

The Literature of the Sages: A Re-visioning

Edited by

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Halakha and Aggada in Tannaic Sources

Steven D. Fraade and Moshe Simon-Shoshan

Part 1. The Vital Intersection of Halakha and Aggada

Steven D. Fraade

Halakha and Aggada

The dialectical distinction and intersection between law and narrative operate within all human societies, as they cannot be sustained without the rules that govern them and the stories they tell about themselves and their origins, both of which contribute to social solidity and solidarity. This dialectic is both operative and thematized in early rabbinic literature with respect to the nouns *halakha* (law) and *aggada* (narrative). One might say the same about other such dualities, for example, the relation between oral and written modes of communication and transmission (*bi-khtav* and *be-al pe*). Like many such differentiations, such as holy/profane, pure/impure, Israel/nations, they exist, one might say, in order to facilitate their being traversed; they erect fences so as to include gates. *Vive la difference!* need not, and should not, result in the construction of impervious, self-confirming dichotomies.¹

Recently, scholars have rightly sought to problematize, if not overturn, the division of early rabbinic literature (and teaching) between *halakha* and *aggada*, since the former is often highly narrativized (e.g., in the Mishna) while the latter is often preoccupied with law (e.g., in the Babylonian Talmud). The two both complement and interpenetrate one another.² However, to differentiate between *halakha* and *aggada* is not to import and impose dual categories that are not ‘native’ to ancient texts, as is often done with regard to other such differentiations (e.g., realism and nominalism), which are not without their own heuristic value.³ Rather, the distinction drawn between

1 For this difference (!), see David, ‘Review Essay’, Beginning in Geonic times and continuing long thereafter, the cleavage between *halakha* and *aggada* becomes more pronounced, for which see Rosenak, ‘Between Aggadah and Halakhah’.

2 See respectively, Simon-Shoshan, *Stories of the Law*; Wimpfheimer, *Narrating the Law*; and chapter 11 of this volume. For other recent books that emphasize the narrativity of the Mishna, see Cohn, *Memory of the Temple*; Berkowitz, *Execution and Invention*; Halberstam, *Law and Truth*; Rosen-Zvi, *Mishnaic Sotah Ritual*. For the repeated narrativization (and re-narrativization) of early Jewish law, see Fraade, ‘Nomos and Narrative’.

3 On the use of ‘nominalism’ (versus ‘realism’) to characterize rabbinic approaches to law, see D. Schwartz, ‘Law and Truth’; Rubenstein, ‘Nominalism and Realism’; Hayes, ‘Legal Realism’.

halakha and aggada is one that is articulated already in early rabbinic (Tannaic) literature itself, often with the aim or effect of demonstrating that they are dynamically intertwined, sharing common origins and ends, notwithstanding (or precisely thanks to) their terminological differentiation.⁴

Toward this end, it should be stressed that the nominalized forms *halakha* and *aggada* never appear prior to our earliest rabbinic texts, an indication of a conceptual innovation of reification that has important cultural-historical significance. As one indicator of this emergent emphasis, in contrast to its total pre-rabbinic absence, the noun *halakha* (including its plural form *halakhot*) appears 70 times in the Mishna, 143 times in the Tosefta, and 115 times in the Tannaic midrashim, signaling its centrality to both rabbinic practice and pedagogy. Similarly, but less so, the noun *aggada* (including *haggada* and their plural forms), while also making its debut in Tannaic texts, appears only once in the Mishna, 7 times in the Tosefta, and 22 times in the Tannaic midrashim. A similar development (with a minor qualification) can be said of the nominalized forms *mikra* (Scripture) and *mishna* (oral teaching), the two pairs, being often linked as part of the rabbinic study curriculum.⁵ The unprecedented reified differentiation of these concepts facilitates a discourse concerning their intersection and interpenetration.

After a brief consideration of the relationship between law and narrative in the Hebrew Bible, part 1 of this chapter examines the thematization of halakha and aggada in the earliest rabbinic sources. These sources differentiate between halakha and aggada even as they insist upon their deep interconnection. Part 2 of this chapter provides a comprehensive and detailed account of the multifarious ways this interconnection is concretely realized in the Mishna and the Tosefta.

Law and Narrative in the Tora

Before proceeding to early rabbinic texts, it needs to be noted that the relation of law to narrative, or halakha to aggada in rabbinic terms, reaches back to the Hebrew Bible, especially the Tora. Is it principally a law book couched in narratives (as the Septuagint's consistent rendering of Hebrew *tora* as Greek *nomos* in the mid-third century BCE would suggest), or is it an epic narrative (as its overarching chronological progression would suggest), into which laws,

4 For an excellent overview of halakha and aggada in rabbinic Judaism, see Lorberbaum, 'Halakhah and Aggadah'. For modern homiletical repercussions, see Bialik, 'Halakha ve-aggadah'; Abraham Isaac Kook (1865–1935), 'Unification of *Halakha* and *Aggadah*'; idem, *Iggerot Ha-Rayah*.

5 See Fraade, 'Innovation of Nominalized Verbs', 135–38, 140–41.

law-giving, and adjudication have been narratively inserted? However, this too poses the choice too starkly, since the separation of biblical law from narrative and vice versa is often not so straightforward. To give one familiar example, parents may be obligated to teach their children the laws and rituals of Passover, but the content of the teaching is itself the narrative basis of those laws. See, for example, Exod 12:26–27; 13:8, 14. Similarly, Rabban Gamliel in the Mishna (Pes 10:5, MS Kaufmann) states that it is a legal obligation (*hova*) to explain the obligation to eat symbolic foods in terms of the Exodus narrative. It is furthermore an annual obligation to reenact that story through its retelling (and rejoicing) in each and every generation:

Rabban Gamliel used to say: Whoever has not explained these three things on Passover has not fulfilled his obligation, those being: Pesah, Matsa, and Bitter Herbs. Passover, because God passed over the houses of our ancestors in Egypt. Bitter Herbs, because the Egyptians embittered the lives of our ancestors in Egypt. Matsa, because we were redeemed. Therefore, we are obligated to thank, to praise, to glorify, to exalt, to extol, (and) to magnify the one who performed all these miracles for us and for our ancestors and brought us out from slavery to freedom. And let us say before him hallelujah!⁶

Thus, the narration not only justifies the ritual covenantal obligations, but is itself a covenantal obligation, already implicitly in the Bible but now more explicitly in the Mishna (even more so in the later Passover Haggada). Thus, the first legal section of the Tora, the Passover laws of Exod 12–13, are embedded within the *narrative* of the tenth plague and the Exodus from Egypt, preceding thereby the covenantal law-giving at Sinai, which is itself narratively introduced and framed (Exod 19).

Whether sections of the Tannaic midrashim are to be considered midrash halakha or midrash aggada depends largely on whether they are commenting on legal or narrative biblical verses, the ambiguity of the latter being conferred upon the former. Even so, they cannot be neatly extricated from one another. In any case, referring to the Tannaic midrashic collections as wholes as *midreshei halakha* could be considered a misnomer in light of the substantial amounts of creative narrative midrash, by any definition, that they incorporate.

The question of whether the Tora is primarily law or narrative is most famously expressed by the medieval commentator Rashi, whose rhetorical comment to the first verse of the first book of the Tora (Gen 1:1), states that it might have

⁶ Translations are mine unless otherwise noted.

made more sense to begin the Tora with Exod 12:1, the Passover laws. Rashi is simply citing the earlier comment of R. Yitshak (ca 300 CE) in the late midrash, *Tanhuma bereishit* 11 (ed Buber, 7):

Rabbi Yitshak said: It was not necessary to begin to write the Tora but from 'This month shall be to you' (Exod 12:2, introducing the laws of Passover). Why then did he write from 'In the beginning' (Gen 1:1)? To make known his mighty power, as it is said, 'He declared to his people his mighty works, in giving them the heritage of nations' (Ps 111:6).

But this attribution is itself antedated by *Mekhilta de-R. Yishmael ba-hodesh* 5, where, commenting on Exod 20:2, it asks why the Tora did not begin with the Decalogue, the first laws formally enjoined upon Israel:

'I am the Lord your God' (Exod 20:2). Why was the Decalogue not said at the beginning of the Tora? They gave a parable. To what may this be compared? To one (a king) who entered a province, saying to them (the people), 'Shall I rule over you?' They said to him, 'You have not done anything good for us that you should rule over us'. What did he do? He built the city wall for them, he brought in the water supply for them, and he fought battles for them. He said to them, 'Shall I rule over you?' They said to him, 'Yes, yes'. Likewise, God brought Israel out of Egypt, divided the sea for them, sent down the manna for them, brought up the well (of Miriam) for them, brought the quails for them, fought for them the battle with Amalek. He said to them, 'Shall I rule over you?' They said to him, 'Yes, yes!'⁷

Regardless of the explanations given, all of these presume, at least hypothetically, that the Tora, primarily a law book, should have begun with laws.⁸

Early rabbinic midrash was not the first to attend to this question, as can be seen in three lengthy passages from Philo of Alexandria (ca. 20 BCE–50 CE): *Abraham* 2–6; *Creation* 1–3; *Moses* 2:48–51. Although Philo's reasons are very different from those provided by the rabbinic midrashim, shaped by his Platonic understanding of 'natural' laws being both prior to and privileged over written laws, he too asks why the scriptural, especially patriarchal, narratives precede the laws which they might be thought to presuppose.

⁷ Trans Lauterbach 2:229–30.

⁸ Although these comments do not address the question, it could be asked how, say, Cain could be punished for a deed (murder) not yet explicitly outlawed.

The Thematization of Halakha and Aggada

Early rabbinic literature is the first place in which the interrelationship between law and narrative is so explicitly and repeatedly thematized. Thus, some of our earliest rabbinic texts articulate the delineation of a pedagogic curriculum that differentiates between written Scripture (*mikra*) and oral teaching (*mishna*), the latter comprising *midrash* (dialogical study),⁹ *halakhot* (laws), and *aggadot* (narratives), along, in some texts, with other components, but these are the main ones.¹⁰

Several early rabbinic texts¹¹ express the ideal of the *single* sage who combines in his teaching and in his very self the *full* curriculum of rabbinic studies, including *halakha* and *aggada*, thereby rejecting, or at least devaluing, scholastic specialization. However, it can be presumed that this rejection gives indirect expression to its opposite: the tendency, known to all scholars and scholastic institutions, to master one subject well, and for the student who seeks a comprehensive education to study from a wide range of such specialized teachers. Note in particular *Avot de-R. Natan A 8*, commenting on *Avot 1:6*:

‘Provide yourself with a teacher’: How so? This teaches that one should provide himself with a single teacher and study with him Scripture and Mishna (oral teaching) – Midrash, Halakhot, and Aggadot. Then the interpretation which the teacher neglected to tell him in the study of Scripture he will eventually tell him in the study of Mishna; the interpretation which he neglected to tell him in the study of Mishna he will eventually tell him in the study of Midrash; the interpretation which he neglected to tell him in the study of Midrash he will eventually tell him in the study of Halakhot; the interpretation which he neglected to tell

9 Some manuscripts have *talmud* for *midrash*, but with the same meaning.

10 I have not differentiated between singular and plural forms of *halakha* or of *aggada* (or *haggada*). Plural forms of these nouns seem to predominate in the ‘curriculum’ passages, but an examination of manuscripts for variants would be required before making any judgments. On the rabbinic study curriculum, see Fraade, *From Tradition to Commentary*, 51; 97; 116; 214, 1131; 239, n69; 243, n92; 244, 1111; 254, 1179; 256, 1201. Note especially Finkelstein, ‘Midrash, Halakhah and Aggadot’.

11 *Avot de-R. Natan A 8*; A 28; B 18; *SifDeut 306*. There is little consensus regarding the dating of *Avot de-R. Natan*, in either of its two recensions. For different views on this question and on the complex transmission history of this text see Kister, *Studies in Avot de-Rabbi Nathan*, and Becker and Berner, *Avot deRabbi Natan*. As in all rabbinic anthologies, the dating of its constituent parts is likely to be earlier, but by how much, especially in the absence of earlier parallels, is impossible to determine. There is nothing that is inconsistent between the traditions herein cited from *Avot de-R. Natan* and those of the Tannaic *midrashim* so as to assume that the former are developmentally later than the latter. Alternatively, we might conclude that the persistence of such study curricula from Tannaic to post-talmudic times is a testament to their performative continuity.

him in the study of Halakhot he will eventually tell him in the study of Aggada. Thus, that man remains in one place and is filled with good and blessing. R. Meir used to say: He that studies Tora with a single teacher, to whom may he be likened? To one who had a single field, part of which he sowed with wheat and part with barley, and planted part with olives and part with oak trees. Now that man is full of good and blessing. But when one studies with two or three teachers he is like him who has many fields: one he sows with wheat and one he sows with barley, and plants one with olives and one with oak trees. Now this man's (attention) is divided among many pieces of land, without good or blessing.¹²

However, a passage in Sifrei Deuteronomy, clearly Tannaic, stresses something else: just as these forms of study should be combined in a single sage and his teaching, so too they, like the rain, all derive ultimately from a single divine source:

Another interpretation of 'May my discourse come down as rain' (Deut 32:2): Just as rain falls on trees and infuses each type with its distinctive flavor – the grapevine with its flavor, the olive tree with its flavor, the fig tree with its flavor – so too words of Tora are all one, but they comprise Scripture and Mishna: Midrash, Halakhot, and Haggadot.... Another interpretation: Just as rain cannot be anticipated until it arrives, as it says, 'And after a while the sky grew black with clouds (and there was wind and a heavy downpour)' (1 Kgs 18:45), so too you cannot know what a disciple of the sages is until he teaches: Mishna, Halakhot, and Haggadot; or until he is appointed administrator over the public.¹³

For the disciple of the sages to combine and interconnect the branches of the curriculum in his study with a single teacher is to continue and contribute to a process that restores the different forms of rabbinic learning to their originary, divinely derived unity, with God standing opposite, as it were, the unitary sage who recombines mikra with mishna, and halakha with aggada. However, the goal is not the homogenization of forms, but a rather an epistemological *unity* that encompasses *discursive difference*: 'Words of Tora are all one, but they comprise Scripture and Mishna: Midrash, Halakhot, and Haggadot'.¹⁴

12 Trans Judah Goldin, 49–50, adapted.

13 SifDeut 306 (p339). Trans Fraade, based on MS Vatican. For this leadership role, see Fraade, 'Local Jewish Leadership'.

14 Trans Fraade, based on MS Vatican. For this as a rabbinic curriculum of study, see above.

Returning to the occupational hazards of scholastic pursuits, just as there is the pull toward specialization and separation, so too there is the pull toward scholastic competition, with claims that one's own specialization is superior to those of others.

Another interpretation of 'If, then, you carefully keep (all this commandment)' (Deut 11:22). Lest you say, 'I will study a difficult scriptural lesson and ignore the easy one', Scripture teaches, 'For it is no vain (empty) thing for you, because it is your life' (Deut 32:47): something which you say is worthless is your very life. For you should not say, 'It is enough for me that I have studied laws'. Scripture teaches, 'commandment', 'the commandment', 'all this commandment': study Midrash, Halakhot, and Haggadot. Similarly, Scripture says, 'That man does not live on bread alone' (Deut 8:3), referring to Midrash, 'but by everything that issues from the mouth of the Lord' (ibid.), referring to Halakhot and Aggadot.¹⁵

Thus, the overachieving sage who is only interested in studying challenging scriptural passages, and, presumably with disdain, wishes to leave the easy ones to lesser others, is chided by the words of Scripture itself, as rabbinically interpreted, to mean that no part of Scripture is empty of meaning or vitality. In effect if you find it empty, it is you who are empty ('it is empty from you') for your failure to properly interpret it.¹⁶ Similarly (or is it the same overachiever?), the midrash portrays the sage or student who desires only to study halakhot, considering them to be weightier than midrash and aggadot. Once again, in the tripartite curriculum of oral teaching – midrash, halakhot, and aggadot – each must be considered of equal weight, since they all ultimately 'issue from the mouth of the Lord'.

Such a strong argument barely masks, and thereby reveals, its opposite: that there were among the early sages specialists in halakha and aggada who argued, both scripturally and theologically, for the superiority of their particular specialty. In response to those who would argue that the study of halakha is the best use of one's time (and no less than *imitatio dei* [bBer 8a]), the 'expounders of aggada' exclaim that their specialty is the most direct route to mystical ascension and apprehension of the divine, as they do in another passage in Sifrei:¹⁷

15 SifDeut 48 (p113).

16 GenR 1.14 (p12).

17 Further examples of the competition between halakha and aggada, with humor, can be found in bSot 40a and bBM 60b.

‘(If, then, you faithfully keep all that I command you, loving the Lord your God, walking in all His ways,) and holding fast to Him’ (Deut 11:22): But is it possible for a person to ascend to heaven and to cleave to fire? For has it not been said, ‘For the Lord your God is a consuming fire’ (Deut 4:24), and it says, ‘His throne was fiery flames’ (Daniel 7:9)? Rather, attach yourself to the sages and their disciples, and I will account it to you as though you had ascended to heaven to receive it (Tora) – not that you ascended to receive it in peace, but rather as though you waged war in order to receive it. And thus it says, ‘You went up to the heights taking captives’ (Ps 68:19). The expounders of haggadot say: If you desire to come to know the one who spoke and the world came into being, study haggada, for thereby you will come to know the one who spoke and the world came into being and cling to His ways.¹⁸

Even in the midst of such competitive campaigning by the specialists in halakhic and aggadic study, other Tannaic texts continue to assert the necessity of mutual dependence and complementarity between the two, as in the following comment:

‘(He suckled him) with the kidney fat of wheat’ (Deut 32:14): This refers to the laws (halakhot), which are the body of the Tora. ‘And the blood of grapes you drank for wine’ (ibid.): This refers to the narratives (aggadot), which draw the heart of a person like wine.¹⁹

Here halakha and aggada are compared respectively to the bread and wine of a sustaining meal: substance and spirit, body and emotion, each requiring the other. This is as succinct and deeply evocative a summary as exists.

Conclusion

The topos of a deep interconnection and intersection between law and narrative (that is, laws and narratives), that can be first identified within the Tora, and which was first explicitly articulated and accentuated in the early rabbinic (Tannaic) differentiation and integration of halakha and aggada, has had a continuing vitality both within the history of Judaism and, more recently, in the study of law and narrative more broadly. While its full history and significance

¹⁸ SifDeut 49 (p115).

¹⁹ SifDeut 317 (p359).

remain to be traced in greater depth and breadth, it is hoped that this abbreviated exploration of its origins and early days will dissuade those who would collapse the dynamic distinction in recognition that the earliest generations of rabbinic sages already resisted the tendency either to erase or to dichotomize the difference. The recent restlessness with the distinction between halakha and aggada has its explicit origins at least as far back as the dialectics of early rabbinic pedagogy, which continues to have much beauty and wisdom to impart and to model to modern-day students and practitioners of the interflowing currents of law and narrative.

Part 2. Halakha and Aggada in the Mishna and Tosefta

Moshe Simon-Shoshan

In the first part of this chapter, Steven Fraade discussed the dual trends of *differentiation* and *integration* of halakha and aggada in early Tannaic sources. The remainder of this chapter is dedicated to a detailed demonstration of halakha and aggada as *differentiated yet integrated* discourses in the Mishna and Tosefta. Specifically, this section examines the distinct and liminal status of aggada in the Mishna and Tosefta as a key factor determining its multiple functions in relationship to the halakha found in these works.²⁰

The Liminality of Aggada in the Mishna

In many of the major works of rabbinic literature other than the Mishna, aggada stands alongside halakha as an independent literary and religious endeavor. The Tannaic midrashim and the Talmud all contain extensive passages and even entire sections which are devoted entirely to aggadic material and are devoid of any legal content.²¹ To be sure, especially in the Talmuds, there is a significant amount of material that straddles the border between halakha and aggada, and halakhic and aggadic material are frequently juxtaposed and intermingled. However, the existence of purely aggadic passages affirm that in these works, aggada is a discourse that is coherent on its own terms and can function autonomously from the halakhic discourse found in these texts. In contrast, aggada has a more liminal status in the Mishna, a work that is distinguished by its essentially halakhic nature. The limited aggadic material

²⁰ For the relationship of halakha and aggada in Amoraic literature, and the specific status and function of aggada in Amoraic halakhic texts, see chapter 11 in this volume.

²¹ On the aggadic material in the Tannaic midrashim, see Kahana, 'Halakhic Midrashim', 44–46.

in the Mishna does not generally appear as an independent discussion but is almost always subservient to the broader halakhic conversation into which it is integrated. It functions to support, challenge, and expand the halakhic discourse and does not constitute an autonomous discourse of its own.

Below we present a detailed survey of the nature and role of aggada in the Mishna and its unique relationship with halakhic discourse.²² In the course of this discussion we will also examine the phenomenon of midrash, including halakhic midrash, in the Mishna. As an outlier to the Mishna's generally apodictic and casuistic discourse, it shares some features with mishnaic aggada.²³ The chapter concludes with two shorter sections. The first of these considers tractate Avot as a special case of mishnaic aggada. The second examines the place of aggada in the Mishna's sister compendium, the Tosefta. The Tosefta is also a primarily halakhic work that shares the same structure as the Mishna. In some ways, the place of aggada in the Tosefta is similar to its place in the Mishna. At the same time, the Tosefta's more expansive and less rigorously structured style results in its aggada being more independent from its halakha in a manner that is more similar to the autonomous aggada found in the Talmuds.

Framing the Law

The liminal position of aggada in the Mishna might be best understood using the metaphor of 'framing'. In recent decades, scholars across the humanities and social sciences have focused their attention on framing devices that surround textual, aesthetic, and cultural objects.²⁴ The frame of a picture defines the boundaries and form of the work of art, and in this way, it establishes the work's relationship with its environment. Like literal picture frames, framing devices play a critical role in contextualizing works of art and literature, helping to identify a work's genre and status, and shaping the way in which a

22 For a comprehensive study of aggada in the Mishna that includes discussion of the Tosefta see Fraenkel, 'Aggada in the Mishna'. The current chapter builds on Fraenkel's work, presenting a somewhat different theoretical framework and integrating his ideas with recent work on mishnaic narrative, and on the earlier work of Sabato, 'Aggada in the Mishna'. For the first effort to systematically survey aggadic material in the Mishna, see Higger, 'Aggadot of the Mishna'. Most recently, Rosen-Zvi, *Between Mishnah and Midrash*, 128–70, builds on Fraenkel's work while emphasizing the tensions between halakha and aggada in the Mishna.

23 For more on the relationship of midrash and mishna as well as the intertextual connections between the Mishna and the Tannaic midrashim see chapter 3 in this volume.

24 For surveys of the concept of 'framing' in the humanities and social sciences over the past century, see Duro, 'Introduction'; Wolf, 'Introduction'.

work is interpreted. The frame is at once distinct from, and an integral part of, the work.

Mishnaic aggada acts as a formal frame of the Mishna, marking the boundaries of sections, chapters, and tractates. It also refers to and activates the wider historical narratives presumed by the Mishna. These narratives locate the Mishna in time and establish its authority as rooted in a legendary and mythic past. Aggadic passages further help to construct the political, moral, and theological framework of mishnaic halakha. They invoke and construct the wider authority of the rabbis as transmitters, interpreters, and embodiments of the halakha. They remind the reader of the broader ethical responsibilities of Jews, and of human beings in general, upon which the halakha is founded. Finally, they invoke the wider covenantal basis of the halakha, which depends on a direct and ongoing relationship between humans and their creator.²⁵

In the field of literary studies, the French scholar Gérard Genette has called attention to a class of framing devices that he calls ‘paratexts’. Paratexts are defined as ‘all the liminal devices – titles, signs of authorship, dedications, epigraphs, prefaces, notes, intertitles, epilogues, and the like – that mediate the relations between text and reader.’²⁶ Like Genette’s paratexts, the aggada of the Mishna functions as

more than a boundary or a sealed border, (but) rather, (as) a *threshold*, or ... a ‘vestibule’ that offers the world at large the possibility of either stepping inside or turning back. It is an ‘undefined zone’ between the inside and the outside, a zone without any hard and fast boundary on either the inward side (turned toward the text) or the outward side (turned toward the world’s discourse about the text), an edge, or as Phillipe Lejeune put it, ‘a fringe of the printed text which in reality controls one’s whole reading of the text.’²⁷

The aggadic passages of the Mishna are not physically or graphically delineated from the rest of the ‘main’ text as are Genette’s paratexts. Nevertheless,

25 This approach to the relationship between halakha and aggada in the Mishna contrasts with that of Avraham Walfish, who has argued that halakha and aggada thoroughly interpenetrate each other in the Mishna, such that the Mishna’s halakha is often formulated and organized in such a way that it contains a second ‘aggadic’ meaning that advances theological and ethical ideas and positions. See, inter alia, Walfish, ‘Literary Method’; Walfish, ‘Poetics of the Mishnah’; idem, *Mishnaic Tapestries*. See also Zohar, ‘Halakha as Aggada’; Zohar, *Be-sod ha-yetsira*, 9–27.

26 Macksey, forward to Genette, *Paratexts*, xi.

27 Genette, *Paratexts*, 1–2.

like paratexts, mishnaic aggadic texts are noticeably distinct from the Mishna's halakhic discourse and yet integral to it. They delineate and reinforce the halakhic nature of the Mishna and, at the same time, break down the boundaries between halakha and aggada, as well as the boundaries between the text and the wider world.

Genre and Form

The aggadic passages of the Mishna largely partake in one or more of several basic genres. These genres serve, each in their own way, as framing devices for the Mishna's halakhic discourse. This section will survey the various genres and forms of the Mishna's aggadic framing devices and explore how they serve both to delineate the boundaries of the Mishna and to locate it within a wider literary, social, and historical context.

Literary Frames

One of the most salient and oft-noted characteristics of the aggadic material found in the Mishna is the frequency with which it appears at the end of the Mishna's orders,²⁸ tractates,²⁹ chapters, and topical sections.³⁰ Though we find similar phenomena in other rabbinic texts, the tendency to group aggadic materials at the end of a literary unit is particularly pronounced in the Mishna. Fraenkel argues that rather than placing aggadic units in their most thematically natural position in the course of the Mishna's halakhic discussion, the editors not infrequently deferred them to the end of the chapter.³¹ This indicates the conscious use of aggada as a framing device on the part of the Mishna's editors.

On occasion, aggadic discussions are also found at the beginning of literary units. For example, the discussion at the beginning of the tenth chapter of

28 This assumes that the current sequence of the tractates within the orders reflects the work of its original compilers. Kahana has argued that while this is quite plausible, it cannot be proven definitively; see Kahana, 'Arrangement'. Dov Noy argues that all of the orders of the Mishna contain aggadic conclusions, though his argument is strained. See Noy, 'Aggadic Conclusions'.

29 Noy, 'Aggadic Conclusions', lists and analyzes twenty-four aggadic tractate endings in the Mishna, though, as he himself admits, some of these were added by later copyists. Fraenkel lists Berakhot, Pea, Sheviit, Yoma, Taanit, Moed Katan, Sota, Kiddushin, Bava Batra (*masekhet* Nezikin), Makkot, Eduyot, Menahot, Hullin, Tamid, and Yadayim as having aggadic endings that are indisputably part of the original redaction of the Mishna. See Fraenkel, *Darkhei ha-aggada*, 677, n59.

30 Sabato, 'Aggadah', 85, calls attention to two particular examples of this phenomenon, mRH 5:5 and mAZ 4:7. See also Fraenkel, *Darkhei ha-aggada*, 677, n60.

31 Fraenkel, 'Aggada in the Mishna', 656–57.

Sanhedrin (10:1–3) concerning which people have a share in the world to come, serves as a lead-in to the chapter's main subject, the 'apostate city' (10:4–6), whose residents, we are informed at the outset, lack a share in the world to come.³² The only tractate that is framed by an aggadic discussion both at its beginning and end is Pea.

This tendency to segregate aggadic material largely at the boundaries of tractates and chapters serves to sharpen the distinction between aggada and halakha in the Mishna, as the aggada is, quite literally, marginalized. The liminal and even paratextual status of the aggadic codas are further enhanced by the fact that, as scholars have long known, many of these concluding texts were inserted in part or in whole by later copyists.³³ The status of many of these texts is difficult to determine and is frequently a matter of dispute among scholars.³⁴ The aggadic endings represent something of a no-man's-land between the body of the mishnaic text and baraitot (from the word *bara*, 'outside'), material whose place is 'outside' the Mishna.

Aggadic passages thus serve as boundaries and buffer zones that demarcate the Mishna's halakhic discussions, distinguishing them not only from other forms of discourse but from each other. These frames implicitly privilege the halakhic material over the aggadic, helping to give the halakha literary form and establish it as an independent, internally coherent discourse.

At the same time, these aggadic frames are an integral part of the Mishna's discourse that cannot be easily separated from the halakhic 'body' of the Mishna. For example, as noted above, the tenth chapter of Sanhedrin opens with an extensive discussion of who does and who does not have a share in the world to come (10:1–2). Sanhedrin 10:3 consists of a series of sections that discuss the eschatological fate of various groups from biblical history. Each section begins with the refrain '(name of group or person) – they have no share

32 Rosen-Zvi, *Between Mishnah and Midrash*, 158–59, citing Shlomo Naeh, argues that this passage's focus on the world-to-come functions as an aggadic coda to the Mishna's discussion of capital punishment, contrasting the groups that have no share in the world to come with those who are executed and who, according to mSan 6:2, do merit a share. If so, this passage serves to link two halakhic discussions in the Mishna.

33 Of particular note among these supplemental endings is the final line of Kelim: 'Blessed are you, O Kelim, for you did enter in uncleanness but have gone forth in cleanliness' (29:14). This text calls attention to its position outside the text by directly addressing the tractate by name and referring to the ending of the tractate, which it follows. It further directs the reader's attention to the Mishna's own internal framing device, the fact that it begins with the words 'sources of uncleanness' (*avot ha-tumot*) and ends with the word 'clean' (*tehora*).

34 The main philological discussions of the status of these endings are Epstein, *Mavo le-nusah ha-mishna*, 946–79, esp 974, 979; Albeck, *Mavo la-mishna*, 116–24.

in the world to come. As it is written ...' This is followed by a proof-text and its midrashic explication, as well as some debate. The section on 'the company of Korah' substitutes the phrase 'are not destined to rise up' for 'they have no share in the world to come', and the following section on the ten lost tribes substitutes 'are not destined to return', but the basic format is maintained.

The next mishna (10:4) returns to the original formulation, stating, 'The people of the apostate city – they have no share in the world to come. As it is written ...' This mishna appears to continue the historical and theological discourse of the chapter, shifting the focus only slightly from historical personages and groups to members of a now defunct legal category, 'the apostate city'. But the text quickly pivots away from the chapter's original focus, and the remaining mishnayot in the chapter are devoted to a detailed exegesis of the biblical laws of the apostate city. The opening mishna of this unit (10:4) is therefore an integral part of both the aggadic discussion that precedes it and the halakhic rulings that follow it.

Aggadic opening and closing texts also often sum up the basic themes of the halakhic discussions that follow or precede them. The tractate Bava Batra concludes (10:8) by declaring in the name of R. Yishmael:

He who wishes to become wise
should occupy himself with monetary laws.
For there is no branch of the law greater than it,
For it is like a flowing spring.
And he that would occupy himself with monetary laws,
let him serve (as the pupil of) Shimon ben Nanos.³⁵

This passage follows smoothly from the previous mishna, which concludes the chapter's discussion of the laws of contracts and guarantors with a halakhic narrative in which R. Yishmael learns a basic principle of these laws from Ben Nanos. The text moves seamlessly from the casuistic legal formulations which constitute the body of the chapter, to the narrative about R. Yishmael (10:8), and finally to the chapter's aggadic conclusion cited here. This final aggadic passage also serves to sum up the entire super-tractate of *Nezikin* (*Bava Kamma*, *Bava Metsia*, and *Bava Batra*), which encompasses all aspects of rabbinic monetary law. It directs the reader to retrospectively consider the previous thirty chapters and view them not just as a mass of details regarding torts,

35 Epstein and Noy argue, apparently without manuscript evidence, that the last part of this passage is a later addition, though it predates the final redaction of the Mishna. See Epstein, *Mavo*, 975; Noy, 'Aggadic Conclusions', 52.

commercial disputes, real estate transactions, and a host of other technical issues, but as a cohesive body of knowledge, a wellspring of wisdom whose study can benefit the reader in the wider quest for enlightenment.

As this example demonstrates, while aggadic framing passages are inextricably linked both formally and thematically with their halakhic contexts, they also point outward to wider issues, in this case the quest for wisdom. They function not only as boundaries enclosing the halakha, but as gateways that facilitate the students' journey between the wider world and the world of the halakha and back again.

Aggadic passages can also serve as bridges between two different halakhic conversations. The ninth chapter of *Nedarim* is devoted to rabbinic methods of vow annulment. It concludes with a story (9:10):³⁶

It once happened that a man vowed
to have no benefit from his sister's daughter;
and they brought her to the House of R. Yishmael
and (he) beautified her.
R. Yishmael said to him,
'My son, did you vow to abstain from this one?'
And he said, 'No!'
And R. Yishmael released him from his vow.

In that same hour, R. Yishmael wept and said,
'The daughters of Israel are beautiful,
but poverty has made them ugly!'
When R. Yishmael died
the daughters of Israel raised a lament, saying,
'Daughters of Israel, weep over R. Yishmael!'
So, too, it is said of Saul, 'Daughters of Israel, weep over Saul' (2 Sam 1:24).³⁷

The first part of the story is largely halakhic in content and consists of an application of the legal principles presented immediately beforehand regarding vows made in error.³⁸ But the second half of the story moves beyond these

36 This reading of the passage is based on the analysis of Sabato, 'Halakha and Aggada'.

37 Mishna translations adapted from Danby, *The Mishnah*. All other translations are my own.

38 Fraenkel, 'Aggada in the Mishna,' 663, reads this case as an example of what he sees as the common phenomenon of tension between aggadic passages in the Mishna and the adjacent halakha. However, Sabato, 'Halakha and Aggada,' 40–45, argues, against the Bavli,

technical issues and focuses on R. Yishmael's deep concern for the downtrodden state of the women of Israel. His death is mourned by these women, who recognize the fatherly care he lavished on them. When viewed as the conclusion of chapter nine, this passage moves the discussion from the technical issue of vows to broader social, ethical, and existential questions. But the following chapter opens a new discussion, regarding the power of fathers and husbands to unilaterally annul the vows of their daughters and wives. The story's concern with the welfare of the 'daughters of Israel' foreshadows this discussion. The story is not just a coda to chapter 9 but a transition between the disparate discussions of the two juxtaposed chapters.

Finally, the interpenetration of halakha and aggada in the Mishna leads to a curious phenomenon in which aggadic framing texts are themselves framed by halakhic material. Rosh HaShana opens as follows (1:1–2):

There are four 'New Year' days:
 On the first of Nisan is the New Year for kings and feasts.
 On the first of Elul is the New Year for the tithe of cattle....
 On the first of Tishrei is the New Year for years,
 for the Sabbatical Year and the Jubilees,
 for the planting (of trees) and for vegetables.
 On the first of Shevat is the New Year for (fruit) trees ...

At four times in the year is the world judged:
 On Passover, on the grain;
 on Pentecost, on the fruits of the tree.
 On Rosh HaShana, all that come into the world
 pass before him like legions of soldiers³⁹
 for it is written,
 'He that fashions the hearts of them all, who discerns all their doings'
 (Ps 33:15);
 and at the Feast (of Tabernacles) they are judged on water.

that R. Yishmael here presents a clever application of the Mishna's principle by arguing that the niece in question was always beautiful. Fraenkel often overemphasizes the degree of tension between aggada and halakha in the Mishna. To the extent that it does exist, it is likely a product of the wider dialogic nature of the Mishna rather than a specific reflection of the relationship between halakha and aggada. See Simon-Shoshan, *Stories of the Law*, 59–72.

39 *Ke-ve-numeron*. Other texts read *ke-vene'i maron*, 'like sheep'. See Wieder, 'A Controversial Mishnaic and Liturgical Expression'.

The introduction to the tractate consists of two parallel passages. The first is essentially halakhic in nature and establishes the date of the new year for various legal and ritual purposes. The second is aggadic-theological, delineating the points in the year when God judges the world. Both passages give prominence to the festival of Rosh HaShana, the focus of the tractate. Together, the two passages serve to locate Rosh HaShana within the legal and divine annual cycle and establish the holiday's central place in the course of the year. These passages also transition the reader to the first topic of the tractate – not the holiday of Rosh HaShana, but the fixing of the new month, which is taken up in the very next mishna (1:3). The third mishna follows the basic form of the first two by listing the months in which messengers went out from Jerusalem to announce the new month.⁴⁰

This introductory framing passage combines halakha with aggada to create a single literary unit. Its focus on the singular significance of the holiday of Rosh HaShana builds gradually. In the first, halakhic, section, the importance of Rosh HaShana is signaled by the fact that it serves as the new year for more purposes than all the other dates put together. But the climax of the entire passage comes in the aggadic section, with the dramatic image of God himself coming to judge all humanity like an officer reviewing his troops. This is followed by the Psalms verse declaring God's kingship over humanity. Rosh HaShana is established as the most critical day in the year, in which God reveals himself and judges all people. In this case, the halakha serves as an introduction to the aggada, which in turn introduces the largely halakhic material of the rest of the tractate.⁴¹

A case that includes both an example of an aggadic framing passage itself framed by a halakhic passage and an aggadic passage that links two halakhic discussions can be found in the second chapter of Shabbat, which discusses the kindling of the Sabbath lights. The chapter is largely devoted to the question of permissible fuels and materials for the Sabbath lights (2:1–4) and then a consideration of cases in which the lights are extinguished on the Sabbath for various reasons (2:5). What follows would at first appear to be a simple example of an aggadic coda to a chapter and topic (2:6):

For three transgressions do women die in childbirth:
for carelessness in the laws of the menstruant,
the dough-offering,
and the lighting of the (Sabbath) lamp.

⁴⁰ Fraenkel, 'Aggada in the Mishna', 666–68.

⁴¹ For more on this passage, see Walfish, 'Literary Method', 43–55.

This passage expands the discussion of the Sabbath lamp by considering the consequences of the failure to light it within the divine scheme of reward and punishment and by placing the ritual in the wider context of a set of specifically female obligations. It shifts our focus from the mundane domestic scene of the lighting of the Sabbath lamp to the tragic drama of a woman dying in childbirth. The chapter and topical section seem to have reached their conclusion, neatly closing with the words 'lighting the lamp'. But the Mishna continues (2:7):

Three things must a person say within his house
before darkness falls on the eve of Sabbath:
Have you tithed?
Have you prepared the *eruv*?⁴²
Light the lamp!

If it is in doubt whether darkness has already fallen or not,
they may not
set apart tithes from what is known to be untithed,
or immerse utensils
or light the lamps;

The aggada about why women die in childbirth is in fact part of a larger mixed halakhic-aggadic unit. It deals with the importance of lighting the Sabbath lamps before it gets dark. Each section places the lighting of the lamp as the last in a series of halakhic actions. The first section is aggadic and relates to the danger of failing to be careful to light the Sabbath lights on time. The second is quasi-halakhic, offering more best practices than obligations.⁴³ It focuses on the importance of making sure that the lamp is lit right before dark. The final section is strictly halakhic in nature and deals with the consequences of not lighting once twilight has set in, at which point it is too late to light. This passage follows its own internal logic as it progresses toward nightfall, and from aggada to halakha. The aggadic section about why women die in childbirth thus serves both to close one halakhic discussion and to open another. But the passage also takes us beyond the topic of lighting the Sabbath lamps. The final, halakhic, section at first follows the pattern of its predecessors by presenting

42 An *eruv* is a legal mechanism in which food is set aside for all dwellers of a particular locale. This converts public space into a private communal space, allowing the performance of certain activities otherwise prohibited on the Sabbath.

43 Fraenkel, 'Aggada in the Mishna', 664.

a list of three actions, in this case, actions that are forbidden during twilight, concluding with the lighting of the lamp. But it goes on, presenting another list, this time of actions that are *permitted* during twilight and become prohibited only after night has fallen unambiguously:

but they may
set apart tithes from doubtfully tithed produce,
and prepare the *eruv*,
and cover up what is to be kept hot.

Now the final position on the list is taken by ‘cover up what is to be kept hot’, rather than ‘light the lamp’. The following two chapters of the tractate are concerned with the laws of heating food for the Sabbath, and the last unit of the discussion (4:1–2) deals precisely with the practice of covering food before the Sabbath to keep it hot. Thus, the final words of the passage that frame the ending of the discussion of the Sabbath lights serve as a bridge to the next discussion about heating food.

Narrative Frames

Perhaps the most common and widely discussed framing device in literary texts is the frame narrative, a story that introduces and gives a narrative context to the main body of the text. Well-known examples are to be found in Chaucer’s *Canterbury Tales* and Conrad’s *Heart of Darkness*.⁴⁴ But such framing narratives are also common in ancient legal texts, be they Mesopotamian, biblical, or Roman.⁴⁵ These framing stories introduce the legal texts, placing the law and the community that practices it within a historical continuum. They tell a master narrative that intertwines the origins of the law, the community, and its authority structure, tracing them back to some heroic event or encounter with the divine. Examples of such master narratives in biblical and Second Temple period texts include the book of Deuteronomy, the Damascus Document, and the book of Jubilees.

Those who identify with the community portrayed in these texts will perceive themselves as living out an extension of that story. They will see themselves as bound by both the laws and the legal authorities that are established in the story. It is most striking that the Mishna and the other classical rabbinic legal texts lack any such explicit framing story.⁴⁶ They begin *in medias res*,

⁴⁴ Wolf, ‘Framing Borders’.

⁴⁵ Simon-Shoshan, *Stories*, 73–83. See also Roth, *Law Collections*, 2–3.

⁴⁶ The first chapter of Avot is treated below.

without any introduction or explanation of the origin of the work at hand or of the nature or authority of its laws.

The Mishna utilizes a very different sort of narrative framing device: the Mishna is filled with stories. These stories are not grand narratives embracing the totality of the Jewish experience, but brief anecdotes, generally focused on a single deed of a single individual. They are halakhic narratives, scattered throughout the Mishna's legal discussions, whose purpose is to transmit precedential rulings, conduct, or actions.

The categories of aggada and narrative are deeply intertwined in the Jewish literary consciousness and even at times conflated. Narrative is perhaps the dominant mode of aggadic expression. The very word 'aggada,' meaning 'that which is told,' suggests narration rather than prescription.⁴⁷ Similarly, traditional legal practice and storytelling have frequently been opposed in modern academic discourse.⁴⁸ Thus, narratives which transmit technical legal content thus straddle the divide between halakha and aggada. It is hardly surprising then that we find simple halakhic anecdotes at the end of chapters and topical sections apparently playing the role of the aggadic closing frame discussed in the previous section.⁴⁹ Furthermore, these halakhic stories not infrequently 'jump the rails' and progress from discussing a technical halakhic matter to engaging in wider themes.

We have already seen in mNed 9:10 how the story moves from an account of a ruling by R. Yishmael to a presentation of R. Yishmael's deep concerns for the degraded status of the Jewish women of his time and finally to the Jewish women's public response to his death. Similarly, the story of Rabban Gamliel's conflict with R. Yoshua in mRH 2:8–9 is the second of a pair of halakhic anecdotes portraying debates between Rabban Gamliel and the other rabbis about the rules of evidence for the sighting of the new moon. But the story quickly moves beyond this stereotypical format to become a drama about political conflict among the rabbis, raising basic questions about the nature of rabbinic authority.⁵⁰ Other stories like those of Honi the circle-drawer (mTaan 3:8) and Tevi, Rabban Gamliel's slave (mSuk 2:1), appear to have circulated originally in a non-legal context before being appropriated by the editors of the Mishna because of their implicit legal lessons.⁵¹

47 Stern, 'Aggadah', 5–12. See also Simon-Shoshan, *Stories*, 4–5.

48 E.g., Delgado, 'Legal Storytelling', 2411–41. See also the other articles in the same volume.

49 See for example mNed 5:6.

50 Simon-Shoshan, *Stories*, 186–93.

51 *Ibid.*, 144–45, 156–66. See also 99–111 on mEr 4:4.

Even simple mishnaic anecdotes that appear purely halakhic in content frequently evoke wider themes that might qualify them as having an aggadic aspect. The very first story in the Mishna, which appears in the opening passage of tractate Berakhot, reads as follows (3:4):

Once it happened
 that (Rabban Gamliel's) sons came home (late) from a wedding feast.
 They said to him,
 'We have not recited the (evening) Shema'.
 He said to them,
 'If the dawn has not yet come,
 you are still bound to recite the (evening) Shema'.

If read for its 'deep structure' this story presents a series of oppositions: on the spatial level, the wedding hall versus the home of R. Gamliel and his family; on the character level, R. Gamliel versus his sons; and on the level of action, the commandment of rejoicing before the bride versus that of reciting the evening Shema at its appropriate time. Beyond teaching R. Gamliel's position regarding the evening Shema (which has already been articulated in apodictic form in the previous line), this miniature narrative evokes a fundamental opposition between two conflicting forces. On the one hand we have R. Gamliel, the patriarch (both biological and communal), the family home, and the quotidian requirement to receive the yoke of Heaven through the recitation of Shema, which together represent a mature need for order and authority. On the other hand, we have the two young men, the wedding hall and the rejoicing that takes place within, which together represent youthful exuberance which cannot always be confined within the orderly boundaries of the law. The conflict between them emerges as the brothers confront the possibility that as a result of their activities at the wedding hall, they have returned home too late and missed their opportunity to say the Shema. The story ends ambiguously, as we are not told if in fact the dawn has yet come. We do not know if this conflict is resolved through R. Gamliel's wisdom or not.

Mishnaic stories also have an important place in the Mishna's wider jurisprudential discourse and anchor one pole of a continuum of literary forms with varying degrees of narrativity. At one end of this continuum are full-fledged stories with the highest level of narrativity, that is, they tell of one-time events portrayed as having actually happened, like the stories discussed above. Moving along the continuum and away from this pole we find texts with a lower degree of narrativity, such as the Mishna's ritual narratives that

recount how various rituals were performed, generally on an annual basis in the Temple. These texts have a lower level of narrativity because they do not recount one-time events. Next along the continuum are casuistic formulations, which portray hypothetical sequences of events and have an even lower level of narrativity. Finally, apodictic statements state the law in an absolute manner and hence have little to no narrativity. In the Mishna these different forms with their varying degrees of narrativity are intermixed, constantly rubbing up against each other.⁵²

This interaction between texts of varying degrees of narrativity reflects a dialogue within the Mishna between different approaches to halakha. On the one hand, the apodictic approach to law views law as emerging from a hierarchy of unchanging general principles and rules. The law for any given time and circumstance can be derived through an application of these timeless principles to the situation at hand. Law at its essence remains an abstract affair of concepts and principles rather than cases and rulings. This approach emphasizes the need for law to address all situations at all times. On the other hand, the narrative approach to law views the essence of law as lying in its application to individual cases, not in the systematic formulation of general principles. To be effective, law must be specific, addressing individual circumstances in particular historical and social situations. It must also be dynamic, open to change and subjectivity in order to accommodate new situations. The processes of formulation, transmission, and implementation are not external to the law but integral to it.⁵³ The stories of the Mishna project a narrativized view of halakha, one in which the law does not operate in a vacuum but exists in a social, historical, and ideological context. In other words, the law exists within a narrative frame which defines it but also blurs its boundaries.

A more detailed picture of the frame which these stories build around the law emerges as we examine their thematic contents. Each story in the Mishna deals with its own particular situation and teaches a different legal ruling, principle, or practice, but they all portray rabbis, either as individuals or in groups, playing central roles in the adjudication of the halakha. Rabbinic authority stands at the center of the ideological concerns of the mishnaic story. These stories chart the ways in which the halakhic system described in the Mishna is fundamentally dependent on rabbis holding authority within the community of practitioners as interpreters, legislators, and, ultimately, embodiments of the law. Collectively, then, these stories teach that the halakha is not defined

52 Simon-Shoshan, *Stories*, 23–58. Similar ground is covered in Simon-Shoshan, 'Narrativity and Textuality'.

53 Simon-Shoshan, *Stories*, 64–65.

merely by the words and ideas contained in the Mishna. Rather the law is always mediated by the rabbis themselves.

Three Categories of Mishnaic Narrative

This superstructure of rabbinic authority is built into the basic forms of the mishnaic narrative. There are three central categories of mishnaic narrative, each of which deals with a different aspect of rabbinic authority: exempla, case stories, and etiological stories. Exempla are stories that present the deeds of a rabbi or group of rabbis as precedential behavior on which halakhic rulings can be based. For example, in mShab 16:8 we read:

If a gentile makes a stairway to descend by it,
an Israelite may descend after him;
but if on the Israelite's account, it is forbidden.
It once happened that R. Gamliel and the elders
were traveling on a ship,
when a gentile made a stairway for going down,
and R. Gamliel, and the elders descended by it.

The narrative reports the descent from a boat by R. Gamliel and his colleagues on the Sabbath, confirming the previously stated rule that permitted the use of a stairway constructed by a gentile on the Sabbath, provided that it was not made specifically for the use of Jews.

Case stories depict a rabbi or group of rabbis issuing a ruling on a matter of legal unclarity or uncertainty. In an example from mShab 3:4, a new technology that heats water by passing it through a pipe submerged in a hot spring prompts a legal question: Does this new process fall under the prohibition of boiling water on the Sabbath?

It happened that the people of Tiberias
placed a cold-water pipe into a channel of hot water.
The sages said to them:
'On Shabbat, water heated in this way
is like any other water heated on Shabbat –
it is forbidden to use it for washing or drinking.
On festivals, it is like any other water heated on festivals –
it is forbidden to use it for washing but permitted for drinking'.⁵⁴

⁵⁴ For a discussion of the realia behind this somewhat enigmatic case see Safrai – Safrai – Safrai, *Mishnat Erets Yisrael*, 162–74.

Implicit in these stories is that the rabbis in question present themselves as having the authority to rule on the case at hand. The repetition of such stories throughout the Mishna suggests that this process of consulting rabbis should be applied in any situation in which the law is in question. Case stories thereby establish rabbis as the empowered interpreters of the halakhic tradition.

Finally, etiological stories relate the circumstances of a rabbinic enactment. An example can be found in mRH 2:1:

Originally, they received
testimony of the new moon from anyone.
When the sectarians became corrupted,
it was ordained
that testimony should be received
only from persons known (to the court).

Each story tells how, in response to some crisis, the rabbis alter a specific practice so that it will remain viable or relevant in particular circumstances. Etiological stories thus portray rabbis not merely as interpreters or practitioners of the law, but as legal innovators.

By interspersing their work with exempla, case stories, and etiological stories, the editors of the Mishna establish a framework for the workings of halakha within the community. The law emerges from individual circumstances and events. The authority of the law is based not only on received principles but on the wisdom and judgment of the rabbis in each generation. The rabbis are the sole source of halakhic teaching. Not only are they responsible for transmitting the halakhic traditions, it is they who are responsible for interpreting and applying these traditions. They alone have the authority to alter halakhic practice in extraordinary circumstances. Finally, they are themselves embodiments of the law, so that their very actions in their day-to-day lives are sources of legal precedent.⁵⁵

The dispersed stories of the Mishna perform a framing function but differ from the master narratives that frame other ancient legal texts. This does not mean that the Mishna lacks a grand narrative. As Robert Cover argued, ‘No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning. For every constitution there is an epic, for each decalogue there is a scripture.’⁵⁶ The Mishna takes for granted that the members of

55 See Simon-Shoshan, *Stories*, 85–87. For more on exempla, see Simon-Shoshan, “People Talking without Speaking”. See also Novick, ‘Etiquette’.

56 Cover, ‘Nomos and Narrative’, 96. See also n3 ad loc.

the community to whom it speaks are the physical and spiritual descendants of the biblical Children of Israel, who are bound by the covenant between God and Israel that is the central theme of so much of Hebrew Scriptures. The laws presented in the Mishna are meant to be understood as elaborations and continuations of the laws revealed to Moses at Sinai. As we shall see below, the Mishna consistently uses various strategies to invoke this master narrative, including references to it in its stories.

Intertextual Frames: Midrash

Already in the Tannaic sources we find the terms ‘mishna’ and ‘midrash’ set in opposition to each other, suggesting that the two categories are at least distinct, if not mutually exclusive.⁵⁷ Modern scholars have similarly contrasted the two terms as representing two alternative and even conflicting approaches to the derivation, formulation, and transmission of halakha. David Halivni argued that whereas midrash seeks to root rabbinic law in the biblical text, the Mishna presents ‘unjustified law’ in an ‘apodictic’ format, whose normative status is not derived from the written text of the Tora, but from the parallel transmission of the Oral Tora.⁵⁸ Most recently, Yair Furstenberg has argued that the Mishna formulates its laws in a way that emphasizes the gap between its own rulings and those found in the Tora.⁵⁹ As a generalization, this distinction between Mishna and midrash is certainly legitimate. One can study many chapters and even entire tractates of the Mishna without seeing a single biblical verse cited. Nevertheless, the Mishna does contain a substantial amount of midrashic material. There are approximately six hundred cases of midrashic exegesis in the Mishna, averaging a little more than one case per chapter.⁶⁰ Thus, while unevenly distributed, midrash is hardly a negligible phenomenon in the Mishna.

Most mishnaic midrashim, about 60 percent, constitute conventional examples of halakhic midrash, in which legal passages from the Pentateuch are

57 E.g., tBekh 2:12.

58 Halivni, *Midrash, Mishnah, and Gemara*, esp 39–65. Early scholarship on the relationship between midrash and Mishna includes Lauterbach, ‘Midrash and Mishnah (1915)’. According to Fraenkel, ‘Aggada in the Mishna’, 655, n4, Zacharias Frankel conflates the categories of aggada and midrash in the Mishna. See the detailed discussion in chapter 3 of this volume.

59 Furstenberg, ‘Mishnah Uprooting Scripture’. For a discussion of the sources of the halakha cf Safrai, ‘Halakha’, 155–85.

60 Based on a digital search. On the phenomenon of midrash in the Mishna, see Rosenblatt, *Interpretation of the Bible in the Mishnah*; Samely, *Rabbinic Interpretation of Scripture in the Mishnah*; Kahana, ‘Relations’; Melamed, *Relationship*, 182–89. See also Rosen-Zvi, ‘Introduction to Mishnah’, 26–33.

creatively explicated to elicit further details of the laws they discuss. Strictly speaking, mishnaic midrash should stand beyond the purview of a discussion of aggada in the Mishna.⁶¹ However, the similarity between the liminal positions of aggada and midrash within the Mishna justify a consideration of the wider phenomena of midrash in Mishna, both halakhic and aggadic, in the context of this discussion.

Like the aggadic passages in the Mishna, the midrashim in the Mishna are at once an integral part of mishnaic discourse and an anomaly in the context of the Mishna's dominant apodictic and casuistic style. More critically, like aggada, midrash plays an important role in constructing part of the Mishna's narrative frame. The midrashim appearing in the Mishna are the exceptions that prove the rule that the Mishna does not present any explanations of the scriptural origins or authority of its pronouncements. Midrashim puncture the Mishna's self-contained presentation, establishing a link between the text of the Mishna and another, earlier and more revered text, the Bible. They thereby establish an intertextual frame for the Mishna, reminding the student that the Mishna is not meant to be studied in isolation but rather always stands in dialogue with Scripture. Each time the Mishna cites a biblical verse, it invokes the Mishna's implicit master narrative, which portrays the rabbis as the exclusive heirs of Moses and the prophets, the sole authoritative transmitters and interpreters of their traditions.

The Mishna calls attention to the question of the relationship between its own laws and those of the Bible in a curious passage in mHag (1:8):

(The rules about) release from vows
 hover in the air
 and have nothing to support them;
 the rules about the Sabbath, festal-offerings, and sacrilege
 are as mountains hanging by a hair,
 for (the teaching of) Scripture (thereon) is scanty and the rules many;
 civil law and the rules of the Temple service,
 and the rules about what is ritually pure and ritually impure,
 and forbidden sexual relations,
 they have that which supports them (in Scripture),

but all of them are the essentials of the Law.

61 For a full discussion of the relationship of the Mishna and the Tannaic midrashim from an intertextual perspective, see chapter 3 in this volume.

In this rare moment of self-reflection, the Mishna categorizes the different fields of rabbinic law according to their relationship to biblical law. Some areas of law are already extensively discussed in the Bible. The rabbis have only to interpret and apply Scripture. Other areas are barely explicated in the Bible, if at all. These laws are rooted in expansive exegesis, tradition, and rabbinic enactments. Nevertheless, all these laws are essential parts of the Tora. In declaring that rabbinic civil, cultic, personal-status, and purity laws (i.e., the main subjects of the orders *Nezikin*, *Kodashim*, *Nashim*, and *Toharot* respectively) ‘have that which supports them (in Scripture)’, this passage extends the lesson of the Mishna’s midrashim to almost the entire corpus of the Mishna, declaring the majority of its laws to be rooted in Scripture despite the fact that exact sources for most of its laws are never disclosed. This passage thus locates the entire body of rabbinic law within the framework of the narrative of a divine Tora given to Moses and transmitted through the generations to the rabbis of the Mishna.

Aggadic midrashim, which expound narrative and poetic passages of the Bible without seeking to derive legal norms from them, join the midrashic and aggadic roles in developing the Mishna’s implicit framing narrative. An example of the way aggadic midrashim bring the Bible’s grand narrative directly into the world of the Mishna is seen in the comparison of R. Yishmael to King Saul in *mNed* 9:10 (cited above). The presence of such aggadic midrashim in the Mishna suggests that the rabbis are to be seen as inheritors of the great kings, warriors, prophets, and patriarchs of ancient Israel. Similarly, in *mRH* 3:8, the following aggadic passage concludes a discussion of the requirement of intention when fulfilling the commandment of hearing the shofar proclaim the new year.

‘Then, whenever Moses held up his hand, Israel prevailed;
 but whenever he let down his hand, Amalek prevailed’ (*Exod* 17:11),
 but could the hands of Moses promote the battle or hinder the battle?!
 It is, rather, to teach you
 that whenever the Israelites directed their thoughts on high
 and submitted their hearts to their Father in heaven,
 they prevailed;
 otherwise they suffered defeat.
 Similarly, you may say,
 ‘Make a seraph figure and mount it on a standard.
 And if anyone who is bitten looks at it, he shall recover’ (*Num* 21:8).
 But could the serpent slay, or the serpent keep alive?!

It is, rather, to teach you
 that whenever the Israelites directed their thoughts on high
 and submitted their hearts to their Father in heaven,
 they were healed;
 otherwise they wasted away.

The Mishna here interprets two biblical stories about Moses's miraculous salvation of Israel. In each case it rejects the simple meaning of the verses, which smack of sympathetic magic, and interprets Moses's deeds as stimulating the Israelites to focus on God. According to the Mishna, it was the pious intention of the Israelites that triggered their salvation. By placing this midrash here, the Mishna associates these biblical events with the fulfillment of the commandment of the shofar as it is practiced by authors and students of the Mishna. Contemporary Jews worshipping in the synagogue are thus cast as the successors of the ancient Israelites.⁶²

Also critical to midrash's role as an intertextual framing device in the Mishna is the fact that a significant number of midrashic passages in the Mishna blur the line between halakha and aggada. Like mishnaic narratives, the body of mishnaic midrashim forms a continuum that bridges the halakhic and aggadic elements of the Mishna. These liminal passages, which do not fit neatly into either category, call attention to the relationship between the Mishna's halakha and its wider framing structures.

The most common form of such ambiguously defined midrash occurs when the Mishna cites non-legal biblical passages as proof texts for its halakhic assertions.⁶³ For example, in the closing passage of Berakhot (9:5), we learn:

It was ordained that
 a man should greet his fellow
 with (a greeting that includes) the Name (of God);
 for it is written,
 'Presently Boaz arrived from Bethlehem.
 He greeted the reapers, "The Lord be with you!"
 And they responded, "The Lord bless you!"' (Ruth 2:4).

62 See also mSot 1:7–9.

63 On this phenomenon in rabbinic literature, see Kanarek, *Biblical Narrative*. It should be emphasized that while examples of derivations of law from narrative and other non-legal texts can be found throughout rabbinic literature, these cases remain outliers in the wider project of midrash halakha. Unlike the authors and editors of Jubilees, the rabbis do not systematically expound biblical narrative texts as sources of law. See the discussion in chapter 11 of this volume.

And it is written, 'The Lord is with you, valiant warrior!' (Judg 6:12).
 And it is written, 'Do not disdain your mother when she is old' (Prov 23:22).
 And it is written,
 'It is a time to act for the Lord, for they have violated Your teaching'
 (Ps 119:126).

In order to back up its claim that one should greet one's neighbor using the divine name, the Mishna brings precedents from the words of Boaz and the angel who appeared to Gideon, and then cites verses from Psalms and Proverbs as further support.⁶⁴ The Mishna thus introduces a series of non-legal biblical verses whose exposition we would normally associate with midrash aggada in order to derive legal ramifications. In recalling these words from the days of the Judges, the Mishna links the quotidian speech of its students with the deeds of the biblical heroes, and even angels, placing contemporary practice into the context of biblical history.

Similarly, mShab 6:4 reads:

A man may not go out with
 a sword or a bow or a shield or a club or a spear;
 and if he went out (with the like of these)
 he is liable to a purification-offering.
 R. Eliezer says: They are his adornments.
 But the sages say:
 They are nothing but a reproach,
 for it is written,
 'And they shall beat their swords into plowshares,
 and their spears into pruning hooks;
 nation shall not take up sword against nation;
 they shall never again know war' (Isa 2:4).

Here, the sages use the famous verse from Isaiah's eschatological vision to derive a normative rule, that weapons of war do not have the status of 'ornaments', and cannot be transported in the public domain without violating the prohibition of carrying on the Sabbath. Though the sages ostensibly cite the verse merely to prove a technical point, the citation inevitably invokes the wider

⁶⁴ The Mishna's intent in citing the verses from Proverbs and Psalms is not entirely clear. See Albeck, *Shisha sidre mishna, ad loc.*; Maimonides, *Mishna, ad loc.*; and traditional commentaries to Psalms 119:126.

message of the prophetic verse and its context. At the very least, it momentarily draws the reader's attention away from the focus on halakhic minutiae toward a consideration of the prophet's grand vision of the end of days. It is also possible that underlying the rabbis' technical dispute with R. Eliezer is a deeper disagreement over proper attitudes toward weapons. R. Eliezer may represent a wider cultural approach that perceives an aesthetic aspect in the accoutrements of combat. The rabbis, on the other hand, embrace the pacifistic elements of Isaiah's vision and reject any aesthetic or positive connotation to objects associated with killing and death.⁶⁵

This blurring of the lines between halakhic and aggadic midrash also occurs when the rabbis connect a biblical verse to a law without a clear indication that the verse is meant to be the source of the law. For example, in mPea 5:6 we read:

If a man will not allow the poor to glean
or allows one and not another
or aids one of them,
he is a robber of the poor.
Of such a one it is written,
'Do not move the boundary marker of they who come up' (Prov 22:26).

The mishna creatively rereads the verse, which literally means 'Do not remove the ancient boundary stone (*gevul olam*)', as 'Do not move the boundary marker of "they who come up" (*gevul olim*)'. The term 'they who come up' is a euphemism for the poor.⁶⁶ This reading may be strictly legal exegesis that claims that failing to give to the poor free and equal access to one's gleanings constitutes theft, perhaps under the rubric of Deuteronomy's prohibition (19:14) against moving boundary markers. But it could just as well be understood as a sort of homiletical flourish meant to emphasize the immorality of this act. This midrash straddles the fence between halakha and aggada.

Moreover, the Mishna regularly derives both a halakhic and aggadic lesson from the same verse. A well-known debate over the recitation of the final passage of the nighttime Shema reads as follows (mBer 1:5):

65 See Saiman, *Halakhah*, 84–86.

66 See Albeck, *Shisha sidrei* on mPea 5:6. This reading is likely influenced by Proverbs 22:22, which explicitly mentions stealing from the poor. See also mPea 7:2.

R. Eleazar ben Azaria said:

‘Behold, I am like a seventy-year-old person,
yet I failed to prove why
the going forth from Egypt should be recited at night,
until Ben Zoma expounded it thus:

It is written,

“That you may remember the day
when you went forth out of the land of Egypt
all the days of your life” (Deut 16:3).

“The days of your life” (would mean) the days only;
but “all the days of your life” (means) the nights as well’.

The sages say:

‘The days of your life’ (means) this world only,
but ‘all the days of your life’ is to include the days of the messiah.

Ben Zoma interprets the Deuteronomy verse as indicating a halakhic obligation to recite the final passage of the Shema, with its reference to the Exodus, every night. The sages, on the other hand, do not derive any practical legal lesson from this verse. They see the verse as indicating the continuing relevance of the Exodus even into the messianic age, despite the fact that Jeremiah suggests otherwise (Jer 16:14–15).

Mishna Kilayim 9:8 suggests two different interpretations of the word *shaatnez* (a prohibited mixture of linen and wool) in Deut 22:11:

Spun and woven work alone are forbidden
under the law of (prohibited) mixed species (*kilayim*),
as it is written,
‘You shall not wear *shaatnez*’ –
that which is *shua* (hackled), *tavi* (spun), and *arug* (woven)’.

R. Shimon ben Eleazar says:

(It means that he who wears it)
is ‘estranged’ (*naloz*) and ‘estranges’ (*meliz*)
his Father in heaven against him.

The first interpretation understands the word *shaatnez* as an acronym which details the laws regarding the wearing of mixed species. The second reading engages in wordplay, explaining the term as describing the divine anger provoked by the violation of the prohibition against mixing linen and wool. Here, as in the previous case in Berakhot, it is unclear if the aggadic reading

is meant to oppose the preceding halakhic interpretation or merely to supplement it.

Midrash thus plays a critical role in framing the halakha of the Mishna. It situates the Mishna in the context of Scripture and the narrative that Scripture tells. It further serves as a bridge that links together halakhic and aggadic material.

Proverbs and Aphorisms

The Mishna has a particular predilection to cite proverbs, aphorisms, and other formulations typical of classical wisdom literature.⁶⁷ For example:

'Do not remove the ancient boundary stone.'

Prov 22:28; mPea 5:6, 7:3

'That which is crooked cannot be made straight;
and that which is wanting cannot be fixed.'

Ecccl 1:16; mSuk 2:6; mHag 1:6

A man must satisfy the concerns of his fellow men,
even as he must satisfy those of God.

mShek 3:2

With whatever measure a man measures, it shall be measured to him
again.

mSot 1:7

Woe to the wicked, woe to his neighbor!

mNeg 12:6

The Mishna's preference for proverbs is in line with its overall literary style, which favors pithy formulations of legal rules and principles over discursive investigations. While proverbs are not laws that can be enforced by the courts or rabbinic authorities, they do express ethical, metaphysical, or even practical norms. Thus, the presence of proverbs throughout the Mishna helps to situate the halakha within a wider normative framework, as they call attention to the way in which technical halakha and broader norms and concerns flow into each other. As noted above, the Mishna's rereading of Prov 22:26 in Pea 5:6

67 On the proverb in aggadic literature in general, see Fraenkel, *Darkhei ha-aggada*, 395–434; Hasan-Rokem, 'Negotiating Canons'.

functions either as a legal proof, a general ethical pronouncement, or both. The activities to be completed right before the Sabbath listed in mShab 2:7 may reflect a legal requirement or merely good advice.

The Mishna's use of a proverb from Eccl 1:16 in mHag 1:6–7 is yet another example of how proverbs create a framework for the law:

He that made no offerings on the first day of the feast
 must offer them (some other time) throughout the course of the feast,
 even on the last festival-day of the feast.
 If the time of the feast went by and he made no offerings,
 it is not incumbent on him to make them good.
 Of such a one it is written,
 'That which is crooked cannot be made straight;
 and that which is wanting cannot be fixed.'

R. Shimon ben Menasya says:

What is 'that which is crooked' which 'cannot be made straight'?
 He who has relations with a forbidden woman
 and begets by her a *mamzer* (the illegitimate child of a prohibited union)
 One cannot apply it to the thief or the robber,
 because he may make restitution and fix his deeds.

R. Shimon bar Yohai says:

None can be called crooked except one that was first straight
 and afterward became crooked;
 and who is this?
 A disciple of the sages who forsakes the study of the Law.

The Mishna opens with a discussion of the laws of the festival sacrifice, which is optimally offered on the first day of the holiday but may be offered any time until the end of the festival. It goes on to state that an individual who fails to make the offering over the course of the holiday can no longer fulfill his obligation, applying the Ecclesiastes verse to such an individual. The passage then identifies another individual as belonging to the category of those whose actions have irreversible, negative halakhic ramifications: he who produces a child through illicit sexual relations. By contrast, the thief and the robber do not belong in this category, because their deeds *can* be corrected by returning that which they have stolen. The Mishna thus uses the proverb to construct a framework that classifies otherwise unrelated areas of halakha. It suggests that sins of omission and commission can be evaluated and compared

on a moral basis that goes beyond typical halakhic analysis. Those sins whose ramifications are irreversible deserve greater opprobrium than those whose damage can be repaired. The surprising and powerful conclusion is that one who neglects to bring a festal sacrifice does greater harm than a thief or robber and is the moral equivalent of one who has a child through forbidden sexual relations!

In the final section of this passage, R. Shimon bar Yohai moves the conversation out of the realm of actions, which is the central concern of halakhic discourse, insisting that this proverb is to be applied to the totality of an individual's spiritual career. He refers to the scholar who leaves the way of the Tora. For such a person there is indeed no return, no possibility of correcting his course. R. Shimon uses the proverb to redirect our attention from the details of halakhic observance to a more holistic consideration of the life committed to the study and practice of Tora.

Proverbs are a type of genre that has literary and conceptual similarities to both apodictic and casuistic law. They are therefore well suited to occupy the boundaries of mishnaic halakha and serve to link this halakha to its wider context.

Themes

Mishnaic aggada serves as a frame to mishnaic halakha not only through its formal characteristics and positioning in the Mishna, but also through its thematic content. It consistently returns to a relatively small set of themes, all of which, in one way or another, deal with the conceptual space around the perimeters of the halakhic system. It is through the development of these themes that the Mishna presents more than a legal system and creates what Robert Cover called a *nomos*, a wider normative universe. As Cover writes:

A great legal civilization is marked by the richness of the *nomos* in which it is located and which it helps to constitute. The varied and complex materials of that *nomos* establish paradigms for dedication, acquiescence, contradiction, and resistance. These materials present not only bodies of rules or doctrine to be understood, but also worlds to be inhabited. To inhabit a *nomos* is to know how to *live* in it.⁶⁸

In the following section we will move beyond the formal considerations that have been our focus thus far and adopt a thematic approach, surveying the

68 Cover, 'Nomos and Narrative', 97.

major themes found in mishnaic aggada in an effort to build a picture of the wider universe in which the Mishna situates its law.⁶⁹

Theology

One of the salient characteristics of halakha is that although it presents itself as the product of divine revelation and the key to human relations with God, it is focused very much on this world. Halakha regulates individuals' relationships with themselves, with others, and with their environment. It is only the laws of prayer, found mainly in Berakhot and Taanit, that directly regulate a Jew's interactions with God. Even these laws focus primarily on liturgical and ritual rules rather than on prayer as an actual line of communication between humans and God. Similarly, such fundamental biblical categories as *kedusha* (holiness) and *tuma* (impurity) are treated by the rabbis first and foremost as legal statuses that regulate human interaction with other individuals and objects rather than as metaphysical states that reflect the presence or absence of the divine.⁷⁰ The halakhic aversion to questions of theology and metaphysics is perhaps best expressed by the Mishna in Hagiga 2:1, which declares:

Whoever looks upon (these) four things,
it would have been better for him if he had not come into the world:
that which is above,
that which is beneath,
that which was before,
and that which will be hereafter.⁷¹

The text here directs the individual to refrain from speculation regarding matters beyond this world. However, this very statement calls attention to the existence of realms that frame the world of human experience both temporally and spatially. Aggadic passages in the Mishna consistently refer to the interrelationship

69 Ishay Rosen-Zvi has gone so far as to describe the Mishna as an 'alternative empire' to Rome. Rosen-Zvi, 'Is the Mishnah a Roman Composition?', 508.

70 By contrast, other ancient Jews interpreted holiness and impurity not only as divinely ordained but as metaphysically real states. See Hayes, *What's Divine*, esp 169–243. See also Noam, 'Ritual Impurity'.

71 This translation of the terms *lefanim* and *ahor* follows Danby and Albeck, *Shisha sidrei*, ad loc., and is based on the Tosefta's gloss on this passage, tHag 2:7. However, these terms can also be interpreted spatially, as was already suggested in the medieval period. See Lieberman, *Tosefta ki-fshutah*, 5:1295; Loewenstam, 'Ma le-maala', 112–21. See also Goshen-Gottstein, 'Is *Ma'aseh Bereshit*'; Furstenberg, 'Rabbinic Ban'.

between the human realm and that of the divine. The Mishna thereby establishes a wider frame of reference for halakhic thought and practice.

Perhaps the most striking case of divine power making itself present in this world in the Mishna is the narrative in mShek 6:2 about the priest who accidentally discovers the hiding place of the lost ark of the covenant:

Once when a priest was occupied (in the Temple woodshed)
 he saw a block of pavement
 that was different from the rest.
 He went and told it to his fellow,
 but before he could make an end of the matter
 his life departed.
 So they knew for certain that the ark lay hidden there.

In this narrative, divine power breaks into this world to protect the ark from discovery. The holiness of the Temple is portrayed not just as a ritual status, but as a numinous reality, which makes the Temple not only a place of purity, but of mortal danger.⁷² In this case, the priest dies despite apparently having done nothing wrong. Elsewhere in the Mishna, however, God appears as a divine judge who evaluates and responds to human behavior. As seen above, in mRH 1:2, God is described as judging the world at various points of the year and judging each person on Rosh HaShana like an officer reviewing his troops. In mBer 5:5, the text goes beyond the rules of prayer and liturgy that are the focus of the tractate to consider God's responses to human supplication:

If a person makes a mistake while praying,
 it is a bad sign for him;
 and if he was the agent of the congregation,
 it is a bad omen for those that appointed him,
 because a man's agent is like himself.

They tell of R. Hanina ben Dosa
 that he used to pray over the sick and say,
 'This one will live' or 'This one will die'.
 They said to him, 'How do you know?'
 He replied, 'If my prayer is fluent in my mouth
 I know that it is accepted;
 and if it is not,
 I know that it is rejected'.

⁷² For further discussion of this story, see Simon-Shoshan, *Stories*, 216–18.

According to this mishna, it is possible to know whether God has accepted one's petitions based on the fluency of one's prayers. Thus, stumbling on one's words during prayer can be taken as a 'bad sign', implying that the individual's or the community's needs will not be answered. This is how the great holy man Hanina ben Dosa was able to determine whether he was successful in his attempts to intervene on behalf of sick individuals. The most spectacular account in the Mishna of a direct divine response to prayer is found in connection with Honi's prayer for rain in mHag 3:8. Similarly, a mishna in mSuk 2:9 states that when rain prevents a person from eating in a sukka (festival booth), it is a sign that God is angry at that person.⁷³

Generally, God's response to human actions is more predictable. God rewards righteousness and punishes sin. As noted above, R. Shimon ben Eleazar declares that one who wears a forbidden mixture of linen and wool (*shaatnez*) 'becomes "estranged" and "estranges" his Father in heaven against him' (mKil 9:8). But while God responds negatively to human misdeeds, he responds empathetically to human suffering, even of those whose suffering is punishment for their misdeeds. In discussing the law requiring that an executed criminal not be impaled overnight, the Mishna (Sanhedrin 6:4–5) expounds:

'For an impaled body is an affront to God (*kililat Elohim*)' (Deut 21:23) ...

R. Meir said,

When a man suffers, what does the tongue say?

'My head aches (*kalani*)! My arm aches (*kalani*)!'

If, thusly, Scripture says that

'I (God) suffer when the blood of the wicked is shed',

how much more at the blood of the righteous?⁷⁴

R. Meir interprets the phrase *kililat Elohim* as describing God's cries of pain (*kalani*) when witnessing an impaled criminal. God suffers when witnessing human suffering, even of the wicked.

In most cases, God's responses to human situations are presented not through anthropopathic depictions but in descriptions of the divine moral economy. That God rewards fulfillment of the commandments and punishes their violation is repeatedly stressed in the Mishna. The great reward that God gives to those who fulfill the commandments is extolled in the closing aggadic frame of tractate Makkot (3:15–16):

73 On these last two sources see Simon-Shoshan, *Stories*, 148–56.

74 Text according to MS Kaufmann. Printed editions have a more straightforward text, which preserves the same meaning: 'When a man suffers, what does the Shekhina say? "My head aches! My arm aches!" If God suffers when the blood of the wicked is shed, how much more at the blood of the righteous?'

R. Hanina ben Gamliel said:

If he that commits one transgression forfeits his soul,
how much more, if he performs one commandment
shall his soul be restored to him!

R. Shimon says: ...

He that sits and commits no transgression
is given a reward as one that performs a commandment.

R. Shimon the son of Rabbi says: ...

If a person who abstains from blood, which people abhor,
receives a reward,
how much the more
shall one who abstains from robbery and sexual sins,
which people crave and covet,
earn merit for himself and his generations
and the generations of his generations, to the end of all generations!⁷⁵

R. Hanania ben Akashia says:

The Holy One, blessed be He, desired to grant merit to Israel;
therefore, he has multiplied for them the Law and the commandments ...

In this passage, the place and time of the promised rewards is left somewhat ambiguous. In other cases, such as the Mishna's discussion in Sota 1:7–9 of the punishments and rewards of various biblical figures, as well as the discussion of the punishment for women who fail to keep the commandments specifically associated with them (mShab 2:6), it is clear that the divine economy is realized in this world.⁷⁶ Still other passages discuss the reward and punishment that is meted out in the next world. mPea 1:1 lists those commandments 'whose fruits a person enjoys in this world while the capital remains for him in the world to come'. The tenth chapter of Sanhedrin contains an extensive discussion of those who have no share in the world to come. These references to the hereafter not only deepen the Mishna's discussion of reward and punishment but expand the horizons of the Mishna's nomic universe. Beyond this world – in which the halakhic life is carried out – lies another world where the ramifications of such a life are fully realized.

The divine system of reward and punishment established by these aggadic passages represents a wider framework for the otherwise self-contained system of halakhic prohibitions and obligations. At times, however, divine justice

75 See also mMak 1:7, 3:15; mHul 12:10.

76 See also mPea 8:9; mHul 12:2; mAr 3:2.

is directly integrated into the halakhic discourse itself. On several occasions the Mishna introduces death ‘at the hands of heaven’ as the possible punishment for an offense alongside other methods of execution carried out by human courts.⁷⁷ Similarly, in some cases of civil law, the Mishna declares that although an individual may escape liability for a particular action according to ‘human law’, he or she remains liable according to ‘the law of heaven.’⁷⁸ In these instances, God becomes an actor within the halakhic system, alongside human judges, jurists, and executioners.

Another case in which halakhic and theological categories brush up against each other regards the concepts of expiation (*kappara*) and repentance (*teshuva*). In the Bible, the verb *kipper* refers to a cultic act that purges the Sanctuary of impurity generated by sin and thereby averts God’s wrath.⁷⁹ In rabbinic texts, the term usually signals the fulfillment of a legal obligation generated by wrongdoing. As we would expect from a rabbinic halakhic category, its focus is on the individual’s performance of his or her obligations rather than his or her direct relationship with God.⁸⁰ In a similar vein, the penultimate mishna in Yoma (8:8) opens with the declaration that ‘the purification-offering and the unconditional guilt-offering effect expiation’ but goes on to offer an alternative path to expiation:

Death and the Day of Atonement (Yom Kippur)
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 is contingent
until the Day of Atonement comes and effects (full) atonement.

We now learn that there is another, extra-cultic path to *kappara* that is efficacious for all sins, be they intentional or unintentional, including those for which no sacrifice is prescribed. This different path to *kappara* involves one of two events that are not initiated by the individual: the advent of Yom Kippur, or death,⁸¹ but it must be accompanied by an internal change relative to the

77 mYev 4:13; mSan 9:6, 11:5.

78 mBK 6:4.

79 On this difficult biblical term, see Milgrom, *Leviticus 1–16*, 1084–97.

80 This understanding of the rabbinic notion of sacrifices is explicated in detail by Mira Balberg, *Blood for Thought*, 65–107. But see Shlomo Zuckier’s critique of Balberg in “Acceptable” to “Will”, 430–48, and idem, *Flesh and Blood*.

81 For Yom Kippur as a partial factor in the process of *kappara*, see mShev 1:2–3. For death as a potential agent of *kappara*, see mSan 6:2.

sin, namely repentance. In this passage, *kappara* is treated not simply as the transformation to a different legal status, but as involving a moral and spiritual transformation of the individual. Moreover, the next mishna (9:9) emphasizes that one cannot 'game' this system:

If a person says,
 'I will sin and repent, sin and repent',
 he will be given the ability to repent.
 (If he says,)
 'I will sin, and the Day of Atonement will effect atonement',
 then the Day of Atonement effects no atonement.

The necessity for commitment and sincerity if one is to achieve repentance and concomitant atonements suggests that atonement (*kappara*) represents not just the fulfillment of a legal obligation but the righting of an individual's personal relationship with God. This is further emphasized in the mishna's next statement:

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.

The full restoration of proper relations with God on the Day of Atonement therefore requires that individuals first set right their relationships with their fellow humans.

After R. Eleazar ben Azaria restates the necessity of reconciling with one's neighbor, the Mishna equates the notion of *kappara* with purification before God. In the final lines of the tractate, R. Akiva takes this notion of *kappara* as a reflection of an individual's direct relationship with God one step further:

R. Akiva said:
 Blessed are you, O Israel.
 Before whom are you made pure
 and who makes you pure?
 Your Father in heaven;
 as it is written,
 'I will sprinkle clean water upon you, and you shall be clean' (Ezek 36:25),
 And it says

'Oh Lord, the hope (*mikve*) of Israel,
as the *mikve* purifies the impure, so does
the Holy One, blessed be He, purify Israel.

On the one hand, R. Akiva returns to a cultic model of *kappara*. The image of the *mikve* suggests a purification that is achieved independent of any inner moral and spiritual transformation. Yet the metaphor of God as a *mikve* implies an unmediated and all-encompassing encounter with the divine, perhaps even of a mystical nature. In this closing passage of Mishna Yoma, the otherwise formal halakhic category of *kappara* is infused with theological significance as it comes to represent the possibility of an individual establishing a direct relationship with God, rooted in, but ultimately transcending, halakhic practice.

In sum, the theological discussions in the Mishna build a frame around halakha, locating its worldly and often self-reflexive tendencies in a wider context in which God is an active presence who has a direct role in administering justice and maintaining the world.

Ethics

The discussion of repentance in the concluding passage of Mishna Yoma analyzed above raises another theme of central concern in mishnaic aggada, the question of ethical responsibility. Halakha defines obligations in a precise manner, according to rules and fixed measures of time, space, and monetary value. Such is the nature of law. However, the imperative to 'do what is right and good in the sight of the Lord' (Deut 6:18) cannot be fully contained within such a formal system.⁸² Not all situations can be defined and evaluated through established rules and precedents, nor can obligations be unequivocally demarcated. The Mishna consistently reminds its audience that the halakha exists within a wider ethical and moral framework that must guide individuals in their actions.⁸³ We have already seen several examples of this, particularly in our discussion of the role of proverbs in the Mishna.

The mishna in Yoma thus emphasizes the importance of appeasing one's fellow in order to achieve full atonement for one's sins. This focus on moral obligations that emerge from the subjective realm of interpersonal relations appears at numerous points in the Mishna. Bava Kamma 8:7 also discusses the need to appease a person one has wronged. Concluding its discussion of torts, the Mishna declares:

⁸² bBM 16b.

⁸³ On the complex relationship between halakhic obligation and wider ethical concerns in Tannaic literature, see Novick, *What Is Good*.

Even though a person pays (what he owes in damages),
 it is not forgiven him until he seeks forgiveness
 from him (to whom he caused damage) ...
 And whence do we learn that one from whom forgiveness is asked
 should not be cruel (and refuse to forgive)?

The Mishna here moves beyond the question of whether and how much money must be paid out in cases of damages, which has dominated the discussion thus far in the tractate, to consider the moral and psychological aspects of causing damage to another. In addition to repairing financial loss, one must restore the damage done to the relationship between the two parties. This requires good will on both sides.⁸⁴

The importance of reconciliation and peace is further emphasized in the closing passage of *mEd* (8:7), which records a dispute over the nature of Elijah's mission when he returns in the eschatological age. The sages reject the previous opinions and declare that Elijah's sole mission will be

to make peace in the world,
 as it is written,
 'Lo, I will send the prophet Elijah to you ...
 He shall reconcile parents with children
 and children with their parents' (*Mal* 4:23–24).

The Mishna paints a similar picture of proper interpersonal relations in the final passage of *Taanit* (4:4), this time through an idealized portrayal of the past:

Rabban Shimon ben Gamliel said:
 There were no happier days for Israel
 than the fifteenth of Av and the Day of Atonement,
 for on them the daughters of Jerusalem used to go forth in white raiments;
 and these were borrowed,
 lest those who did not have any were to be embarrassed;
 (hence) all the raiments required immersion.

84 See Fraenkel, 'Aggada in the Mishna', 657.

Here we read of how the daughters of Jerusalem embodied an egalitarian ethic of care in which the needs of all were provided for, and the needy were shielded from embarrassment.

Just as the Mishna stresses the importance of attending to interpersonal relationships that cannot be easily regulated through halakhic categories, it also stresses the importance of the subjective inner life of the individual. The Mishna consistently describes the role of intent (*kavvana*) and other mental states in defining the halakhic validity and the impact of human actions, frequently in cases where biblical law attributes no role to the thoughts behind an individual's actions. Joshua Levinson has argued that this Tannaic innovation reflects a fundamental shift in ancient Jewish conceptions of the self, corresponding to the Stoic emphasis on self-consciousnesses and the inner life: 'Rabbinic legal discourse actually creates a new legal subject ... a dialogic self that promotes "a continuous vigilance and presence of mind"'.⁸⁵ However, Ishay Rosen-Zvi has argued that that Levinson's claim is ill founded, because 'in the Mishnah, "thought", "intention", and "will", are not independent psychic phenomena, but mental gestures which precede or accompany external actions'.⁸⁶ These mental states are subordinate to the physical actions and have no legal significance of their own.

The existence of these legal categories does not, in and of itself, suggest a true elevation of the subjective inner life. However, in aggadic contexts, the Mishna expands the notion of *kavvana* to include a more complex subjective state, which can be the defining, or even sole, element of the activity under consideration. In these cases, *kavvana* refers to an inner experience relating to the divine rather than the motivation of an action. As noted above, Mishna Rosh HaShana juxtaposes the technical *kavvana* needed to fulfill the commandment of hearing the shofar with the Israelites' intent focus on God in the Wilderness.⁸⁷ This turn toward God on the part of the Israelites represents the critical element in their salvation. The relationship between actions and inner states is reversed. The Mishna emphasizes that Moses's raising of his hands and the mounting of a seraph on a standard were of no inherent significance. They functioned only to

85 Levinson, 'From Narrative Practice', 355 (emphasis in the original).

86 Rosen-Zvi, 'Mishnaic Mental Revolution', 51. For a survey of previous scholarship on this issue, see pp38–45. Rosen-Zvi goes further and argues that the intentions discussed by the Mishna can actually be considered 'part of the external world' (*ibid.*, 51). As such, the role of *kavvana* in the mishnaic law does not constitute evidence of the nominalistic nature of rabbinic halakha. Hayes, *Divine Law*, 202–12, vigorously challenges this contention. For yet another approach to *kavvana* see Neis, 'Directing the Heart'.

87 Fraenkel, 'Aggada in the Mishna', 662–63.

trigger the people's inner focus on the divine. By juxtaposing this deeper sort of religious experience with the more superficial *kavvana* needed to fulfill the commandment of hearing the shofar, the Mishna suggests a continuum between the two, opening the possibility of more intense religious experiences accompanying the technical fulfillment of the commandments.

In Mishna Berakhot, the verb *kivven* (to intend) generally refers to a sort of mental gesture that has the ability to determine the legal status of an action. For example, it is through the appropriate intention that a recitation of Scripture becomes the ritual act of reciting the Shema (Ber 2:1). But mBer 4:5–6 rules that one who cannot physically face Jerusalem during prayer should 'direct his heart' (*yikaven et libo*) toward the Holy of Holies. Here a mental state replaces the requirement to adopt an external posture. The phrase 'direct the heart' subsequently takes on a very different meaning, as the Mishna informs us that 'the pious men of old used to wait an hour before they prayed, that they might direct their heart toward God' (mBer 5:1). In this case, *kavvana* is not a simple intention that defines or even replaces an action for halakhic purposes. It is rather a deep inner state that can take a significant amount of time to achieve. In this mishna, then, *kavvana* is no longer a halakhic requirement but a condition for a higher level of prayer engaged in by the masters of old.

The closing lines of mMen (13:11) also redefine the notion of intent, this time in the realm of sacrifices.

It is said of the whole-offering of cattle,
 'an offering by fire of pleasing odor to the Lord' (Lev 1:9)
 and of the bird-offering,
 'an offering by fire of pleasing odor to the Lord' (Lev 1:17)
 and of the meal-offering,
 'an offering by fire of pleasing odor to the Lord' (Lev 2:9)
 to teach that
 whether one offers much or little,
 it matters only that one directs one's heart toward heaven.

The inner feeling that one expresses through the sacrifice is declared to be of greater significance than the physical elements and actions of the sacrifice itself. The Mishna here transforms *kavvana* from a technical requirement for the officiating priest to the central element of the donor's act of offering the sacrifice.⁸⁸

Just as the Mishna recognizes the significance of subjective states and relationships that are beyond precise halakhic regulation, it also acknowledges that

⁸⁸ For more on the relationship between this passage and the halakhic discussion that precedes it, see Fraenkel, 'Aggada in the Mishna', 677.

some halakhic obligations cannot be easily quantified. *Pea* opens by listing the ‘things for which no measure is prescribed: *pea* (the corner of the field left unharvested for the poor to glean), first-fruits (presented to God at the Temple), the festal-offering, deeds of loving-kindness, and the study of Tora’. But there is an important difference between the first three items on the list, which are all obligatory gifts and offerings, and the final two. The first three lack both a minimum and maximum requirement. In regards to *pea*, the next mishna emphasizes that the appropriate amount to give depends on circumstances and cannot be calculated through any simple formula. Regarding acts of loving-kindness and Tora study, however, there exists an infinite obligation that can never be completely fulfilled. The possibility of an infinite obligation is also raised in mBM 8:1:

It once happened
that R. Yohanan ben Matthias said to his son,
‘Go and hire laborers for us’.
He went and undertook to give them their food.
When he came to his father, his father said to him,
‘My son, even if you prepare them
a banquet like Solomon’s in his time,
you will not have fulfilled your duty toward them,
for they are sons of Abraham, Isaac, and Jacob.
But rather, before they begin the work, go and say to them,
“(You are hired) on condition that I am not bound to give you
more than bread and pulse only”’.

According to R. Yohanan ben Matthias, unless one specifies otherwise, the obligation of a Jew to feed his Jewish workers is infinite and can never be fulfilled adequately. Such notions of infinite responsibility make sense from an ethical standpoint, but they cannot be fully integrated into a legal system. They represent an acknowledgement of the limitations of law as an independent guiding principle for human behavior.⁸⁹

In contrast to the subjective and immeasurable elements of its ethical frame, the Mishna also consistently refers to two groups, the ‘righteous’ and ‘wicked’,

89 Fraenkel, ‘Aggada in the Mishna’, 660–61, argues that R. Yohanan ben Matthias is not presenting a legal argument here but is advocating behavior that goes beyond the letter of the law, and as such this passage is strictly ‘aggadic’ in nature. But it seems that R. Yohanan is indeed suggesting an absolute legal requirement, despite the fact that this requirement can never actually be fulfilled. See Rosen-Zvi, *Between Mishnah and Midrash*, 133–36. Alternatively, Christine Hayes has suggested that this passage may be read as mocking an absurd piety according to which failure to perfectly perform a commandment becomes a pretext for not fulfilling it at all! (private communication)

often contrasting the two. mSan contains the Mishna's most extensive meditation on the righteous and the wicked (8:5):

The death of the wicked
is a benefit to them and a benefit to the world,
but the death of the righteous
is a misfortune to them and a misfortune to the world.

The wine and sleep of the wicked
are a benefit to them and a benefit to the world,
but the wine and sleep of the righteous
are a misfortune to them and a misfortune to the world.

The dispersion of the wicked
is a benefit to them and a benefit to the world,
but the dispersion of the righteous
is a misfortune to them and a misfortune to the world.

The gathering together of the wicked
is a misfortune to them and a misfortune to the world,
but the gathering together of the righteous
is a benefit to them and a benefit to the world.

Peacefulness for the wicked
is a misfortune to them and a misfortune to the world,
but peacefulness for the righteous
is a benefit to them and a benefit to the world.

The notion of evaluating a person holistically as being 'righteous' or 'wicked' is reminiscent of the schematic worldview of biblical wisdom literature and the dualism of sectarian and apocalyptic texts. From a strictly halakhic perspective, which focuses on the numerous obligations and requirements incumbent on each person, there is no clear method for making such an evaluation. The Mishna's ethical discourse thus creates space for both subjective experiences and objective evaluations that are beyond the scope of conventional halakhic tools.

Sacred History

As we noted earlier, the Mishna is not introduced by a framing narrative rooting it in a wider historical context. However, the Mishna does allude to such

a narrative. We have already seen how references to biblical narratives in midrashic passages help to locate halakhic practice and religious experience in a larger historical framework. The Mishna also consistently invokes the revelation, exile, and ultimate redemption, explicitly positioning the world of the rabbis and their halakha within the sacred history of Israel and humanity.

On several occasions, characters in mishnaic stories refer to themselves as heirs to a tradition going back to Moses's reception of the Tora at Sinai. Thus, R. Eliezer declares in mYad 4:3:

I have received a tradition from R. Yohanan ben Zakkai,
who heard it from his teacher,
and his teacher from his teacher,
as a halakha which Moses received from Sinai,
that Ammon and Moab give poor-man's tithe in the seventh year.⁹⁰

This narrative, which connects the rabbis to Moses, is critical to the rabbis' self-understanding and their claims to authenticity and authority.⁹¹ It also establishes the first key event in the rabbinic sacred history, the revelation and covenant at Sinai. Texts such as this present Sinai as the only significant event in history. The rest of history is constituted simply by the continuing transmission of the Tora and the covenant.

Other sources present a different historical narrative centered on an account of exile and redemption. As discussed previously, mishnaic etiological stories tell of how the rabbis adapted the law in response to a crisis. By far the most common crisis at the center of these stories is the destruction of the Temple. The loss of the Temple created a new reality whose impact went well beyond a series of halakhic reforms. Throughout the Mishna, the era of the Temple is portrayed through 'ritual narratives', which, in the words of Ishay Rosen-Zvi, describe 'an idyllic ritual world, immune to the horrors of the present'.⁹² The era of the Temple is presented as a sort of prelapsarian state,⁹³ while its destruction is portrayed as a catastrophe with implications that extend well beyond the end of the cult:

90 See similarly, mPea 2:6; mEd 8:7. See also mRH 2:10.

91 See Hayes, "Halakhah le-Moshe mi-Sinai".

92 Rosen-Zvi, *Mishnaic Sotah Ritual*, 245; See also Cohn, *Memory of the Temple*, 39–56; Berkowitz, *Execution and Invention*, 18.

93 This idyllic image is complicated, however, by a series of narratives that portray violence and strife in the Temple. See Simon-Shoshan, *Stories*, 204–18; Cohn, *Memory of the Temple*, 47–53.

Since the day that the Temple was destroyed
 there has been no day without its curse;
 and the dew has not fallen in blessing
 and the fruits have lost their savor.

mSot 9:12

The Mishna's regular references to the destruction of the Temple emphasize the fallen state of the world in which its halakha operates. Other texts, such as the story of R. Yishmael and the bride in mNed 9:10, emphasize the toll that the sufferings of exile have taken on the Jewish people.

Mishnaic aggada also looks forward to the future redemption.⁹⁴ The final mishna in Taanit (4:8) juxtaposes this redemption with other key events and eras of the Mishna's sacred history. Having described the idyllic scene of the young women dancing in the vineyards in Temple times, the mishna concludes:

'O maidens of Zion, go forth
 and gaze upon King Solomon
 wearing the crown that his mother
 gave him on his wedding day,
 on his day of bliss' (Song 3:11).
 'On his wedding day' –
 this is the giving of the Law;
 'his day of bliss' –
 this is the building of the Temple.
 May it be built speedily, in our days! Amen.

The Mishna's sacred history can thus be outlined as follows: It begins with the revelation at Sinai, which establishes the covenant between God and Israel, and the chain of transmission of the Tora to which the rabbis are heir. This is followed by the largely idyllic period of the temples, which ends in 70 CE (the Babylonian exile is essentially elided in this schema). A period of exile follows, which will conclude only with the redemption of the messianic era.⁹⁵ The halakha of the Mishna is usually presented without historical context, but these aggadic references situate it in an extended inter-Temple

94 See mBer 1:5; mMK 3:9; mEd 2:10; mTam 7:4.

95 Some texts, notably Sota, chapter nine, suggest a somewhat more complicated scheme in which the destruction is the climax of a longer period of moral, spiritual, and physical decline that begins in the generations prior to the destruction and continues through the persecutions that followed it. See Simon-Shoshan, *Stories*, 200–204.

era, which exists in the shadow of the lost Temple and in expectation of the future redemption.

Rabbinic Authority

Mishnaic aggada also thematically frames halakha through its emphasis on rabbinic authority. We have already seen how the entire framework of anecdotal narratives across the Mishna establishes rabbinic authority as central to halakhic adjudication and practice. Other aggadic passages place this authority in a wider context, asserting the status and authority of Tora scholars against competing claims and social hierarchies. Perhaps the most dramatic of these claims comes at the end of Mishna Horayot, which concludes the entire order of Nezikin (3:8):

A priest takes precedence over a Levite,
a Levite over an Israelite,
a *mamzer* over a *natin* (a descendant of the biblical Gibeonites; Josh 9:27),
a *natin* over a proselyte,
and a proselyte over a freed slave.

This applies when they all are equal (in Tora knowledge);
but (in the case of) a *mamzer* who is learned in the Tora (*talmid hakham*)
and a high priest who is ignorant of the Tora (*am ha-arets*),
the *mamzer* who is learned in the Tora
takes precedence over the high priest who is ignorant of the Tora.

The Mishna first lays out the basic hierarchy of Jewish society based on the circumstances of one's birth. It then presents an alternative hierarchy based not on birth, but on mastery of Tora. This second hierarchy of knowledge completely trumps the first. Being a Tora scholar can catapult a person of even the lowliest birth to the highest ranks of Jewish society. The final mishna in Keritot (6:9) also champions Tora over birth, declaring that the obligations owed to one's teacher of Tora exceed those owed to one's father.

mKin 3:6 asserts the superiority of elder Tora scholars over the esteemed elders of competing groups:

The elders among the *am ha-arets*,
the older they get,
the more they lose their understanding ...
But the elders among the Tora (scholars) are not like this;
rather, the older they get,
the more their understanding matures.

The final passage of Mishna Yadayim (4:6–8) similarly presents a series of cases in which the Pharisees of old best their opponents, the Sadducees, as well as a certain ‘Galilean heretic’ (likely a Christian) in debates regarding the law.

On a few occasions, the Mishna introduces other forms of rabbinic authority beyond the halakhic. For example, Mishna Sheviit concludes (9:9) with a list of cases in which a person is technically exempt from a financial obligation and yet, should the person choose to honor the obligation, ‘the spirit of the sages is pleased by it’.⁹⁶ Conversely, mBB 8:5 declares that when an individual fails to live up to his non-binding commitments, the ‘spirit of the sages is *not* pleased by it’. Through these statements, the Mishna opens up an ethical space beyond the technical requirements of the halakha. In addition to expressing concern about one’s subjective relationship with God and with other human beings, the Mishna expresses concern for one’s subjective relationship with the rabbis.

The Mishna describes another aspect of the rabbis’ subjective relationship with the laity, in mPes 4:8.

The people of Jericho did six things:
for three they reproved them
and for three they did not reprove them ...

The Mishna goes on to present a list of these deeds. All six of them were apparently done ‘against the desires of the sages’ (*she-lo be-ratson ha-hakhamim*). Once again, these are actions that, while not technically forbidden by the halakha, cause those who do them to earn the disapproval of the rabbis. Yet the rabbis choose to intervene only in some of the instances. The rabbis have an active role in modulating their relationship with the people and must decide when to assert their authority and when to hold back.

As discussed above, the most prevalent device in the Mishna for establishing the authority of the rabbis is its narrative accounts of their deeds. Occasionally, these stories refer to the rabbinic master narrative, which establishes the rabbis as Moses’s successors. More generally, they portray the rabbis as the ultimate interpreters, adapters, and embodiments of the halakha, collectively presenting the rabbis as an undifferentiated unit whose authority is all but absolute. Naftali Cohn has similarly argued that the Mishna’s ‘ritual narratives’ consistently portray the rabbis as having authority over all aspects of the Temple service.⁹⁷ But many individual mishnaic stories add nuance to this picture.⁹⁸ Perhaps the greatest challenge to understanding the nature of

⁹⁶ See Fraenkel, ‘Aggada in the Mishna’, 659.

⁹⁷ Cohn, *Memory of the Temple*, 39–56.

⁹⁸ This is one of the central arguments in Simon-Shoshan, *Stories*.

rabbinic authority is the fact that the rabbis so frequently disagree with each other. This raises questions not only about resolving questions of law but also about maintaining a unified community. Regarding the schools of Hillel and Shammai, the archetypal disputing factions of the Mishna, mYev 1:4 relates:

Notwithstanding that these forbid what the others permit,
and these declare ineligible whom the others declare eligible,
the (men of) the school of Shammai did not refrain from
marrying women from (the families of) the school of Hillel,
nor the (men of) the school of Hillel from
marrying women from (the families of) the school of Shammai.
Despite all the disputes about what is pure and impure,
wherein these declare pure what the others declare impure,
neither of them abstained from using the utensils of the others
for the preparation of food that was ritually pure.⁹⁹

This passage presents an irenic picture in which disputes over technical halakhic matters were not allowed to create social divisions within the rabbinic community.

Mishna Yadayim 4:3–4 presents a different model. It portrays a series of hard-fought debates over legal issues in which all sides ultimately agree to adopt a consensus position based on the arguments that won the day. Throughout the debate, the rabbis address their opponents as ‘my brother’, emphasizing their collegiality. But this account also highlights the wide range of potentially conflicting approaches and considerations that different rabbis bring to the table in deciding the law: logical, theological, social, hermeneutic, and more.¹⁰⁰ Finally, the Mishna contrasts these approaches, all of which are rooted in the acceptance of dialectical debate as the method for resolving halakhic disputes, with R. Eliezer’s world view, which emphasizes received tradition over argumentation.¹⁰¹ Ultimately, the debates are resolved harmoniously, but the range of conflicting approaches and the need for the rabbis to come to a practical conclusion regarding the law indicates that unanimity is neither required nor imagined and that it is not always possible to arrive at a practical conclusion while also maintaining decorum.

The story of Rabban Gamliel’s confrontation with R. Yoshua in the second chapter of Rosh HaShana (2:8–9) deals precisely with such a case. R. Yoshua

99 This passage is consistently cited by scholars as appearing in m Ed 4:8 as well. However, it is missing from all the major MSS of mEd. See Wieder, ‘Mishna Eduyot’, 69.

100 See Kahana, ‘On the Fashioning and Aims’.

101 See Novick, ‘Tradition and Truth’.

refuses to accept Rabban Gamliel's ruling about the fixing of the new moon and, subsequently, of Yom Kippur, because it is based on erroneous testimony. Rabban Gamliel then demands that R. Yoshua comply with his ruling. At stake is not simply a technical question regarding the laws of the new moon, but fundamental issues of the nature of rabbinic authority and its validity, even when a ruling clearly conflicts with empirical reality. Here, too, the two sides reconcile by the end of the story. Yet the story explicitly portrays the potential danger of halakhic and ideological disputes leading to a schism in the rabbinic community.¹⁰²

Mishnaic narratives also explore the inherent difficulty of defining exactly who qualifies as a rabbi whose rulings are authoritative, as well as the limits of rabbinic authority. The story of Honi the circle-drawer pits Shimon ben Shetah, the leading rabbinic figure of his day, against Honi, a liminal figure who is portrayed as straddling the boundary between rabbinic scholars and charismatic miracle workers.¹⁰³

The authority of the rabbis is thus central to the Mishna's world view. The entire halakhic system of the Mishna rests on such authority. And yet, the Mishna's embrace of narrativity and its incorporation of aggadic materials creates a nuanced picture of the workings of such authority, portraying its internal tensions and shortcomings.

Avot

Thus far we have avoided reference to the single biggest repository of aggadic material in the Mishna, tractate *Avot*.¹⁰⁴ *Avot* is the only mishnaic tractate devoted entirely to aggada. Since the Middle Ages, scholars and commentators have consistently treated *Avot* as an independent work apart from the rest of the Mishna. Some modern scholars have even argued that *Avot* was composed in the Amoraic period and only subsequently appended to the Mishna.¹⁰⁵

102 Simon-Shoshan, *Stories*, 186–93. See also Schwartz, 'From Priests'; Henshke, 'R. Joshua's Acceptance'; Walfish, 'Halakhic Confrontation'; Hayes, *Divine Law*, 200–201, 238–39.

103 Simon-Shoshan, *Stories*, 130–66. Other studies of this widely discussed story include: Vermes, *Jesus the Jew*, 69–82; Hirshman, 'Changing Loci'; Daube, 'Enfant Terrible'; Green, 'Palestinian Holy Men'; Neusner, 'Story and Tradition'; Goldin, 'Honi the Circle-Maker'; Stone, 'Interplay of Rules'; Halberstam, 'Encircling the Law'.

104 There is a vast scholarly literature on *Avot*. Though much of it is potentially relevant to our discussion, this is not the forum for a comprehensive consideration of the tractate. For a systematic study of *Avot* and the history of its scholarship, see Tropper, *Wisdom, Politics*.

105 Guttman, 'Tractate Abot'; Stemberger, 'Die innerrabbinische Überlieferung'. See Tropper's critique of this position, Tropper, *Wisdom, Politics*, 90–97. Most recently, Adiel Schremer has argued that *Avot* was produced by a minority group among the rabbis whose

Nevertheless, the central themes of *Avot* closely align with those of the aggadic material throughout the Mishna.

Most important for our purposes, *Avot* is singularly focused on the importance and value of Tora study – from the exhortation of the Men of the Great Assembly to ‘raise up many disciples’ (1:1) and Simon the Righteous’s establishing the Tora as one of the pillars on which the world stands (1:2) at the opening of *Avot*, to Ben Bag Bag’s declaration at *Avot*’s very end (5:22):

Turn it and turn it again for everything is in it ...
and stir not from it
for there is no better rule than it.¹⁰⁶

Again and again, *Avot* returns to the theme of Tora study and its importance. Its focus on promoting the continuous study and teaching of the contents of the Mishna makes it the ultimate ideological frame to the Mishna. As Ishay Rosen-Zvi explains,¹⁰⁷ *Avot* is ‘*about* torah, but not *torah*’. He also notes: ‘Different as it is in form and content, *Avot* is at the complete disposal of the house of study. In this respect, it is ... different but integral’ to the Mishna as a whole. *Avot* is thus a sort of paratext to the Mishna. It is not quite part of the Mishna, but a critical supporting element that helps us contextualize the latter and understand its place in the world.

This brings us to a consideration of the position of *Avot* within the ordering of the Mishna. *Avot* is positioned as the penultimate tractate in the order *Nezikin*. Its placement likely reflects the tractate’s concern with interpersonal relations in general, and the proper behavior of judges, in particular. However, in some early traditions, *Nezikin* was the final section of the Mishna.¹⁰⁸ As such, it is tempting to consider *Avot*’s positioning so close to the end of this order as being motivated by an editorial effort to turn *Avot* into an aggadic coda to the entire Mishna, paralleling the many shorter aggadic coda found at the end of chapters, tractates, and orders of the Mishna¹⁰⁹ and further cement-

ideology was ‘rejected by (the) “mainstream” rabbinic circles ... that produced the Mishnah’. Schremer, ‘*Avot* Reconsidered’. See Rosen-Zvi’s response to Schremer, ‘Wisdom Tradition’.

106 On the textual and linguistic issues surrounding this mishna, see Elitzur, ‘*Mida*’; Koller, ‘Self-Referential Coda’. Both of these scholars suggest that this line in fact refers not to the entire Tora, but specifically to tractate *Avot*.

107 Rosen-Zvi, ‘Wisdom Tradition’, 189.

108 Kahana, ‘Arrangement’.

109 The notion that *Avot* was positioned as a sort of epilogue to the Mishna has been suggested most recently by Steinmetz, ‘Distancing’, 90, reviving a theory propounded by Herford, ‘*Pirke Aboth*’, and Dinur, ‘*Pirke Aboth*’, 17.

ing Avot's status as a paratext to the Mishna. However, given that Avot is only the second to last tractate in Nezikin, and that this position follows the usual arrangement of tractates according to size, it is likely that there is no special significance to Avot's position within the Mishna.

Rabbinic Authority in Avot

Closely connected to its central focus on Tora study is Avot's emphasis on rabbinic authority and status, another key element in the Mishna's aggadic passages. Two contrasting passages describe the importance of maintaining physical proximity to the person of the sage:

Let your house be a meetinghouse for the sages
and sit amid the dust of their feet
and drink in their words with thirst. (1:4)

Warm yourself before the fire of the sages
but be heedful of their glowing coals
lest you be burned,
for their bite is the bite of a jackal
and their sting the sting of a scorpion
and their hiss the hiss of a serpent,
and all their words are like coals of fire. (2:10)

The first passage compares the words of the sages to life-giving water. According to this passage, one should bring sages into one's own home and get as close to them as possible. The second passage compares the word of the sages to fire, exhorting individuals to get close, but not *too* close. Together, these passages set up a dialectic of familiarity and deference, or even fear, as a model for the proper relationship between disciple and sage.

The authority of Tora and the sages who transmit it is perhaps most effectively established by Avot through its literary forms. Avot is a significant locus of midrashic activity in the Mishna, containing some thirty citations of Scripture and numerous biblical allusions.¹¹⁰ As in the rest of the Mishna, the midrashim in Avot link the Mishna to the text of the Bible, establishing an intertextual frame for the Mishna's teachings and their authority.

This intertextual frame implicitly invokes what we have called the Mishna's framing narrative, which establishes the rabbis as the sole legitimate historical inheritors of the tradition and authority of Moses and the prophets. In Avot,

¹¹⁰ Lerner, 'Tractate Avot', 269.

this master narrative takes center stage. It constitutes the overarching literary structure of the tractate. Avot famously opens by declaring:

Moses received the Tora from Sinai
and transmitted it to Joshua,
and Joshua to the elders,
and the elders to the Prophets;
and the Prophets committed it to the Men of the Great Assembly.

The first chapter continues by tracing the transmission of the Tora from the period of the Great Assembly through Hillel and Shammai. Chapter 2 continues the chain to R. Yohanan ben Zakkai and his students. Though the two chapters that follow do not continue the formal narrative, they do generally maintain the chronology, presenting the sayings of successive generations of rabbis through the end of the Tannaic period.¹¹¹ Chapter 5 also participates in the chronology by providing a ‘prequel’ to Avot’s main narrative. It begins by tracing the prehistory of Israel from Adam to Abraham to the Exodus, ending with the Temple.

The authority of the rabbis as heirs to Moses is thus effectuated, establishing their teachings as in some way part of the revelation at Sinai. As we have seen, other ancient legal texts place their authorizing genealogies at the beginning. The Mishna generally prefers to relate brief anecdotes about individual rabbis, making only occasional references to this master narrative. The fact that this critical narrative appears in full only in Avot both emphasizes the tractate’s importance to the Mishna’s ideological frame and its marginal nature relative to the rest of the Mishna.¹¹²

It is also of interest that Avot’s chronology mentions neither the destruction of either Temple nor the exiles that followed. The only reference to exile and redemption in Avot is the closing prayer (5:20), which is a stereotypical ending for a rabbinic collection.¹¹³ In contrast, as we have seen, the destruction of the Second Temple and Israel’s current state of exile figures prominently in the

¹¹¹ Tropper, *Wisdom, Politics*, 25.

¹¹² Schremer, ‘Avot’, argues that in fact this narrative does not reflect mainstream mishnaic thinking on rabbinic authority.

¹¹³ This mishna (5:20) is apparently the original ending of the tractate. Lerner, ‘Avot’, 266–67. However, 5:22–23 appears in all the major manuscripts and was clearly added by the time of the final redaction of the text. Avot 5:5 implicitly refers to the lack of the Temple at the time of writing of the text, while 5:9 refers to the ‘exile’ without assigning it any wider historical significance. It appears within the context of a discussion of the sins that bring about other punishments such as wild animals and pestilence.

Mishna's wider historiographic vision. The lack of reference to the destruction and exile further enhances a sense of the continuity of the tradition, which is the primary message of the narrative.

Ethics in Avot

Tora study and the status of those who engage in it is certainly not the only theme in Avot. As suggested by its popular English title, 'Ethics of the Fathers', Avot has an overarching concern with ethics and interpersonal relations that goes beyond the narrow requirements of halakha. At the very outset of the tractate, Simon the Righteous declares that 'acts of loving-kindness' (*gemilut hasadim*) are one of the pillars on which the world stands.¹¹⁴ Just as other sages urge the reader to open his house to Tora scholars, Yosi ben Yohanan of Jerusalem declares: 'Let your house be opened wide and let the needy be members of your household' (1:5).

Avot places greater focus on the individual's attitudes toward others than on concrete actions. The reader is instructed to 'judge all people favorably' (1:6) and to 'receive all people with a cheerful countenance' (1:15) and is instructed that 'the honor of your fellow should be dearer to you than your own' (2:10). Avot thus shares with the rest of mishnaic aggada a concern with the subjective inner life. This emphasis is part of a wider 'virtue ethic' advocated by Avot in which the best way to ensure proper action in this world is to acquire the appropriate inner virtues and habits of mind. In a similar manner, Avot is concerned with the intentions behind one's endeavors, repeatedly emphasizing the importance of acting 'for the sake of heaven' (2:2, 2:12, 5:17). Avot further places the life of ethical behavior in the context of the individual's relationship with God. The tractate advocates a constant awareness of God and His power (e.g., 2:1, 2:14, 4:22) and serving God out of sense of duty and not in expectation of reward (1:3). In short, more than the rest of the aggadic material throughout the Mishna, Avot consistently focuses on the subjective realm of an individual's inner life of intentions and relationships, both with his fellow humans and with the divine. It is in Avot that the concern for one's inner life and the concern with the fashioning of the self, attributed by Levinson to the early rabbis, becomes most apparent.¹¹⁵

Avot similarly carries forward the Mishna's wider concern with the divine moral economy, speaking frequently about the rewards for observing the

114 Goldin argues, however, that this term can have ritual as well as ethical connotations. Goldin, 'Three Pillars'.

115 Levinson, 'Narrative Practice'.

commandments and the punishment for violating them (e.g., 2:1, 2:17, 2:18, 4:2, 5:23). Hillel famously observed

a skull floating on the face of the water
and he said to it:
'Because you drowned (another)
you were drowned.
And they that drowned you
shall in the end be drowned'. (2:6)

Here, Hillel suggests that individuals will be punished measure for measure for their deeds, in their own lifetime. More frequently, however, *Avot* focuses on reward and punishment in the world to come (e.g., 2:7, 3:11, 4:16, 4:17) or in the garden of Eden and the netherworld (e.g., 1:5, 4:22, 5:19, 5:20). Similarly, the process of creation has direct ramifications for the divine system of reward and punishment:

By ten statements was the world created.
And what does this teach?
Could it not have been created by one statement?
Rather (it was created through ten statements)
to punish (even more severely) evildoers,
who destroy the world that was created by ten statements,
and to give a goodly reward to the righteous,
who sustain the world that was created by ten statements. (5:1)

Through these references to realms beyond this world, *Avot* constructs a map of 'what is above, what is below, what is before, and what is after', locating the world of human experience and activity within a wider cosmic context. It is this context that imbues mortal life, and each action taken in it, with profound significance and ramifications. The ethics of the rabbis may be focused on the contemporary world, but their authority and significance can only be appreciated with reference to other worlds beyond our experience.

Avot as Rabbinic Wisdom Literature

On the thematic level, then, *Avot* simultaneously emphasizes the particularistic value of Tora study and halakhic practice and a universal ethic rooted in both subjective experience and a cosmic reality. To better understand the relationship between these two agendas, we must first return to the question of

the form through which Avot expresses its ideas. Avot's most salient literary characteristic is that it is made up almost entirely of proverbs. As we have seen, proverbs are relatively prominent throughout the Mishna's aggadic sections. But Avot is the only work of rabbinic literature that is almost completely devoted to this genre. In one sense, it is this choice that allows Avot to take its place in the Mishna. Proverbs are the aggadic form that most resembles apodictic and casuistic legal formulations. Since it is constructed as a series of proverbs attributed to Tannaic tradents, Avot has the same literary texture as the Mishna, despite its radically different content.

But the fact that Avot is a collection of proverbs also places it in a different literary and intellectual tradition. As numerous scholars have argued, Avot represents a continuation of wisdom literature of the ancient Near East in general and biblical wisdom in particular.¹¹⁶ James Kugel has gone so far as to describe the tractate as 'a self-conscious throwback, an attempt to resurrect the old wisdom anthology genre one last time.'¹¹⁷ Amram Tropper and Maren Niehoff have further identified important connections between the sapiential discourse of Avot and contemporary Hellenistic and Roman philosophical discourse.¹¹⁸

The wisdom-like characteristics of Avot identify the rabbis as successors of Ecclesiastes and the proverbialists of the book of Proverbs. Though the original audience of Avot was likely unaware of the similarities between the content and rhetoric of Avot and the teachings of pagan and Christian philosophers of their day, they would likely have been aware that the wisdom present in Avot was in some ways not dissimilar to wisdom proffered by non-rabbinic and even gentile sages. The image of the sage that emerges from Avot is a far cry from the scholastic halakhists who appear in the rest of the Mishna. A reader of Avot who lacks any knowledge of Tannaic literature could be excused for coming to the conclusion that the 'Tora' that Avot describes as being handed down at Sinai and whose study is the central endeavor of the sages is in fact not much different from the sort of wisdom or even philosophy pursued by sages of other traditions.

But Avot cannot be read in such an independent fashion. There can be no doubt that the Tora referred to in Avot consists primarily of the study of halakha along with Scripture and other elements of rabbinic tradition. In identifying themselves as *hakhamim*, inheritors of the biblical wisdom (*hokhma*)

116 Tropper, *Wisdom, Politics*, 51–89, and literature cited there. See most recently, Rosen-Zvi, 'Wisdom Tradition'.

117 Kugel, 'Wisdom', 26–27.

118 Tropper, *Wisdom, Politics*, 136–88; Niehoff, 'Not Study'. See also Goldin, 'A Philosophical Session'. For more on the Greco-Roman context and its impact of rabbinic literature see chapter 6 in this volume.

tradition,¹¹⁹ the creators of *Avot* redefine that tradition. *Avot* is part of the wider rabbinic tendency to co-opt the wisdom tradition by identifying biblical *hokhma* with rabbinic Tora.¹²⁰ *Avot* establishes a hybrid discourse and a hybrid identity for the masters of this discourse. On the one hand, the ideal sage of *Avot* is primarily focused on the study and teaching of halakha. The repeated advice to judges in *Avot* suggests that such a sage also implements halakha as well. Yet *Avot* itself deals largely with matters that are beyond the law or even the interpretation of Scripture. A true sage therefore combines particularistic and legalistic endeavors with broader ethical concerns and advocates constant engagement in the process of fashioning the self into a moral agent and servant of God.¹²¹

In this sense we might see *Avot*'s vision of the ideal sage as an effort to construct a human exemplar of the collective ethos of the rest of the Mishna as expressed in both its halakhic and aggadic passages. Such an individual is primarily focused on the study and practice of halakha. But these endeavors both emerge from, and impact, the sage's commitments to other realms of human experience and activity.

Aggada in the Tosefta

The Tosefta is the Mishna's sister compendium. Like the Mishna, it is primarily a halakhic work, divided into the same orders and tractates.¹²² Compiled after the Mishna and structured around it, the Tosefta was traditionally understood as a sort of commentary on the Mishna, but contemporary scholars describe the Tosefta more broadly as 'an anthology of material relating to the Mishnah',¹²³ some of which predates the Mishna. In many cases the traditions preserved in the Tosefta represent the raw material that stood before the editors of the Mishna. The mishnaic editors selected from among these materials, often significantly reworking them in line with their halakhic, ideological, and literary agendas.¹²⁴

119 Rosen-Zvi, 'Wisdom Tradition', 190.

120 Kugel, 'Wisdom', 27–30.

121 Jonathan Schofer makes a similar argument with regard to *Avot*'s successor text, *Avot de-R. Natan*. Schofer, *Making of a Sage*.

122 With the exception of *Avot*, *Middot*, *Tamid*, and *Kinnim*. For an explanation for the absence of these tractates from the Tosefta, see Brody, *Mishnah and Tosefta Studies*, 19.

123 Friedman, 'Primacy', 101.

124 For a survey of the history of scholarship on the Tosefta from the Geonic period until today, see Mandel, 'Tosefta'; Zeidman, 'An Introduction'; Houtman, *Mishnah and Tosefta*, and the detailed discussion of this question in chapter 3 of this volume.

The Tosefta is thus a much more unwieldy and heterogenous work than the Mishna. It is about 50 percent longer than the Mishna and contains a significantly higher percentage of aggadic material.¹²⁵ It lacks the Mishna's terse, focused style. The Tosefta is more likely to present material that is only tangentially related to the issue at hand and has a greater tendency to engage in extended discussion and debate. Its more anthological and discursive style thus places it somewhere between the organized, laconic discourse of the Mishna and the more freewheeling, dialectical discourse of the Talmuds.¹²⁶

The differing nature and style of the Tosefta has direct ramifications for the role aggada plays within it. The higher percentage of aggada in the Tosefta reflects its more prominent role there. Though aggadic material often plays similar framing roles in the Tosefta as it does in the Mishna, ultimately, aggada has a far more autonomous status in the Tosefta. The Tosefta contains extensive aggadic expositions that are not dependent on the surrounding halakhic discussions. When aggada is juxtaposed to halakha in a single passage, it often holds the dominant position. We will first present the ways in which aggada acts as a framing device and structure in the Tosefta, and then we will explore the more dominant and autonomous status of aggada in the Tosefta.

Aggada as Frame in the Tosefta

Despite its significant aggadic content, the Tosefta remains an overwhelmingly halakhic work. To a large degree, aggadic material serves as a frame to the halakha in the Tosefta, just as it does in the Mishna. On the thematic level, toseftan aggada provides a theological, ethical, social, and historical context for the largely formalistic laws it accompanies. Furthermore, as Avraham Walfish

125 Data based on a comparison of the number of words in the Kaufmann codex, as found in the Accordance database (205,024), and the number of words in the Tosefta files of Mechon Mamre, www.mechon-mamre.org/b/h/h0.htm (300,228). The percentage of aggada was calculated based on approximation of the number of words in Michael Higger's 'Aggadot of the Mishnah' (22,000) and his *Aggadot ha-tannaim sefer bet* (46,500). This results in approximately 10 percent aggada for the Mishna and approximately 15 percent aggada for the Tosefta. However, Higger includes all of Tamid and Middot in his Mishna collection. If removed, the percentage of aggada in the Mishna goes down to about 4 percent, and if we remove Avot as well, it goes down to 3 percent. These numbers contradict Hauptman, who states that the Tosefta is 'three or four times as long as the Mishnah' (*Rereading*, 26), and Goldberg, who states that the proportion of aggadic material is the same in the Mishna and the Tosefta ('Tosefta', 285).

126 In a recent lecture, Avraham Walfish made a compelling case that Tosefta Berakhot displays a remarkably sophisticated structure of literary organization, on par with the sort of literary unity he has shown in numerous tractates of the Mishna. See Walfish, 'Editorial Differences' and the discussion of Walfish's view in chapter 3 of this volume.

has demonstrated, like the Mishna, the Tosefta makes use of aggadic passages as framing devices to mark the end of chapters and tractates and to facilitate transitions between one halakhic topic and another.¹²⁷ For example, Tosefta Berakhot ends as follows (6:24–25):

R. Meir used to say:
 There is not a single person in Israel
 who does not perform one hundred mitzvot every day.
 He reads the Shema
 and recites blessings before and after it.
 He eats his bread
 and recites blessings before and after it.
 And he prays three times the Eighteen (benedictions of the Amida)
 and performs all the other mitzvot and recites blessings on them.

R. Meir also used to say:
 There is not a single person in Israel
 whom mitzvot do not surround.
 Tefillin on his head,
 tefillin on his arm,
 a mezuzah on his doorway,
 and four *tsitsit* surrounding him.
 Regarding these David said,
 ‘I praise you seven times each day’ (Ps 119:164).
 He goes into the bathhouse,
 the mark of circumcision is on his flesh.
 As it says,
 ‘For the leader on the eighth (*sheminit*)’ (Ps 12:1).¹²⁸
 and it says,
 ‘The angel of the Lord camps around
 those who fear Him and rescues them’ (Ps 34:8).

The first section of this passage neatly summarizes the major subjects of the tractate: the Shema, blessings before and after foods, the Amida prayer, and

¹²⁷ Walfish, ‘Unity’.

¹²⁸ Lieberman, *Tosefta ki-fshutah*, 1:125, interprets the term ‘eighth’ as referring to the eighth *mitsva* following the list of seven that precedes it. However, the phrase also carries the additional valence of referring to the eighth day, on which circumcision is performed. See bMen 43b.

various miscellaneous blessings. It further emphasizes the importance of blessings in general, classifying them as mitsvot along with the actions they precede and follow.¹²⁹ The second section focuses on the mitsvot mentioned in the three biblical passages that make up the Shema. This returns us to the topic addressed in the first two chapters of the tractate. The passage then moves beyond the topic of the tractate to mention circumcision.

This aggadic coda frames the central topics of the tractate in several ways. It describes all of these quotidian acts as allowing even common Jews to gain merit and participate in the life of Tora, despite the fact that they are not scholars and may not be knowledgeable or scrupulous in all aspects of the law.¹³⁰ These acts, especially the three mitsvot mentioned in the second section, might further be understood to forge the individual's identity as a Jew, as most irreducibly accomplished by circumcision. The passage thus turns the reader's attention outward, away from the scholastic details of the law, toward the experience of common Jews in their daily activities, dress, and travels, from their home to the wider world of the bathhouse.¹³¹ The closing Psalms verse further moves the reader's attention upward as it suggests that surrounding oneself in mitsvot leads to God Himself surrounding and protecting the individual.

Independent Aggadic Units

The deployment of aggada in the Tosefta as a framing device on both the literary and thematic levels, such as in the example above, led Abraham Goldberg to declare that in the Tosefta, 'aggadah is largely used in the same way as in the Mishna'.¹³² This overstates the case. In many instances, aggada functions very differently in the Tosefta. Toseftan aggadic passages most clearly diverge from their mishnaic counterparts in their sheer length. The Tosefta contains numerous extended passages that are entirely, or almost entirely, made up of aggadic material.¹³³ These units stand on their own, independent of their halakhic context. In at least some cases, they likely originally circulated as autonomous units, unmoored from halakhic discourse. The largest collection of such units is found in Tosefta Sota. Chapters 4 and 5 are a single unit devoted to ways in which divine justice is executed measure for measure.¹³⁴ Chapter 5 (11–12) contains a discourse on marriage, which is followed by an extensive exegetical

129 Walfish, 'Unity', 328–30.

130 On the Mishna's and Tosefta's fundamentally positive attitude toward the masses, see Brody, "Rabbinic" and "Nonrabbinic".

131 On the social place of the bathhouse in rabbinic culture, see Eliav, 'Bathhouses', 609–10.

132 Goldberg, 'Tosefta', 285.

133 Mandel, 'Tosefta', 111, n9.

134 See Rosen-Zvi, 'Measure for Measure'; idem, 'Sin of Concealment'.

passage that makes up the entirety of chapter 6. The middle of the next chapter (7:9–12) contains the well-known account of the students' visit to R. Yoshua and their recounting of R. Eleazar ben Azaria's homily at Yavne. From there, the balance of chapter 8, followed by the final eight chapters of the tractate, are made up almost exclusively of aggadic material.

The aggadic sections of Tosefta Sota are largely positioned as expansions of the unusually large amount of aggadic and semi-aggadic material found in Mishna Sota.¹³⁵ As such, the massive amount of aggadic material in Tosefta Sota might be seen as something of an anomaly. However, in other cases, expansive aggadic material is juxtaposed with brief halakhic statements from the Mishna. Chapter 2 of Tosefta Hagiga opens with the same brief halakhic statement about teaching various subjects in public that opens the parallel chapter in the Mishna:

The laws of explicit sexual relations
may not be expounded before three persons,
nor the story of creation before two,
nor (the chapter of) the chariot¹³⁶ before one alone,
unless he is a sage who understands of his own knowledge.

In the parallel mishna, this is immediately followed by the declaration prohibiting speculation regarding 'that which is above, that which is beneath, that which was before, and that which will be hereafter'. These two passages serve to circumscribe the realm of normative, exoteric Tora study and to marginalize and exclude various disciplines, especially those that are associated with apocalyptic and mystical speculation and experience. In the Tosefta's version, the parts of the passages are separated by a series of sources and traditions about rabbis who engaged in study and mystical experience related to the 'story of creation' and the 'story of the chariot' (2:1–6). This collection of materials emphasizes the potential dangers of such activities but also the success of R. Akiva and R. Elazar ben Arakh in these endeavors. It is one of the only sources in Tannaic literature that gives us some insight into the esoteric studies and practices of the early rabbis. It serves to draw the reader's attention to precisely that which the authors of the Mishna sought to remove from its readers' consideration. Furthermore, whereas the Mishna expresses its disapproval of engaging in certain activities, suggesting, in normative terms, that they are halakhically prohibited or somehow theologically or morally offensive

¹³⁵ See Rosen-Zvi, *Sotah Ritual*.

¹³⁶ Ezekiel chapter 1.

(‘it would have been better for him if he had not come into the world’), the Tosefta argues that such activities can directly cause physical, psychological, or spiritual damage to the individual, shifting the conversation out of the halakhic realm and into the realms of the physical and the metaphysical. An independent, non-halakhic agenda emerges, which is in no way subservient to the halakhic or even normative context in which it is found. It is quite possible that this material originally circulated on its own, without any halakhic or quasi-halakhic context. Its inclusion in the Tosefta demonstrates the willingness of the Tosefta’s editors to move the passage’s discussion beyond the more limited scope of the Mishna’s concerns.

Notably, this collection of sources from the Tosefta, or a very similar collection of traditions, served as the basis for the much more extensive discussions of rabbinic mystical endeavors found in both Talmuds’ treatment of the Mishna.¹³⁷ The Tosefta’s inclusion of aggadic passages such as this represents the first step toward the extensive aggadic sugyot of the Talmuds, which frequently leave the concerns of the Mishna far behind. In passages such as these, aggada asserts itself as a fully autonomous discourse in a manner not found in the Mishna.

Between Halakha and Aggada in the Tosefta

In some instances, aggada even achieves a dominant position over the halakha. When juxtaposing halakhic and aggadic material, the Tosefta often gives pride of place to the aggadic element. Previously, we saw the passage in mBer 1:5 that presents two opposing readings of the verse ‘so that you may remember the day of your departure from the land of Egypt all the days of your life’ (Deut 16:3). Ben Zoma understands this verse as halakha, indicating a requirement to mention the Exodus in the blessings that follow the evening Shema.¹³⁸ The sages, though, understand this verse as aggada, foretelling that even in the

137 yHag 2:1, 77a–d; bHag 11b–16a. On this passage in the Tosefta, see Goshen-Gottstein, ‘Four’. Goshen-Gottstein demonstrates the primacy and literary unity of this passage. Basing himself on older paradigms about the relationship between the Mishna and the Tosefta, he assumes that the Tosefta passage was constructed as a commentary on the Mishna. In light of current scholarship, it seems quite possible, if not likely, that the editors of the Mishna were familiar with this passage in some form. Goshen-Gottstein builds on the philological work of Urbach, ‘Traditions’. See also Scholem, *Jewish Gnosticism*, 14–19; Halperin, *Merkabah*.

138 Most traditional commentaries understand the Mishna as requiring the recitation of the final passage of the Shema (Num 15:37–41) at night. However, Lieberman, *Tosefta kifshutah*, 1:12, argues, following R. Elijah of Vilna and several other authorities, that the Mishna here refers to the post-Shema blessings. See Judith Hauptman’s explication of this position, Hauptman, *Rereading*, 130–31.

messianic age the children of Israel will continue to recall the Exodus. In the Mishna, it is Ben Zoma's halakhic reading which holds the center of gravity of the passage. The passage is cited in the context of the requirement to mention the Exodus at night in the Shema, which is explained by Ben Zoma's interpretation of the verse. The sages' alternative, aggadic reading of the verse has a de facto halakhic implication. Since they reject Ben Zoma's reading of the biblical text, the rabbis also reject the requirement to mention the Exodus at night. Although the Mishna appears to favor Ben Zoma's halakhic ruling, as it is endorsed by R. Eleazar ben Azaria, citing the rabbis' interpretation has the effect of creating an aggadic coda for the entire chapter, ending the halakhic discussion of the Shema on a note of messianic expectation.

In the parallel Tosefta passage (tBer 1:10), the relationship between the aggadic and the halakhic material is reversed. There we read:

We mention the Exodus at night.
 R. Eleazar ben Azaria said:
 'Behold, I am nearly seventy years old,
 and I never succeeded to hear (an argument),
 to recite the Exodus at night.
 Until Ben Zoma derived (this rule from a verse).
 As Scripture says,
 "so that you may remember the day of your departure
 from the land of Egypt all the days of your life'.
 'The days of your life' (implies) the days.
 'All the days of your life' includes the nights.
 But the sages say,
 'The days of your life' (implies) this world.
 'All the days of your life' (includes) the messianic age.
 Ben Zoma said to them:
 But does one mention the Exodus in the messianic age?
 Has it not already been stated,
 'Assuredly, a time is coming – declares the Lord –
 when no more shall it be said,
 "As the Lord lives, who brought
 the Israelites out of the land of Egypt"
 but rather,
 "As the Lord lives, who brought out and led
 the offspring of the House of Israel from the northland
 and from all the lands to which I have banished them" (Jer 23:7, 8)?
 They said to him:

It is not that the Exodus will be removed from its place
 but that the Exodus will be mentioned in addition to
 (the messianic redemption from) the kingdoms.
 (Delivery from) the kingdoms will be primary
 and the Exodus secondary.
 In a similar vein,
 'No more shall you be called Jacob,
 but rather Israel' (Gen 35:10).
 Not that the name Jacob will be removed from him,
 but Jacob will be in addition to Israel;
 Israel will be primary
 and Jacob will be secondary.

In this passage, the center of concern is an aggadic dispute regarding the memory of the Exodus in the messianic age. The debate moves on to a wider set of exegetical disagreements about messianic prophecies and then to a linguistic dispute that ultimately focuses on the question of how to understand biblical accounts of name changes (1:11–15). The original halakhic issue regarding the evening prayers has been completely left behind. Unlike in the Mishna, in the Tosefta, the reference to the recitation of the last paragraph of the Shema serves only as an entry point to an aggadic discussion.¹³⁹ Once again, aggada asserts itself in the Tosefta as an independent and even dominant discourse.

Narrative between the Mishna and the Tosefta

The differing balance between halakha and aggada in the Mishna and the Tosefta is also reflected in their divergent narrative styles. Stories in the Mishna are usually tersely worded and carefully crafted to emphasize their intended lesson. The parallel stories in the Tosefta tend to be more verbose and not as focused on a single intended message.¹⁴⁰ In many of these cases it appears that the Tosefta's narratives represent an earlier version of the story that was not necessarily constructed to teach a specific halakhic lesson. The Mishna reworked and condensed these stories to suit its needs and agendas. A comparative study

¹³⁹ See the similar readings presented by Mandel, 'Tosefta', 125–28, and Hauptman, *Rereading*, 125–42. Notably, both authors cut off the passage here without acknowledging that the passage continues until at least 1:13. Both also assume that the toseftan material here precedes that of the Mishna. Hauptman goes further and argues that the Mishna should be read in light of the Tosefta as having a broader, aggadic agenda as well. For additional examples involving aggadic passages in the Tosefta see Hauptman, *Rereading*, 109–56.

¹⁴⁰ On the question of the interpretation of narratives in the Tosefta, see Katzoff, 'Story'.

of such parallel narratives sheds light on the role of stories in both the Mishna and the Tosefta.

Shamma Friedman calls attention to the following narrative found in tShab 13:14 and its parallels in the Mishna:¹⁴¹

It happened that Rabban Gamliel and the elders
 were travelling in a ship, and the Sabbath arrived.
 They said to Rabban Gamliel, 'May we descend?'
 He said to them,
 'I was looking, and we were within the limits before it was dark,
 but the ship was cast about many times'.
 At the same time, a gentile made a gangway
 by which to descend (from the ship).
 They said to Rabban Gamliel, 'May we descend?'
 He said to them, 'Since he did not make it in front of us,
 we are permitted to descend by it',
 and the elders descended by it.

This is a dramatic story in which, through foresight, keen vision, and halakhic knowledge, Rabban Gamliel overcomes two potential obstacles and saves the rabbis from being trapped on a ship over the Sabbath. Beyond its halakhic content, it also serves to bolster the image of Rabban Gamliel as the great leader of the sages in the generation following the destruction of Jerusalem.

The story follows a ruling that if a ship comes into port on Friday evening, one may only disembark if it had already entered into the two-thousand-cubit perimeter surrounding the port city, which is considered a part of the city. Only the first scene, in which Rabban Gamliel informs his colleagues that the ship had indeed arrived within the territorial waters of the port in time, is relevant to this halakhic context. The second ruling transmitted by the story, regarding disembarking from a ship on a ramp made by a gentile, relates to an entirely different aspect of the laws of the Sabbath.

The parallel passage in the Mishna (mEr 4:2) presents only the first element of the story:

Once they did not enter the harbor
 until nightfall (on Friday).
 They said to Rabban Gamliel,
 'May we disembark?'

¹⁴¹ Friedman, 'Primacy', 107–10.

He answered,
 'You are permitted; for I have already taken the bearings,
 and we were within the Sabbath limit before nightfall'.

The Mishna's version also dispenses with the exposition that establishes the specific characters and setting. Only after the ship arrives after dark are we introduced to an unidentified 'they', who ask Rabban Gamliel about the permissibility of disembarking. Rabban Gamliel's reply eliminates the detail about the ship being cast about, reducing the drama in the story. It adds the words 'you are permitted', making the ruling unambiguous. This story is thus tailored to deliver its single halakhic lesson in a clear and concise manner.

The second part of the Tosefta's story appears as an independent narrative in the appropriate passage in mShab 16:8 which discusses benefiting from the work of a gentile on the Sabbath:

Rabban Gamliel and the elders
 were once traveling on a ship,
 and a gentile made a gangway by which to come down,
 and Rabban Gamliel and the elders came down by it.

Here, too, the Mishna pares down the narrative to the minimum, removing all dialogue. It even leaves out the critical detail that the ramp was not made for the benefit of the rabbis, requiring that the reader infer this from the ruling in the previous line.¹⁴²

This example illustrates the differing approaches of the Mishna and the Tosefta to storytelling. In the Mishna, stories tend to be carefully integrated into their halakhic contexts and formulated to eliminate material extraneous to the halakhic ruling that the story seeks to illustrate. The Tosefta's stories are more likely to include elements that enrich the story from a narrative perspective and engage themes beyond the narrow concerns of the immediate halakhic context. The Tosefta's narrative style has advantages of its own in transmitting halakha. By including two different halakhot in a single story, the Tosefta facilitates their transmission. Moreover, the dramatic nature of the story engages the reader's interest, making the halakhot more memorable.¹⁴³

The Tosefta also tends to present more complex, morally ambiguous stories, whereas the Mishna's versions of the same stories often adopt a more straightforward approach to the same issues. tSuk 3:16 presents an example of

¹⁴² See Simon-Shoshan, *Stories*, 70–72.

¹⁴³ *Ibid.* 99–111.

a morally ambiguous narrative that the Mishna simplifies to fit its ideological, as well as its halakhic, agenda:

It once happened that a certain Boethusian
poured the water libation over his feet
and all the people pelted him with their etrogs
and the horn of the altar became damaged
and the Temple service was halted
until they brought a chunk of salt and put it there
so that the altar would not appear damaged.
For an altar which lacks
a horn or a base is invalid.

This story tells of a sectarian priest who rejected the ritual of the water libations, which, according to the Tannaim, was required by the Pharisees. The priest desecrated the rite by pouring the water at his feet.¹⁴⁴ At first, it seems that the people's violent response represents a triumph of Pharisees against their sectarian opponents. The people's righteous indignation and their loyalty to Pharisaic practice can only be a good thing. But then we learn that in their rage, their thrown etrogs not only humiliated the Boethusian priest, but damaged the horns of the altar itself, leading to the temporary suspension of the Temple service. The damage is quickly repaired, but the scars remain visible to all: crude pieces of salt replace the regular polished stone of the altar. This story expresses ambivalence regarding violence in the Temple, even when used to oppose heretical individuals and practices. Even if justified, the people's assault on the priest came at a high price. Indeed, they too violated the sanctity of the Temple, perhaps more so than the priest.

The Mishna's version is quite different (mSuk 4:9):

To (the priest) who performed the libation, they used to say,
'Raise your hand',
for on a certain occasion, (a certain priest)
poured out the water over his feet,
and all the people pelted him with their etrogs.

Here the story is carefully integrated into its halakhic context regarding the procedure of the Temple service of the water libation. The story is brought as an etiological narrative that explains the origins of the practice of explicitly

¹⁴⁴ On the background and nature of this dispute, see Rubenstein, 'Sadducees'.

instructing the priest to raise his hands before pouring the water on the altar. The exposition is eliminated. The Mishna goes so far as to remove the identification of the priest as a sectarian, pushing the ideological dispute into the background. Most significantly, the Mishna does not report the damage done to the altar by the crowd's etrogs. The Mishna's version lacks the social and moral complexity of the Tosefta's account, presenting instead a simple tale of individual sin and punishment. The Mishna never acknowledges that among the Jews of the time, even within the Temple itself, there were competing ideological factions. The priest appears to act on his own for no clear reason and receives his just desserts from the pious crowd. There is no suggestion that there is any downside to this eruption of violence on the altar of God.¹⁴⁵

The Tosefta's Framing Narrative

The Tosefta also introduces a historical framing narrative that is quite different from the primary historical narrative underlying the Mishna. The Mishna's framing narrative, fully told at the beginning of Avot and alluded to on several occasions elsewhere in the Mishna, tells of the transmission of the Tora through an uninterrupted chain from Sinai to the rabbis. It presents the work of the post-destruction rabbis as the continuation of an uninterrupted chain of tradition going back to Sinai. This account makes no reference to the destruction of the Temple and presents the tradition as essentially monolithic. It is almost an antinarrative, suggesting that the story of the Tora lacks any real drama generated by crisis, dispute, or even dynamic change to the challenges of history.

The Tosefta presents a very different framing narrative to explain the origins of the Mishna, at the beginning of Eduyot (1:1):

When the sages entered the academy in Yavne, they said,
 "There shall come a time when a person will inquire
 regarding a matter of scriptural law and not find it
 and (inquire) regarding a rabbinic law and not find it,
 as it is stated:
 "A time is coming – declares my Lord God –
 when I will send a famine upon the land:
 not a hunger for bread or a thirst for water,
 but for hearing the words of the Lord.
 Men shall wander from sea to sea
 and from north to east
 to seek the word of the Lord,

¹⁴⁵ See Simon-Shoshan, *Stories*, 211–14.

but they shall not find it" (Amos 8:11–12).
 "The Word of the Lord", refers to prophecy.
 "The Word of the Lord", refers to the eschaton.
 "The Word of the Lord",
 this refers to one who seeks a matter of Tora
 that is similar to its fellow'.
 They said, 'Let us begin (by clarifying)
 what is (the position) of the House of Shammai
 and what is (the position) of the House of Hillel.
 The House of Shammai says ...
 The House of Hillel says ...'¹⁴⁶

The narrative tells of the rabbis' first gathering at the vineyard of Yavne. According to rabbinic tradition, it was there that the rabbis reestablished their center of learning and legal authority following the destruction of Jerusalem. As Yair Furstenberg has recently argued, the problem facing the rabbis in this story is that of the emergence of differing opinions regarding the halakha in any given case. The concern is that it will be impossible to transmit the law in a coherent fashion, as students will not be able to distinguish the teachings of one rabbi from another. The solution is the creation of a new literary form that preserves all the opinions regarding a given matter. This form is the hallmark not only of *Eduyot*, but of the entire Mishna and the *Tosefta*. They differ from earlier biblical and Jewish legal texts in the manner in which they systematically catalogue opposing rulings rather than unequivocally proclaiming the law.¹⁴⁷

The *Eduyot* narrative is set in the wake of the destruction, amid a crisis of prophetic proportions threatening the survival of Tora. The rabbis resolve the crisis through an innovative style of teaching and study. There the halakhic tradition becomes pluralistic in the sense that the transmission of multiple opinions becomes a central component of its study. The result is a new birth of Tora and its transmission at Yavne. The *Tosefta's Eduyot* narrative looks back to Yavne, not Sinai, as a point of origin for halakhot that it introduces. The rabbis are not passive transmitters but a dynamic and creative force that must struggle to preserve the Tora in the face of changing and, at times, hostile historical circumstances.

The *Tosefta's* framing narrative thus presents a perspective on the nature of the law and the role of the rabbis that is quite different from the framing

¹⁴⁶ Translation according to MS Vienna.

¹⁴⁷ Furstenberg, 'From Tradition to Controversy', 598.

narrative of Avot.¹⁴⁸ These differences are consistent with the contrasting narrative styles of the Mishna and the Tosefta discussed in the previous section. Nevertheless, the Tosefta's account of Yavne as a new beginning for halakha in the face of the destruction is not entirely foreign to the Mishna. As we have seen, underlying the Mishna's etiological stories is a similar basic story. These stories as well tell of rabbinic transformations of the law in response to crises, especially the destruction of the Temple and Jerusalem.¹⁴⁹

Conclusion: Aggada in the Mishna and Tosefta

The dialogical differentiation and integration of halakha and aggada is both conceptually thematized and concretely realized in Tannaic literature. While mishnaic halakha generally appears as a self-contained formal system that functions outside of any broader context, the aggadic material in the Mishna constructs a series of conceptual frames that situate the halakha within a wider world. The theological, ethical, historical, and sociopolitical structures provided by the aggada infuse the halakha with its status as a binding system. Although they function just beyond the boundaries of formal halakha, at times they penetrate the boundaries, creating sites of direct interaction between the halakha and the world beyond it. These broader categories create space for one's subjective relationship with oneself, with others, and with God, providing a counterbalance to the halakha's general tendency toward objectification and standardization. Together, the aggadic and halakhic material form a *nomos* – a complete legal, normative, and metaphysical universe in which the committed rabbinic Jew is meant to reside.

Avot is the thickest plank in Mishna's effort to create a frame that defines and supports the law. Its focus on the centrality of Tora study and rabbinic authority, and its expansive presentation of its master narrative, constitute a sustained argument for the importance of the Mishna, those who produced it and those who continue to study it. At the same time, Avot's status as a work of wisdom directs the reader outward, beyond the narrow confines of the halakha, toward a wider vision of the nature and goals of Tora and its study.

The role of aggada in the Tosefta lies somewhere between the secondary, framing role that it plays in the Mishna and the more equal status it enjoys in the rest of classical rabbinic literature. While the Tosefta's aggada frequently functions to establish the literary and ideological boundaries and context of the halakha, these aggadic materials not infrequently take on a life of their own, in a manner rarely seen in the Mishna.

148 See Schremer, 'Avot Reconsidered'; Steinmetz, 'Distancing'.

149 Simon-Shoshan, *Stories*, 194–204.

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