

ABOTH' ('THE FATHERS')

1. 1. Moses received the Law² from Sinai and committed it to Joshua, and committed it to the elders,³ and the elders to the Prophets,⁴ and the Prophets to Be deliberate in judgement, raise up many disciples, and make a fence around the Law.
2. Simeon the Just⁵ was of the remnants of the Great Synagogue. He used to say: By three things is the world sustained: by the Law, by the [Temple]-service, and by deeds of loving-kindness.
3. Antigonus of Soko received [the Law] from Simeon the Just. He used to say: Be not like slaves that minister to the master for the sake of receiving a bounty, but be like slaves that minister to the master not for the sake of receiving a bounty; and let the fear of Heaven be upon you.
4. Jose b. Joezer⁷ of Zeredah and Jose b. Johanan of Jerusalem received [the Law] from them. Jose b. Joezer of Zeredah said: Let thy house be a meeting-house for the Sages and sit amid the dust of their feet and drink in their words with thirst.
5. Jose b. Johanan of Jerusalem said: Let thy house be opened wide and let the needy be members of thy household; and talk not much with woman-kind. They said this of a man's own wife: how much more of his fellow's wife! Hence the Sages have said: He that talks much with womankind brings evil upon himself and neglects the study of the Law and at the last will inherit Gehenna.
6. Joshua b. Perahyah and Nittai the Arbelites received [the Law] from them. Joshua b. Perahyah said: Provide thyself with a teacher and get thee a fellow[-disciple],⁹ and when thou judgest any man incline the balance in his favour.¹⁰
7. Nittai the Arbelite said: Keep thee far from an evil neighbour and consort not with the wicked and lose not belief in retribution.

¹ The bulk of this tractate 'The Fathers' (sometimes called *Pirke Aboth*, 'Chapters of the Fathers') is a selection of maxims on conduct and sayings in praise of the Law handed down in the names of 60 teachers of the Law who lived between 300 B.C. and A.D. 200. The fifth chapter differs in form. Excepting the last four paragraphs the sayings are anonymous and classified in groups in which various numbers, such as ten, seven, or four, are included as a linking device. The sixth chapter is no part of the Mishnah. It is, however, included in all modern editions of the Mishnah and in the Jewish Prayer Book.

² The 'Oral Law'. The Law (*Torah*) throughout post-biblical Jewish religious literature has the threefold connotation of (a) the Pentateuch, the 'Written Law'; (b) the 'traditions of the elders'—rules of Jewish life and religion which in the course of centuries had come to possess a validity and sanctity equal to that of the Written Law and which, as the 'Oral Law', were deemed, equally with the Written Law, to be of divine origin and therefore consonant with and, for the most part, deducible from the Written Law; and (c) the study of the Law in its twofold aspect, a study which sought to sanction by deeper understanding the seeming variations between the Oral and Written Law, to apply the Law to present-day life, and by successive interpretations to solve new problems by the authority of the Law, written and oral.

³ Jer. 24²¹.

⁴ They saw that prophecy had come to an end and that restraint was lacking; therefore they made many new rules and restrictions for the better observance of the Law' (Tif. Yis.).

⁵ Simeon, son of Onias, High Priest c. 280 B.C. (see *Ant.* xii. ii. 5.) or Simeon II, High Priest c. 200 B.C. (cf. *Ecclesiasticus*, ch. 50).

⁶ and the following paragraphs (4, 6, 8, 10, 12) are given the names of the 'Pairs' (*Zugoth*; cf. *Peah* 2⁵) who according to tradition were president and vice-president ('Father of the court') of the Sanhedrin (Hag. 2⁵) during the century and a half after Jose b. Joezer.

⁷ c. 120 B.C., a contemporary of John Hyrcanus.

⁸ For the sense of this term cf. *Yeb.* 16⁷; *Erub.* 2⁴.

⁹ Lit. judge all men in the scale of guiltlessness.

8. Judah b. Tabbari and Simeon b. Shetah¹ received [the Law] from them. Judah b. Tabbari said: Make not thyself like them that would influence the judges; and when the suitors stand before thee let them be in thine eyes as wicked men, and when they have departed from before thee let them be in thine eyes as innocent, so soon as they have accepted the judgement.
9. Simeon b. Shetah said: Examine the witnesses diligently and be cautious in thy words lest from them they learn to swear falsely.
10. Shemaiah and Abtalion² received [the Law] from them. Shemaiah said: Love labour and hate mastery and seek not acquaintance with the ruling power.
11. Abtalion said: Ye Sages, give heed to your words lest ye incur the penalty of exile and ye be exiled to a place of evil waters, and the disciples that come after you drink [of them] and die, and the name of Heaven be profaned.
12. Hillel and Shammai³ received [the Law] from them. Hillel said: Be of the disciples of Aaron, loving peace and pursuing peace, loving mankind and bringing them nigh to the Law.
13. He used to say: A name⁴ made great is a name destroyed, and he that increases not decreases, and he that learns not is worthy of death, and he that makes worldly use of the crown shall perish.
14. He used to say: If I am not for myself who is for me? and being for mine own self what am I? and if not now, when?
15. Shammai said: Make thy [study of the] Law a fixed habit; say little and do much, and receive all men with a cheerful countenance.
16. Rabban Gamaliel⁵ said: Provide thyself with a teacher and remove thyself from doubt, and tithe not overmuch by guesswork.⁶
17. Simeon his son said: All my days have I grown up among the Sages and I have found naught better for a man than silence; and not the expounding [of the Law] is the chief thing but the doing [of it]; and he that multiplies words occasions sin.
18. Rabban Simeon b. Gamaliel said: By three things is the world sustained: by truth, by judgement, and by peace, as it is written, *Execute the judgement of truth and peace.*⁷

2. 1. Rabbi⁸ said: Which is the straight way that a man should choose? That which is an honour to him and gets him honour from men. And be heedful of a light precept as of a weighty one, for thou knowest not the recompense of reward of each precept; and reckon the loss through [the fulfilling of] a precept against its reward, and the reward [that comes] from transgression against its loss. Consider three things and thou wilt not fall into the hands of transgression: know what is above thee—a seeing eye and a hearing ear and all thy deeds written in a book.

2. Rabban Gamaliel⁹ the son of R. Judah the Patriarch said: Excellent is study of the Law together with worldly occupation, for toil in them both puts sin out of mind. But all study of the Law without [worldly] labour comes to naught at the last and brings sin in its train. And let all them that labour with the congregation labour with them for the sake of Heaven, for the merit of their fathers supports them and their righteousness endures

¹ c. 80 B.C.

² Cf. 'Pollion the Pharisee and his disciple Sameas', *Ant.* xv. i. 1.

³ c. 30 B.C.—A.D. 10.

⁴ This saying is quoted in Aramaic.

⁵ Grandson (or possibly son) of Hillel.

⁶ Cf. *Ter.* 4⁵.

⁷ *Zech.* 8¹⁶.

⁸ Judah the Patriarch, compiler of the Mishnah.

⁹ The Third.

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discussion of a husband who takes a vow forbidding himself from having sexual relations with his wife. If someone forbids himself by a vow from having sexual relations with his wife, the Tannaim disagree about how soon he can be compelled to grant her a divorce and to pay her her ketubah. ¹Bet Shammai say: The wife must wait two weeks, after which her husband must either go to a Sage and request the nullification of the vow, or he must grant her a divorce and pay her her ketubah. ²Bet Hillel disagree and say: After one week the husband must take the necessary steps to release himself from the vow or else grant his wife a divorce.

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from sexual relations, ¹Bet Shammai say: Two weeks. ²Bet Hillel say: One week. ³Students may leave for the study of Torah without permission [for] thirty days. ⁴Workers [for] one week.

מתשמיש המטה, ¹בית שמאי אומרים: שתי שבועות. ²בית הלל אומרים: שבוע אחת. ³התלמידים יוצאין לתלמוד תורה שלא ברשות שלשים יום. ⁴הפועלים שבוע אחת. ⁵העונה האמורה בתורה: ⁶הטוילין, בכל יום; ⁷הפועלים.

⁵The conjugal obligation stated in the Torah is [as follows]: ⁶Men of leisure, every day; ⁷workers,

RASHI

בית שמאי אומרים שתי שבועות - אם הדירה שמי שנמוס - מממין, ואם יומר - יוליל ומן כמזנה. הטוילין - מפרש בגמרא.

³The Mishnah continues its discussion of a husband's obligation to cohabit with his wife: Married Rabbinic students may leave their homes and go to another town for the study of Torah without their wives' permission for periods of up to thirty days, even though they will be unable to fulfill their conjugal obligations. ⁴But workers may leave to work in another town without their wives' permission for only one week at a time.

⁵The Mishnah now explains that the husband's conjugal obligation, which stems from the Biblical verse (Exodus 21:10): "And her duty of marriage he shall not diminish," varies according to the husband's occupation and how frequently he is found at home. ⁶Men of leisure, who spend most of their time at home, are obliged to cohabit with their wives every day. ⁷Workers who work in their home

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to a case in which the husband took a vow forbidding his wife from sexual relations with him, for the husband is obligated by Torah law to cohabit with his wife, and so a vow intended to deny her that right is not effective. (Rather, the Mishnah is referring to a case in which the husband formulated his vow in such a way that he forbade himself from deriving any enjoyment from sexual relations with his wife. Such a vow is valid because we cannot compel a person to derive benefit from something that is forbidden to him. Students may leave. *Ran* explains that the regulations mentioned here that Rabbinic students may leave their homes to study Torah for up to thirty days and workers may leave for a week at a time are additional examples of "the conjugal obligation stated in the Torah," which is discussed in the next clause of the Mishnah. Thus the Mishnah teaches us that the conjugal obligation of a Rabbinic student studying out of town must be carried out once in thirty days, and the marital duty of a worker employed out of town must be carried out once a week. The Mishnah did not teach these regulations under the heading of "the conjugal obligation stated in the Torah," so that it would not be understood as implying that the same laws

apply even if the student and the worker study and work in their home towns.

Tosafot argues that these laws are not examples of "the conjugal obligation stated in the Torah." Otherwise, they should have been included in the next clause. Rather, the Mishnah teaches us that even though a Rabbinic student who is studying in his home town is obligated to cohabit with his wife once a week on Friday night, and a worker working in his own community is obligated to cohabit with his wife twice a week, a Rabbinic student and a worker may leave town without their wives' permission. A worker whose conjugal obligation involves relations twice a week may leave town and reduce his obligation to once a week.

But someone whose conjugal obligation is less than once a week may not reduce his conjugal obligation any further without his wife's permission. Out of consideration for the important duty of Torah study, an exception was made for Rabbinic students, who were permitted to leave town without their wives' permission for up to thirty days.

The conjugal obligation stated in the Torah. The plain sense of this expression is that the husband's conjugal obligation derives from the Biblical

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ketubah. This ruling applies even if the husband is a sailor whose conjugal obligation is only once in six months." (*Rambam, Sefer Nashim, Hilkhot Ishut 14:6; Shulhan Arukh, Even HaEzer 76:9.*)

The conjugal obligation stated in the Torah. "A husband's conjugal obligation varies in accordance with his physical abilities and occupation. Unless otherwise stipulated by the parties, a man of leisure

is obligated to have sexual relations with his wife every day of the week. The conjugal obligation of a worker (who works in his home town) is twice a week; that of an ass driver is once a week; that of a camel driver is once in thirty days; and that of a sailor is once in six months." (*Rambam, Sefer Nashim, Hilkhot Ishut 14:1; Shulhan Arukh, Even HaEzer 76:1-2.*)

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town are obliged to cohabit with their wives twice a week. ¹Ass drivers, who leave their home towns and transport merchandise to the surrounding villages, but who are not ordinarily absent from their homes for more than a week at a time, are obligated to have sexual relations with their wives once a week. ²Camel drivers, who transport merchandise greater distances, are required to cohabit with their wives once in thirty days. ³Sailors, who are away from home for extended periods of time, are required to have sexual relations with their wives once in six months. ⁴These are the husband's marital duties according to the viewpoint of Rabbi Eliezer.

⁵The Gemara asks: What is the reason that Bet Shammai maintain that a wife must wait two weeks before she can demand a divorce from her husband, if he took a vow forbidding himself from engaging in sexual relations with her?

⁶The Gemara answers: They derive this law from the regulations governing a woman who gives birth to a girl. A woman is ritually impure for the first two weeks after giving birth to a girl, and is forbidden to engage in sexual relations with her husband. Bet Shammai infer from this that a two-week period of abstinence from sexual relations is not considered an unbearable hardship.

⁷The Gemara continues: And what is the reason that Bet Hillel maintain that a woman need wait only a week before demanding a divorce from her husband?

⁸The Gemara answers: They derive this law from the regulations governing a woman who gives birth to a boy. If a woman gives birth to a boy, she is ritually impure for a week, during which time she is forbidden to her husband.

⁹An objection is now raised: But let Bet Hillel also derive the law regarding a man who forbids himself from having sexual relations with his wife from the laws applying to a woman who gives birth to a girl, as did Bet Shammai. Since there is a case in which the Torah forbids a woman from engaging in sexual relations with her husband for two weeks, Bet Hillel should agree with Bet Shammai that a woman whose husband forbids himself from cohabiting with her should not be able to demand a divorce before two weeks have passed.

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twice a week; ¹ass drivers, once a week; ²camel drivers, once in thirty days; ³sailors, once in six months. ⁴[These are] the words of Rabbi Eliezer. GEMARA ⁵What is the reason of Bet Shammai?

⁶They derive [it] from a woman who gives birth to a girl.

⁷And Bet Hillel?

⁸They derive [it] from a woman who gives birth to a boy.

⁹But let Bet Hillel also derive [it] from a woman who gives birth to a girl!

RASHI

החמרים - שיוצאין לכפרים להביא חנוכה למכור נשוק. הגמלין - סומרי חנילו, ומביאין על הגמלים ממקום רחוק. הספנים - פורשין לים הגדול לקצווי ארץ.

גמרא מיוולדת נקבה - שזוהא שנועיים מחשמים. נגמרו מיוולדת נקבה - כיון דאשכחן אורח ארעא לשהות כל קן - אן לנו לטופו להויא.

שְׁתַּיִם בְּשַׁבָּת; ¹הַחֲמָרִים, אַחַת בְּשַׁבָּת; ²הַגְּמָלִים, אַחַת לְשָׁלְשִׁים יוֹם; ³הַסְּפָנִים, אַחַת לְשָׁשָׁה חֳדָשִׁים. ⁴דְּבָרֵי רַבִּי אֱלִיעֶזֶר.
גְּמָרָא ⁵מַאי טַעְמָא דְּבֵית שַׁמַּי?

⁶גְּמָרֵי מִיּוּלְדַת נְקֵבָה.

⁷וּבֵית הַלֵּל?

⁸גְּמָרֵי מִיּוּלְדַת זָכָר.

⁹וּבֵית הַלֵּל נָמִי נִגְמָרוּ מִיּוּלְדַת נְקֵבָה!

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verse (Exodus 21:10), "And her duty of marriage he shall not diminish," which was understood by the Rabbis as varying according to the husband's occupation. *Bereshit Rabbah* and the Jerusalem Talmud find support for this supposition from the story regarding the peace-offering sent by Jacob to Esau (Genesis 32:15-16; see also *Rashi's* comment on the verses): "Two hundred she-goats, and twenty he-goats, two hundred ewes, and twenty rams, thirty milch camels with their colts, forty cows, and ten bulls, twenty she-asses, and ten foals." The animals were sent in different ratios between the males and the females of each kind, depending upon the difficulty of the work done by each species. The more tiring the work, the less available is the male for mating with the female. Just as animals' mating patterns vary according to the work

imposed upon each different kind, so too do the husband's conjugal obligations vary according to his occupation and availability for sexual relations.

They derive it from a woman who gives birth. The Rishonim explain that the various derivations cited here for the positions of Bet Shammai and Bet Hillel are all based on the same principle that if the Torah prevents a woman from engaging in sexual relations with her husband for a certain period of time, then abstinence from sexual relations for that long cannot be considered an unbearable burden. Thus a husband who forbids himself from cohabiting with his wife cannot be compelled to divorce her until more time has passed.

Shittah Mekubbetzet notes that when the Gemara answers that Bet Hillel derive their position from the laws



8. 1. On the Day of Atonement, eating, drinking, washing, anointing, putting on sandals, and marital intercourse are forbidden. A king or a bride may wash their faces and a woman after childbirth may put on sandals. So R. Eliezer. But the Sages forbid it.
 2. If a man ate a large date's bulk,¹⁰ the like of it together with its stone, or if he drank a mouthful, he is culpable.¹¹ Any foods may be included together to make up the date's bulk, and any liquids may be included together to make up the mouthful. What a man eats and what he drinks may not be included together.

3. If he both ate and drank in a single act of forgetfulness¹² he is liable to one Sin-offering only. If he ate and also performed an act of work, he is liable to two Sin-offerings. If he ate foods which are not fit for eating or drank liquids which are not fit for drinking, or even if he drank brine or fish-brine,¹³ he is not culpable.

¹ Lev. 16¹.
² Num. 29¹.
³ Num. 29¹². Its blood was sprinkled only on the outer Altar, as opposed to that of the he-goat mentioned in 5¹.
⁴ Ex. 30⁹.
⁵ Ex. 27²⁷.
⁶ Some texts omit 'from the Sanctuary'.
⁷ Ex. 28³⁰.
⁸ Some texts omit 'for a common person'.
⁹ Cf. Makk. 2⁷.
¹⁰ Cf. Kel. 17¹². A quantity equal to a large date from which the stone has not been taken.
¹¹ He is punishable by Extermination (Lev. 23²⁹) if he transgressed wantonly, and if in error he is liable to a Sin-offering (Lev. 4²¹⁻²²).
¹² That it was the Day of Atonement. Cf. Shab. 7¹.
¹³ Both were liquids in which fish were pickled. Cf. Ter. 11¹; Ned. 6¹; A. Zar. 2¹; Mikw. 4¹.

4. They do not cause children to fast on the Day of Atonement, but they should exercise them therein one year or two years before [they are of age]; that they may become versed in the commandments.

5. If a pregnant woman smelled [food and craved after it], they may give her food until she recovers herself. He that is sick may be given food at the word of skilled persons; and if no skilled persons are there, he may be given food at his own wish, until he says, 'Enough!'

6. If ravenous hunger² seized a man he may be given even unclean things to eat until his eyes are enlightened.³ If a mad dog bit him he may not be given the lobe of its liver to eat; but R. Mattithiah b. Heresh permits it. Moreover R. Mattithiah b. Heresh said: If a man has a pain in his throat they may drop medicine into his mouth on the Sabbath, since there is doubt whether life is in danger, and whenever there is doubt whether life is in danger this overrides the Sabbath.

7. If a building fell down upon a man and there is doubt whether he is there or not, or whether he is alive or dead, or whether he is a gentile or an Israelite, they may clear away the ruin from above him. If they find him alive they may clear it away [still more] from above him; but if dead, they leave him.

8. The Sin-offering⁴ and the unconditional Guilt-offerings⁵ effect atonement; death and the Day of Atonement effect atonement if there is repentance. Repentance effects atonement for lesser transgressions against both positive and negative commands in the Law; while for graver transgressions it suspends punishment until the Day of Atonement comes and effects atonement.

9. If a man said, 'I will sin and repent, and sin again and repent', he will be given no chance to repent. [If he said,] 'I will sin and the Day of Atonement will effect atonement', then the Day of Atonement effects no atonement. For transgressions that are between man and God the Day of Atonement effects atonement, but for transgressions that are between a man and his fellow the Day of Atonement effects atonement only if he has appeased his fellow. This did R. Eleazar b. Azariah expound: *From all your sins shall ye be clean before the Lord*⁶—for transgressions that are between man and God the Day of Atonement effects atonement; but for transgressions that are between a man and his fellow the Day of Atonement effects atonement only if he has appeased his fellow. R. Akiba said: Blessed are ye, O Israel. Before whom are ye made clean and who makes you clean? Your Father in heaven; as it is written, *And I will sprinkle clean water upon you and ye shall be clean.*⁷ And again it says, *O Lord the hope (mikweh)⁸ of Israel,*⁹—as the *Mikweh* cleanses the unclean so does the Holy One, blessed be he, cleanse Israel.



בתנ"י מליה כל דבר מליה: [ג] פירות נוסרי פירות...
לך ים כבדו והשכים וכן הכה: וינא. תשמע מיד דבר אכילה:

באוכלי פירות נוסרי טע. טעמיהו עיקר קבא כל הכריב כלב...
קמחלג תופי חתיקה ספירום והטעם עלהרזי טעל

קבר אשירי פרק מהל...
פירוש הלכות ספירום...
הטעם עלהרזי טעל...
פירוש הלכות ספירום...
הטעם עלהרזי טעל...

כרית. כפלים מלנים חריתם דר...
הטון שקורים טוניחא: לקללי...
מלנים. למחלל טומנים שקלנים...
מלנים וקין מרובים עד של אלט

בתנ"י "תביא לפניו מליה (ה) תחלה ופת...
עכו מברך על המליה ופטר את הפת...
שהפת ממליה ל"ו זה הכלל כל שהוא עיקר...
ועכו ממליה מברך על העיקר ופטר את

הממליה: [ג] וכן איכא מדי דדני מליה...
עיקר ופת ממליה אמר רב אמא בריה דרב...
עירא אמר רב אשי באוכלי פירות נוסרי...
שע "אמר רבה בר בר חנה כי הנה אולעין...
בתריה דרבי יוחנן למיכל פירות נוסרי כי

על טעם ופול פרי הפן. אכל טעל...
סיון מברכים על הכנס ועל פרי...
כנס דכין דין קבנ כרבה נלמא...
מטעם התבונה הוא סדן ללחרי

לריון להט למחלל: גריטם...
קבייהו' כלמי: מאלג גריטם...
כחוק. ג' סמנים בחוק מורדים...
חטט ק: סמנים וזוטא אחיס. קליס...
איס אחיס כח סלם וכן כחוחיס:

היין בי מאח סקפיון ליה לכל דוד חד...
עשרה עשרה ובי היין כי עשרה סקפיון...
ליה כל דוד חד מאח וכל מאח סגיוה...
"דהו משיק לזו צנא בר הלוא סאי "אביל...
לזו ומשחבע. ולא מעיס ויונא וזנא סד

למסמס סמנים קאי חן אל המון...
דך טבר פרי כנס במתקם פרי כנס...
אל כל כמלמא סיסל ולא סמריק על...
טען אלל כסממא טל סלק ועל...
ספרים כין כתי חן לטעמא וכתי

תורות רביח...
מטעם...
תורות ובריא...
הטעם עלהרזי טעל...
הטעם עלהרזי טעל...

צ ככל כרבה תליס פלאה טח:...
חמס כמינים. טלם מן דגן חסין...
ומטורין ומסמין וטנול סמל וסיין...
סמסין מן חסס סמלם טעל וסיין...
מין עשרה: מברך סליו כתי מאוט.

בתנ"י אכל ענבים ותאנים מברך...
אחדים שלש ברכות דברי רבן גמליאל...
וחב"א ברכה אחת (מעין שלש) רע אומר...
אפי אכל שלק הוה משע מברך עליו ג'...
ברכות "השותה מים לצמא מברך שהכל

א"ר ר' יוחנן אכלי חלק מברכין...
המטעם סוף גרזא למתק...
פירוש הלכות ספירום...
הטעם עלהרזי טעל...
הטעם עלהרזי טעל...

גלין חס"ם...
גבי מטעם ספירום...
הטעם עלהרזי טעל...
הטעם עלהרזי טעל...

רבות וחטונ: [ג] מיס דריג דתחיב "ארץ ושה ושעורה וזו וכתחיב ארץ...
אשר לא במסכתה חאכל בה לחם וזו וכתחיב "ואבלת ושבעת וברכת את ה'

מיהו דרען על העץ ועל פרי העץ ועל תבואת השדה ועל ארץ חסרה...
מיכה ודחה שהתחלה לאבותי לאכול מפריה ולשבע מפריה רחם ה' אלהינו על ישראל עמך ועל

נלין חס"ם...
גבי מטעם ספירום...
הטעם עלהרזי טעל...
הטעם עלהרזי טעל...

Figure D. Talmud Bavli (Babylonian Talmud) comprising the Mishna and the Gemara, with commentaries (standard edition).

- 1. Text of the Mishna
2. Text of the Gemara
3. Rashi (see 4865/1105)
4. Tosaphot (see 5050/1290)
5. (Hagahot Ha)Bach (see 5400/1640)
6. Mᵉsorat HaShas (see 5449/1689)
7. (Hagahot Ha)Gra (see 5558/1797)

Babylonian Talmud: 59A – The Oven of Aknai

We learnt elsewhere: If he cut it into separate tiles, placing sand between each tile: R. Eliezer declared it clean, and the Sages declared it unclean; and this was the oven of 'Aknai.¹ Why [the oven of] 'Aknai? — Said Rab Judah in Samuel's name: [It means] that they encompassed it with arguments² as a snake, and proved it unclean. It has been taught: On that day R. Eliezer brought forward every imaginable argument,³ but they did not accept them. Said he to them: 'If the halachah agrees with me, let this carob-tree prove it!' Thereupon the carob-tree was torn a hundred cubits out of its place — others affirm, four hundred cubits. 'No proof can be brought from a carob-tree,' they retorted. Again he said to them: 'If the halachah agrees with me, let the stream of water prove it!' Whereupon the stream of water flowed backwards — 'No proof can be brought from a stream of water,' they rejoined. Again he urged: 'If the halachah agrees with me, let the walls of the schoolhouse prove it,' whereupon the walls inclined to fall. But R. Joshua rebuked them, saying: 'When scholars are engaged in a halachic dispute, what have ye to interfere?' Hence they did not fall, in honour of R. Joshua, nor did they resume the upright, in honour of R. Eliezer; and they are still standing thus inclined. Again he said to them: 'If the halachah agrees with me, let it be proved from Heaven!' Whereupon a Heavenly Voice cried out: 'Why do ye dispute with R. Eliezer, seeing that in all matters the halachah agrees with him!' But R. Joshua arose and exclaimed: 'It is not in heaven.'⁴ What did he mean by this? — Said R. Jeremiah: That the Torah had already been given at Mount Sinai; we pay no attention to a Heavenly Voice, because Thou hast long since written in the Torah at Mount Sinai, After the majority must one incline.⁵

R. Nathan met Elijah⁶ and asked him: What did the Holy One, Blessed be He, do in that hour? — He laughed [with joy], he replied, saying, 'My sons have defeated Me, My sons have defeated Me.'

1) This refers to an oven, which, instead of being made in one piece, was made in a series of separate portions with a layer of sand between each. R. Eliezer maintains that since each portion in itself is not a utensil, the sand between prevents the whole structure from being regarded as a single utensil, and therefore it is not liable to uncleanness. The Sages however hold that the outer coating of mortar or cement unifies the whole, and it is therefore liable to uncleanness. (This is the explanation given by Maimonides on the Mishnah, Kel. V, 10. Rashi a.l. adopts a different reasoning). 'Aknai is a proper noun, probably the name of a master, but it also means 'snake'. (Gr. **) which meaning the Talmud proceeds to discuss.

(2) Lit., 'words'.

(3) Lit., 'all the arguments in the world'.

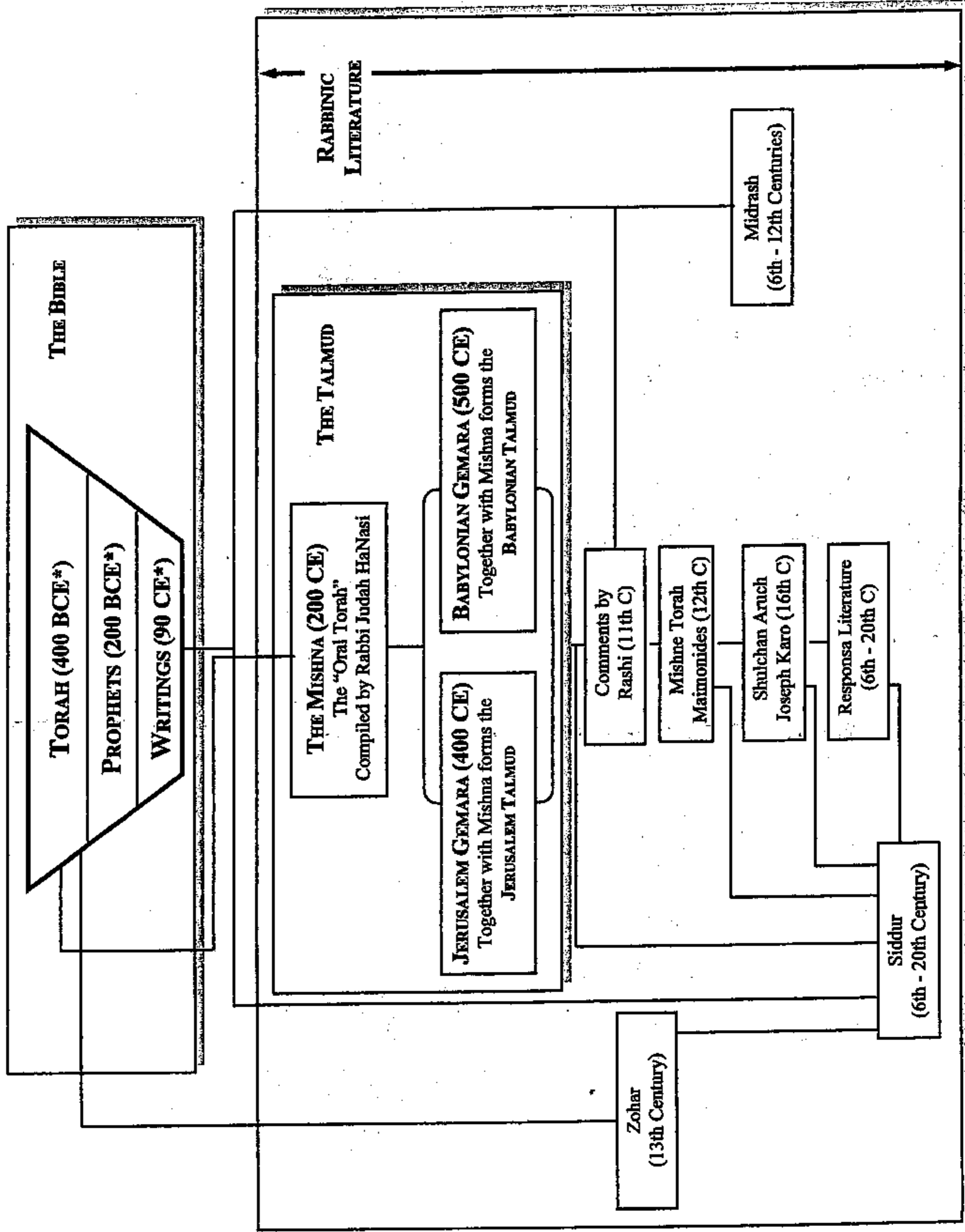
(4) Deut. XXX, 12.

(5) Ex. XXIII, 2; though the story is told in a legendary form, this is a remarkable assertion of the independence of human reasoning.

(6) It was believed that Elijah, who had never died, often appeared to the Rabbis.



JEWISH SACRED LITERATURE



9

* Approximate Dates of Canonization

FROM THE TORAH
(Exodus 20:10)

¹Remember the sabbath day, to keep it holy. ²Six days shalt thou labour, and do all thy work; ³but the seventh day is a sabbath unto the Lord thy God, in it thou shalt not do any manner of work, thou, nor thy son, nor thy daughter, nor thy man-servant, nor thy maid-servant, nor thy cattle, nor thy stranger that is within thy gates; ⁴for in six days the Lord made heaven and earth, the sea, and all that in them is, and rested on the seventh day; wherefore the Lord blessed the sabbath day, and hallowed it.

⁵Honour thy father and thy mother, that thy days may be long upon the land which the Lord thy God giveth thee.

FROM THE MISHNAH
(Second Order Moed, Tractate Shabbat,
Chapter 2, Mishnah 2)

2. The main classes of work are forty save one: sowing, ploughing, reaping, binding sheaves, threshing, winnowing, cleansing crops, grinding, sifting, kneading, baking, shearing wool, washing or beating or dyeing it, spinning, weaving, making two loops, weaving two threads, separating two threads, tying [a knot], loosening [a knot], sewing two stitches, tearing in order to sew two stitches, hunting a gazelle, slaughtering or flaying or salting it or curing its skin, scraping it or cutting it up, writing two letters, erasing in order to write two letters, building, pulling down, putting out a fire, lighting a fire, striking with a hammer and taking out aught from one domain into another.¹ These are the main classes of work: forty save one.

FROM THE GEMARA
(Tractate Shabbat, Page 73b)

GEMARA. [73b] Why state the number?—Said R. Johanan: To teach] that if one performs them all in one state of unawareness, he is liable on account of each separately.

SOWING AND PLOUGHING. Let us see: ploughing is done first, then let him [the Tanna] state PLOUGHING first and then SOWING?—The Tanna treats of? Palestine, where they first sow and then plough.²

A Tanna taught: Sowing, pruning, planting, bending,³ and grafting are all one labour. What does this inform us?—This: that if one performs many labours of the same nature, he is liable only to one [sacrifice].

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TRANSLATION AND COMMENTARY

the laws of *ona'ah* do not apply to such a transaction, because during a war a person's very life depends on these items, and people are willing to pay considerably more than what they are really worth."

Thus Rabbi Yehudah ben Betera's opinion parallels Rabbi Yehudah's, as both Tannaim maintain that the laws of *ona'ah* do not apply if a buyer is willing to pay more than the ordinary market value of the merchandise.

MISHNAH *שָׂאֵן בְּמִקְחָא*
²Having completed its discussion of the laws of fraud, the Mishnah now turns to laws governing human relationships. The connection between these two topics is the Hebrew word *ona'ah* (אונאה), which means not only fraud or overreaching

but also the causing of anguish to others. The Mishnah declares: Just as there is a law prohibiting *ona'ah* — fraud in buying and selling — so too there is a law prohibiting verbal *ona'ah* (אונאת דברים), in which anguish is caused to other people by hurting their feelings.

The Mishnah now shows how words may cause pain. The first example is related to the previous topic — buying and selling: A customer may not say to a merchant: "How much is this article" if he does not in fact wish to buy it, as this arouses false hopes in the seller, who will be upset if the questioner does not purchase the item.

The Mishnah now considers examples totally unrelated to the previous discussion: If someone is a repentant sinner, other people must not remind him of his past by saying to him: "Remember your earlier deeds." Likewise, if someone is the son of converts, other people must not remind him of his origins by saying to him: "Remember the deeds of your fathers." In fact, there is a special prohibition against causing anguish to converts, for the verse (Exodus 22:20) says: "You shall not wrong (toru, from the same Hebrew root as *ona'ah*) a stranger (i.e., a convert) nor shall you oppress him."

LITERAL TRANSLATION

ona'ah for them, ¹because life depends on (lit., "is in") them."

MISHNAH ²Just as there is *ona'ah* in buying and selling, so too there is *ona'ah* in words.

³One may not say to him [a merchant]: "How much is this object," if one does not wish to buy [it].

If [someone] was a repentant [sinner], one may not say to him: "Remember your earlier deeds." ⁴If he is the son of converts, one may not say to him: "Remember the deeds of your fathers," ⁵for it is said: "You shall not wrong a stranger, nor shall you oppress him."

אונאה, מפני שיש בהן חיי נפש.

משנה בשם שאונאה

במקח וממכר, כן אונאה בדברים.

לא יאמר לו: "בכמה תפך

זה? והוא אינו רוצה ליקח.

אם היה בעל תשובה לא

יאמר לו: "זכור מעשיך

הראשונים." אם הוא בן גרים

לא יאמר לו: "זכור מעשה

אבותיך," שפאמר: "וְגַר לֹא תוֹנֶה וְלֹא תִלְחָצֶנּוּ."

LANGUAGE

אונאה Fraud, wrongdoing, overreaching. This word, generally translated "fraud" (i.e., overcharging and underpaying, financial dishonesty), is derived from the root *נח* or *ננה*, whose basic meaning in Biblical Hebrew is "to cause distress." The primary meaning of this root also plays a part in Mishnaic Hebrew, as we see from our Mishnah where we read: "Just as there is *ona'ah* in buying and selling, so too there is *ona'ah* (i.e., causing distress, or hurting other people's feelings) in words."

BACKGROUND

אונאת דברים Verbal *ona'ah*. As the Mishnah indicates, verbal *ona'ah* includes a wide variety of activities, from intentionally disappointing others (by pretending that one wants to buy something when one in fact does not), to insulting them outright. Verbal *ona'ah* of this sort is not grounds for lawsuits to be adjudicated in court, although it is considered an extremely grave offense which is punishable at the hands of Heaven.

אם היה בעל תשובה If someone was a repentant sinner... If a person sincerely and completely repents for his misdeeds, they are forgiven... and he must thereafter be treated as a righteous man. Hence, it is considered a gratuitous insult to remind a penitent of his past.

NOTES

Because life depends on them. It is not clear whether Rabbi Yehudah ben Betera's view is accepted or not. On the one hand, no one disputes this opinion, so it would appear that it should be accepted. On the other hand, the Gemara implies elsewhere (see, for example, *Yevamot* 106a and the commentators there) that a person who overcharges for objects or services necessary for survival is only entitled to the true value of the object or service he provided. Following this reasoning, it would appear that the prohibition against *ona'ah* should apply to military implements in wartime, contrary to the viewpoint of Rabbi Yehudah ben Betera (*Remakh*).

אונאת דברים Verbal *ona'ah*. Verbal *ona'ah* means insulting others, hurting their feelings, or putting them to shame (compare, for example, Isaiah 49:26, "I shall feed them that oppress you with their own flesh," where the same Hebrew root is used). *Meiri* suggests that two types of transgression are subsumed under the category of verbal *ona'ah*: (1) causing a person financial loss through one's words, and (2) causing another person to shame. Indeed, both types of

offense are discussed in the Mishnah. In the first case, the seller thinks the buyer did not buy the merchandise because he felt it was overpriced (and not because he did not want to buy it in the first place); hence the seller is likely to cut prices. Thus, the buyer's conduct is liable to cause the seller an unnecessary financial loss. And the next two cases in the Mishnah (where one reminds a penitent or descendant of proselytes of their origins) constitute verbal *ona'ah* because they involve putting others to shame.

Just as there is *ona'ah* in buying and selling, so too there is *ona'ah* in words. *Bah* explains that the Mishnah had to teach us that verbal *ona'ah* is prohibited, because we might not otherwise have inferred this from the Biblical text, which ostensibly refers to financial fraud and not to verbal wrongdoing.

One may not say: "How much is this object?" This is forbidden because it causes the seller distress, since he mistakenly thinks that he will be able to conclude the sale. Moreover, such behavior may even cause the seller financial loss (see *Rashbam, Pesahim* 1.12b).

