

# HENOCH

SEMI-ANNUAL JOURNAL FOUNDED BY PAOLO SACCHI IN 1979

NEW SERIES 2005 – YEAR XXXI – N. 2/2009

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Contributing to the skepticism from a historical-philological approach was the work of Peter Schäfer, beginning with *Studien zur Geschichte und Theologie des rabbinischen Judentums* (Leiden: Brill, 1978). Towards the end of the decade, while Neusner had moved on to other issues, his student W.S. Green published the influential article "What's in a Name? The Problematic of Rabbinic 'Biography,'" in *Approaches to Ancient Judaism: Theory and Practice*, ed. W.S. Green (Missoula: Scholars Press, 1978), pp. 77-96. Published in an equally out of the way venue but much less influential was a paper I gave in 1979 summarizing these developments. This was "Towards the Rehabilitation of Talmudic History," in *History of Judaism The Next Ten Years*, ed. B.M. Bokser (Chico, CA: Scholars Press, 1980), pp. 31-44. In it I celebrated what I called the "debiographization" (on the model of R. Bultmann's "demythologization") of Talmudic history, that is, the realization that we could not produce historical biographies of the masters and make them the foundation of our historical narratives.

Clearly, then, the 1970's saw the emergence of a broad consensus that the rabbinic traditions contained neither stenographic records of debates nor eyewitness accounts of events. Instead they must be treated as literary creations. The meaning and matrix of those creations is what those seeking to reconstruct Jewish history may use as their source material. In a sense we are still seeking a "historical kernel," but it almost never has anything to do with the protagonists of the anecdote or the alleged author of a saying, their time or place. Neusner was one of the pioneers and perhaps the most influential disseminator of this approach, an approach that today is accepted everywhere including in Jerusalem. Certainly he was the chief target of the slings and arrows of those who fought a rear guard action defending use of the historical kernel approach for the history of the Jews in Roman Palestine and Sasanian Babylonia. It is perhaps ironic that Neusner left the field of this battle just as the approach he had championed and done so much to develop emerged victorious.

Let me conclude with a striking example of the reinvention of the wheel, a wheel Neusner had already created. Actually this is a second case. The first instance, mentioned above, was Shlomo Sand resurrecting Neusner's view that there is no Jewish people only a Jewish religion. The second case involves two articles discussing the proper methodology for Talmudic history published almost a quarter century after Neusner first developed his approach. I refer to Daniel Boyarin, "Hamidrash vehama'aseh – 'al haheqer

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vehamidrash" (Hebrew University of Jerusalem, 5737) and subsequent studies that demonstrate the highly developed literary character of the rabbinic stories. For appreciative but critical reviews of literary approaches to Talmudic sources see H.I. Newman, "Closing the Circle: Yonah Fraenkel, the Talmudic Story and Rabbinic History," in *How Should Rabbinic Literature Be Read in The Modern World?* ed. M. Kraus (Piscataway, NJ: Gorgias Press, 2006), pp. 105-135 and J.L. Rubenstein, "Context and Genre: Elements of a Literary Approach to the Rabbinic Narrative," *ibid.*, pp. 137-165.

hahistori shel sifrut hazal," and Shamma Y. Friedman, "La'aggadah hahistorit batalmud habavli," both of which appeared in 1993.<sup>24</sup> The similarity to Neusner's work from the early 1970's can be demonstrated by the following. Friedman writes, "Before you search for the historical kernel, you must search for the literary kernel and base your historical research on it."<sup>25</sup> Compare Neusner's comment from 1970 already quoted above, "... I continue to ask historical, not literary questions: but the historical questions cannot be considered without attention to literary-critical considerations."<sup>26</sup> The work of Boyarin and Friedman, arguably the outstanding Talmudists of the generation to come out of the U.S., strikes me as impressive validation of the contribution of Neusner. And while they may have discovered this approach only in the 1990's, those of us who labored in the vineyard that is the history of the Jews in the Land of Israel and in the Babylonia in the period that produced Talmudic literature have used it for years – with what success I leave to others to judge.

## JACOB NEUSNER AS READER OF THE MISHNAH, TOSEFTA, AND HALAKHIC MIDRASHIM

STEVEN D. FRAADE, *Yale University*

### 1. *True Confessions of a Post-Neusnerian*

I confess to being a "post-Neusnerian." In fact, I would argue that most scholars of early rabbinic literature could bear that designation. Just as a post-structuralist must pay respect to structuralism, from which post-structuralism derives, or a post-modernist cannot escape engagement with modernity, or a post-Zionist must first have absorbed Zionism, a post-Neusnerian must acknowledge the fundamental and monumental contributions made by, and the paradigm shift represented by, Jacob Neusner's scholarship on early rabbinic literature, even as our work, in building on that of Neusner, has progressed and departed from his in many different directions.

I came of age politically and intellectually in the late 1960's as an undergraduate at Brown University, where I took a few courses with Neusner, who arrived there in 1968, my junior year, as I shifted from being a Physics major to one in Religious Studies, and as he was beginning to

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<sup>24</sup> They appeared in the *Saul Lieberman Memorial Volume*, ed. S. Friedman (New York: Jewish Theological Seminary, 1993) pp. 105-117 and 119-164 respectively.

<sup>25</sup> *Ibid.*, p. 122

<sup>26</sup> Neusner, *Development of a Legend*, p. xii.

train his first cohort of graduate students. Little did I know then that he would come to dominate (and largely define) the study of early rabbinic literature for the next couple of decades, and little did I know then that his teaching and generosity to me would contribute to my own future scholarly direction. According to the curriculum vitae which he kindly sent me in preparation for this session, Neusner sees 1970, the year I graduated from Brown, as the turning point between "the pre-critical stage" of his work (*A Life of Johanan ben Zakkai* [1962]; *A History of the Jews in Babylonia* [1965-70]) and the "beginning of the critical enterprise" (*Development of a Legend: Studies on the Traditions Concerning Yohanan ben Zakkai* [1970]; and *The Rabbinic Traditions about the Pharisees before 70* [1971]).

By the time of my own graduate studies at the University of Pennsylvania, just four years later (1974-1979), Neusner's impact had become more pronounced. The first year of my graduate training was the year in which the first three volumes of *A History of the Mishnaic Law of Purities* appeared. On his curriculum vitae, Neusner calls this period and section of his scholarship, "Describing the Canon, Document by Document. The Stage of Translation, Form-Analysis, and Exegesis," an apt description of his scholarship of that period, especially with its emphasis on "canon" and "document," terms to which I will return below.<sup>27</sup> In 1981, my third year of teaching at Yale, *Judaism: The Evidence of the Mishnah*, appeared, summing up the previous decade of Neusner's work on the Mishnah. This was an important book that had a great impact on my understanding and teaching of the Mishnah, notwithstanding its questionable underlying claim that the Mishnah, as a unified "document," singularly represented a self-contained "Judaism." Throughout the 1980's, at an accelerating pace and, to my mind, disturbing tendency toward textual leveling, Neusner published his translations and analyses of the early midrashic collections, including the so-called tannaitic midrashim, summing up many of his ideas on the early midrashim in *Judaism and Scripture: The Evidence of Leviticus Rabbah* (1986).

I mention this early chronology, with some highlights, to give a sense to the younger readers just how much Neusner dominated the field of the study of early rabbinic literature, whether through his voluminous publications (including many pungent reviews of the work of others), his steady stream, or river, of graduate students at Brown and their placement in a wide range of academic institutions, his editorial control of several publication series, his noticeable presence at the annual meetings of the Society of Biblical Literature, his presidency of the American Academy of Religion (1969-74), and, of course, the sheer force of his intellect and

<sup>27</sup> To scholars of ancient history, this use of "document" for a literary anthology transmitted over millennia might seem a bit strange, as the term is more commonly applied to ancient textual artifacts, as in the "documents" found in the caves bordering the western shore of the Dead Sea.

personality. I can think of no single scholar, or school of Judaic scholarship, today, especially in North America, that exerts even a remotely similar influence, whether for better or worse or both.

However, by the time that I received tenure at Yale in 1989, several critical reviews had appeared by both senior and younger scholars, challenging many of the presuppositions of Neusner's work, and taking some wind out of his sails, thereby encouraging a healthier balance of approaches within the field, albeit not without, at first, some personal and professional costs to those caught in the maelstrom. I think, in particular of Yaakov Elman, "The Judaism of the Mishnah: What Evidence?,"<sup>28</sup> Shaye Cohen's, "Jacob Neusner, Mishnah, and Counter-Rabbinics: A Review Essay,"<sup>29</sup> Saul Lieberman's "A Tragedy or a Comedy?" on Neusner's Palestinian Talmud translation,<sup>30</sup> and my own review essay, "Interpreting Midrash 1: Midrash and the History of Judaism."<sup>31</sup> I shall return to the main points of these critiques, after first emphasizing the positive.

## 2. *The Paradigm Shift: The Mishnah (and other texts) Viewed Whole*

To return to my opening point, how is the field of the study of early rabbinic literature post-Neusnerian in a positive sense? What is the paradigm shift for which he (mainly, but among others) is responsible? Neusner's critical turn represents a critique of those scholars who would, as was commonly done, produce biographies of rabbinic sages (as he at first did), or historical reconstructions (as he at first did), or summaries of rabbinic belief and practice, based on the selective lifting of bits of information from rabbinic texts across chronology, geography, and literary context, so as to weave those snippets together to form an attractive picture of ancient rabbinic Judaism – attractive, of course, in the eyes of the intended beholder. Given the history of the anti-semitic mining of rabbinic sources so as to create unattractive portraits of Jews and Judaism, the opposite effort, taken most notably by George Foot Moore and Ephraim E. Urbach, was inevitably employed for apologetic purposes. Not that Neusner's alternative was necessarily less (even if less explicitly) apologetic, but that is a subject for another occasion.

Neusner realized early, initially in self-criticism of his own "pre-critical stage," that such selective sifting and re-combining of rabbinic statements, or clusters of statements, across textual corpora represented a self-serving and self-confirming exercise. It (a) violated the literary contexts in which rabbinic traditions were embedded, (b) risked distorting the meanings of

<sup>28</sup> *Judaica Book News* 12 (1982), pp. 17-25.

<sup>29</sup> *Conservative Judaism* 37 (1983), pp. 48-63.

<sup>30</sup> *JAOS* 104 (1984), pp. 315-319.

<sup>31</sup> *Proof 7* (1987), pp. 179-194. On J. Neusner, *Judaism and Scripture: The Evidence of Leviticus Rabbah* (Chicago and London: University of Chicago Press, 1986).

those statements, to the extent that all meaning is contextual, (c) assumed rabbinic Judaism to be largely homogeneous and static over time and place (as in, “the rabbis say,” or “the midrash says”), and (d) presumed individual rabbinic laws and narratives to be representationally reliable windows onto history, even when excised from their textual settings so as to be spliced together to form the sorts of coherent historical or biographical narratives that they lacked in their own textual settings.

The alternative to sifting through all rabbinic collections for snippets to be extracted and reassembled into histories, biographies, or topical characterizations of ancient (rabbinic) Judaism, as though its textual sources are, as Neusner put it, “mere scrapbooks” (or “compilations”) waiting to be mined, is to conceive of those sources rather as “compositions,” or as Neusner terms them “documents” (or “books”), each one assembled according to its particular “plan and logic,” each one issuing a cogent statement, by what Neusner would deem philosophical standards of syllogistic proposition and argument, in response to its particular historical setting, in the case of the Mishnah, to the catastrophic events of 70 and 135 CE. Following this set of presuppositions, each individual rabbinic statement can *only* be understood in its own particular literary context, as defined by the unity of its “document” as a whole.<sup>32</sup>

According to Neusner, each such coherent “document,” in turn, having been analyzed as a coherent whole, contributes, in its chronological turn, to the broader history of ideas of Judaism, as represented by the “shelves of books of the rabbinic canon.”<sup>33</sup> A history of rabbinic Judaism could then be written based on this chronologically arranged sequence of “books,” each with its own coherent message directed to its particular time and circumstances. But in order to uncover that message, each such document needed first to be analyzed from beginning to end, in order to disclose its overarching structures of language, on the one hand, and of topic, on the other. Each “document” was thus shown to have its particular “mode of thought” and “substance of thought,” its “logic of coherent discourse” and its “topical program,” in short, its singular “plan and program.” Neusner first applied this approach to the Mishnah (which at first he simply paired with the Tosefta in the hyphenated construct “Mishnah-Tosefta”), before moving on to the early amoraic and then tannaitic midrashim, and continuing on to the Palestinian and Babylonian talmuds.<sup>34</sup>

<sup>32</sup> For a similar characterization of Neusner’s approach to the corpora of rabbinic literature, see A. Samely, *Forms of Rabbinic Literature and Thought: An Introduction* (Oxford: Oxford University Press, 2007), p. 52. On Neusner’s use of the term “document,” see above, n. 1.

<sup>33</sup> Neusner, *Judaism and Scripture*, p. 98. For my characterization of Neusner’s approach, based on that book, see Fraade, “Interpreting Midrash 1,” pp. 180-184.

<sup>34</sup> For the most recent general statement of this approach, see J. Neusner, “The Mishnah Viewed Whole,” in *The Mishnah in Contemporary Perspective*, vol. 1 (ed. A.J. Avery-Peck and J. Neusner; Leiden: Brill, 2002), pp. 3-38.

Although by no means the first to do so,<sup>35</sup> Neusner’s focus on individual collections of Mishnah and midrash, each in its own right, rather than either subsuming them within rabbinic literature overall or mining them for isolated legal rules, scriptural interpretations, or narratives, was an important contribution to the study of rabbinic literature and Judaism, allowing, as it were, the modern reader to engage rabbinic texts within the discursive contexts (or as close as we can get to them) in which they would have been encountered by their ancient rabbinic auditors, thereby understanding the parts of each collection in relation to their adjacent parts as well as to their collected whole. From this foundation, Neusner hoped to better enter into, as it were, the rabbinic society in which these texts were collected and circulated, and for which and to which they are presumed to have spoken, each in its own “single voice” with its own unified “historical message.”

Most if not all modern scholars of antiquity are engaged in a labor of retrieval. Neusner sought to do so not by retrieving selected fragments of texts exhumed from and stripped of their ancient edited contexts, so as to be attractively reassembled and renarrativized (e.g., the life of Rabbi x; the teachings of the sages). Rather, he sought to retrieve early rabbinic texts systematically and holistically, in complete form, from the larger atemporal and continuous corpus of rabbinic literature overall, into which they had been largely assimilated over many centuries of a-historical study for either apologetic or religious purposes (if the two can be differentiated).

Once so retrieved, each corpus could be listened to, as it were, as an expression of an ancient rabbinic “Judaism” of a particular time and place, inductively apprehended through the plotting of its particular patterns of speech and the structures of topic. As Neusner states in a recent reiteration of his view of the Mishnah: “The meaning of patterned speech conveys the meaning of what is said” (in McLuhanian speech, “the medium is the message”). However, for Neusner, to have meaning, such patterns need be recognized across the “document” as a whole.<sup>36</sup> To the extent that such patterns of speech and structures of topic are consistent and persistent across a particular document, and especially if that document displays a “limited repertoire of grammatical patterns,”<sup>37</sup> that document is deemed by Neusner to be a philosophical “system” that issues a coherent message. For the Mishnah, that message is that “beneath the accidents of life are a few comprehensive relationships.”<sup>38</sup> The world of the Mishnah, as revealed in its limited but perpetual patterns of rhetoric, is one of “order and balance,” and one in which “the mind is central to the construction of that order and

<sup>35</sup> E.g., M. Kadushin, *A Conceptual Approach to the Mekilta* (New York: Jewish Theological Seminary of America, 1969).

<sup>36</sup> “The Mishnah Viewed Whole,” p. 21.

<sup>37</sup> *Ibid.*, p. 15.

<sup>38</sup> *Ibid.*

balance.”<sup>39</sup> Neusner adopted the poise of a cultural anthropologist, observing the text of a rabbinic “document,” in particular the Mishnah, as if it were a complete cultural system (“the Judaism of the Mishnah”) waiting to be entered, observed, and understood in its own holistic terms

One advantage of studying the early rabbinic textual corpora in their entirety is to avoid the selectivity of topics that usually accompanied the previous way of doing business, whereby the texts selected for discussion were ones that would appeal to what was presumed to be “modern” sensibilities, e.g., those that stress the ethical, the universal, and the spiritual. Neusner needs, therefore, to be credited for having begun his systematic study of the Mishnah with precisely such texts as whose topics might be commonly thought to have long ago become obsolete to modern sensibilities, that is, he began his *History of the Mishnaic Law* with the mishnaic laws of Purities (followed by Holy Things). Far from being obsolete topics of interest, Neusner sought, by uncovering their underlying “logic,” to reveal how they both spoke to the post-70/135 Jewish world, but also how they addressed broad, including modern, human anxieties, much as Mary Douglas did for the “Abominations of Leviticus,” in her book, *Purity and Danger* (1966).<sup>40</sup>

I hasten to stress, before examining some of the problems with this documentary approach, that it has much to commend it, and, in any case, had a great influence on scholars, even those otherwise repelled by other aspects of Neusner’s program. The questions that he raises with respect to the texts of early rabbinic Judaism, and the challenges that he poses to their critical study, are ones that have largely shaped, or at least provided the springboard for, subsequent scholarship, even when that scholarship did not accept, or fully accept, Neusner’s own responses to those questions and challenges. In short, it is important to appreciate how radically Neusner changed the very terms of scholarly discourse with regard to the early textual corpora of rabbinic Judaism. He rendered obsolete a good part of previous scholarship, both historical and literary, and did much to launch the critical study of early rabbinic history and literature as the vibrant growth industry that it continues to be today.

<sup>39</sup> Ibid., p. 17.

<sup>40</sup> I presume that Neusner began with the Order Purities (1974-77) as a consequence of his having recently completed *The Rabbinic Tradition about the Pharisees before 70* (3 vols.; Leiden: Brill, 1971), in which he stresses the ritual purity strictures of the Pharisees as their defining characteristic. Between the two came his *The Idea of Purity in Ancient Judaism: The Haskell Lectures, 1972-1973* (Leiden: Brill, 1973), to which Douglas provided a commentary (pp. 137-142). Neusner’s work on the Pharisees was summarized in a more popular form in *From Politics to Piety: The Emergence of Pharisaic Judaism* (Englewood Cliffs, NJ: Prentice-Hall, 1973).

### 3. The Documentary Hypothesis/Premise and its Discontents

My first discontent with Neusner’s documentary hypothesis, which is less a hypothesis to be proved than a premise that is presumed, is its methodological exclusivity. According to Neusner, there is only one correct way to study the Mishnah, as well as the other “documents” of rabbinic Judaism, and for that matter, rabbinic Judaism itself. If I may be permitted to be self-referential one last time, the following will provide a good illustration of my discontent: In 1984 I published my first book, a revision of my dissertation, *Enosh and His Generation: Pre-Israelite Hero and History in Post-Biblical Interpretation*. In it I traced the history of scriptural interpretation of one verse, Gen 4:26, within its broader scriptural context of antediluvian times, through a wide variety of sources, both diachronically and synchronically, ranging from the exegetical writings of the Second Temple period, through rabbinic literature, mainly midrashic, and the scriptural commentaries of early Christians (eastern and western), and Samaritans. No sooner than the book appeared, Neusner attacked it in letters to me, and finally in a book review for the *Journal of the American Academy of Religion*. His charge: that by lifting exegetical statements out of their complete documentary contexts, I risked misrepresenting them apart from the systematic programs of the documents that housed, and hence defined, them. I should stress that I was very careful to present the texts of interpretation source by source, in chronological sequence, to the extent possible, within each religious tradition, as well as to consider the proximate textual context in which each appeared. Nor was Neusner able to point to a single case in which I had misconstrued a discrete textual tradition as a result of having removed it from its total documentary setting. Rather, so far as Neusner was concerned, I simply had no right to consider discrete exegetical statements, from such a wide range of sources, without first having analyzed each complete “document” in its totality. To quote him directly from a letter (October 7, 1985): “[you failed] in *Enosh* to deal with the canonical setting, *within* the rabbinic canon, of various materials... you are starting from the wrong end: first looking within the text. No, the opposite: first look at the document as a whole.” Note well his naive unawareness of the hermeneutical circle in which we are trapped no matter where we begin, whether from the inside looking out or the outside looking in.

Around the same time, the first installment of what would be a book-length study of the *Sifre* commentary to Deuteronomy appeared,<sup>41</sup> critically analyzing an extensive collection of exegetical comments to a single verse,

<sup>41</sup> “Sifre Deuteronomy 26 (ad Deut. 3:23): How Conscious the Composition?” *HUCA* 54 (1983), pp. 245-301; *From Tradition to Commentary: Torah and its Interpretation in the Midrash Sifre to Deuteronomy* (Jewish Hermeneutics, Mysticism, and Religion Series; Albany: State University of New York Press, 1991).

Deut 3:23, emphasizing the creative role of redaction in the shaping of the assembled parts in the present form of the commentary. In an appendix to his book, *Comparative Midrash* (1986), titled "Fraade Versus Fraade," Neusner argued that I could not have it both ways, that is, if I was right regarding the role of redactional shaping of exegetical traditions in the *Sifre*, that is, within a single "document," then I must have been wrong in tracing the history of interpretation of Enosh across a wide range of "documents." As Neusner states, "Only a thesis formed on the foundation of the entire production of a redactor will serve to clarify the bits and pieces of what is redacted."<sup>42</sup> In short, there is only one way to slice the textual pie, the right way (*Sifre*) and not the wrong way (Enosh). Instead, I insist that there are many ways to slice the pie, in fact, many ways to conceive of the parameters of the pie, with each revealing something different, with each having its particular hermeneutical vantages and blinders, and with each in need of others as complementary correctives. Thus, there is no reason that analysis of a rabbinic textual corpus as a whole cannot proceed alongside more narrowly focused source-critical or exegetical studies of particular textual sub-units, with the two approaches mutually illuminating and challenging one another.<sup>43</sup>

In my remaining space, I wish to enunciate briefly several other discontents with Neusner's "documentary premise," without being able to give any one the attention that it deserves.

1. Are the textual corpora of early rabbinic Judaism, all of them anthologies created by anonymous and unknown editors, best considered as "documents," or, for that matter, "books" at all.<sup>44</sup> To what extent are they clearly bounded and of one cloth, as Neusner would have us think? To what extent does their orality of performative transmission, their composite nature, and their textual fluidity impinge upon these terms?<sup>45</sup> Similarly, given their performative and textual fluidity, in what sense can each one, and their collectivity, be termed "canonical"? Even if they eventually acquired some sort of "canonical" status (still requiring definition), at what point, by and for whom, in what manner, and to what consequence? Does the Mishnah become "canonical" in the same way as the Tosefta, or the tannaitic midrashim? By presuming these terms to be apt, and to thereby confer a high degree of coherence, both formally and ideationally, to our earliest rabbinic textual corpora, to what extent are Neusner's characterizations of these works as such circular? To give one example, the

<sup>42</sup> J. Neusner, *Comparative Midrash: The Plan and Program of Genesis Rabbah and Leviticus Rabbah* (BJS 111; Atlanta: Scholars Press, 1986), p. 201.

<sup>43</sup> For a similar critique, see C. Hayes, "Halakhah le-Moshe mi-Sinai in Rabbinic Sources: A Methodological Case Study," *The Synoptic Problem in Rabbinic Literature*, (ed. S.J.D. Cohen; BJS 326; Providence, RI: Brown Judaic Studies, 2000), pp. 61-117.

<sup>44</sup> On the use of "document" for rabbinic textual anthologies, see above, n. 1.

<sup>45</sup> E. Shanks Alexander, *Transmitting Mishnah: The Shaping Influence of Oral Tradition* (Cambridge: Cambridge University Press, 2006).

tractate *Avot* is excluded from all of Neusner's characterizations of the Mishnah, both formal and topical, since he views it as a post-mishnaic "apologetic" for the Mishnah. Yet, not knowing when and how it (or others tractates) became a part of the Mishnah, we can say that so far as we know, it was certainly a part of the Mishnah in its *canonically* transmitted form, whatever its prehistory, present purpose, and relation to the rest of the Mishnah.<sup>46</sup> Alexander Samely has recently written, in critiquing Neusner's documentary premise, as follows:

Neusner ... sets out to demonstrate thematic-conceptual unity for rabbinic documents. And for this a raft of far-reaching hermeneutic assumptions need to be made ... It is in the nature of things that evidence for this type of coherence becomes visible only *because* a construction of coherence is placed upon certain phenomena in the text... When it comes to choosing the level on which to look for coherence, the only special privilege which attaches *prima facie* to the whole document is that its boundaries tend to be physically manifest [which for early rabbinic documents they are not, at least not in their early manuscript forms]... Each of these versions with divergent *de facto* boundaries requires, at least initially, its own definition of a unity – unless differences are discounted in advance by an abstract projection of that unity. Moreover, if defined by fixed *de facto* boundaries, few texts are sufficiently incoherent to resist entirely a determined effort to construct coherence. Since Neusner's search for coherence is tailored to the *de facto* boundaries of a rabbinic document in the first place, the successful construction of some unity cannot, it itself, *demonstrate* that a unified document message was ever intended. Nor does it show that the document level is more coherent than any of the others.<sup>47</sup>

2. As a consequence of Neusner's focus on each "document" as a coherent whole, statically self-sufficient unto itself for its single reified "message," he fails to appreciate the inter-textual nature of early rabbinic discourse, whether mishnaic or midrashic, that is, how each "document" presumes knowledge of others, whether extant or not, and how each textual corpus is engaged in the creative reworking of received texts and traditions, which can only be discerned by placing those documents side by side, synoptically as it were, so as to highlight the distinct rhetorical contours of each in comparison and contrast with the others. Similarly, to the extent to which all rabbinic texts, including the Mishnah, but to different degrees of

<sup>46</sup> Neusner, "The Mishnah Viewed Whole," pp. 28-30. On the order of the mishnaic tractates, see most recently, M. Kahana, "The Arrangement of the Orders of the Mishnah," *Tarbiz* 76 (2006-2007), pp. 29-40 (Hebrew).

<sup>47</sup> A. Samely, *Forms of Rabbinic Literature and Thought*, pp. 53-54. See also R. Goldenberg, "Is 'The Talmud' a Document," in *The Synoptic Problem* (ed. Cohen), pp. 3-10.

explicitness, are engaged in scriptural interpretation, that is with scriptural texts external to the “document”’s own boundaries, Neusner displays scant interest in matters of scriptural hermeneutics within early rabbinic literature, since that would divert his attention from the rabbinic text to the scriptural text with which it is dialogically engaged. In his treatment of early rabbinic texts, scriptural exegesis is viewed by Neusner as simply providing artificial support for the “syllogistic propositions” that the midrashic text wishes to propound. He is tone-deaf, it would appear, to the creative, dialectical dynamics of rabbinic midrash (as well as scriptural interpretation within the Mishnah), notwithstanding the many volumes that he devotes to them as “documents.” In the case of the relation of the tannaitic midrashim to the Mishnah, the former are dismissed wholesale as either polemical or apologetic efforts to provide scriptural undergirdings for mishnaic law, rather than considered for how they may work in dialectical, pedagogical tandem with one another, having emerged, as best we can tell, from the same or proximate rabbinic circles.<sup>48</sup>

Scriptural interpretation in Neusner’s “documents” is not just downplayed, it is flattened. In the same letter to me quoted above, Neusner states:

As I read and reread Enosh and the HUCA article, I was struck at how much you invest in explaining the precipient, in the biblical text, for the exegetical comment. This seems to me a hopeless thing, you never know you’re right, and you speculate endlessly and needlessly. It is the wrong angle of vision.

Need we be limited to a single “angle of vision”? Is any one of them “right” and free of distortions? It is in the very nature of any “angle of vision” that it is in need of others to both complement and complicate it.

3. A consequent effect of Neusner’s documentary approach, is that it decontextualizes the Mishnah in several ways. If the meaning of each document, as determined by its formal features, is self-sufficient, then there is little or no need to examine the text of the Mishnah in relation to “external” sources of information that bear on contemporary rabbinic or Jewish society. There is no need for recourse to non-Jewish writings, archeological evidence, or the truly documentary evidence from the Bar Kokhba caves, so as to obtain a better understanding of how the Mishnah might have been produced or received in its own social context or of its relation to the broader context of Jewish society of Roman Palestine of the first few centuries CE, or for that matter of non-Jewish society, e.g., of Roman jurists and juridical literature and documents.

<sup>48</sup> In addition to my review essay, “Interpreting Midrash 1: Midrash and the History of Judaism,” see my review of Neusner’s *What is Midrash?* in the *Journal of Religion* 69 (1989), pp. 439-441.

This neglect is a function, at least in part, of Neusner’s view of the mishnaically constructed world as being one of utopian fantasy. This characterization by Neusner derives from the fact that much, if not most, of the Mishnah deals with institutions and practices that were non-functional in the aftermath of the destruction of the Second Temple, and his correct, in my view, refusal to simply presume that such rules and accounts of Temple-related rituals and practices are residues of an “old Mishnah” deriving from and representational of Second Temple times.<sup>49</sup> But that does not necessarily obviate the need to understand the Mishnah in relation to the social *realia* and comparative evidence of its own time. Major advances in this regard have been made recently by the work of a younger generation of scholars of rabbinic literature, and the Mishnah in particular: Beth Berkowitz, Naftali Cohn, Chaya Halberstam, Ishay Rosen-Tzvi, and Moshe Simon-Shoshan.<sup>50</sup> They have produced much more sophisticated, nuanced, and socially attentive views of the Mishnah than that which views it essentially and reductively as offering a single, unified message of “order and balance” in the aftermath of the calamities of 70 and 135 CE, or of subsequent rabbinic “documents” as univocal responses to ascendant Christianity.

Another way in which Neusner’s Mishnah is de-contextualized is in the rather simplistic way in which he views its relation to the Tosefta on the one hand and the tannaitic midrashim on the other, a consequence of his insistence on viewing all of these documents whole, rather than looking at the complex nature of their intersections at the local level. Decontextualization can be diachronic as well as synchronic, and in Neusner’s case he shows little or no interest in relating the “documents” of early rabbinic Judaism, both mishnaic and midrashic, to their *antecedents* of the late Second Temple period, e.g., the Dead Sea Scrolls, except in the most schematic terms.

4. In setting up an absolute dichotomy of “compilation” vs. “composition” for all early rabbinic collections, Neusner is unable to appreciate the high degree of terminological, ideational, and dialogical *heteroglossia* within each. Under the documentary rug, as it were, are swept the many narrative elements among the legal/philosophical propositions of

<sup>49</sup> Most influential in this regard has been J.N. Epstein, *Introduction to the Mishnaic Text* (2 vols.; 3<sup>rd</sup> ed.; Jerusalem: Magnes, 2000).

<sup>50</sup> B.A. Berkowitz, *Execution and Invention: Death Penalty Discourse in Early Rabbinic and Christian Cultures* (Oxford: Oxford University Press, 2006); N.S. Cohn, “The Ritual Narrative Genre in the Mishnah: The Invention of the Rabbinic Past in the Representation of Temple Ritual” (Ph.D. diss., University of Pennsylvania, 2007); C.T. Halberstam, *Evidence and Uncertainty: Rabbinic Judges Interpret the World* (Bloomington, Ind.: Indiana University Press, forthcoming); I. Rosen-Zvi, *The Rite that Was Not: Temple, Midrash and Gender in Tractate Sotah* (Jerusalem: Magnes, 2008) (Hebrew); M. Simon-Shoshan, “Halachah Lema’aseh: Narrative and Legal Discourse in the Mishnah” (Ph.D. diss., University of Pennsylvania, 2005).

his reified Mishnah,<sup>51</sup> as well as the Mishnah's not negligible uses of and relation to Scripture. Similarly, hidden from Neusner's view of the tannaitic midrashim, as coherent anti-mishnaic polemics, are their sizable aggadic sections, the degree to which their seeming mishnaic allusions are often not to the Mishnah that we have, and the degree to which they employ very different terminologies, with very different underlying hermeneutical assumptions, between and within them.<sup>52</sup>

5. Since, according to Neusner, the Mishnah is the "foundational document" of rabbinic Judaism of its time, its unitary plan and program can be presumed to express what is important (and what is not) to that Judaism; what is absent from that document must have been absent from that Judaism. Thus, Neusner avers that the absence of expressions of messianic expectations in the Mishnah, in contrast to later rabbinic "documents," tells us that those expectations did not yet occupy an important place in the Judaism of the Mishnah, meaning for the rabbinic Judaism of its time and place.<sup>53</sup> Similarly, Neusner argues that since explicit hostility against the Roman Empire is not yet evident in the Mishnah, it must not yet have developed among the sages for whom the Mishnah speaks, but only subsequently.<sup>54</sup> However, the presence or absence of a particular idea or set of ideas in the Mishnah (or any other text) may simply be a function of its genre, that is, the rhetorical forms and purposes of its particular production. On this Robert Goldenberg comments: "[O]ne must first develop some theory of the Mishnah that explains why such ideas would have been expressed if they were already circulating. This cannot always be done: the Mishnah in particular is so terse and spare that the reader should never be surprised when a certain topic somehow fails to appear in its pages."<sup>55</sup> In short, we have no reason to presume, as does Neusner, that the Mishnah was intended as the Encyclopedia of (Rabbinic) Judaism of its time and place.

<sup>51</sup> See, in particular, the dissertations of M. Simon-Shoshan and N. Cohn (previous note).

<sup>52</sup> See M.I. Kahana, *The Two Mekiltot on the Amalek Portion: The Originality of the Version of the Mekhilta d'Rabbi Ishma'el with Respect to the Mekhilta of Rabbi Shim'on ben Yohay* (Jerusalem: Magnes Press, 1999) (Hebrew); idem, "The Halakhic Midrashim," in *The Literature of the Sages: Second Part: Midrash and Targum, Liturgy, Poetry, Mysticism, Contracts, Inscriptions, Ancient Science and the Languages of Rabbinic Literature* (ed. S. Safrai et al.; CRINT; Assen: Royal Van Gorcum, 2006), pp. 3-105; A. Yadin, *Scripture as Logos: Rabbi Ishmael and the Origins of Midrash* (Philadelphia: University of Pennsylvania Press, 2004).

<sup>53</sup> J. Neusner, *Messiah in Context: Israel's History and Destiny in Formative Judaism* (Philadelphia: Fortress, 1984); C. Evans, "Mishna and Messiah 'in Context': Some Comments on Jacob Neusner's Proposals," *JBL* 112 (1993), pp. 267-289; and Neusner's response, "The Mishna in Philosophical Context and out of Canonical Bounds," *JBL* 112 (1993), pp. 291-304.

<sup>54</sup> J. Neusner, *Judaism and Christianity in the Age of Constantine: History, Messiah, Israel, and the Initial Confrontation* (Chicago: University of Chicago Press, 1987), pp. 65-67; idem, *Judaism in the Matrix of Christianity* (Philadelphia: Fortress, 1986), pp. 73-87.

<sup>55</sup> R. Goldenberg, "Is 'The Talmud' a Document," pp. 6-7.

#### 4. Conclusions

To return, in conclusion, to my opening, confessional words of appreciation, it is by no means an overstatement, nor merely a gratuitous gesture on my part, to emphasize and recognize the monumental contributions that Jacob Neusner has made to the study of early rabbinic literature, especially of its formative period of the first three centuries CE. That contribution was a forceful corrective to a previously uncritical quarrying of rabbinic texts for their homiletical gems, on the one hand, and for their presumed transparent historical information, on the other. As with all forceful correctives, the pendulum is, perhaps of necessity, swung too far, necessitating that the corrective will soon enough require its own corrective, and so on. Each corrective is both a reaction and a testament to the one that preceded it, without which scholarly progress, such as it is, would be much slower, and certainly less colorful. At the very least, the story of Jacob Neusner's scholarship on early rabbinic literature is a cautionary tale of the tremendous potential of scholarly achievement to redefine and redirect a field, and of the need to temper scholarly triumphalism with the humble recognition that complex texts will resist each successive wave of reductive revisionism.

### JACOB NEUSNER'S METHODOLOGICAL CONTRIBUTIONS TO THE STUDY OF RABBINIC TEXTS

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I am honored to be part of this panel assessing Jacob Neusner's contributions to the field of rabbinics over the last 45 years.<sup>56</sup> His influence has been enormous, most obviously because of the extent, quality, and originality of his output. His monographs number in the hundreds. For many of us who became scholars in these past few decades, Neusner was always in our heads, shaping the way we read text. He asked questions that we too had to grapple with. It is not important, ultimately, if we agree or disagree with his theories. His impact on the way we think and on our scholarly careers is incalculable.

One can divide Neusner's opus into several general categories: intensive studies of Mishnah and Tosefta from the 1970s, translations of rabbinic texts from the 80s and 90s, and thematic and large-scale structural studies from the 90s and forward. For this paper, I have selected for comment

<sup>56</sup> I wish to thank Richard Kalmin and Shmuel Sandberg for reading a draft of this article and making helpful suggestions for its improvement.