

THE TOSEFTA

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I THE NAME “TOSEFTA” AND THE ORIGIN
OF THE WORK

As with most names of individual works of rabbinic literature, so too the name “Tosefta,” literally “supplement,” did not originally denote one particular work, but rather a characteristic type of traditional teaching of the tannaitic period. Teachings of this period were transmitted orally in the form of short sayings, presented anonymously or attributed to a particular sage; these traditions were memorized through repetition (Hebrew *shanah*). The sayings dealt mainly, although not exclusively, with law (*halachah*), and provided the basis for what was later called the “Oral Torah” (*torah she-al peh*), or “orally transmitted instruction.” The individual sayings were thus called either *mishnah* or *halachah*. Some of these sayings were, in time, supplemented by clarifying remarks or additional legal material.¹ As the original sayings were transmitted together in various collections,² so too the supplemental sayings were collected and transmitted (most probably orally); an individual supplemental saying was called *tosefet* (Aramaic [det.] *tosefta*), a collection of these (in plural): *tosafot* (Aramaic [det.] *tosefata*). These two corpora, *halachot* and *tosafot*, along with the *aggadot* (transmitted non-legal traditions), comprised the basic

¹ The verb *hosif* (“he added”) is used in early rabbinic sources, especially in the names of Rabbi Akiva and his students, to denote additional categories or items supplemented to a previously transmitted list. See *M. Kil.* 1.3; *M. Ed.* 2.1; 8.1; *Tos. Gitt.* 2.12; *Tos. Sanh.* 5.5; *Tos. Men.* 10.23; *Tos. Kel. Baba Kama.* 7.4; *Sifra*, *Hova* perek 7.2; *PT Rosh H.* 1.1 (56d), *PT Av. Zar.* 3.11 (42c); *BT Shabb.* 75b; *BT Av. Zar.* 43a; and elsewhere. It may be assumed that later usage applied such “accretions” to any saying appended to earlier traditional statements. See *PT Shabb.* 8.1 (11a) (= *Pes.* 10.1 [37c]), where a sage (Rabbi Abbahu) is asked whether he had perhaps heard a “new law,” to which he pointedly replied: “(Not a new law but) an old supplement,” *tosefta atikta*.

² The separate collections, each one called collectively *mishnah*, were often transmitted in the name of the sage who taught them; thus, *mishnato shel Rabbi Hiyya*, *mishnato shel Rabbi Hoshaya*, *mishnato shel Bar Kappara* (*PT Hor.* 3.7 [48c]).

curriculum of study (the “Oral Torah”) for the Sages of the first two centuries of the Common Era (the Tannaim).³

It would seem that at first these terms were no more than a generic description of collections, recited and transmitted by different scholars. However, Babylonian Talmudic sources mention a fixed work known by the name *tosefta*, which is included in the basic curriculum expected of a scholar;⁴ a section of *tosefta* is even cited in the Babylonian Talmud.⁵ By the time of the Geonim, it is clear that there is a single work in existence that has received the name Tosefta (or Tosefata in plural form); this work is identical with that known today by the same name.⁶

This (“our”) Tosefta is indeed a collection of tannaitic traditions closely allied to the Mishnah of Rabbi Judah the Patriarch. Its structure is identical to that of the six orders of the Mishnah, with almost all mishnaic tractates having a corresponding tractate in the Tosefta, with the exception of *Avot*, *Tamid*, *Middot*, and *Kinnim*. Each tractate of the Tosefta is divided into chapters,⁷ which are subdivided into individual *halachot*. While the topical material in the Tosefta corresponds in general to that of the Mishnah, there are significant differences in the ordering of sub-collections, as well as in the contents and extent of the tannaitic passages of each tractate. The

³ Thus the phrase *halachot*, *aggadot*, and *tosafot* delineates the entire Oral Torah; the scholastic expansion upon these materials was called *talmud*. See PT *Peab* 2.6 (17a): “R. Zeira said in the name of Samuel: One cannot derive law (*ein lemedim*) from the *halachot*, nor from the *aggadot*, nor from the *tosafot*, but rather from the *talmud*.” In an earlier period (before the existence of canonized collections?) the terms used to delineate the Oral Torah were *midrash*, *halakhot* and *aggadot*; these were collectively called *mishnah* (see Tos. *Ber.* 2, 12; *Sifre Deut.* 48 [ed. Finkelstein, 113], 306 [339]; 344 [401]).

⁴ The other works included in this curriculum are *hilekbeta* (= *Mishnah*), *sifra* (= legal midrashic exegesis of Leviticus), and *sifrei* (= legal midrashic exegesis of Exodus [?], Numbers and Deuteronomy); see BT *Meg.* 28b, and cf. BT *Shevu.* 41b; BT *Kidd.* 49b.

⁵ BT *Yoma* 70a; the passage occurs (with minor variations) in our work Tos. *Yoma* 3.19. In post-talmudic Palestinian midrashic sources the entire rabbinic corpus includes *Mikra* (= Scripture), *Mishnah*, *Tosefet* (or *Tosafot*), *Aggadot*, and *Talmud*; see *Gen. R.* 16.4 (ed. Theodor, 147); *Lev. R.* 22.1 (ed. Margolies, 497); 30.2 (692). This is a continuation of the amoraic compendium (see n. 3 above), with the canonical Mishnah now taking the place of the earlier *halachot*.

⁶ The Tosefta as a work is mentioned in the epistle of Rav Sherira Gaon (tenth century), who answers a question put to him by Rabbi Jacob ben Nissim of Qairouan concerning, among other things, the nature, purpose, and time of its writing. However, as S. Lieberman has shown, the work figures prominently in the curriculum of the geonic *yeshiva* in the time of Rav Natronai Gaon (mid-ninth century), and is attested to having been mastered by Rav Yehudai Gaon (mid-eighth century – in the letter of Pirkoi ben Baboi); see S. Lieberman, *Tosefta Ki-Fshutab* (New York, 1955), 1, Introduction, 14.

⁷ The division into chapters is not original, and does not necessarily correspond to the division of topics, not to speak of a correspondence with chapters of the Mishnah to the same tractate; see J. N. Epstein, *Mevot leSifrut haTannaim* (Jerusalem, 1957), 262.

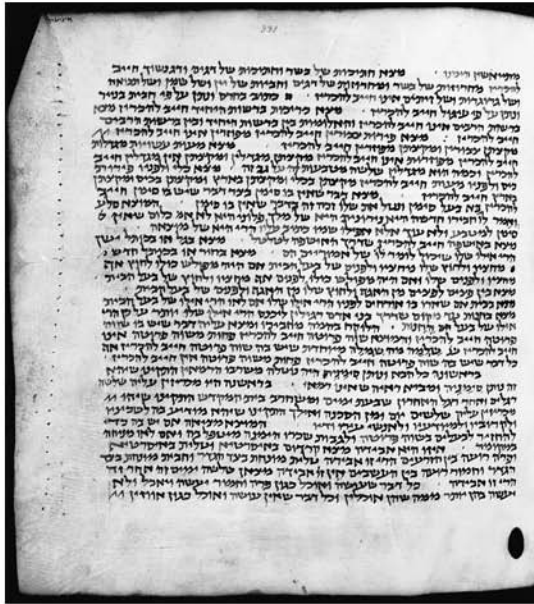


Figure 13.1 A page from the Tosefta: *Baba Metzia*, ch.2 (the Erfurt manuscript)

Tosefta is larger in scope than the Mishnah, being approximately three times as long, containing a considerable amount of *aggadah* as well as *halachah*.⁸ The language of the Tosefta is mishnaic Hebrew (see below), and the Rabbis mentioned in the mishnaic corpus are also found in the Tosefta, with notable additions.⁹

The work known to us as the Tosefta is thus a development of the early collections of *tosafot* known in tannaitic and amoraic times, and as such its

⁸ The Tosefta includes a significantly greater amount of *aggadah* than does the Mishnah, often assembled in lengthy collections. As an example, two entire chapters of Tos. *Shabb.* (chs. 6 and 7) relate various superstitious practices that are forbidden (these are called “Emorite customs”). While clearly constituting a separate, independent unit (see BT *Shabb.* 67a, where the collection is called “the chapter of the Emonite [practices]”), the presence of the collection of sayings at this point is related to M. *Shabb.* 6.10, where the term “Emorite customs” is mentioned tangentially. Similarly, while the mishnaic tractate *Sotah* (dealing with the laws pertaining to the “suspected adulteress” discussed in Num. 5.11–31) includes several sections of *aggadah* and midrashic comments which are related tangentially to the legal discussions, the parallel toseftan chapters greatly expand on the material, including much additional *aggadah* and *midrashic* comments (principally in Tos. *Sot.* 3–4; 8; and chs. 10–15).

⁹ Most of the Tannaim who figure more prominently in the Tosefta than in the Mishnah are contemporaries of Rabbi Judah the Patriarch; see next note.

contents might be assumed to be “supplemental” to that of the Mishnah, at least with regard to the work as a whole. Indeed, the presence in the Tosefta of passages naming scholars of the generation after Rabbi Judah the Patriarch¹⁰ point to a date of redaction which is necessarily later than the publication of the Mishnah itself. This, however, should not be taken as an indication of the date of the individual pericopae making up the work. In fact, the problem of the relationship between individual mishnaic passages and their toseftan counterparts is a highly complex one, to which numerous solutions have been given by scholars of all generations.

It should be stressed that the issue of the relative dating of Mishnah and Tosefta is not simply a scholarly question of the comparative dating of documents. A central concern of the study of Mishnah is the question of the prior history of its individual pericopae, and the degree to which the original formulations underwent subsequent editorial changes. This, in turn, is related to a more fundamental question of the purpose of the redaction of the Mishnah, and the extent of Rabbi Judah’s contributions to its final formulation. Thus, the comparative study of parallel material is of prime importance for the study of the literary development of the *halachah* as embodied in its earliest compilations.

Connected to these issues is the question of the relationship of both Mishnah and Tosefta passages to the numerous citations of tannaitic traditions in both Palestinian and Babylonian Talmuds. These citations, known by the term *baraitot* (lit. “external” [tradition]; viz. [tannaitic] statements external to the Mishnah), are closely related in form and content to parallel passages in Mishnah and Tosefta, and, indeed, at times are almost equivalent to such passages. The *baraitot* are cited by the post-mishnaic sages (Amoraim) in conjunction with their discussions of the mishnaic pericopae: collections of *baraitot* are attributed to various early amoraic sages,¹¹ although little is known of the nature of these collections. The comparison of Tosefta passages to parallel *baraitot* raises the issues of the origin of Tosefta traditions as well as their subsequent development and transmission.

Thus, the study of the development of tannaitic tradition is intimately connected to the comparative study of the major collections of such traditions: the Mishnah, the Tosefta, and the *baraitot* in Jerusalem and

¹⁰ The amora known as Rav is cited by his proper name, Rabbi Abba (Tos. *Yom Tov*. 1.7; Tos. *Hull*. 6.3; Tos. *Neg*. 8.6; see Lieberman, *Tosefta Ki-Fshutah*, v 923), who in turn mentions Rabbi Hiyya (“Rabbi Hiyya the Great”). Several scholars of the generation of Rabbi Judah the Patriarch, who are hardly cited in the Mishnah, are mentioned frequently in the Tosefta; among them Rabbi Yose ben Yehuda, Rabbi Eleazar ben Shimeon (ben Yohai), and the sons of Rabbi Yose ben Halafta (Rabbi Ishmael, Rabbi Eleazar, and Rabbi Menahem).

¹¹ See n. 2 above.

Babylonian Talmuds. The nature of the Tosefta and its relationship to these other collections is the subject of controversy among scholars, as we shall see in the ensuing discussion.

II AUTHORSHIP OF THE TOSEFTA

As with the other works of Talmudic literature, the Tosefta itself gives no hint as to its authorship. However, as noted above, collections of *mishnayot* are ascribed to certain contemporaries of Rabbi Judah the Patriarch, namely, Rabbi Ḥiyya, Rabbi Hoshaya, and Bar Kappara, and it might be assumed that these collections have something to do with the compilation of the Tosefta. Another significant passage occurs in BT *Sanhedrin* 86a, where Rabbi Yochanan is quoted as attributing the anonymous portions of the Tosefta (*stam tosefta*) to the younger contemporary of Rabbi Akiva, Rabbi Neḥemia. From these and other passages¹² scholars since the times of the Geonim have attributed the formation of the Tosefta collection to one or another of these sages, principally Rabbi Ḥiyya.¹³ However, there is no evidence that any of these late Tannaim were responsible for the final editing of our Tosefta text, although their collections may have been included in it.¹⁴

Nonetheless, there is no doubt that the Tosefta is a Palestinian work, and that its final redaction occurred after the compilation of the Mishnah. The disagreement among scholars concerning its date of composition depends

¹² See BT *Taan*. 21a, where the second-generation Palestinian amora, Ilfa (also known as Hilfa), mentions “the *matnita* of Rabbi Ḥiyya and Rabbi Oshaya” as secondary collections to the Mishnah. Laws in recorded *baraitot* (some attributed to Rabbi Ḥiyya) that are at variance with the Mishnah are sometimes criticized as spurious in the Babylonian Talmud, with the rhetorical statement, “If Rabbi [Judah the Patriarch] did not teach it [i.e., include it in his Mishnah], from whence could Rabbi Ḥiyya know it?” (BT *Yev.* 43a; BT *Er.* 92a; BT *Nid.* 62b) – an indication of the important status attributed to Rabbi Ḥiyya’s collection of *baraitot* while substantiating the primacy and accuracy of the Mishnah text. These and other statements form the basis of the traditional attribution of the Tosefta collection to Rabbi Ḥiyya; see next note, and cf. Rabbi Nissim ben Jacob, *Sefer ha-Mafteah to Berachot*, Introduction.

¹³ See *Iggeret Rav Sherira Gaon*, ed. B. Lewin (Haifa, 1921), 34, who accepts the assumption of the question of Rabbi Jacob ben Nissim, that Rabbi Ḥiyya wrote the Tosefta; so too Maimonides, in his Preface to the *Mishnah Torah*, and in his introduction to the commentary to the Mishnah; and Rashi, commentary to BT *Bava M.* 85b, lemma “*matnita demar kamatinina*.” HaMeiri ascribes the compilation of the Tosefta to Bar Kappara (introduction to *Avot*); while mention is made in a fragmentary letter from the Cairo Genizah (printed by S. Schechter, *Saadyana* [Cambridge, 1903], 141 n. 1), to Rabbi Hoshaya as the author of the Tosefta.

¹⁴ Indeed, Rabbi Ḥiyya is mentioned in the Tosefta (Tos. *Yom Tov.* 1.7; Tos. *Hull.* 6.3; Tos. *Neg.* 8.6); this would indicate that he was not himself the editor of the work.

largely on their opinion regarding the relationship of the Tosefta to the Palestinian and Babylonian Talmud (see below). Most scholars place the editing of the Tosefta in the mid-third century, after the compilation of the Mishnah, although those who view the Tosefta as post-talmudic necessarily cite a date closer to the end of the fourth century or later.¹⁵

III THE LANGUAGE OF THE TOSEFTA

In general the language of the Tosefta may be classified as characteristic of the Hebrew of the tannaitic period as spoken in Palestine during the first through third centuries CE (including many Greek and Latin loan-words, and occasional Aramaic sentences). This dialect of Hebrew ("middle Hebrew 1") is distinguished from the Hebrew of the amoraic period ("middle Hebrew 2"), the latter of which may be termed the "scholastic language" of those scholars who had already been raised in an Aramaic environment, using Hebrew only in synagogue and study hall.¹⁶ However, it has been shown that the Hebrew of the Tannaim as recorded in the *baraitot* of both Palestinian and Babylonian Talmuds is not a pure representative of "middle Hebrew 1," but rather has been influenced by the later, scholastic dialect of Hebrew (through their "recitation" in the academies by professional "reciters").¹⁷ In this context, it is significant that the Hebrew of the Tosefta concurs, on the whole, with that of the Mishnah.¹⁸ Nevertheless, distinctions have also been demonstrated to exist between

¹⁵ It should be noted that these opinions concern the compilation of what should be considered as the "original" Tosefta, undoubtedly a Palestinian work. Our text of the Tosefta, however, reflects a recension which was transmitted through the Babylonian Geonim, and may include later material, as, for example, the "Babylonian *baraitot*" in the Tosefta noted by Lieberman (*Tos. Suk.* 2.8—3.1; see Lieberman, *Tosefta Ki-Fshutah*, 111, Introduction, 14; and IV 861ff.).

¹⁶ See E. Y. Kutscher, "Some Problems of the Lexicography of Mishnaic Hebrew and its Comparison with Biblical Hebrew," in E. Y. Kutscher (ed.), *Archive of the New Dictionary of Rabbinical Literature*, 1 (Ramat-Gan, 1972), 29–82 (Hebrew; English abstract, xi–xxvii).

¹⁷ M. Moreshet, "The Language of the Baraytot in the Babylonian Talmud is not Mhe¹," E. Y. Kutscher (ed.), *Henoch Yalon Memorial Volume* (Ramat-Gan 1974), 275–314 (Hebrew; English abstract, xxi–xxii); idem, "New and Revived Verbs in the Baraytot of the Babylonian Talmud," in *Archive of the New Dictionary of Rabbinical Literature*, 1: 117–62 (Hebrew); idem, "Further Studies of the Language of the Hebrew Baraytot in the Babylonian and Palestinian Talmudim," in M. Z. Kaddari (ed.), *Archive of the New Dictionary of Rabbinical Literature*, 11 (Ramat-Gan, 1974), 31–73 (Hebrew); and see the discussion of Y. Elman, *Authority and Tradition: Toseftan Baraitot in Talmudic Babylonia* (Hoboken, 1994), 44–6.

¹⁸ M. Moreshet, "The Predicate preceding Two Subjects in Rabbinic Hebrew," *Hebrew Language Studies Presented to Professor Zeev Ben-Hayyim* (Jerusalem, 1983), 359ff.

the language of Mishnah and Tosefta.¹⁹ These may be due to dialectical differences within the spoken Hebrew of Palestine.²⁰ However, the character of the Mishnah as a unified, edited work, upon which Rabbi Judah the Patriarch put his stamp in language as well as in content, as opposed to the heterogeneous character of the Tosefta collection, may explain why certain linguistic phenomena have wider variance in the Hebrew of the Tosefta than in the Mishnah. If we may assume that the Tosefta cites ancient traditions without undue editorial intervention (see below), this would allow for the greater preservation of older linguistic forms in the Tosefta than may be found in the parallel passages in the Mishnah.²¹

IV THE EVOLUTION OF TRADITION: MISHNAH AND TOSEFTA – COMMENTARY, SOURCE, OR PARALLEL?

To illustrate the nature of the Tosefta in its relationship to the Mishnah and *baraitot* of the Talmudim, we shall present the following example, a *halachah* which deals with lost and found objects. The Bible enjoins one who finds a lost object (whether it be a straying animal, or an inanimate object left somewhere) to return it to the rightful owner.²² Do all lost objects require the finder to locate the owner and return it to him? Indeed, the first chapter of tractate *Bava Metsia* discusses the laws concerning found objects, and assumes that the finder may acquire immediate possession of them. In which cases does a found object become available for possession by the finder, and in which is the finder required to proclaim the object lost, keeping it only until the owner claims it? This question is posed at the beginning of the second chapter of the tractate, and is answered through the provision of a list of found objects which can be acquired immediately, and

¹⁹ See Moreshet, "The Predicate," and also N. Braverman, "Concerning the Language of the Mishnah and the Tosefta," in *Proceedings of the Ninth World Congress of Jewish Studies*, Div. D.1 (Jerusalem, 1986), 31–8 (Hebrew). Lexical distinctions between Mishnah and Tosefta were already noted by the Geonim; see J. N. Epstein (ed.), *The Gaonic Commentary on the Order Toharoth Attributed to Rav Hay Gaon*, (Berlin, 1921–4), 141, and see Epstein, *Mevot leSifrut haTannaim*, 239–40.

²⁰ See H. Nathan, *The Linguistic Tradition of the Erfurt MS of the Tosefta* (Jerusalem, 1984), 344–5; N. Braverman, "An Examination of the Nature of the Vienna and Erfurt Manuscripts of the Tosefta," in M. Bar-Asher (ed.), *Language Studies*, v–vi (Jerusalem, 1992), 153–70 (Hebrew).

²¹ See Braverman, "An Examination," and cf. S. Friedman, *Tosefta Atikta*, 71–3. The distinction between early Toseftan language as opposed to a more formulated, stylistic language of the Mishnah was noted already by E. Ben-Yehuda; see the Introduction to his *A Complete Dictionary of Ancient and Modern Hebrew* (New York and London, 1940), 58–66; and cf. Friedman, *Tosefta Atikta*, 72 n. 234.

²² Exod. 23.4; Deut. 22.1–3.

another list of objects requiring ‘proclamation’ – a public notice of the existence of the found object. Comparison between the lists leads to the principle guiding the distinction, namely, the existence of some particularity in the object or in the way it was found, allowing the possibility of identification by the owner to substantiate his claim on it. Here is an abridgment of the beginning *mishnayot* of the second chapter:²³

Mishnah Bava Metsia 2.1–2: Which found objects are his (i.e., the finder may take them into his permanent possession), and which must be proclaimed?

These found objects are his: If one finds scattered fruit, scattered coins, small sheaves in the public domain . . . strings of fish, pieces of meat . . . – these are his . . .

Rabbi Shimeon ben Eleazar says: All *enporia* vessels (= commercial goods²⁴) need not be proclaimed.

And these must be proclaimed: If one found fruit in a vessel, or an empty vessel, money in a bag, or an empty bag, heaps of fruit or heaps of money, three coins one on top of the other, small sheaves in a private domain . . . pitchers of wine or pitchers of oil – these must be proclaimed.

Let us compare this mishnah with excerpts from the corresponding passage of the Tosefta:²⁵

Tosefta Bava Metsia 2.1–8: Rabbi Shimeon ben Eleazar concedes in the case of *enporia* vessels (commercial goods) which have been used that [the finder] is required to make a proclamation.

And these are *enporia* vessels: poles [upon which are strung] needles and hooks, and axes strung together.

Similarly did Rabbi Shimeon ben Eleazar say: All those of which it is said “these are his” – Under which circumstances? – when he has found them one by one. But if he found them in twos, he must proclaim [them].

Similarly did Rabbi Shimeon ben Eleazar say: He who rescues [an object] from the mouth of a lion, from the mouth of a wolf, from the riptide in the sea . . . he

²³ Square brackets used in this and future translations enclose supplemental explanatory words not found in the Hebrew original; parentheses enclose additional comments and translations of terms. Concerning the relationship of Mishnah and Tosefta in this passage, see S. Friedman, “The Primacy of Tosefta in Mishnah–Tosefta Parallels,” in *Proceedings of the Eleventh World Congress of Jewish Studies*, Div. C.1 (Jerusalem, 1994), 19 (Hebrew).

²⁴ *Enporia*, or, more properly, *emporia*, is a Greek word (ἐμπορία) meaning “commerce,” “trade,” and also “merchandise”; thus *enporia* vessels are commercially sold merchandise (often small items identical in form – see the examples brought in the Tosefta text below), as opposed to merchandise purchased especially from the artisan.

²⁵ The translation is based on the two major manuscripts of the Tosefta, the Erfurt and Vienna manuscripts (see below). A section of this passage (from the Erfurt manuscript) can be found in the photographs reproduced in Fig. 13.1. Significant manuscript variants are noted below.

who finds [an object] in a thoroughfare or large plaza – these are his, for the owners despair [of ever retrieving] such objects.

If he found pieces of meat, or pieces of fish, or a ripped fish – he must proclaim.²⁶ Strings of meat, or strings of fish, casks of wine or of oil . . . – he need not proclaim.

[If he found writing] written on a shard and placed on the mouth of a jar, or on paper and placed on the hole of a loaf [of dried figs] – he must proclaim.

If he found small sheaves in the private domain – he must proclaim; in the public domain – he need not proclaim. Large sheaves – whether in the private domain or in the public domain – he must proclaim.

If he found heaped fruit – he must proclaim; scattered [fruit] – he need not proclaim. [If] some [fruit] are heaped and some are scattered – he must proclaim.

If he found coins arranged in [the form of] towers – he must proclaim; scattered [coins] – he need not proclaim. [If] some [coins] are piled in towers and others are not piled in towers – he must proclaim. How many [coins] makes a pile? Three coins one on top of the other.

If he found a vessel and fruit in front of it, or a bag and coins in front of it – he must proclaim.²⁷ [If] some [fruit] are in the vessel and some are on the ground, some [coins] are in the bag and some are on the ground – he must proclaim.

What is immediately apparent is the fact that the Tosefta text is not self-contained. The passage begins, as it were, in the middle of the issue, without any introductory passage providing the general law governing the return of lost objects, as appears in the Mishnah. Moreover, the first statement concerning Rabbi Shimeon ben Eleazar presupposes the existence of another statement by the same sage, precisely the one appearing at the end of the first mishnah. It seems clear, therefore, that the first statement of the Tosefta here indeed serves as a supplement to the statement by Rabbi Shimeon ben Eleazar cited in the Mishnah, limiting his view.²⁸ The subsequent passages of Tosefta may also be seen as supplements to the general mishnaic laws, as they provide additional qualifications to the law (the case of finding both scattered and heaped fruit or coins), additional cases (large sheaves, an object rescued from the mouth of a lion or found in a public thoroughfare), an explicit mention of a guiding principle (“for the

²⁶ In the Vienna MS: “these are his”. See Lieberman, *Tosefta Ki-Fshutab*, 1X 157.

²⁷ So in all text witnesses. However, the commentator Rabbi David Pardo suggested to emend “he need not proclaim”; this emendation is tentatively accepted by Lieberman, see *Tosefta Ki-Fshutab*, 1X 158.

²⁸ Rabbi Shimeon states in the Mishnah that commercially produced goods, being manufactured wholesale with no significant difference between each individual item, are not susceptible to the law of return of lost objects (and are thus always available for immediate possession by the finder), whereas the Tosefta passage relates the additional information that Rabbi Shimeon himself limited such a view only to those items which are still in “mint” condition, not yet having been used.

owners despair [of ever retrieving] the lost objects”), all of which are absent from the mishnaic discussion.

On the other hand, the Tosefta text seems at one point to contradict the Mishnah (casks of wine and oil are available for immediate possession according to the Tosefta, while the Mishnah explicitly mentions these items among those for which it is necessary to proclaim), while in other passages, the Tosefta repeats laws which are already made explicit in the Mishnah (e.g., three coins make a “pile,” requiring proclamation). Moreover, much of the Tosefta discussion seems to have originated in independent “collections” of traditions, which are presented here one after the other. In the passage quoted above, a series of three passages attributed to Rabbi Shimeon ben Eleazar is followed by a series of laws concerning different found items, each formulated in a similar, dialectical style. Rather than appearing as “commentary” to an assumed text, these may be seen in their own right as independent collections of laws, brought together because of similarities in topic and form.

Thus we find the Tosefta passages leading towards two seemingly contradictory conclusions: they assume knowledge of passages presently incorporated in our Mishnah and may be seen as commenting on them, but in other cases they seem to be oblivious to passages of our Mishnah, or even contradict them. In some cases (not represented by the above example), the laws as presented in the Tosefta clearly assume a different ordering from that of the corresponding Mishnah pericopae. Is the Tosefta then a commentary on the Mishnah, or is it a separate collection of laws? It has been the task of every scholar dealing with the issue of the Tosefta to try to navigate between these two poles in an attempt to explain the origin and nature of the Tosefta. The opinions and solutions are numerous, and may be classified according to the emphasis placed on the one or the other aspect of this conundrum. Thus, most scholars, from the time of Rav Sherira Gaon (tenth century) and on, have assumed that, while much material found in the Tosefta may be of early origin, “from the scholars of the Mishnah,” the redaction of these (and later) materials in the Tosefta was linked to the Mishnah in the form of commentary and elucidation, and with that purpose.²⁹ Seeming contradictions and lack of order in the Tosefta compilation have been explained as resulting from

²⁹ See *Iggeret Rav Sherira Gaon*, 34. Maimonides, who attributes the redaction of the Tosefta to Rabbi Hiyya (see above), states simply: “Rabbi Hiyya composed the Tosefta to elucidate the matters of the Mishnah” (Introduction to *Mishneh Torah*). Ze. Frankel (*Darkei haMishnah* [Warsaw, 1923], 322–5), one of the first modern scholars to discuss the issue of the compilation of the rabbinic corpora, also assumes the purpose of the compilation of the Tosefta to be the elucidation of the Mishnah; see the discussion by Friedman, *Tosefta Atikta*, 16–17.

its nature as “notes” appended to the Mishnah, whether as an appended work,³⁰ or quite literally as scholia written in the margins of the Mishnah.³¹ The presence of mishnah texts embedded in the Tosefta text has been widely viewed as *lemmata*, snippets of the Mishnah provided by the redactor as a basis for the wider presentation of other materials.³² An example of this view is that propounded in recent decades by A. Goldberg, who sees the Tosefta as presenting layers of explication intimately connected to earlier layers of Mishnah. In fact, says Goldberg, the Mishnah itself includes layers of “mishnah” and “tosefta,” the difference between their redaction in the Mishnah and the Tosefta being mainly chronological: the redaction of the Tosefta is simply the later continuation of the work of the redaction of the Mishnah.³³

Other views have emphasized the parallel nature of the two traditions of Mishnah and Tosefta, and have suggested more complicated maps of dependence. One of the earlier attempts in this vein is that of Zuckermann, the editor of the first modern edition of the Tosefta, who claimed that Mishnah and Tosefta are actually two parts of an originally combined work, which was subsequently separated in the Babylonian academies, with precedence there given to the Mishnah. This view has been shown to be insupportable and naive. A more sophisticated approach is taken by the talmudic scholar J. N. Epstein. A foundation of Epstein’s approach is an understanding of the *oral transmission* of tannaitic materials by the “reciters” (*tannaim*) and the independent status of the individual “recitations”: Since the major form of preservation and transmission of the ancient texts of law (*halakhot*, *shemuot*) was through their recitation by generations of scholars in the second, third, and fourth centuries CE, the different compilations of these passages may preserve at one and the same time ancient traditions, as well as later modifications of these traditions as resulting from later developments of the tradition. The continued oral recitation of these texts allowed for changes to be made quite naturally by later reciters; thus, side by side in the Tosefta

³⁰ A. Guttman, *Das redaktionelle und sachliche Verhältnis zwischen Misna und Tosephta* (Breslau, 1928), 176–8.

³¹ A. Schwarz, *Die Tosifta des Traktates Nesikin, Baba Kamma geordnet und kommentiert* (Frankfurt, 1912), iv, vii; A. Spanier, *Die Toseftaperiode in der tannaitischen Literatur* (Berlin, 1922); and idem, *Zur Frage des literarischen Verhältnisses zwischen Mischnah und Tosefta* (Glückstadt, 1931).

³² This view, already propounded by the twelfth-century French talmudist, Rabbi Jacob ben Meir (apud *Shibolei Haleket Hasbalem*, ed. Berliner, *Kevod Halevanon* [Paris, 1928], 612), was adopted by S. Lieberman as a major tool in the critical analysis of Tosefta in relationship to Mishnah; see the discussion in Friedman, *Tosefta Atikta*, 23–8, 35–41.

³³ Neusner also understands the Tosefta text as necessarily following that of the Mishnah and commenting upon it, providing a “first Talmud” on the Mishnah; see J. Neusner, *The Tosefta: Its Structure and Its Sources* (Atlanta, 1986), 1–7; idem, “The Synoptic Problem in Rabbinic Literature,” *JBL* 105 (1986), 501–2.

may be ancient recitations and later reworkings. The assumption of preservation of earlier material in the Tosefta can explain the divergences of wording and content between Mishnah and Tosefta, as well as the variations in the order of the laws in the two compilations.

While usually seen in opposition to the view propounded by Epstein, the theory of C. Albeck concerning the Tosefta³⁴ rests, ultimately, on similar grounds. For reasons which we shall presently discuss, Albeck assumes a late date for the compilation of the Tosefta (after the compilation of the two Talmuds); however, he steadfastly argues that the compilers of both Mishnah and Tosefta did nothing more than preserve the ancient traditions, without tampering with them. Thus, while Rabbi Judah the Patriarch laid the foundations for the preservation of the materials known and studied in the academies of his day by compiling them in the Mishnah, he continued, even after the completion of the Mishnah, to compile these materials, incorporating them in his "talmud" – the set of supplemental traditions necessary for the explication and correct understanding of the Mishnah text. Subsequent generations continued his work, ultimately creating, at the end of the amoraic period, the collection preserved in the Tosefta. Thus, while disagreeing with Epstein regarding the date of compilation of the Tosefta itself, Albeck may be seen to agree with Epstein's basic approach to the material embedded in the Tosefta: side by side with later, explanatory pericopae in the Tosefta can be found also early statements culled (whether transmitted orally or through written copies) from the tannaitic scholars.

In most of the approaches discussed thus far, the parallel nature of many of the traditions in the Tosefta has been recognized,³⁵ the discrepancies between those traditions and the traditions of the Mishnah being explained as the result of variations in the tradition. Usually, no preference is given to either recension of the tradition, both being seen as independent, free formulations of a common source, that source – assumedly an oral one – being unavailable to us. A different approach has been taken by S. Friedman in his studies on the Tosefta. Not content with the assumption that variation between existing parallel texts be viewed as resulting from the free transmission of an unknown, common source, and, indeed, emphasizing that long sections of identical segments in two parallel texts would indicate a "genealogical" connection between them, Friedman posits a developmental process,

³⁴ C. Albeck, *Studies in the Baraita and the Tosefta and Their Relationship to the Talmud* (Jerusalem, 1944) (Hebrew); *Introduction to the Talmudim* (Jerusalem, 1969), 51–78 (Hebrew).

³⁵ For a discussion of the phenomenon of parallel traditions between Mishnah and Tosefta in comparison to the parallels between the "synoptic" Gospels, see M. Smith, *Tannaitic Parallels to the Gospels* (Philadelphia, 1951), 6, 142–51.

whereby the Tosefta parallels to the Mishnah often preserve the ancient, early tradition, with that of the Mishnah being a later, edited version of these very traditions. Thus, in these passages the Tosefta should not be seen as a commentary and elucidation of the Mishnah, but rather as its source, with the Mishnah actually “commenting” on and reworking the original tradition appearing in our Tosefta text. Friedman’s approach has widespread consequences for the understanding of the genesis of the Mishnah. For if, in many cases, the Mishnah text is seen to be a studied re-edition of an earlier tradition as embedded in the Tosefta, it may be able to characterize and define the criteria which Rabbi Judah the Patriarch used to reformulate these earlier traditions. Indeed, Friedman claims that laws recorded in the Tosefta are often “more essential . . . earthy and anthropological . . . rooted in the concrete historical situations of ancient Palestine,” whereas the Mishnah formulations exhibit a higher degree of abstraction and adaptation, pointing to a later development in the evolution of the ancient law.³⁶

V THE TRANSMISSION OF TRADITION: TOSEFTA AND TALMUDIC *BARAITA* – THE QUESTION OF VARIANT READINGS

As mentioned above, parallels to Tosefta passages appear in the many *baraitot* cited in the two talmudic collections, the Palestinian and Babylonian Talmuds. In turning again to the example concerning lost and found items cited above, we find passages parallel to our Tosefta text appearing in the discussions of both Talmuds to this mishnah (the beginning of the second chapter of *Bava Metsia*), mostly with minor variations:

Tosefta Bava Metsia 2.5: If he found small sheaves in the private domain – he must proclaim; in the public domain – he need not proclaim. Large sheaves – whether in the private domain or in the public domain – he must proclaim.

Palestinian Talmud:³⁷ If he found small sheaves³⁸ in the public domain – he need not proclaim; in the private domain – he must proclaim. Large sheaves – whether in the public domain or in the private domain – he must proclaim.

³⁶ S. Friedman, “The Primacy of Tosefta to Mishnah in Synoptic Parallels,” in H. Fox and T. Meacham (eds.), *Introducing Tosefta: Textual, Intratextual and Intertextual Studies* (New York, 1999), 106. See also J. Hauptman, “Mishnah As a Response to ‘Tosefta,’” in S. J. D. Cohen (ed.), *The Synoptic Problem in Rabbinic Literature* (Providence, 2000), who reaches similar conclusions.

³⁷ PT *Bava M.* 2.1 (fol. 8b).

³⁸ In the Escorial MS of the Palestinian Talmud the word *havilot* is used for “small sheaves” instead of *kerikhot*, and may represent the original reading of the Talmud here; see S. Lieberman (ed.), *Yerushalmi Neziqin: Edited from the Escorial Manuscript* (Jerusalem, 1983), 46.

Babylonian Talmud:³⁹ If he found small sheaves in the public domain – *these are his*; in the private domain – he *takes and proclaims* (*notel umakhriz*). And large sheaves – whether in the public domain or in the private domain – he *takes and proclaims*.

Both Talmuds provide parallels to the Tosefta text which vary principally in the order of their components. It should be noted, nonetheless, that whereas the version in the Palestinian Talmud contains no significant differences besides this, the Babylonian Talmud substitutes the phrase “these are his” for “he need not proclaim”, and “he takes and proclaims” for “he must proclaim”. It is notable that in both these substitutions, the variant phrase is to be found in the adjacent *mishnayot* of the chapter.⁴⁰

In the following case a *baraita* cited in the Babylonian Talmud parallels the Tosefta text, but with a more significant difference in terminology:⁴¹

Tosefta Bava Metsia 2.1: Rabbi Shimeon ben Eleazar concedes in the case of *enporia* vessels (commercial goods) which have been used that [the finder] is required to make a proclamation.

And these are *enporia* vessels: poles [upon which are strung] needles and hooks, and axes strung together.

Babylonian Talmud:⁴² Rabbi Shimeon ben Eleazar concedes in the case of *new vessels to which the eye has become accustomed*⁴³ that [the finder] is required to proclaim.

And these are *new vessels to which the eye has not become accustomed*, that he need not proclaim: Such as poles [upon which are strung] needles and hooks, and axes strung together.

What explanation can be given for the variants? One possible conclusion might be that the Tosefta text was known to the Amoraim, or at least to the redactors of the Talmud. Two facts mitigate against this hypothesis: on the one hand, the passages are often not cited verbatim, and thus the assumption that our Tosefta text is being cited needs to address the question of why and in what circumstances the text was altered. On the other hand, many passages appearing in our Tosefta are not cited at all in the talmudic discussions, neither in related discussions where one might expect the passages to be cited,

³⁹ BT *Bava M.* 22b.

⁴⁰ The two phrases appear together in mishnahs 3 and 4 of the chapter.

⁴¹ For a discussion of the relationship between these passages in Tosefta, Mishnah and *baraita*, see S. Friedman, “Form Criticism of the Sugya in the Study of the Babylonian Talmud,” *Proceedings of the Seventh World Congress of Jewish Studies* (Jerusalem, 1981), III 251–4 (Hebrew). See also D. Weiss Halivni, *Sources and Traditions: A Source Critical Commentary on the Talmud: Tractate Baba Metzia* (Jerusalem, 2003), 71–2 (Hebrew).

⁴² BT *Bava M.* 24a.

⁴³ Lit., “the eye has become satiated” (*seva’atan ha’ayin*); see the biblical phrase *lo tisba’ ayin* in Eccles. 1.8.

nor in places where the talmudic discussion might have solved its problems much more simply by appeal to the Tosefta passage, raising the question why use was not made of the relevant passages.

Here, too, scholarly opinion has been divided. One solution is to suggest that the Tosefta was compiled only at the end of the talmudic period, drawing from a pool of transmitted material only partially familiar to the Amoraim and redactors of the Talmud.⁴⁴ Another solution is to posit the existence of parallel traditions of a transmitted Tosefta text already at an early date, so that one Talmud or the other might have cited the Tosefta passage according to a variant text.⁴⁵ And finally, it can be suggested that while some form of the Tosefta text may already have existed at the time of the Amoraim, quotations from it were not intended to be provided verbatim, but rather were excerpted, abridged, and interpolated in light of the needs and contexts of the talmudic discussions themselves.⁴⁶

This last suggestion becomes particularly relevant with regard to the parallels in the Babylonian Talmud. It is a commonplace that the parallels in the Palestinian Talmud are closer on the whole to the Tosefta passages as we have them than the Babylonian parallels are.⁴⁷ The tendency of the Babylonian Talmud to produce new, altered versions of traditional texts was noted already by the medieval talmudic commentator, Nahmanides: "It is the nature of the authors of the *gemara* to change the language of the *baraitot*, to interpolate explanatory commentary or to abridge [them]."⁴⁸ The methods of reworking of the earlier materials in the Babylonian recension include linguistic and stylistic changes, harmonization and other exegetical methods intended to align the *baraita* text with terms and laws known from other sources, be they tannaitic (Mishnah) or amoraic (statements of *amora'im*), and finally the inclusion and adaptation of the early *baraita* to fit subsequent developments in law and lore.⁴⁹

⁴⁴ C. Albeck, *Studies in the Baraita and the Tosefta and Their Relationship to the Talmud*, 89–138, especially 91–3, 137. See also J. H. Duenner, "Halachah-kritische Forschungen," *MGWJ* 19 (1870), 289–308, 355–64; and idem, *Die Theorien über Wesen und Ursprung der Tosefta* (Amsterdam, 1874).

⁴⁵ Epstein, *Mevot leSifrut haTannaim*, 251–2.

⁴⁶ Epstein, *Mevot leSifrut haTannaim*; Goldberg, "The Tosefta," 292–3.

⁴⁷ See Epstein, *Mevot leSifrut haTannaim*, 245; Lieberman, *Tosefta Ki-Fshutab*, 111, Introduction, 14. Cf. Elman, *Authority and Tradition*, 2–3; S. Friedman, "The *Baraitot* in the Babylonian Talmud and their Relationship to their Parallels in the Tosefta," in D. Boyarin et al. (eds.), *Atara L'Haim: Studies in the Talmud and Medieval Rabbinic Literature in Honor of Professor Haim Zalman Dimitrovsky* (Jerusalem, 2000), 197 (Hebrew).

⁴⁸ Nahmanides, *Novellae* to BT *Bava M.* 48b; and see Friedman, "The *Baraitot* in the Babylonian Talmud," 171, 192, 200.

⁴⁹ Friedman, "The *Baraitot* in the Babylonian Talmud."

A look at our examples above will demonstrate some of these categories. Even in the first example, where the Tosefta passage does not undergo major changes in either Talmud, the phrase *notel umakbriz* ("he takes and proclaims") appearing in the Babylonian parallel may well have been substituted under the influence of the texts of the adjacent *mishnayot*. But especially in the second example, a process of adaptation of the early *baraita* may be noted. The Greek word *enporia* is missing from the Babylonian *baraita*, the phrase appearing in its stead being "new vessels to which the eye has not become accustomed." This phrase is precisely the interpretation given by the Babylonian amora Samuel to the word *enporia*,⁵⁰ and seems to be related to the term *tevi'ut ha'ayin*, visual recognition (lit., "the impression of the eye"), a concept, unattested in tannaitic literature, denoting an impressionistic familiarity with an object on the part of the owner even in the absence of a recognizable external mark.⁵¹ Thus, it may be suggested that the citation of the *baraita* was emended to replace the Greek term *enporia* with its (amoraic) equivalent, a fact which has relevance for the development of Babylonian Jewish legal terminology.

Recent studies indicating the wide extent to which even previously fixed texts were transmitted orally in rabbinic circles suggest another approach to the problem of the citations. Variations in language and content may be the result of a more free, oral transmission of the Tosefta materials. And so it may also be posited that, whether the Tosefta as a whole was composed already at the beginning of the amoraic period or not, the transmission of its contents in oral form may have aided in the transformations that we find in the parallel *baraitot* in the Babylonian Talmud.⁵²

VI THE TEXT OF THE TOSEFTA: EDITIONS, TRANSLATIONS, AND COMMENTARIES

The Tosefta text has survived in three manuscript copies from the twelfth to the fifteenth centuries, as well as in citations in medieval rabbinic authors,⁵³ and in a collection of fragments from the Cairo Genizah. Among the manuscript versions, the Vienna manuscript (Austrian National Library, Cod. Hebr. 20), an early fourteenth-century Spanish

⁵⁰ BT *Bava M.* 23b.

⁵¹ The phrase, which is also absent from the Palestinian Talmud, is mentioned first in the name of the early Palestinian amora, Rabbi Yohanan; see BT *Shabb.* 114a; and cf. BT *Gitt.* 23a; BT *Bava M.* 19a; BT *Hull.* 95b–96a, as well as in our text, BT *Bava M.* 23b–24a. See Weiss Halivni, *Sources and Traditions: Baba Metzia*, 71.

⁵² See Epstein, *Mevo'ot*, 246; Elman, *Authority and Tradition*, 275–81 and passim.

⁵³ Collected and discussed by S. Lieberman in *Tosefet Rishonim*, 4 vol. (Jerusalem, 1937–9).

manuscript, is the only nearly complete textual witness; its text is generally close to that of the printed editions, as well as to the Genizah fragments. The Erfurt manuscript (now housed in the Oriental Department of the Berlin State Library, Ms. Or. Fol. 1220 – see plate x), written in Ashkenazi script of the twelfth century, contains only the first four orders. And finally, the order *Moed* (along with tractate *Hullin*) is also attested in the London manuscript (British Library, Add. MS 27296), written in Spanish script of the fifteenth century.⁵⁴ The first printed edition of the Tosefta appeared as an appendix to Rabbi Isaac Alfasi's compendium to the Talmud in Venice, 1521–2, and has since been printed in editions of the Babylonian Talmud which include this work.⁵⁵

As Saul Lieberman has demonstrated, the Tosefta was a standard part of the curriculum in geonic *yeshivot*, and is attested in Babylonian geonic writings, either directly or indirectly, already from the eighth century.⁵⁶ In this context, the discovery, again by Lieberman, that “our” Tosefta text – in all text witnesses – includes a section of “Babylonian” *baraitot* which could not have been known in their entirety by the redactors of the Palestinian Talmud, is especially significant: their inclusion in the text of the Tosefta is an indication of the extent to which the original Palestinian work must have undergone some revision at the hands of the “reciters” of the Babylonian *yeshivot* (although this revision may have not been substantial or widespread), as well as a reminder that all extant text witnesses of the Tosefta have no doubt evolved from the early geonic text tradition itself.⁵⁷ Of the manuscript witnesses, the Vienna MS is closest to the textual tradition attested in Egypt at the time of Maimonides as well as in writings of Spanish scholars, and may also be closest to the original geonic text tradition. The Erfurt MS, on the other hand, shows signs of “scholastic” revision and harmonization with both Babylonian and Palestinian Talmuds, and in this respect may be indicative of certain “scholastic” scribal tendencies in the Germanic lands, although it is possible that this emendatory activity predated the entrance of the Erfurt text type to Europe.⁵⁸

⁵⁴ While the Erfurt and Vienna MSS seem to reflect two different text types, the London MS is a mixed text, agreeing at times with one, at times with the other.

⁵⁵ The text of the printed edition is similar, but not identical, to that of the Vienna MS.

⁵⁶ Lieberman, *Tosefet Rishonim*, Introduction, II, Introduction, 7–15; IV, Introduction, 12; *Tosefta Ki-Fshutab*, I 14.

⁵⁷ See Lieberman, *Tosefet Rishonim*, I 199; II, Introduction, 3; *Tosefta Ki-Fshutab*, III, Introduction, 14; and IV 861–71. Cf. E. S. Rosenthal, “HaMoreh” (Hebrew), *PAARJ* 31 (1963), 70 (Hebrew section); and Elman, *Authority and Tradition*, 29–32.

⁵⁸ *Tosefta Ki-Fshutab*, I: Introduction, 19; III: Introduction, 13f.; Rosenthal, “Ha-Moreh,” 68–70. However, the linguistic evidence of both the Vienna and the Erfurt MSS also reflect early Palestinian linguistic phenomena, and thus these texts are still to be

Present editions contain representatives of both the Erfurt and Vienna manuscripts: M. S. Zuckerman based his edition, which covers the Tosefta in its entirety, on the Erfurt MS,⁵⁹ whereas Lieberman chose the Vienna MS as the basis of his critical edition; both editions present the variant readings of the other text witnesses. Lieberman's edition is a model of thoroughness, clarity, and accuracy (including discussion of the texts appearing in the Genizah fragments), but unfortunately covers only the first three orders (*Zeraim*, *Moed*, *Nashim*), and the three tractates of *Neziqin* (the three *Bavot*). Besides an eighteenth-century Latin translation of parts of the Tosefta,⁶⁰ a full English translation in six volumes has appeared under the editorship of J. Neusner,⁶¹ and a German translation, edited by K. H. Rengstorff, is appearing in installments.⁶²

Although the Tosefta was studied and used considerably by Geonim as well as by early medieval scholars,⁶³ individual commentaries to the Tosefta began to appear only in the seventeenth century. The most important pre-modern commentary is by David Pardo (*Sefer Hasdei David* [Livorno, 1776 and 1790; Jerusalem, 1890 and 1970–7]), which is a paragon of erudition and clarity (an abridged version of this commentary has appeared in the classical Talmud edition of the Tosefta since the 1878 Romm Vilna edition).⁶⁴

reckoned as important witnesses to the original Tosefta text. See Natan, *The Linguistic Tradition of the Erfurt MS*, and Braverman, "An Examination." Regarding early Ashkenazic scribal tendencies of active emendation of texts, see I. Ta-Shma, "The Libraries of Ashkenazic Scholars of the Eleventh and Twelfth Centuries," *Kiryat Sefer* 60 (1985), 298–309 (Hebrew); P. Schäfer, "Once Again the *Status Quaestionis* of Research in Rabbinic Literature: An Answer to Chaim Milikowsky," *JJS* 40 (1989), 92; and Friedman, *Tosefta Atiketa*, Introduction, 61, n. 201, and cf. the discussion there concerning the Erfurt MS, 60–7, especially n. 230.

⁵⁹ The Erfurt MS stops in the middle of the fourth chapter of *Zevahim*, after which Zuckerman claims to use the Vienna MS; however, neither manuscript is presented accurately.

⁶⁰ B. Ugolini, *Thesaurus Antiquitatum Sacrarum*, xvii–xx (Venice, 1755–7) (to the orders *Zeraim*, *Moed*, and *Kodashim*).

⁶¹ *The Tosefta*, 6 vols. (New York, 1977); 2nd ed., 2 vols. (Peabody, 2002).

⁶² *Die Tosefta: Text, Übersetzung, Erklärung*, 12 vols. (Stuttgart, 1953–) (incomplete).

⁶³ Special note should be made of the extensive use of the Tosefta by Rabbi Samson ben Abraham of Sens (France, thirteenth century), in his commentary to the Mishnah orders of *Zeraim* and *Toharot*.

⁶⁴ Other pre-modern commentaries worth mentioning are that of Rabbi Elijah Gaon of Vilna, to the order *Toharot* (appearing in the Romm edition of 1881), the *Minbat Bikkurim* to orders *Zeraim*, *Moed*, and *Kodashim* by Rabbi Shmuel Avigdor (Vilna, 1855), and *Hazon Yehezkel* of Rabbi Yehezkel Abramsky (from 1925 on). See also Strack and Stemberger, *Introduction to the Talmud and Midrash*, 162; and A. Goldberg, "The Tosefta: Companion to the Mishnah," in S. Safrai (ed.), *The Literature of the Sages*, 1: *Oral Torah* (Assen, 1987), 298–9.

There is no question that the most important modern study of the Tosefta to date is that of S. Lieberman, who first collected the *testimonia* to the Tosefta with notes (*Tosefet Rishonim* [Jerusalem 1937–9]), and then presented his full critical edition, along with short notes on the page (*Tosefta*), and extensive commentary in separate volumes (titled *Tosefta Ki-Fshutab* [New York 1955–88]). These notes combine philological comments, text criticism, historical studies, and rabbinic commentary.

Besides the monumental study of Lieberman,⁶⁵ major studies of the Tosefta, particularly in the context of its relationship to other sections of rabbinic literature, have been executed by J. N. Epstein⁶⁶ and C. Albeck,⁶⁷ and, in recent times, by A. Goldberg,⁶⁸ S. Friedman,⁶⁹ and J. Neusner.⁷⁰ Each of these scholars has dealt with the major issues of the composition, origin, and purpose of the Tosefta, as well as its relationship to the other corpora of rabbinic literature.⁷¹ The wide variance of opinions among these and other scholars attests to the complex nature of the text and transmission of the Tosefta.

⁶⁵ Although Lieberman wrote many introductions to the separate volumes of *Tosefet Rishonim* and *Tosefta Ki-Fshutab*, in which he commented extensively on the tradition history of the text of the Tosefta, he unfortunately never completed his promised introduction to the Tosefta.

⁶⁶ Epstein, *Mevot leSifrut haTannaim*, 241–62.

⁶⁷ Albeck, *Studies in the Baraita and the Tosefta and Their Relationship to the Talmud; Introduction to the Talmudim* (Tel-Aviv, 1969), 51–78.

⁶⁸ Goldberg, “The Tosefta,” 283–302. Goldberg frequently refers to the parallel Tosefta in his editions of Mishnah tractates: *Shabbat* (Jerusalem, 1976); *Ohalot* (Jerusalem, 1985); *Eruvin* (Jerusalem, 1986); and *Bava Kamma* (Jerusalem, 1999); and has written a full commentary to Tosefta tractate *Bava Kamma*: *Tosefta Bava Kamma: A Structural and Analytic Commentary* (Jerusalem, 2001).

⁶⁹ S. Friedman, “Tosefta Atikta: On the Relationship of Mishnah and Tosefta Parallels [I],” *Tarbiz* 62 (1993), 313–38 (Hebrew); “Tosefta Atikta: On the Relationship of Mishnah and Tosefta Parallels [II],” *Bar-Ilan* 26–7 (1995), 277–88 (Hebrew); “Mishnah and Tosefta Parallels,” *Proceedings of the Eleventh World Congress of Jewish Studies*, Div. C.1 (Jerusalem 1994), 15–22 (Hebrew); *Tosefta Atikta: Pesah Rishon* (Ramat-Gan, 2003).

⁷⁰ J. Neusner, *The Tosefta: Its Structure and Its Sources* (Atlanta, 1986); *The Bavli That Might Have Been: The Tosefta's Theory of Mishnah Commentary Compared with the Bavli's* (Atlanta, 1990); and *The Tosefta: An Introduction* (Atlanta, 1992).

⁷¹ Mention should also be made of the following studies: B. Cohen, *Mishnah and Tosefta: A Comparative Study*, 1: *Shabbat* (New York, 1935), which includes introductory chapters to the Mishnah, *baraita*, and Tosefta; Y. Elman, *Authority and Tradition* (New York, 1994); H. Fox and T. Meacham (eds.), *Introducing Tosefta* (includes bibliography). Finally, further bibliographical references to separate studies, in addition to detailed information, may be found in the chapter on Tosefta in H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash* (Edinburgh, 1991, 1996), 149–163 (translated from the German, *Einleitung in Talmud und Midrasch* [Munich, 1982, 1992], ed. and trans. M. Bockmuehl).

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