fate, since you went against the view of the school of Hillel."

## Bavli Gemara/Seder Zeraim/Tractate Berakhot/Chapter 1

גמ' תנא היכא קאי דקתני  
"מאימתי?"

**GEMARA** The Mishna opens with the laws concerning the appropriate time to recite *Shema* with the question: From when does one recite *Shema* in the evening? With regard to this question, the Gemara asks: **On the basis of what prior knowledge does the *tanna*<sup>b</sup> of our mishna ask: From when?** It would seem from his question that the obligation to recite *Shema* in the evening was already established, and that the *tanna* seeks only to clarify details that relate to it. But our mishna is the very first mishna in the Talmud.

ותו, מאי שנא דתני בערבית ברישא?  
לתני דשחרית ברישא!

The Gemara asks: **And furthermore, what distinguishes the evening *Shema*, that it was taught first? Let the *tanna* teach regarding the recitation of the morning *Shema* first.** Since most mitzvot apply during the day, the *tanna* should discuss the morning *Shema* before discussing the evening *Shema*, just as the daily morning offering is discussed before the evening offering (*Tosefot HaRosh*).

תנא אקרא קאי דכתיב: "בשכבך  
ובקומך". והכי קתני: זמן קריאת  
שמע דשכיבה אימת - משעה  
שהכהנים נכנסין לאכול בתרומתן.

The Gemara offers a single response to both questions: **The *tanna* bases himself on the verse as it is written:** "You will talk of them when you sit in your home, and when you walk along the way, **when you lie down, and when you arise**" (Deuteronomy 6:7). By teaching the laws of the evening *Shema* first, the *tanna* has established that the teachings of the Oral Torah correspond to that which is taught in the Written Torah. **And based on the Written Torah, the *tanna* teaches the oral law: When is the time for the recitation of *Shema* of lying down as commanded in the Torah? From when the priests enter to partake of their *teruma*.** Just as the Written Torah begins with the evening *Shema*, so too must the Oral Torah.

ואי בעית אימא: יליף מברייתו של  
עולם. דכתיב: "ויהי ערב ויהי בקר  
יום אחד."

However, there is another possible explanation for why the mishna opens with the evening *Shema* rather than with the morning *Shema*. **If you wish, you could say instead<sup>b</sup> that the *tanna* derives the precedence of the evening *Shema* from the order of the creation of the world.<sup>n</sup> As it is written in the story of creation: "And there was evening, and there was morning, one day" (Genesis 1:5).** According to this verse, day begins with the evening and not the morning. For both of these reasons it was appropriate to open the discussion of the laws of the recitation of *Shema* with the evening *Shema*.

אי הכי, סיפא דקתני "בשחר מברך  
שתים לפניך ואחת לאחרך,  
בערב מברך שתים לפניך ושתים  
לאחריך" - לתני דערבית ברישא!

The Gemara asks: **If so, why does the latter clause<sup>b</sup> of the mishna, which appears later in the chapter, teach: In the morning one recites two blessings before *Shema* and one blessing afterward, and in the evening one recites two blessings before *Shema* and two afterward?<sup>n</sup> Based upon the above reasoning, the mishna should have taught the blessing recited before and after the evening *Shema* first.**

## The Canon: Halacha

### Mishneh Torah

(Hebrew: מִשְׁנֵה תּוֹרָה, "Repetition of the Torah") subtitled Sefer Yad HaHazaka (ספר יד החזקה "Book of the Strong Hand,") is a code of halacha authored by Maimonides between 1170 and 1180 in Egypt.

The Mishneh Torah never cites sources or arguments, and confines itself to stating the final decision on the law to be followed in each situation. There is no discussion of Talmudic interpretation or methodology, and the sequence of chapters follows the factual subject matter of the laws rather than the intellectual principle involved.

### Arba'ah Turim

(Hebrew: אַרְבַּע טּוּרִים, often called simply the Tur, is a Halakhic code, composed by Yaakov ben Asher (Cologne, 1270 - Toledo c.1340, also referred to as "Ba'al ha-Turim", "Author of the Tur"). The four-part structure of the Tur and its division into chapters (simanim) were adopted by the later code Shulchan Aruch.

The title means "four rows", in allusion to the jewels on the High Priest's breastplate:

- Orech Chayim - laws of prayer and synagogue, Sabbath, holidays
- Yoreh De'ah - miscellaneous ritualistic laws, such as shechita and kashrut
- Even Ha'ezer - laws of marriage, divorce
- Choshen Mishpat - laws of finance, financial responsibility, damages and legal procedure.

Unlike the Mishneh Torah, the Tur is not limited to normative positions, but compares opinions on disputed points. (In most instances of debate, Rabbi Jacob follows the opinion of his father, Rabbi Asher ben Jehiel, the Rosh.) The Arba'ah Turim also differs from the Mishneh Torah, in that, unlike Maimonides' work, it deals only with areas of Jewish law that are applicable in the Jewish exile.

The two best-known glosses on the Arba'ah Turim are the Beit Yosef by Rabbi Joseph Karo begun in 1522 at Adrianople, finished in 1542 at Safed; and the Bayit Chadash by Joel ben Samuel Sirkis, known as the Bach, in Krakow 1631-40.

### Shulchan Aruch

(Hebrew: שולחן ערוך, literally: "Set Table") is the most authoritative legal code of Judaism. It was authored by Rabbi Joseph Karo (known as the mechaber) in Safed in 1563 and published in Venice two years later. The halachic rulings in the Shulchan Aruch generally follow Sephardic law and customs.

Moses Isserles (known as the Rema) of Krakow glossed the Shulchan Aruch shortly after the Shulchan Aruch appeared and importantly highlighted Ashkenazic traditions and customs that differed from the Sephardic ones. The importance of *minhag* ("prevailing local custom") is also a point of dispute between Karo and Isserles: while Karo held fast to original authorities and material reasons, Isserles considered *minhag* as an object of great importance, and not to be omitted in a codex. Since the 17th century, the Shulchan Aruch has been printed with Isserles' annotations in small print interspersed with Karo's text. As commentaries on the work proliferated, more sophisticated printing styles became required, similar to those of the Talmud.



Case Study

יֵרֵד לְטָבֹּל, אִם יָכוֹל לַעֲלוֹת  
וְלִהְתַּכְּסוֹת וְלִקְרוֹת עַד שֶׁלֹּא תִּהְיֶה  
הַנֶּץ הַחֲמָה - יַעֲלֶה וְיִתְכַסֶּה וְיִקְרָא,  
וְאִם לֹא - יִתְכַסֶּה בַּמַּיִם וְיִקְרָא; וְלֹא  
יִתְכַסֶּה לֹא בַּמַּיִם הָרְעִים וְלֹא בַּמַּיִ  
הַמְּשֻׁרָה, עַד שִׁטִּיל לְתוֹכָן מַיִם. וְכַמָּה  
יִרְחִיק מֵהֶן וּמֵן הַצֹּאֵה - אַרְבַּע אַמּוֹת.

They stated a general principle: One who descended to immerse himself,<sup>h</sup> if he is able to ascend, cover himself with a garment, and recite the morning *Shema* before sunrise, he should ascend, cover himself, and recite *Shema*, and if not, he should cover himself in the water and recite *Shema* there. He may not, however, cover himself in either foul water, or water in which flax was soaked,<sup>8</sup> until he pours other water into it. And in general, how far must one distance himself from urine and feces in order to recite *Shema*? At least four cubits.

Mishna (excerpt) Bavli Shabbat 22b

בְּעֵי מִינְיָה רַב יוֹסֵף בְּרִיָּה דְרַב נַחוּנְיָא מַרְב  
יְהוּדָה: שְׁנַיִם שְׁוֹנִים בְּמִטָּה אַחַת, מַהוּ שְׁוִיה  
יַחְזִיר פָּנָיו וְיִקְרָא קְרִיאַת שְׁמַע, וְזֶה יַחְזִיר פָּנָיו  
וְיִקְרָא קְרִיאַת שְׁמַע? אָמַר לִיה הִכִּי אָמַר  
שְׁמוּאֵל: וְאִפְּלוּ אֶשְׁתּוֹ עִמּוֹ.

Rav Yosef, son of Rav Neḥunya, who raised a dilemma above, raised a dilemma before Rav Yehuda: Two individuals sleeping in a single bed,<sup>h</sup> given that it was standard practice to sleep without clothing, what is the *halakha*; is it permissible for this one to turn his head aside and recite *Shema* and for that one turns his head and recites *Shema*; or is it prohibited because they are unclothed and are considered unfit to recite *Shema* even though they are covered with a blanket? He said to him: Shmuel said as follows: This is permitted even if his wife is in bed with him.<sup>h</sup>

אָמַר מַר: "זֶה מַחְזִיר פָּנָיו וְקוֹרָא קְרִיאַת  
שְׁמַע". וְהָא אֵיכָא עֲגָבוֹת! מַסִּיעַ לִיה לְרַב  
הוּנָא, דְאָמַר רַב הוּנָא: עֲגָבוֹת אֵין בְּהֵם  
מְשׁוּם עֲרוּהָ. לִימָא מַסִּיעַ לִיה לְרַב הוּנָא:  
הָאִשָּׁה יוֹשֶׁבֶת וְקוֹצֵה לָהּ חִלְתָּה עֲרוּמָה  
מִפְּנֵי שְׂיִכּוּלָה לְכַסּוֹת פָּנֶיהָ בְּקַרְקַע, אֲבָל  
לֹא הָאִישׁ.

The Gemara reverts to clarify something mentioned above. The Master said in a *baraita*: This one turns his head aside and recites *Shema*. The Gemara notes a difficulty: Aren't there bare buttocks? This supports the opinion of Rav Huna, as Rav Huna said: Buttocks do not constitute nakedness.<sup>h</sup> Let us say that the following mishna supports Rav Huna's opinion: A woman sits and separates her *halla* naked, despite the fact that she must recite a blessing over the separation of the *halla*, because she can cover her face, a euphemism for her genitals, in the ground, but a male, whose genitals are not covered when he sits, may not do so. The mishna teaches that exposed buttocks do not constitute nakedness.

אָמַר רַב חֲסִדָּא: שׁוֹק בְּאִשָּׁה  
עֲרוּהָ, שְׁנַאֲמַר: "גְּלִי שׁוֹק עֲבָרֵי  
נְהָרוֹת", וְכַתִּיב "תִּגַּל עֲרוֹתֶיךָ וְגַם  
תִּרְאֶה חֲרֻפְתֶּךָ". אָמַר שְׁמוּאֵל:  
קוֹל בְּאִשָּׁה עֲרוּהָ, שְׁנַאֲמַר: "כִּי  
קוֹלְךָ עָרַב וּמְרֹאֲךָ נְאוּהָ". אָמַר  
רַב שִׁשְׁתִּי: שְׁעַר בְּאִשָּׁה עֲרוּהָ,  
שְׁנַאֲמַר: "שְׁעַרְךָ כַּעֲדַר הָעֵיִם".

Along these lines, Rav Ḥisda said: Even a woman's exposed leg is considered nakedness, as it is stated: "Uncover the leg and pass through the rivers" (Isaiah 47:2), and it is written in the following verse: "Your nakedness shall be revealed and your shame shall be seen" (Isaiah 47:3). Shmuel further stated: A woman's singing voice is considered nakedness,<sup>nh</sup> which he derives from the praise accorded a woman's voice, as it is stated: "Sweet is your voice and your countenance is alluring" (Song of Songs 2:14). Similarly, Rav Sheshet stated: Even a woman's hair is considered nakedness,<sup>h</sup> for it too is praised, as it is written: "Your hair is like a flock of goats, trailing down from Mount Gilead" (Song of Songs 4:1).

Gemara (3 excerpts) Bavli Shabbat 24a

**Shulchan Aruch, Orech Chayim, Siman 75 . One should be careful about [a woman's] uncovered hair and a woman's [singing] voice when reading the Shema, and also not to read it in the presence of nakedness.**

**75:1. If a handbreadth of a woman's body is uncovered at a place where it is the custom to cover it, even if she is his wife, then it is forbidden to read the Shema in her presence. {Rema: Some say specifically for his wife, but for any other woman even less than a handbreadth [uncovered] is considered as nakedness (Hago'ot Maimoni Chapter 3). It would seem from the words of the Rosh that a handbreadth of a woman's body [uncovered] is considered as nakedness even for another woman [who wishes to read the Shema in the other's presence], but a woman herself, may read [the Shema] even if she is [completely] naked as per Siman 74.**

**75:2. It is forbidden to read the Shema when the hair of a woman who normally covers it is uncovered. {Rema: even if she is his wife. But in the case of young girls who normally go with their heads uncovered it is. {Rema: And the same law [regarding the hair of young girls] also applies to women's hair that normally pokes out of their hairbands (Beit Yosef in the name of the Rashbah), and all the more so the hair of a wig even if she usually covers it - Hago'ot Alfasi Hachadashim.}**

**75:3. One should be careful not to hear\* the voice of a woman singing when he is reading the Shema. {Rema: And even his own wife. But her speaking voice is not considered "nakedness" (Beit Yosef in the name of the Ohel Mo'ed and the Hago'ot Maimoni.}**

[...]

Credits:

Wikipedia and MyJewishLearning.com

*The Canonization of Hebrew Scripture: The Talmudic & Midrashic Evidence*, Leiman (CAAS, 1991)

*People of the Book: Canon, Meaning and Authority*, Halbertal (Harvard, 1997)

*The Story of the Scrolls*, Vermes (Penguin, 2010)

*Qumran & Jerusalem: Studies in the DSS and the History of Judaism*, Schiffman (Eerdmans, 2010)

Koren Talmud (new English translation)

Also recommended:

*Divine Law: A Tale of Two Concepts (And Three Responses)*, Hayes (video of lecture on YouTube)

*Eretz Israel, Bavel, and Their Talmuds: Did the Story Ever End?*, Gray (audio on MechonHadar.org)

*Printing the Talmud: From Bomberg to Shottenstein*, YU Museum (Ebook on printingthetalmud.org)