Halah

Halah (MT *Ḥălaḥ*) is mentioned in 2 Kgs 17 : 6; 18 : 11, and 1 Chr 5 : 26 as one of the areas of deportation after the Assyrian conquest of Samaria. The toponym can be identified with the area *Ḫalaḫḫu* located north east of the Assyrian heartland. Legal documents and letters refer to the presence of West Semites in that area during the Sargonid era. The document ADD 755 refers to three possible descendants from the exiles: *Aḫi-ia-qa-mu*, *Ba-ra-[ki]*, and *Ḫa-an-ni*. The area contained newly reclaimed agricultural plots belonging to the crown and the temple. The Israelite deportees were probably brought to this area to work in the chain of food supply.

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Bob Becking

Halak, Mount

Mount Halak (MT *hāhār heḥālāq*, "smooth mountain") is a mountain range located north of Seir in the central Negev west of the Arabah (Josh 11 : 17; 12 : 7) indicating the southern limit of the land conquered by Joshua. Maybe Halak, an opposite term to Seir ("hairy," i.e., with foliage), is not a proper toponym but just an adjective with article. The parallel to the brother-nations Israel-Edom is obvious: Jacob is qualified "smooth-skinned" and Esau "hairy" (Gen 27 : 11) so that Mount Halak is an appropriate term for the southern border, accurately described elsewhere (Num 34 : 3–5; Josh 15 : 1–4) without referring to Mount Halak. This mountain range is located between Kadesh-Barnea and the Dead Sea. It is sometimes identified with Jebel Ḥalāq (1330.0360). Eusebius refers to textual variants and wrongly locates Mount Halak near Paneas (*Onom.* 20.8).

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Erasmus Gaß

Halakah

→ Halakhah

Halakhah

I. Judaism

A. Second Temple and Hellenistic Judaism

1. Introduction. Throughout the long history of Judaism, one of the main expectations of the Jew has been the fulfillment of the Torah's prescrip-

tions, but these have been differently understood according to the specific interpretations of each subgroup of Jews and their particular place in history. Rabbinic texts have termed the system of Jewish law and its practice *halakhah*. The term is derived either from the root *h–l–k*, "to go," referring to the Jewish way of life, or from the Akkadian *ilku*, a property tax, termed *halakh* in biblical Aramaic, designating an obligation or set of obligations. For the rabbis, halakhah denotes the life of Torah, encompassing all areas of human life, including civil, criminal, political, religious, moral, ritual, and familial issues. Its opposite is termed *aggadah*, referring to nonlegal aspects of the Jewish tradition. While technically, the term halakhah is a rabbinic term and might be taken to encompass only the system of Jewish law enshrined in talmudic literature, it has become customary to make use of this term to describe even pre-rabbinic and non-rabbinic systems of Jewish law.

From the point of view of the reception history of the Bible, the discussion of halakhah is essential, since it represents the manner in which Jews throughout the ages have put into practice biblical law through interpretation. Historically, the Bible was encountered by Jews not only in its public reading and study, but also in its role as the core of Jewish law that molded and characterized Jewish life. In the Second Temple period, Jewish law was coalescing into an early stage in the history of halakhah.

2. Pre-Maccabean Halakhah. A number of Second Temple works composed before the Maccabean revolt (168–164 BCE) contain extensive halakhic material. These texts have been preserved in the Qumran corpus, and some were known even before the discovery of the DSS.

The *Aramaic Levi Document* and the *New Jerusalem* text both preserve sacrificial laws and regulations. The details of the laws in the *Aramaic Levi Document* are as close to rabbinic laws as they are to sectarian ones. Thus, this text helps to situate the debates over issues of sacrificial halakhah much earlier in the Second Temple period than previously realized, even before the sectarian schism or the Maccabean revolt.

The *New Jerusalem* text indicates the well-developed nature of Jewish sacrificial law by the date of its authorship, probably the first half of the 2nd century or as early as the late 3rd century BCE.

Second-century pre-sectarian Hebrew texts, such as *Jubilees*, reflect the Sadducean/Zadokite approach. *Jubilees* follows the solar calendar in which Shavuʿot always falls on Sunday, which is also known from *1 Enoch*, the *Temple Scroll*, and Qumran calendar texts. *Jubilees*, like the *Temple Scroll*, mentions extra new year and tithing festivals not found in the Torah nor maintained by the Pharisaic-rabbinic tradition. The Hellenistic ambience led to a

strong polemic against intermarriage. Revelation in *Jubilees* occurs through an angelic intermediary but as a one-time experience, producing a rewritten book of Genesis that circulated at Qumran and in wider sectarian circles.

The final group of pre-Maccabean materials includes the sources of *Miqtsat Maʿaśei ha-Torah* (MMT) and the *Temple Scroll* that are in agreement regarding a number of laws. Roughly contemporaneous with *Jubilees*, the *Temple Scroll* follows the expanded solar calendar, maintains Sadducean stringency regarding ritual purity, and, based on the book of Ezekiel, proposes an expanded temple plan with an added, gargantuan third courtyard in order to raise the level of the purity regulations of the temple. The various sources of the scroll share the theological notion of a one-time revelation of a rewritten Torah, rejecting the Pharisaic "unwritten laws" and "traditions of the elders," forerunners of the rabbinic oral law concept. The *Temple Scroll* also displays an exegetical system of halakhic midrash that hews close to the literal meaning and is based on analogy to parallel passages or language (like rabbinic *heqqesh*) or harmonization of material on one subject which is scattered in the Torah. This Sadducean/Zadokite method of halakhic exegesis has been effectively recovered in the pre-Maccabean sources of the *Temple Scroll*. Disputes in apodictic formulation were also part of the pre-Maccabean heritage as can be seen in MMT. This text has made it possible to uncover a number of previously unknown Pharisee-Sadducee disputes.

3. Pharisees and Sadducees. With the onset of Hellenistic rule over Judea, it seems that the major issues that characterized the Pharisaic and Sadducean trends of Jewish law came to the fore. Pharisees derive their name from their separation (*perishut* from the root *p–r–sh*) from ritually impure and untithed food. Pharisaic sages were considered experts in the interpretation of the Bible, but they also accepted "unwritten laws" and "traditions of the fathers," non-biblical laws and customs said to have been passed down through the generations. These teachings supplemented the written Torah and were part of what the rabbis would later call the oral law. In general, Pharisees were considered scrupulous in observing the law. Scholars doubt the authenticity of the later rabbinic claim that the Pharisees were able to dominate the conduct of the temple and its sacrifices. However, some evidence from MMT indicates that during the reign of Jonathan the Hasmonean and shortly thereafter, they were, indeed, the dominant force.

The Sadducees rejected the non-biblical traditions that the Pharisees considered as binding laws. For this reason, later rabbinic sources picture them as rejecting the oral law. For example, the Sadducees required that false witnesses be executed only if the accused had been put to death because of their testimony (Deut 19:19–21). The Pharisees imposed this penalty only when the accused had not been executed, that is, where the witnesses had schemed against the accused but had been unsuccessful in their plot. The Sadducees were often stricter regarding purity laws, although they saw no reason to extend these laws into daily life, a practice that typified the Pharisees. Many differences of opinion between these groups were the result of differing approaches to biblical hermeneutics, a matter made clear by recent studies of Qumran halakhic materials. The Sadducees, like the Dead Sea sect, observed Shavuʿot always on Sunday, taking literally the words of the Torah (Lev 23:16).

The Dead Sea sectarians essentially followed the Sadducean priestly approach to Jewish law and therefore differed with the Pharisees whose practices were noted in the DSS, the NT, Josephus, and rabbinic sources. Those same accounts testify to the Sadducean priestly approach as being followed by the DSS sect and the Samaritans, and later embraced by the medieval Karaites.

It is most likely that the Sadducean priesthood followed many of the rulings proposed in MMT and in the sources of the *Temple Scroll*. This attitude to the law explains the abrupt change that apparently took place in 152 BCE with Jonathan the Hasmonean's ascension as high priest, since he made common cause with the Pharisees. Nevertheless, much of what some scholars see as later developments, in both "sectarian" and Pharisaic-rabbinic materials, are actually pre-Maccabean.

4. Dead Sea Sectarian Scrolls. The sectarians at Qumran saw the extra-biblical law as derived *in toto* from inspired biblical interpretation, thus denying such concepts as the "traditions of the elders" of the Pharisees or the later rabbinic oral law concept. The Qumran sectarian texts use an admixture of law and sectarian regulations, to mark off the sociological boundaries of their group, drawing lines between themselves and other groups of Torah-observant Jews.

The Qumran group observed strict ritual purity laws which demanded that entry into the sect be a process of ascending a ladder of increasing ritual purity. Progression through its ranks meant permission to come in contact first with solid foodstuffs, and only later with liquids, which were more susceptible to impurity. The law was divided into the *nigleh*, the "revealed" law, the Bible that contains laws available to all Jews, and the *nistar*, the "hidden" law, known only to the sectarians to whom it was revealed in divinely inspired study sessions. Those outside the sect, the Scrolls tell us, are to be punished in the end of days for their violation of the "hidden" sectarian law, even if its prescriptions are unknown to them. Indeed, the sectarians are commanded to keep this part of their teaching secret. Thus, halakhah, sectarianism, and eschatol-

ogy are intimately linked for the Qumran sectarians.

5. Common Halakhah. The vast majority of legal rulings were common to Second Temple period Jews. This common Judaism was practiced by the masses who had little to do with the various elites who joined the sectarian groups. Their detailed disputes tend to emphasize disagreements over commonalities.

By contrast, numerous common Jewish practices obtained in the Scrolls, Josephus, the NT, and Pharisaic-rabbinic sources. Laws observed by all sects concerned the Sabbath, the types of animals regarded as kosher and the way in which they were slaughtered and drained of blood, the use of ritual baths (*miqwaʾot*) for the maintenance of ritual purity, morals and ethics, fairness in business practices, and the like. For example, numerous *tefillin* (phylacteries) were found in the Qumran caves and were in use also by Pharisaic-rabbinic Jews. Qumran *tefillin* did not differ that much from other extant examples from ancient Judea.

6. Hellenistic Judaism. During the Second Temple period, Judaism was heavily influenced by Hellenism. While this led some Jews to attenuate their relationship with Jewish tradition and practice, others were greatly strengthened by a fructifying synthesis of the two traditions. Two specific figures of great importance represent Hellenistic Judaism at its peak and provide us with our only sources for Jewish law in the Hellenistic world: Philo Judaeus of Alexandria, Egypt was primarily influenced by Greek philosophy, and Josephus Flavius, originally from Judea but living in Rome, was influenced by Greek historiography. Each presented his account of the legislation of the Torah. Both of these scholars were highly influenced by the LXX translation, the earliest Hellenistic interpretation of the Torah. In both Philo and Josephus, there are parallels to Second Temple interpretations and to tannaitic tradition. Further, both tend towards allegorical interpretations, although rejecting the extreme allegorizing approaches of some Hellenistic Jews who did not see the need to actually perform the commandments of the Torah. These two authors present the earliest examples of the quest to provide reasons for biblical commandments (*taʿamei ha-mitswot*), an approach that appears to derive from Hellenistic Judaism.

Philo was influenced in his treatment of Jewish law both by the Palestinian Jewish community and the Greek-speaking population among whom he lived. While often agreeing with the Mishnah and Talmud, Philo often differs from them. Scholars have suggested that perhaps there existed independent Jewish courts in Alexandria the enactments of which Philo was recording or that Philo was totally unacquainted with Palestinian oral law or that he was influenced overwhelmingly by Greek

philosophers. On the whole, Philo follows the legal interpretations of the Pharisees except with regard to the imposition of capital punishment for which he follows the stricter Sadducean opinion. In many of his rulings, Philo argues against the allegorists who interpreted the Bible totally symbolically and the literalists who took every law in the Torah literally. He himself belonged to a group that remained observant of Torah laws but understood some laws allegorically.

Josephus would have us believe that all Jews were very well acquainted with Jewish learning, and that he himself was so knowledgeable that he felt qualified to write a book on Jewish law (*Life* 9; *Ant.* 20.268). While it is a mystery what sources Josephus used, he certainly had a Septuagint and perhaps had studied some Pharisaic-rabbinic teachings. Josephus relates that he spent time with the Essenes and with the hermit Bannus. He knew of Philo and apparently made use of some of his works. These influences, along with Roman law, might have some bearing on his interpretations of halakhah.

Although his interpretation of biblical law usually agrees with the rabbinic opinion, his differences with the rabbis might be seen as a challenge to the notion of a monolithic rabbinic authority. Often he recast a law so that it would compare favorably to a Roman version to avoid embarrassment or apologetically to defend Judaism.

7. Continuity and Discontinuity. To what extent was there continuity or discontinuity from pre-70 to post-70 CE halakhah? All the groups of Second Temple Jews for whom we have evidence already shared certain of the traits that were later dominant in post-70 rabbinic Judaism. These included the very centrality of Jewish law, the notion that Jewish law must develop beyond the Bible through some means based on biblical interpretation, the substitution of new rituals for the sacrifices that could not be offered in the temple, the development of a non-temple liturgy including daily prayer, and the extension of certain rituals, such as purity, from temple to aspects of daily life.

The discovery of the DSS has presented us with the opportunity to learn a great deal about the entire constellation of sects of the Second Temple period. Ideas and practices that we previously dated no earlier than the destruction of the temple can now be shown to have been in existence before 70. The early rabbis are increasingly seen as inheritors of the tradition, which they expanded, developed, and adapted to new circumstances, after the destruction of the temple and the cessation of sacrificial worship. The DSS disprove the assumption of a monolithic Judaism, even before 70 CE. Yet they also illuminate the background that helps us to understand how this period of great variegation gave way after the destruction to that of standardization

and consensus, and the emergence of rabbinic hala-
khah.

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Lawrence H. Schiffman

B. Rabbinic Judaism

The Pentateuch famously includes several codes of
law: the Covenant Code (Exod 21–23), the Holiness
Code (Lev 17–26), and the Deuteronomic Code. *Hal-
akhah* as a legal term does not appear in the HB,
although it may have a Near Eastern cognate in the
Akkadian *alaktu*, the "way" of the god. *Halakhah*
is ubiquitous in rabbinic literature of the 3rd–7th
centuries CE, although it does not there refer to the
rabbinic legal order *in toto*, as the term is often used
in the present (i.e., "the" halakhah).

In the opening pericope of Mishnah tractate
Avot (*mAv* 1 : 1, ca. 250 CE), the rabbis portray them-
selves as the latest links in an unbroken chain of
tradition stretching from Moses, who received the
Torah at Sinai, to Joshua and then on to the
"elders," the "prophets," and the mythical "Men of
the Great Assembly," the last seen by the rabbis as
proto-rabbinic forebears. Rabbinic literature points
to the destruction of the Second Temple (70 CE) as
the pivotal event that galvanized the rabbis' efforts
to systematize inherited traditions (e.g., *tEd* 1 : 1).
Jewish law accepted the historicity of the rabbinic
self-presentation exemplified by *mAv* 1 : 1 and de-
scribed continuous legal development from the
Pentateuch through the Prophets and Hagiographa
and from thence to the early rabbis (Albeck; Elon).
The rabbis do indeed appear to embrace the Second
Temple period Pharisees as their forebears, and Jo-
sephus' description of the Pharisees' transmission
of non-scriptural oral traditions is a suggestive
backdrop to the rabbis' evolving concept of two To-

rahs (one written and one oral) from Sinai. But the
rabbinic presentation of unbroken continuity can-
not be demonstrated historically and cannot be ac-
cepted at face value. Recent studies by Steven D.
Fraade and Aharon Shemesh comparing the Qum-
ranic and rabbinic legal endeavors and by Shaye
J. D. Cohen of pre- and non-rabbinic sources of law
in the Mishnah (ca. 200 CE) demonstrate suggestive
similarities and differences between the rabbinic
and pre-rabbinic Jewish legal cultures. These stud-
ies buttress the conclusion that while the rabbinic
enterprise may indeed have had antecedents, it was
also discontinuous with the past. The rabbis – for
centuries a marginal group of religious virtuosi –
innovated a new type of Judaism and constructed
themselves as the rightful heirs and sole legitimate
interpreters and transmitters of biblical law.

Rabbinic literature is the principal, if not the
only, medium through which we know about the
rabbis and about rabbinic law. The rabbis known as
"tannaim" (repeaters) were active from ca. 70 CE to
ca. 200 CE, the date of the redaction of the tannaitic
magnum opus, the Mishnah. In addition to the Mish-
nah, tannaitic literature includes tractate *Avot* – an
apologia for the Mishnah – the Tosefta (2nd–3rd
cent.), and the 3rd–century midrash collections
Mekhilta (on Exodus), *Sifra* (on Leviticus), and *Sifrei*
(on Numbers and Deuteronomy).

In these midrash-compilations, laws are both
exegetically derived from, and eisegetically read
back into, Scripture. Tannaitic literature includes
sets of scriptural hermeneutical principles attrib-
uted to R. Aqiva, R. Eliezer the son of R. Yose the
Galilean, and R. Ishmael, the last found in the *Sifra*.
Azzan Yadin has demonstrated that the Ishmaelian
hermeneutical principles (*middot*) are not principles
of logic (as some have thought), but rules of reading
that take open elements in the biblical text and
turn them into indicators of closure.

Unlike the midrash-compilations, the Mishnah
is a stand-alone work with a structure independent
of Scripture, although the Mishnah sees the Torah
as God's own words and Scripture is one of its prin-
cipal legal sources. The Mishnah is divided into six
"orders," each of which is subdivided into "trac-
tates." The orders deal with six broad areas of law:
Seeds (agricultural laws), Appointed Times (Sabbath
and festivals), Women, Damages (torts, contracts,
real estate, judicial procedure), Holy Things (largely
concerning the defunct temple cult), and Purities
(ritual purity and impurity). As noted, S. Cohen has
shown that elements of the Mishnah's law are trace-
able to pre- or non-rabbinic sources, including legal
traditions of antiquity, the "common Judaism"
practiced in Jewish society at the time of the Mish-
nah, re-presentations of priestly legal traditions of
the Jerusalem Temple, and the teachings of pietists
and sectarians. Notwithstanding the pre- or non-
rabbinic origins of particular legal institutions or

practices, Cohen sees the logic, interests, rhetoric, and argumentation of the Mishnah as distinctive contributions of the rabbis.

The tannaim were followed by the "amoraim" (sayers), who were active from ca. 220 CE through ca. 360/370 in Palestine, and through ca. 550 in Babylonia. The amoraim are the major protagonists in the two Talmuds: the Jerusalem Talmud ("Yerushalmi," ca. 400 CE) and the Babylonian Talmud ("Bavli," ca. 7th cent.). The Mishnah is the foundational text around which the two Talmuds are arranged in the form of commentary, although describing the Talmuds as "Mishnah commentary" is inaccurately reductive.

Key legal concepts and phenomena in classical rabbinic literature include:

1. The 613 *mitswot* (Commandments). A tradition found in the Bavli (*bMak* 23b) claims that 613 *mitswot* were revealed to Moses at Sinai: 365 negative *mitswot* and 248 positive. Nowhere in the Talmuds is any effort made to construct the list. Rabbis developed sub-classifications within these larger categories that are of legal interest, particularly in the Bavli. Two examples are the "positive time-bound commandments" (from many of which women are exempt), and the "negative commandment given as a warning of a judicially-administered death penalty," for the violation of which no whiplashes would be administered (see "Commandments, 613").

2. Written Torah (*torah she-bikhtav*) and Oral Torah (*torah she-ba'al peh*). As noted above, Josephus describes the Pharisees as transmitting non-scriptural, oral traditions. Josephus gives no indication that the Pharisees saw these oral traditions as equal in stature to the written Torah. The *Sifra* to Leviticus states without elaboration that Moses received two Torahs at Sinai, one in writing and one oral. The Yerushalmi (*yPea* 2:6; 17a) distinguishes between "things said in writing" and "things said by mouth" – which it privileges – but it does not distinguish a "written Torah" and an "oral Torah." Both Talmuds hyperbolically claim that Bible, Mishnah, *talmud* (the oral exposition of the Mishnah) and, in the Yerushalmi, *aggadah* (non-legal material) – were all given to Moses at Sinai (*yPea* 2:6, 17a; *bBer* 5a). The Bavli is intent – more so than the earlier rabbinic compilations – on establishing the antiquity and (at the very least) equal status of an "Oral Torah" with the "Written Torah," the former being the particular preserve and mission of the rabbis. The Bavli sees denial of the Oral Torah as a sign of heresy (*bQid* 66a) and insists on the indispensability of the rabbis as the transmitters of the Oral Torah (*bShab* 31a).

3. *Halakhah le-Mosheh mi-Sinai* (A Law Given to Moses at Sinai). This term is found throughout classical rabbinic literature, applied to discrete laws. Christine Hayes has unraveled the complex history of this term, which does cultural work that varies by period and place. The Bavli is both continuous and discontinuous with Palestinian sources in distinguishing between Scripture and *halakhah le-Mosheh mi-Sinai* as sources of law, while equating their legal authority.

4. *Halakhot*. Tannaitic and Palestinian amoraic compilations tend to refer to "halakhot" as a discrete category of oral traditions alongside "midrash," "mishnah," and "aggadot" (e.g., *tBer* 2:12). This conjunction is found in the Bavli as well (e.g., *bSuk* 28a). The Mishnah (*mHag* 1:8) notes that the oral *halakhot* pertaining to the Sabbath – *inter alia* – are quantitatively greater than the scriptural material. *Halakhot* appear to be straightforward, non-dialectical statements of law (*bBer* 31a). The Yerushalmi cautions that one should not analyze *halakhot* dialectically in order to derive new practical legal guidance from them (*yPea* 2:6, 17a). The study of *halakhot* is encouraged – indeed, the *halakhot* pertaining to various festivals must be studied in preparation for those festivals (e.g., *tMeg* 3:5) – but it is not seen as the highest form of study. The *Mekhilta* notes that if a person studies two *halakhot* in the morning and evening and does his work in between, it is as if he kept the entire Torah. This is a clear statement of a minimal level of achievement; a person is admonished not to be satisfied with the study of *halakhot*, but to study midrash and *haggadot* (= *aggadot*) as well (*SifDev* 41).

5. Determining the Law. The halakhah – that is, the correct legal ruling – is established according to majority view (*mEd* 1:5). An individual who speaks *ke-halakhah* (in accordance with the established halakhah) prevails over a majority that does not (*mPea* 4:1). There are places in the Bavli in which the rabbis would not publicly teach what they agreed was the halakhah because of the possibility that it would be misunderstood or lead to negative practical consequences (*halakhah we-'en morin ken* [this is the law, but we do not teach accordingly]). The Bavli also distinguishes between "law for practice" (*halakhah le-ma'aseh*), "law" (*halakhah*), "we incline" (*matin*; an individual may follow a legal rule that is not to be taught publicly), and "it appears" (*nir'in*; an individual should not follow such a rule even privately, but his action is post facto acceptable if he does so; *bBB* 130b; *bEr* 46b). Tannaitic literature (and sources attributed to tannaim in the Talmuds) mentions votes being taken to determine the law on various matters (e.g., *mShab* 1:4; *bAZ* 36a), but these votes may be literary devices more than historical events. Palestinian and Babylonian amoraim are not represented as taking such votes. Amoraic legal determinations are largely represented as based on exegesis, transmission of traditions, and adjudication.

6. *Gezerot* (Decrees), *taqqanot* (Enactments), and *minhag* (Custom). *Gezerot* are new laws promul-

gated to protect existing law. Aaron D. Panken has described them as "preventive prohibitions" designed to ensure that the fundamental Written Torah is not violated. *Taqqanot* are legal innovations; they may be intended to fix particular societal problems or otherwise correct an unsatisfactory state of affairs. The rabbis were also familiar with non-rabbinic customary law (*hilkhot medinah*; e.g., *mBM* 7 : 8), as well as different customary religious practices (*minhag*; e.g., *mPes* 4 : 1). Modern scholars, such as B. Cohen (1966) have detected the influence of Roman law on the development of the halakhah. Numerous recent studies by Yaakov Elman and others have demonstrated Babylonian rabbinic awareness of Persian law, and the Babylonian sage Samuel famously pronounced *dina de-malkhuta dina* (the law of the kingdom is the law) regarding taxation (e.g., *bNed* 28a). Babylonian rabbis also occasionally point to the people's lived practice as evidence of what the law should be (e.g., *bEr* 14b).

7. *De-oraita* (Torah Law) and *de-rabbanan* (Rabbinic Law). Another categorization of sage-made law is that of *divrei soferim* (the words of the scribes). The Yerushalmi contrasts *divrei soferim* with *divrei Torah* (the words of the Torah; *yBer* 1 : 4, 3b). In the Bavli, the sage Rava polemically cautions that *divrei soferim* are to be more carefully obeyed than *divrei Torah*, because the punishment for their violation is greater (*bEr* 21b). Rava's polemic points to a Babylonian rabbinic anxiety about rabbinic authority to make law. This anxiety is acutely portrayed in connection with the non-scriptural laws of ʿeruvin (combining domains to allow carrying of items outside the home on the Sabbath), ritual washing of the hands, and the establishment of the Purim holiday (*bEr* 21b; *yMeg* 1 : 5, 70d; *bMeg* 7a). Alone among the rabbinic compilations, the Bavli presents a distinction between legal realms it labels *de-oraita* (Toraitic law) and *de-rabbanan* (rabbinic law). In some Bavli contexts *de-rabbanan* appears to refer to an abstract category of law and not to specific, living rabbis (e.g., *bShab* 128b). Relatedly, Leib Moscovitz has traced the development of abstract legal conceptualization in rabbinic literature, noting that the most creative manifestations of conceptualization are found in the Bavli's redactional (*stam*) layer.

8. Nature of the Bavli. The Talmuds as redacted works – especially the Bavli – are not interested in legal determination per se. The Bavli is a scholastic work in which anonymous post-amoraic redactors collect, analyze, rework, and organize earlier tannaitic and amoraic legal and non-legal sources. The Bavli's overarching goal is not legal determination, but study. The Bavli as a redacted compilation lacks an awareness of itself as what it became later in the Middle Ages: the primary legal basis of Jewish life and practice.

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Alyssa Gray

C. Medieval Judaism

Halakhah in the medieval period was generally developed on the basis of reliance on the Babylonian Talmud (for halakhah in the Karaite tradition, see "Karaites, Karaism"). In his talmudic commentary to tractate *Bava Batra* (130b, s.v. ʿ*ad*), Rashi's grandson, Samuel ben Meʾir (Rashbam; d. ca. 1160), establishes that the amoraic statements and rulings formulated in the Talmud serve as the basis for all halakhic decision-making, as indicated by the Babylonian Talmud itself (*BM* 86a): "Rav Ashi and Ravina are the epitome of halakhic decision-making (*sof horaʾah*)"; as well as in a passage from the Jerusalem Talmud in the name of R. Zeʿira (*Pea* 2 : 4 [13a], end). Rashbam notes explicitly that rulings may not be derived solely on the basis of tannaitic literature (such as the Mishnah and the Tosefta), which certainly suggests that he holds this to be true for Scripture as well. In a word, all earlier bodies of authoritative biblical and rabbinic literature must be filtered through the prism of the Talmud for the purpose of Jewish legal applications. Indeed, Rashbam's younger brother, Jacob (Rabbenu Tam, 1100–1171), argues elsewhere that the term *Bavli* connotes that the Babylonian Talmud is sufficiently suffused (*balul*) with scriptural, mishnaic, and talmudic materials such that by studying this Talmud alone, one has fulfilled the personal obligation to study regularly each of these other bodies of Jewish literature (*tosQid* 30a, s.v. *lo*; *tosAZ* 19b, s.v. *yeshallesh*).

In contrast to these northern European authorities, contemporary medieval Sephardic commentaries to *Bava Batra* that were composed in both Muslim and Christian Spain – e.g., *Ḥiddushei ha-Ri Migash* by Joseph ha-Levi ibn Migash (1071–1141), and *Peratei ha-Ramah* by Meʾir ha-Levi Abulafia

(1165–1244) – offer a somewhat more restrictive approach than that of Rashbam even concerning the use of talmudic materials, while Maimonides (1138–1204), in the introduction to his *Mishneh Torah*, assigns a significant role in the halakhic process to the Jerusalem Talmud and the Tosefta (as well as to the tannaitic *midreshei halakhah* such as *Sifra* and *Sifrei*). Nonetheless, for these authorities as well, the Babylonian Talmud stood as the *sine qua non* on which halakhic conclusions and rulings had to be based. Jewish law could not be derived according to the interpretation of verses in the Torah, but had to take into account all the relevant talmudic materials. This attitude can be detected already during the period of the Geonim in the East (which largely came to an end ca. 1050), although their relative closeness to the Babylonian Talmud, in terms of chronology as well as language, meant that they occasionally recognized customs and practices that had been accepted against those of the Talmud.

While the Talmud was thus made authoritative for the legal content of halakhah, the relation of the halakhah to the text of the Bible was open to further discussion.

The late-13th century Spanish talmudist, Aaron b. Joseph ha-Levi of Barcelona (Raʾah, as cited in *Nimmuqei Yosef* to *Bava Qamma*, at the beginning of the eighth chapter) asserts that once a point of talmudic law had been clarified as fully developed and truthful, a scholar can independently put forward a scriptural derivation or interpretation in order to support that law. Gershom b. Judah of Mainz (Rabbenu Gershom, 960–1028) apparently went a step further, citing verses to establish priorities in religious observances that were not formulated within talmudic literature (Grossman: 154–57), although this kind of usage cannot be documented in the later period. While Rashbam, who also interpreted the Torah and other biblical books according to a straightforward *peshat* method, often presented interpretations of biblical verses in the course of his talmudic and halakhic discussions that were at odds with the results of his *peshat* interpretations, Maimonides sought to maintain a greater degree of consistency between the halakhic interpretations of verses and their simple exegetical meaning. In this respect, Maimonides' method brings to mind the approach of his older Sephardic contemporary Abraham Ibn Ezra (who was not a halakhist) in his biblical commentaries, on those occasions when Ibn Ezra was confronted with talmudic and rabbinic interpretations of Scripture that were at odds with his own sense of *peshat*.

Although halakhic derivations and conclusions based solely on biblical verses were not offered in the medieval period, halakhic writings and codes from this period, like the Talmud itself within both aggadic and non-aggadic contexts, include a wide array of scriptural references, analyses, and discus-sions. (In this regard, an extremely useful table of the biblical verses cited within Spanish and North African responsa, from the 11th through the 14th cent., is provided by Elon in the section of his volume entitled *mafteaḥ ha-meqorot*.)

There are important differences in method and literary form between the halakhic works of medieval northern European Jews and those from Sepharad.

Sephardic halakhic compositions tended to be more centralized and monolithic (e.g., Isaac Alfasi's *Halakhot* and Maimonides' *Mishneh Torah*, harking back to the geonic compilations *Halakhot pesuqot* and *Halakhot gedolot*), while Ashkenazic works were more discursive and reflected the *Sitz im Leben* of the academy or study hall. This is as true, for example, for Moses of Coucy's *Sefer Mitswot gadol* (*Semag*, ca. 1240) as it is for the contemporary *Sefer Or zaruaᶜ* by Isaac b. Moses of Vienna, despite Moses of Coucy's extensive reliance on Maimonides' laconic *Mishneh Torah*. Although the *Mishneh Torah* included all areas of Jewish law, even those that were not in vogue in his day, Sephardic rabbinic scholars, beginning with Rabbenu Ḥananʾel (b. Ḥushiel of Qayrawan; d. 1156), generally composed commentaries only to those three of the talmudic orders (*Moᶜed*, *Nashim*, *Neziqin*) that were focused largely on areas and subjects that had practical ramifications, while their Ashkenazic counterparts also interpreted the (sacrificial) order of *Qodashim* rather extensively (including its mishnaic components), and even produced commentaries on the orders *Zeraᶜim* and *Tohorot* (most notably those by Samson of Sens; d. 1214).

During the 12th century, when the tosafist method – which began with a close reading of the talmudic passage at hand followed by the harmonization of any divergent talmudic sources – appeared in both northern France and Germany (in the writings of such figures as Rabbenu Tam and his nephew, Isaac b. Samuel [Ri] of Dampierre [d. 1189], as well as Eliezer b. Nathan [Raban] of Mainz and his sons-in-law and grandson, Rabiah), there was already a clear stylistic difference in the works that were produced by these two centers. *Tosafot* texts composed primarily in northern France were essentially talmudic glosses and interpretations that reached halakhic conclusions on the basis of extensive literary and dialectical analyses, centered on the text of the Talmud itself as well as Rashi's commentary. At the same time, German tosafists favored self-standing books of talmudic interpretation and Jewish law, which often included consultations between the author and his colleagues in other venues and locales on points of Jewish law – perhaps a reflection of the fact that most German tosafists also served as the heads of established rabbinic courts. Much of the *Tosafot* texts that were composed in Germany during the 12th and 13th

centuries have been lost (along with several large halakhic works, such as *Sefer ha-Ḥokhmah* by Barukh b. Samuel of Mainz [d. 1221], and the contemporary *Seder ʿolam* by Simḥah b. Samuel of Speyer). At the same time, French *Tosafot* collections (which constitute the vast majority of the *Tosafot* that appear in all the standard printed editions of the Babylonian Talmud) continued to be produced through the 13th century, although northern French halakhic works, such as *Sefer Mitswot gadol*, begin to appear in that century as well.

To be sure, the formats of talmudic and rabbinic literature in the Ashkenazic and Sephardic orbits were transposed to a significant extent during the 13th century. Owing to a series of individual scholars (e.g., Abraham b. Nathan of Lunel, author of *Sefer ha-Manhig*, and two of Naḥmanides' teachers, Nathan b. Isaac of Trinquetaille and Judah b. Yaqar) who made their way northward from Provence and Spain to study in northern France (ca. 1200) with students of the leading tosafist, R. Isaac of Dampierre, tosafist methods and genres were brought to southern Europe, and especially to Spain, even as the northern centers became more aware of Spanish rabbinic materials and literary forms, and thus began to compose code-like works even in northern France, as noted. Naḥmanides' cousin, the moralist Jonah b. Abraham of Gerona (d. 1263), studied at the tosafist academy in Evreux, headed by the brothers Moses, Samuel, and Isaac of Evreux, while Moses of Coucy preached to communities in Spain. These kinds of interminglings may have been a (beneficial) result of the Maimonidean controversy as well.

As a result of the north-south movements, the voluminous talmudic novellae (*ḥiddushim*) of Naḥmanides (Ramban; 1194–1270) cite tosafist texts at every turn, and often extend their conceptual analysis. At the same time, however, Naḥmanides generally follows Sephardic halakhic decisions and customs. This pattern is also evident in the extensive talmudic commentaries (and hundreds of responsa) composed by Naḥmanides' and Rabbenu Yonah's student, Solomon ibn Adret of Barcelona (Rashba; d. ca. 1310), and in additional ways within the talmudic commentaries of Rashba's successor, Yom Tov b. Abraham Ishbili (Ritba). It is suggestive, however, that although Naḥmanides' Torah commentary is suffused with mystical interpretations, his talmudic *ḥiddushim* (as well as those of Rashba and Ritba, who were also well acquainted with kabbalistic teachings) barely refer to any aspect of this discipline.

While Spanish talmudists and halakhists made extensive use throughout the 13th century of tosafist materials, the reverse was not the case until relatively late in the century. Meʾir of Rothenburg (Maharam; d. 1293) encouraged his students in the citation (and interpretation) of Alfasi's halakhic code as well as the *Mishneh Torah* in an unprecedented manner. The work of several of his students, including Asher b. Jehiel (Rosh), Mordecai b. Hillel (author of *Sefer Mordekhai*) and Meʾir ha-Kohen (author of *Haggahot Maimuniyot*, lit. "Maimonidean Glosses") reflect this initiative. Although the reason for this change may well be multifaceted, the declining fortunes of Ashkenazic Jewry during the second half of the 13th century undoubtedly played a significant role. Indeed, when Rosh fled Germany in 1304–5 (at a point when his teacher Maharam's body was still being held by German authorities following his imprisonment in 1286, until its ransom in 1307) eventually arriving in Toledo, the educational and halakhic programs that he implemented sought to foster this kind of integration.

Rosh brought with him an authoritative version of the *Tosafot* of Samson of Sens, to which he added small amounts of material from several distinguished predecessors including Maimonides, Rabad of Posquières (ca. 1125–1198), and Maharam and his teachers – the collection as a whole became known as *Tosafot ha-Rosh* – principally in order to expose his students in Toledo to tosafist methods. In Spain, Rosh then composed (or perhaps completed) *Pisqei ha-Rosh*, which presents the halakhic teachings of leading authorities from both Ashkenaz and Sepharad. This work is organized according to the *Halakhot* of Alfasi, and even comments on that work. Rosh also issued many responsa in Spain that clearly relate to Spanish usages and practices, even as he often cites the rulings and reasoning of his German teachers as well. These responsa were collected by his son Jacob (d. 1349), who also composed his own extensive and integrative halakhic code, the *Arbaʿah turim*, which established for the first time the four areas of Jewish law identified under the rubrics of *Oraḥ ḥayyim* (ritual law throughout the year; cf. Ps 16:11), *Yoreh deʿah* (other, more complex areas of ritual law such as the laws of *sheḥitah*, the laws of taking interest, the laws of *niddah*, and so on; cf. Isa 28:9), *Even ha-ʿezer* (the laws of marriage and divorce; cf. Gen 2:18), and *Ḥoshen mishpat* (monetary and civil law; cf. Exod 28:15).

The period of Rosh (and his son Jacob; 14th cent.) sees some interesting developments among rabbinic scholars who hailed from southern France. Jeroham b. Meshullam, who studied with Rosh in Toledo, composed a complex halakhic work in several parts, which vied with the *Arbaʿah turim* for a place of prominence. Despite its failure in that quest, it remains, like the *Arbaʿah turim*, an excellent resource for European halakhic material from many different regions and areas.

This work, as well as that of R. Menaḥem ha-Meʾiri of Perpignan (ca. 1250–1316), which will be discussed shortly, raises the larger question of the role and place of talmudists and halakhists from

Provence and Languedoc. As a center of medieval halakhic study, Provence is often under-appreciated.

Several 12th-century figures, most notably Zerahiah ha-Levi of Gerona (d. 1186), who spent more than three decades studying and writing in Lunel, and his interlocutor Abraham b. David of Posquières, as well as Isaac b. Abba Mari of Marseille (author of *Sefer ha-ʿIttur*), impacted 13th-century talmudic and halakhic literature in Spain, and established Provence as a formidable center of rabbinic culture.

However, even in the case of these figures, much of the citation of their works remains within the borders of southern France, and there is virtually no impact on northern Europe, at least not until the end of the 13th century and once again in the circle of Meʾir of Rothenburg. The impressive array of Provençal talmudic and halakhic works composed in the 13th century – but published only in the 20th century – reflect, at least in part, this rather insular interest in and consumption of these works. In addition, there has been ongoing discussion as to the nature of Provençal rabbinic scholarship, beginning with Zerahiah ha-Levi, Rabad, and Isaac of Marseille (and even their teachers), and especially about the role of Ashkenazic and Sephardic halakhic authorities and traditions in their works; aspects of this problem were alluded to above, in the discussion about Naḥmanides and his teachers: to what extent does Provence reflect northern or southern traditions, and indeed, is there an independent Provençal halakhic tradition at all?

Menaḥem ha-Meʾiri of Perpignan, the most prominent Provençal rabbinic figure of the 13th-century (even as his works were also published only in the modern period, including many volumes that did not appear before the 20th cent.), dedicates a treatise entitled *Magen avot* to a strident defense of more than twenty Provençal ritual and liturgical customs. At the same time, his best-known work (at least in the modern period), *Bet ha-Beḥirah*, is an extensive and beautifully written talmudic commentary that brings together the approaches of leading talmudists throughout medieval Europe (even as he identifies them only by sobriquet rather than by their actual names). As such, *Bet ha-Beḥirah* is a pan-European project, although it relies heavily on prior Provençal scholarship as well.

In his strong philosophical orientation, which emerges from time to time in his *Bet ha-Beḥirah*, Menaḥem ha-Meʾiri was a devoted Maimonidean. Some have suggested that this orientation can serve to explain his unique stance regarding the nature of Christianity and its adherents – that those who practice this religion are considered to be in the category of *ummot ha-gedurot be-darkhei ha-datot*, people or nations that are defined or informed by the (salutary) rites of organized religion, and are therefore not to be considered as idolaters according to that category of talmudic law. Although scholars have vigorously debated the extent to which Menaḥem meant to go in this regard, and what his precise motivations were, it is fairly clear that he was following the lead of the tosafists in their attempts to identify Christians, in halakhic terms, in ways that would permit a range of ongoing Jewish interactions with them in economic and other spheres, which were not so obviously justified according to talmudic law.

As suggested already in the pioneering work of Jacob Katz, the wide array of tosafist attempts to justify or rectify aspects of economic and social realia within the Ashkenazic communities, even where these conventions appear at first blush to contradict talmudic law, were an extension of tosafist talmudic dialectic to a contemporary and purely practical dimension. Ashkenazic Jewry and its rabbinic authorities assumed that it was fundamentally possible to square talmudic law with Ashkenazic practices, since these were originally based on earlier rabbinic traditions and values and had been established in accordance with them. Indeed, it may be suggested that even the attempts by several tosafists to justify the killing of others (and oneself) as an ongoing dimension of Ashkenazic martyrdom during the medieval period, reflects this interest in rectifying halakhah and realia despite the fact that in this instance, the practices in question appear to be more stringent than what was prescribed or allowed by talmudic law. This approach of resolving halakhah and contemporary reality, which was extensively developed by the tosafists and adopted by Menaḥem ha-Meʾiri as well, was not typically undertaken by medieval Spanish authorities, including those such as Ramban and Rashba who were heavily influenced by tosafist talmudic methods and teachings. It is likely, however, that this difference reflects differing societal attitudes and religious values among the Jewish communities of northern and southern Europe, rather than the scholarly or personal concerns of the Spanish rabbinic figures *per se*. Overall, the study and development of halakhah during the medieval period was extremely vibrant and diverse, even as the biblical roots of this study and corpus were not always fully evident in or central to that endeavor.

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Ephraim Kanarfogel

D. Early Modern Judaism

Following the expulsion of the Jews from most of Western Europe, and particularly after their expulsion from Spain in 1492, the center of halakhic writing and halakhic observance moved towards the east. The Spanish or Sephardic tradition of halakhah was continued mainly in the lands of the Ottoman Empire, while the German or Ashkenazic tradition was increasingly centered in Poland. Other local traditions of halakhah, such as the Provençal tradition, became less significant or disappeared altogether.

The reception the *Shulḥan ʿarukh (ShA)* of Joseph Karo, published in 1565 in Venice and then in Cracow in 1570, crystallized this division of the Jewish community into Sephardic and Ashkenazic halves (a structure that is maintained today, for example, in the Israeli chief rabbinate). As written by Karo, the code reflected mainly the Sephardic tradition, but the notes of Rabbi Moses Isserles, included in the Cracow edition and subsequent Ashkenazic editions, brought the text into line with Ashkenazic traditions.

The areas of Jewish law that remained most active were (a) the laws of prayers and Jewish festivals, (b) dietary laws, and (c) laws of marriage, divorce, and sexual relations. Jewish civil and commercial law declined during this period, as Jews relied increasingly on non-Jewish court systems to resolve their disputes, and halakhists did not succeed in keeping pace with changing commercial practices. Rules of interpersonal ethics and spirituality were also frequently treated, for example in R. Eleazar Azikri's *Sefer Ḥaredim* (Venice 1601), and many other works. But this topic, called *musar* ("instruction" or "reproof") was often treated separately from halakhah, and sometimes thought of as supererogatory.

Both halakhah and especially *musar* were greatly influenced by kabbalistic perspectives. The Torah was perceived as comprising an esoteric half (Heb. *nistar*), that is, kabbalah, and an exoteric half (Heb. *nigleh*), mainly halakhah. Beginning in 1665-66 Shabbetai Tsevi and his followers used kabbalah to justify the violation of halakhic norms, so-called "redemption through sin." At the same time, within certain skeptical circles, the differences between rabbinic law and biblical law were increasingly recognized as problematic. *Qol sakhal* (lit. "voice of a fool") attributed to Leon Modena, is one expression of such concerns.

Although halakhah was invariably perceived as biblical in origin, the biblical text was rarely consulted in this period for its halakhic implications, although often for its ethical implications. The latter was a typical topic of Sabbath homilies, as well as published books in various Jewish languages.

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Joseph Davis

E. Modern Judaism

The crisis of modernity in the Jewish world since the end of the 18th century has had a major impact on the development of halakhah. Halakhists who write responsa have been forced to deal with many new questions, related to, inter alia: (1) matters of technological change, including the use of new technologies in the performance of Jewish rituals; (2) new sorts of jobs and activities among Jews, including the broadened realms of interaction with non-Jews; and (3) new currents of thought among modern Jews. Above all, the demands for religious reform have necessitated halakhic responses, either to permit or prohibit; and the process of secularization, which in fact caused the great majority of Jews to abandon halakhic observance, also demanded halakhic responses. Moreover, since the late 19th century, the Zionist enterprise and the settlement of Jews in the land of Israel have raised new halakhic questions, particularly in connection with the agricultural laws of the Bible.

The great majority of halakhic thought in the modern period has been produced by Orthodox Judaism. In general terms, Orthodox approaches to halakhah in the 20th century can be divided into two broad streams: the so-called Ḥaredi or ultra-Orthodox, and the Modern Orthodox and Religious Zionist. The roots of both of these movements can be traced back to the 19th century.

1. The 19th Century. The father of ultra-Orthodoxy – or indeed of Orthodoxy itself as a distinct movement – was R. Moses Sofer, called Ḥatam Sofer (1762–1839). He was born in Frankfurt a. M., but spent most of his career in Bratislava (Pressburg), then in Hungary. His famous slogan, "The new is

forbidden by the Torah" (Chajes: sec. 6; cf. *mOr* 3:9, where it refers specifically to the prohibition against eating from the "new" crop of grain; cf. Lev 23:14) was directed mainly against Reform Judaism, but actually included prohibitions on anything that suggested modernity. He was in favor of adding new stringencies (Heb. *ḥumrot*) to the existing prohibitions and requirements of the halakhah, in order to rule out any compromise with religious reform. He was particularly opposed to any changes in synagogue practices. His approach became very influential in Hungary and Galicia.

Orthodoxy in Germany, on the other hand, took a different turn, represented particularly by R. Samson Raphael Hirsch (1808–1888). His slogan was "*Torah ʿim derekh erets*" (*mAv* 2:2), a rabbinic dictum which was interpreted to mean "Halakhah and general culture." This approach, which is sometimes called neo-Orthodox, demands that halakhic norms be observed without reforms or compromises, but as long as there is no violation of an explicit prohibition in halakhah, it permits Jews to participate in modern non-Jewish culture and society, which it embraces whole-heartedly.

In Tsarist Russia and Poland, where the majority of Jews lived in the 19th century, the rabbinate tended towards the more conservative position, not as radical as that of R. Sofer, but closer to it than to R. Hirsch's. All in all, their approach was less policy-based and therefore more pragmatic.

The challenges of modernity reached the Near East as well, mostly due to British and French influences. Usually, Sephardi (oriental) rabbis tended towards the more lenient view (Heb. *qulot*) in their responses to the new trends. However, the character of modernity in their regions was far milder and less ideological than in Europe.

An outstanding example of these different approaches is the issue of relations with Jews who do not observe halakhah, and particularly those who do not observe the laws of the Sabbath. R. Sofer took the position that although the Jewish community today is not permitted to punish such sinners, the secular authorities should be encouraged to do so. Observant Jews, on their part, should not eat in the houses of such Jews, should not marry into such families, and in general they should treat them as heretics under an unofficial ban (*ḥerem*), not as Christians but also not as Jews. By contrast, R. Jacob Ettlinger (1798–1872), one of the major Orthodox rabbis in Germany, argued that the Jews of his time, since they have been brought up outside of Orthodoxy, cannot in a sense be blamed for their non-observance of halakhah, and cannot be considered "heretics"; he counseled a more conciliatory approach. On this question, in fact, Hirsch's view was close to that of Sofer, favoring the creation of Orthodox communities that would be completely separate from the organized communities led by Reform Jews.

A second key area was the treatment of new technology. Here an example is the use of machine-made matzoh. The first matzoh-baking machine was invented in France in 1838. Twenty years later (1857), the technology had spread to Galicia, where it led to a controversy within the Orthodox rabbinate. Rabbis such as Solomon Kluger (1783–1869) prohibited the use of the new machine-made matsot on Passover, a position that later became typical of Hasidic Jews. Rabbis such as Joseph Saul Nathansohn (1808–1875), as well as, interestingly, Abraham Samuel Sofer (1815–1871), the son of Moses Sofer, permitted their use. So did Ettlinger, who wrote: "We … reject novelty in matters of Torah and *mitswot*, but as to the discoveries of artisans and scientists – why should we not accept what is good in them, to improve our understanding and to help us observe the Divine commandments?" (cited in Nathansohn).

In the second half of the 19th century, new genres of halakhah appeared. Rabbi Israel Meir Ha-Kohen (Kagan), known as the Ḥafets Ḥayyim (ca. 1838–1933), wrote special books addressed to "problematic" audiences: Jewish soldiers in the Tsarist army, immigrants, and women. In his book regarding the commandments "between man and man," *Ahavat ḥesed* (1888), he dedicated two chapters to the issue of delayed wages (based on Lev 19:13; Deut 24:14–15), in which he often prefers the rights of the workers over those of the employers, in a line similar to that of emerging modern labor law. He is best known, however, for his earliest book, *Ḥafets ḥayyim* (1873), on the prohibitions of libel and gossip (based on Lev 19:16), where he virtually converted an ethical commandment into a halakhic one.

2. Changes in Patterns of Study. All of these issues are in the realm of practical halakhah. But there is an equally important realm of Torah study, in which the questions do not always have immediate practical applications. And indeed, we can see in the 19th century an increasing interest among major rabbinic authorities in the laws of the temple, *Seder Qodashim* of the Talmud. This interest was nourished by many converging factors, but among them was its distance from the "disruptions" of pragmatic concerns. Linked to this increased interest in the laws of the temple was the study of Maimonides' *Mishneh Torah*, on which several important new commentaries were written in this period.

The study of Jewish law in talmudic academies also developed in this period in the direction of increased use of analytical methods, emerging from the so-called "Brisker method," developed by R. Ḥayyim Soloveitchik of Brisk (Brest-Litovsk; 1853–1918) and his son, R. Isaac Zeev Soloveitchik (1886–1956), as well as others. This school developed a number of theoretical concepts to analyze halakhic disputes, such as the difference between the obliga-

tion *in rem* and obligation *in personam* – Aramaic *ḥeftsa* and *gavra*, respectively – but on a wholly theoretical basis, and without touching on questions of actual practice.

The modern academic developments in the study of the halakhic sources – the use of textual criticism and the "Jewish Law" movement's attempts to restate the halakhah in modern legal concepts – hardly ever had any bearing on the traditional learning, or on the leading halakhic authorities.

3. The Early 20th Century. In the beginning of the 20th century, two famous halakhic works were completed by two eastern European rabbis: *Mishnah berurah*, by Israel Meir Kagan, the author of *Ḥafets ḥayyim*, and *ʿArukh ha-shulḥan*, by Yehiel Mechel Epstein (1829–1908). The former was written as a commentary on the first section of the *Shulḥan ʿarukh*, and summarized the opinions of previous authorities, often without deciding clearly between them, while the latter was written as a comprehensive work on all the topics of the positive halakhah. While the *Mishnah berurah* was addressed to laymen, *ʿArukh ha-shulḥan* was addressed primarily to scholars and rabbis. In the course of time it was the *Mishnah berurah* that won the "competition" and became the leading halakhic authority for Ashkenazi Jews (i.e., Jews of central and eastern European origin).

In the Sephardi realm, Rabbi Jacob Ḥayyim Sofer (ca. 1870–1939) also wrote a summarizing commentary on the first section of the *Shulḥan ʿarukh*, called *Kaf ha-ḥayyim*, but, unlike the *Mishnah berurah*, it gave much weight to kabbalistic sources. It did not become the foremost authority of Sephardi halakhah, but became more influential toward the end of the 20th century.

By the early 20th century, questions involving Zionism and the land of Israel began to be discussed. Most Orthodox rabbis of the period were non-Zionist or anti-Zionist, whereas only a minority were pro-Zionist, which naturally affected their views on these questions. Among the most famous questions was that concerning the sabbatical year (*shemitah*) (Exod 23:10–11; Lev 25:1–7). Observance of the sabbatical laws would have made Jewish farming in Palestine economically hazardous or even impossible, and several rabbis, the best known of whom is R. Abraham Isaac Kook (1865–1935), offered the solution of a fictive sale of the land to non-Jews, in order to make the sabbatical laws inoperative (*heter mekhirah*). Many observant Jewish farmers accepted this decision gratefully, but many rabbis denounced it; most prominent among them was Abraham Isaiah Karelitz, known as the Ḥazon Ish (1878–1953). The polemics were revived every seven years, and they continue to the present day.

In 1921, at the beginning of the British Mandate in Palestine, there was an effort to create a central halakhic authority. Two chief rabbis were elected, one Ashkenazi and one Sephardi. That system has been maintained with some adjustments in the State of Israel, but the halakhic authority of the chief rabbis has never been widely accepted outside of the Religious Zionist camp.

4. The Later 20th Century. After the Holocaust, the two main centers of Jewish population were the United States and Israel. In the early days of the Jewish state, a number of rabbis, including the Ashkenazi chief rabbi Isaac Halevi Herzog (1888–1959), made efforts to adapt rabbinic criminal and civil law, with an eye to having them become parts of modern Israeli law. But the newly born Jewish state rejected the idea, and the project was never brought to fruition.

By contrast, efforts to adapt halakhah to facilitate Orthodox participation in the Israeli army were much more successful. R. Shlomo Goren (1917–1991), the first chief rabbi of the Israeli Army, argued e.g., that there is a special halakhic rule derived from Deut 20:20, that permits Israeli soldiers to take part in any "operational" military activities on the Sabbath. Goren based his interpretations of "the laws of war" and military service not only on traditional talmudic and medieval sources, but sometimes on the biblical text itself, or even Josephus. His opinions included questions of the ethics of war and even strategy: for example, he opposed the 1982 siege of Beirut on the basis of an interpretation of Num 31:7 (cf. *SifBem* 157).

A halakhic question of much symbolic significance to both the Religious Zionist and the Ḥaredi camps was the observance of Israeli Independence Day. The former treat it as a religious holiday and recite Hallel (Pss 113–18) at the morning service. The latter treat it as a weekday, and some even as a day of mourning. A similar debate concerns the status of Israeli law. Does it, like the statutes of non-Jewish law, have binding force halakhically (following the established interpretation of the talmudic principle *dina de-malkhuta dina* [the law of the kingdom is law]; *bBQ* 113a–b and elsewhere). By and large, Ḥaredi halakhists were only willing to accord Israeli law the status of "custom"; that is, they base its normative force not on Israeli sovereignty, but only on the habitual and hence normative behavior of Orthodox Israeli Jews, an interpretive move that leaves room for doubt concerning the halakhic normativity of certain widely evaded Israeli laws, such as taxes.

Most of the major Israeli halakhists, moreover, have in fact been from the Ḥaredi camp, albeit what might be called the moderate Ḥaredim. One might mention Shlomo Zalman Auerbach (1910–1995) and Eliezer Waldenberg (1915–2006), both Ashkenazi rabbis who specialized in issues of halakhah and modern technology and medicine. Among Sephardim, an outstanding figure was Ovadiah Yosef (1920–2013) who argued that the halakhic opinions

of Joseph Karo (1488–1575), author of the *Shulḥan ʿarukh*, should be used to create a unified Sephardic rite, and to bridge some of the differences in tradition among communities of Sephardi Jews, such as Moroccans and Iraqis.

Rabbi Auerbach had a famous dispute with the Ḥazon Ish (R. Karelitz) regarding the use of electricity on the Sabbath. The Ḥazon Ish issued a sweeping prohibition against it, while Rabbi Auerbach, then a young talmudic scholar, questioned this ruling, and allowed that use under specific conditions. Today, the Ḥazon Ish's position is generally accepted among Orthodox Jews, but rabbis do lean on Auerbach's permission in cases of "pressing circumstances" (*sheʿat ha-deḥaq*).

In the United States, Rabbi Moshe Feinstein (1895–1986), who fled the Soviet Union in 1936, became the dominant halakhic authority. Feinstein tended to make lenient rulings in various issues. He, too, developed the field of medical ethics, and was among the first rabbis to permit artificial insemination. In other fields, he permitted milk manufactured in non-Jewish industrial factories, allowed a synagogue partition between the men's and women's sections (Heb. *meḥitsah*) that was no higher than sixty inches, and acknowledged the halakhic legitimacy of trade unions. Feinstein's approach was much more rigid when it came to questions relating to the non-Orthodox movements, Reform and Conservative Judaism. He did not recognize their marriages, their divorces or their conversions to Judaism, and rejected rituals that were influenced by their approach.

In Israel, the non-Orthodox movements are far weaker, and the main concern of the rabbis is with secular Jews. In the last generation, since the assassination of Yitzhak Rabin in 1995, a group of more liberal Orthodox rabbis in Israel, the Rabbanei Tsohar organization, have tried to reach out to non-Orthodox Israeli Jews, to encourage them to perform *mitswot*, including, for instance, Jewish life cycle rituals, in ways that allow a greater range of possibilities, as long as they do not contradict the halakhah. They have also tried to moderate the tone of discussions of the question of homosexuality, but they continue to consider it to be an explicit prohibition of biblical law (Lev 18 : 22).

Both in Israel and in the United States, Orthodox feminism has flourished in the last generation. Orthodox feminists have undertaken reforms in Jewish ritual practice and have even called for changes in Jewish marriage law, but their Orthodox identity is often disputed by more conservative Orthodox leaders. By contrast, the Ḥaredi world of the late 20th century has opposed feminism and taken a stringent approach to the laws of "modest dress" (Heb. *tseniʿut*) for women.

In Israel, the separation of religion and state is not complete, and religious issues often become po-litical issues and vice versa. For example, the question of Israeli withdrawal from the West Bank and Gaza has been debated as a halakhic question. In the Ḥaredi world, the doctrine of "*Daʿat Torah*" (opinion of the Torah), developed earlier in the century, implies that the authority of major rabbis extends to matters beyond halakhah, and that they need not bring halakhic arguments to ground their opinions. Among their followers, this gives their opinions on political issues almost equal authority to that of their halakhic opinions.

All of the examples that we have discussed show the dynamism of halakhic thought in the modern period, and should be sufficient to put to rest charges of stagnation or petrification. Orthodox interpretations of halakhah have often, or even typically, conflicted with the preferences of non-Orthodox Jews. But they have pioneered new areas of halakhah, such as medical ethics (cf. Abraham; Jakobovits; Rosner), and they have revived areas of biblical law, such as the agricultural laws, that had been neglected for centuries.

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Benjamin Brown (abridged by Joseph Davis)

II. Literature

In its broadest understanding, halakhah is both a system of law and a mode of interpretation (Steinsaltz: 41) so that the law of the HB and Talmud is never separated from its historical interpretation. Consequently, halakhah's emergence within literature suggests the necessity of interpretation as an important imaginative act. History becomes intuitable because we not only recognize the presence of the law's *mitswot* or obligations, but we also imagine new ways and new places in which such obligations can be fulfilled. The core of that interpretation revolves around the notion of obligation: halakhah's presence in literature implicitly asks us to whom and for what we are obligated.

Halakhic obligation makes its first appearances in the HB when Moses relates to the children of Israel what God has told him in the form of the Ten Commandments (Exod 20 : 1–14). The Israelites stand at the foot of Mount Sinai; they watch it become engulfed with smoke. As the sound of the horn (*shofar*) grows louder and louder, Moses repeats God's commandments (literally "my commandments," (*mitswotay*; Exod 20 : 6). These commandments are both negative and positive: you must do this, but you must not do that. The dual nature of these commandments sets up a dialectic of sorts in which the Jews performing their *mitswot* produce a balance in the world, a synthesis of negative and positive commandments. In this way the performed *mitswah* articulates these aspects of the law. Later, in Leviticus, God tells Moses to instruct the children of Israel on what they need to do should they "sin through error" (*be-shogeg*) by doing "any of the things which the LORD has commanded not to be done" (Lev 4 : 2). The passage implies that sin includes the intentional and the accidental violation of the *mitswot*, the Lord's commandments. Sin encompasses any action that disrupts the mandated performance of divine commandments. The simplicity of the biblical argument opens up the need for Jewish writers in the Talmud to explain that the fulfillment of divine commandment requires more than simple negation: do not do this act because it is a violation of the law. Thus the Talmud begins with a basic need to define what is required of Jews should their circumstances change. The question is how does obligation become intuitable for Jews whose lived experience differs greatly from biblical examples?

This shift in lived experience creates the need to tell stories that do two things: demonstrate the halakhic principle and its execution in conditions with which the readers of the Talmud could identify. We call these stories *aggadot* and in addition to illustrating religious instruction in new circumstances, they elicit readers' identification. Since antiquity, then, halakhah has been linked by Jewish writers to the literary story. Literature has become a necessary vehicle for revelation.

For the 19th-century German Jewish poet Heinrich Heine the modern Jew's halakhic orientation is signified by his "cosmopolitanism"; it enables the Jew to cross boundaries, to empathize with others, to see identity in an imaginative way instead of through the parochialism of religious ritual. Thus the Jew is obligated to liberate the mind from narrow-mindedness. In the 20th century, Franz Kafka echoes this sentiment and endorses the abandonment of empty ritual, signified as a bureaucratic enforcement of the law (Sokel). Polish novelist Bruno Schulz articulates an even more radical aesthetic vision; in *Street of Crocodiles* (*Sklepy cynamonowe*, 1934), transgression is the only way to renew creation, to rediscover the authentically "human." In Schulz's work, a halakhah of transgression is simultaneously a halakhah of redemption.

In this way, writers posit literature as a speculative place for retelling, revising, and reimagining what God commands humans to do. Literary critic Erich Auerbach, dismissed by the Nazis from his post at Marburg, flees to Istanbul in 1936, carrying only what he can save of the Western tradition, its texts. He understands that he is obligated to save the unique confrontation between literature as a complete revelation and literature as the production of the unknown, archived within the tradition's narratives. In *Mimesis*, the text he writes during his exile in Turkey, Auerbach juxtaposes Abraham with Odysseus to demonstrate the necessity of both modes of reflection in conjunction with each other. Odysseus has returned in disguise as a beggar, to Ithaca, his household, and his wife, Penelope. While the servant, Euryklea washes his feet, she handles his scar and realizes instantly that Odysseus is before her. The scar "fills both the stage and the reader's mind completely"; Auerbach calls it "the Homeric style" and that "it knows only a foreground, only a uniformly illuminated, uniformly objective present" (7).

Against this "present," Auerbach poses Abraham and the biblical narrative, known as the Aqedah (Gen 22) in which God commands Abraham to sacrifice his son, Isaac, as a "burnt offering" (22 : 2).

For Auerbach, the story illustrates the awareness of "foreground" and "background" (9). The Hebrew God resides in the background; he cannot be known or reducible to the known. The conversation between God and Abraham "does not serve, as does the speech in Homer, to manifest, to externalize thoughts – on the contrary, it serves to indicate thoughts which remain unexpressed. … Abraham receiving the command, says nothing and does what he has been told to do" (11). The whole narrative implies that Abraham fulfills God's commandments while he remains unaware of the reasons for those commandments. He fulfills his *mitswot*, but he does not feel the need to question why he must perform the obligation itself. Taken together, the two modes for representing subjective experience allude to, as Rene Wellek has put it, "man's attitude toward the world in general, man's conscious and un-conscious epistemology" (93). As a result, Auerbach suggests that the fusion of halakhah with literature enhances literature's insights because it forces the faculties to negotiate between what is known and what is unknown. Even more importantly, the fusion insists that literature strives to represent the unrepresentable, the repressed, the suppressed.

This speculation of literature's representation or at least its negotiation of the known and the unknown transforms the writer from isolated artist to messianic figure, one who guides readers to redemption. As American novelist Chaim Potok notes, "once you open up … the imagination, you can … handle good and evil, the demonic …. What it offers you is a realm of metaphors that the halakhah simply doesn't contain" (Potok: 77). In other words, Potok observes that historically, halakhah has always struggled with its own dialectic of negative and positive. In modernity, it has been finally supplanted by the realization that literature produces conditions that "liberate" the imagination from halakhic prescriptions. Potok remarks that the imagination transforms writing itself so that the writer restores a missing action to human experience: he "can handle good and evil." This phrase brings us back to halakhah since it was the Edenic prohibition against handling "good and evil" that constitutes the first humanly-perceived articulation of halakhah even though it is Eve's "flawed articulation" (Gen 3 : 17). Consequently, the writer produces a text where characters and readers parse out a new context for observance; in a Faustian bargain, the author's necessary transgression liberates the imagination, i.e., it is contingent on "breaking halakhah."

We see projects rethinking halakhah and its relationship to the imagination in many literatures. Part of the motivation driving this revision responds to Jewish loss in the 20th century, specifically the Shoah. Literature is perceived by some as a prosthetic for restoring the missing Jews of Europe. For example, French-Polish writer Myriam Annissimov declares herself to be one who has "the duty to speak Yiddish, my mother tongue, in a tongue at once familiar and 'foreign' – French" (34). She is "permanently linked to a language marked by destruction and death … a Yiddish writer in French" (35–38). Foregrounding obligation, Annissimov contends that she fulfills a personal "*mitzvah* to remember the dead" because she insists on writing a Yiddish-inflected French.

Many writers expand the scope of halakhah to comment on human loss generally. Israeli author Etgar Keret juxtaposes a bus driver's inflexible belief that he must follow his schedule meticulously in order to benefit the public good against the need of a hapless individual rider in search of "happiness." Keret's premise – the bus schedule as halakhah that must be violated for individual happiness – requires the bus driver to privilege one rider's benefit against the public's welfare. In contrast, Ricardo Feierstein's *Mestizo* (1988) frames the tension between individual choice and communal loss against the backdrop of Argentina's *Proceso* or "Dirty War" (1984). In *Mestizo*, David Schnaidermann, an unemployed social scientist, witnesses a murder while running to an interview. The shock of the murder causes him to fall and hit his head on the curb, losing his memory. Feierstein freights David's rediscovery of his identity with the murder victim's need for David to bear witness. For Feierstein, memory is a duty that extends beyond individual desire to encompass the collective memory of human loss (Millet 2012).

In *Apikoros Sleuth* (2004), the Canadian dramatist Robert Majzels identifies the *apikoros*, the Talmud's term for heretic, as an indigent man living in a tenement apartment building in Montreal. His "one room and a half" has no heat and so he wraps himself in the newspaper. As he lies on his cot, the paper's folds contour to his body like the Talmud's folio pages. This "new halakhah" tells the story of a murder that the *apikoros* teases out so that halakhic obligation becomes synonymous with discovering individual victims' voices.

Thus literature's intersection with halakhah implies that halakhah and its interpretation remain important and necessary to the imagination's development. It is a key opportunity for the imagination to expand on what we understand to be the realms of the human.

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Kitty Millet

Halakhic Letter From Qumran

→Miqsat Maʿase Ha-Torah (4QMMT/4Q394-99)

Ḥalāl, Ḥarām

What is permitted or lawful, *ḥalāl*, and what is forbidden or unlawful, *ḥarām*, are commonly described in the Qurʾān by the verbs *aḥalla*, "to make lawful," and *ḥarrama*, "to make unlawful."

The Qurʾān's *ḥarām* foods (S 2 : 173; 5 : 3; 6 : 145; 16 : 115) are also forbidden in the Bible: carrion, blood, pork, and meat not slaughtered by bloodletting in the name of God (Exod 34 : 15; Lev 7 : 24–27; 11 : 7; 17 : 10–16; Deut 12 : 16, 23–25; 14 : 8, 21; Acts 15 : 20, 29; 1 Cor 10 : 20–21), though the Qurʾān adds wine (S 2 : 219; 5 : 90). Other foods are *ḥalāl* (S 2 : 168; 5 : 1-5, 88; 16 : 114; 22 : 30). The food of the People of the Book is *ḥalāl*, as is marrying their women (5 : 5).

Israel allegedly invented prohibitions (S 3 : 93) and was punished for usury and other evils by further food restrictions (4 : 160-61; 6 : 146). Presumably, that is why Jesus, though confirming the Torah, made licit some of what had been forbidden (3 : 50, despite Matt 5 : 17-19), and the Qurʾān similarly imposed a lighter burden (7 : 157) – though Muslim scholars extended the *ḥarām* list.

Sacred months (S 2 : 194, 217; 9 : 5, 36) and sanctuaries (especially the mosque and Kaʿba at Mecca, 2 : 144, etc.) are *ḥarām*, entailing prohibitions against fighting and hunting (2 : 191; 5 : 95–96). Pilgrims to the Kaʿba enter a state of *iḥram* then return to a *ḥalāl* state (5 : 1–2). In later usage, women's quarters constitute a *ḥarīm* (harem) from which is barred any man beyond the prohibited degrees of marriage (a *maḥrām*, cf. 4 : 23; 33 : 50).

In Muslim ethical and legal thinking the Qurʾān's *ḥalāl-ḥarām* dichotomy was largely displaced by a range from *ḥarām* or *maḥẓūr* through reprehensible (*makrūh*), permissible (*mubāḥ*), recommended (*mandūb*), and obligatory (*wājib* or *farḍ*), though the binary expression provides the title of classic treatments on law and ethics by al-Ghazālī (d. 1111) and al-Qaraḍāwī (b. 1926).

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Christopher J. van der Krogt

Halam, Khirbet el-

→Arubboth

Halaqa

→Hair

Halévy, Fromental

Jacques-François-Fromental-Élie Halévy (1799–1862), usually referred to as Fromental Halévy, was a French composer from a Jewish family who mainly wrote operas in a grand French Romantic tradition. His greatest success was *La juive* (The Jewess; Paris 1835) to a libretto by Eugène Scribe. It is set in the late Middle Ages, thematizing the mutual hatred between Christians and Jews in a melodramatic plot of love and revenge. The opera begins with a setting of the *Te deum*. In Act 2, the first scene briefly stages the celebration of a Passover meal, with brief references in passing to Moses and the unleavened bread (cf. Exod 12 : 14–15). The opera ends with a terror-filled and revengeful execution scene, along the way also featuring vaguely biblical statements and prayers.

Another of Halévy's operas, *Le juif errant* (The Wandering Jew, Paris 1852), again to a libretto by Eugène Scribe, was based on Eugène Sue's novel *Le juif errant* (1844–45) about the legend of the wandering Jew who for unknown reasons became known under the biblical name of Ahasuerus. This name comes from the book of Esther, although the Esther narrative seems to be completely unrelated to the legend (see "Ahasuerus V. Music").

Bibliography: ▪ Halévy, J. F., *La juive* [The Jewess] (Opera in Five Acts; Libretto by E. Scribe; Metropolitan Opera House Libretto with a Correct English Translation; New York 1919). ▪ Macdonald, H., "Halévy, (Jacques-François-) Fromental (-Elie) [Fromentin (-Elias)]," *Grove Music Online* (www.oxfordmusiconline.com; accessed September 1, 2014).

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Halhul

Halhul (MT *Ḥalḥûl*; LXX[B] Ἀλουὰ, other manuscripts: Ἀλουλ) is the name of a town in the hill country of Judah, 7 km north of Hebron, men-