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FOREWORD

This book is one which I never intended to write. It grew out of my long-standing interest in tractate Ketubbot of the Babylonian Talmud, on which I have been writing a commentary for years, and of two sabbaticals which I spent as a visiting professor at Yale University in the academic years 2005–2006 and 2011–2012. During the first of these visits I taught a course on tannaitic literature which led me to the decision that I needed to write a separate study of Mishnah and Tosefta Ketubbot and not attempt to incorporate what I had to say about these works in my commentary on the Babylonian Talmud of the tractate as I had originally intended. Much of my second visit was devoted to working on that book, a detailed study to be published in Hebrew, but a number of conversations with my friend and colleague Hindy Najman led me to think seriously about presenting some of my results in English. I did not want, however, to simply publish an English translation of the Hebrew book, especially since many of the discussions it contains turn on details and nuances of wording which could only with great difficulty be conveyed in translation, and anyone interested in this sort of detailed commentary should be studying the sources in the original language. On the other hand, if I were to publish a book in English on this subject I wanted it to include topics which were not covered in the Hebrew book. This led me to the current project, which provided the opportunity to tackle in a more systematic way several topics about which I had thought, and sometimes lectured, over a period of years, as well as others which I had barely considered in the past.

This background goes a long way to explaining the nature of the current book, in which tractate Ketubbot plays a disproportionate role. Chapters One, Two, Four and Eight are essentially translations of selected portions of the Hebrew book, with some rearrangement and revision to suit the new framework. Chapters Three, Five, Six, Seven and Nine were written

specifically for this book, although I have discussed much of the material included in Chapter Nine on other occasions. In Chapters Five, Six and Seven I took on what I understand to be the major questions with regard to the text of the Tosefta which had not arisen in connection with my work on tractate Ketubbot. I investigated these topics much less thoroughly, and the results presented in these chapters should be considered preliminary; I hope that others will take them up and investigate them more systematically. The Afterword is a revised version of a lecture delivered at the annual meeting of the Society for Biblical Literature in November 2012.

The Hebrew progenitor of this book is dedicated to the memory of Saul Lieberman. Although in the course of this project I found myself disagreeing with him much more often and more seriously than I had expected, I have only the greatest respect both for his scholarship and for his qualities as a human being. I had the privilege of getting to know him slightly towards the end of his life, and our few conversations made a lasting impression on me. One of his most outstanding qualities was his absolute dedication to the truth and a corresponding openness to correction; he once said to me something like the following: The best thing of all would be never to make mistakes, but that is reserved for angels; the next best thing is to discover and correct one's own mistakes; the next best is to be happy when someone else corrects one's mistakes. It is in this spirit that I allow myself to argue against his positions on numerous topics; I hope that if he were alive he would have found at least some of my arguments convincing, and I am sure that if he did they would have made him happy.

I would like to thank the friends who have contributed to this book in various ways, beginning with my colleagues at Yale who provided such a congenial home during my visits. In addition to Hindy Najman, who played such a large role in my decision to write this book, I am particularly grateful to Steven Fraade and to Christine Hayes for stimulating conversations and for their advice and encouragement. I would also like to thank Chaim Milikowsky, who introduced me many years ago to the scholarly literature on textual criticism and who was kind enough to read a draft of the book and give me the benefit of his advice; my friends and colleagues David Kazhdan, Leib Moscovitz and Daniel Schwartz, whose comments on my

INTRODUCTION

A concern with competing textual traditions of the Mishnah goes back even farther than its "official" publication, as demonstrated by a number of reports in both the Palestinian and the Babylonian Talmuds, and comparisons of various texts of the Mishnah have featured prominently in modern scholarship on classical rabbinic literature since its inception 150 years ago. In recent decades there has been a growing emphasis on a bifurcation of the textual tradition between manuscripts that contain the Mishnah alone, which are said to represent a "Palestinian" tradition, and witnesses that contain the Babylonian Talmud and the Mishnah, which are said to represent a "Babylonian" tradition. Although this distinction is important, its injudicious application is accompanied by several pitfalls, which I discuss in Chapter One. In Chapter Two I present some of the central results of my detailed investigation of the Mishnah of tractate Ketubbot with regard both to these two branches of the tradition and to other important textual phenomena.

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Remarkably little scholarly work has been done to date on the textual traditions of the Tosefta, beyond consideration of individual passages.[1] Aside from a few dozen Genizah fragments, there are only four direct witnesses: the editio princeps; the nearly complete Vienna manuscript; the Erfurt manuscript, which breaks off at the beginning of the fifth order, Kodashim; and the London manuscript, which includes only the order of Mo'ed and the single tractate Ḥullin.[2] Zuckermandel, who published an edition of the Tosefta based primarily on MS Erfurt in the late 19th century, was unsurprisingly enthusiastic about the contribution made by this manuscript to the text of the Tosefta. Lieberman, when he began work on his monumental although incomplete edition of the Tosefta in the mid-20th century, chose MS Vienna as his base text for reasons which will be discussed in Chapter Three. What is obvious to anyone who examines even a small sample of text is that of the three largest witnesses MS Vienna and the editio princeps are very close relatives, as against MS Erfurt which displays numerous and often substantial differences from them. Lieberman discussed the individual readings presented by these two branches of the tradition on thousands of occasions but never discussed their relationship in a comprehensive and detailed fashion; he probably intended to include such a discussion in the introduction which he planned to write after completing his edition. He did assert on several occasions that the readings of MS Erfurt were frequently emended on the basis of parallels in the Babylonian Talmud, while on other occasions he suggested that at times MS Vienna and MS Erfurt might preserve independent ancient traditions of the Tosefta

1 As remarked upon by Schremer, "Tosefta Tradition," p. 11.

2 For full details of the major manuscripts see Sussmann, *Catalogue*, pp. 5-6, 126, 653. For the fragmentary witnesses see the index volume of this catalogue, pp. 179-183.

text (a claim we shall consider in Chapter Seven). Later scholars essentially followed Lieberman's suggestions: Friedman and Sussmann, without devoting detailed studies to this topic, tended to disparage MS Erfurt and emphasize what they believed to be its secondary readings and frequent emendations on the basis of the Talmud, while Schremer emphasized Lieberman's assertion that the two manuscripts sometimes preserved independent ancient traditions.[3] In the following chapters I will argue for a quite different picture of the relationship between these witnesses.

The approach which I take in the following chapters depends on the stemmatic method originally developed by scholars of classical literature and only sporadically applied to the study of rabbinic literature of various periods; I will take this opportunity to describe the essentials of this method as concisely as possible.[4] The aims of the method are: first, to reconstruct the familial relationships which link the extant textual witnesses, generally presented in the form of a stemma or family tree; and second, to utilize the knowledge acquired about the relationships between the witnesses in order to assess their readings in a controlled fashion and approach as closely as possible the source underlying the various witnesses, which may or may not be identical with the original version of the work in question. The technique employed is to identify secondary readings which are shared by two or more witnesses, and which are considered unlikely to have occurred independently in several witnesses or to have been corrected by conjecture. Such errors are then assumed to reflect the fact that the witnesses in question derive from a common ancestor which already exhibited them, whether or not this putative ancestor has survived. In order for the method to be applied in its purest form, the textual tradition in question must fulfill certain conditions: it must have begun with a single original (excluding, for

3 See: Sussmann, "Ashkenazi Manuscript," pp. 161-163 (discussed by Schremer, "Tosefta Tradition," pp. 14-15); Friedman, *Tosefta Atiqta*, pp. 79-86. Chapter Seven below is devoted to an analysis of Schremer's article.

4 An elegant pseudo-mathematical presentation of the essentials is Maas, *Textual Criticism*; a more approachable treatment, which also deals to a greater extent with the complications frequently encountered in practice, is West, *Textual Criticism*. There is a vast literature dealing with various aspects of this method; we may mention Timpanaro, *Genesis*, with an extensive bibliography.

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The issue of the relationship between Mishnah and Tosefta has occupied Jewish scholarship at least since the time of Sherira Gaon, who was asked by the scholars of Kairouan "and as for the Tosefta, which we have heard that R. Ḥiyya wrote, was it written after the Mishnah or at the same time, and what (reason) did R. Ḥiyya see to write it? If (he did so) in order to add things which explain the topics of the Mishnah, why did Rabbi (Judah the Patriarch) not write them, when they are related in the name of the sages of the Mishnah?" The Gaon replied: "and as for the Tosefta, certainly R. Ḥiyya composed it, but we are not sure whether in Rabbi's days or after him, but undoubtedly the Tosefta was composed after the laws of our Mishnah were composed, and it is clear from the words of the Tosefta that they are after our Mishnah and are taught concerning it."[1] I do not intend to deal with the question of the identity of the Tosefta's redactor or redactors; for our purposes the crucial point is Sherira's confident assertion that the Tosefta was redacted after the Mishnah because it is clear from the words of the Tosefta itself that they "are after our Mishnah and are taught concerning it"; in other words, he characterized the Tosefta as a response to the Mishnah.

This aspect of the Tosefta's character was again emphasized in the early years of modern Jewish scholarship by Zechariah Frankel, who described the Tosefta as composed of three types of material: (1) "the Tosefta comes to complete the Mishnah if one of its parts is missing"; (2) "the Tosefta is sometimes connected internally to the Mishnah, as a sort of commentary on the earlier part"; (3) "the Tosefta brings disputes which were not mentioned in the Mishnah."[2] This description emphasizes the ways in which the Tosefta functions as a sort of expansion of the Mishnah, whether by raising topics

1 Lewin, *Sherira*, pp. 6, 34.

2 Frankel, *Darkhei ha-Mishnah*, pp. 322-325, cited by Epstein, *Mevo'ot*, p. 246 and by Friedman, *Tosefta Atiqta*, p. 16.

which were not discussed in the Mishnah or citing opinions not mentioned in it, or by serving as "a sort of commentary." Despite this it is fairly clear that in the cases included in category (3), and in at least some of the cases included in category (1), the Tosefta utilizes materials which antedate the redaction of the Mishnah, and only in cases belonging to category (2) is it reasonable to assume – at least prima facie – that the Tosefta materials were created after the Mishnah and in response to it.

I will not survey the many theories which were proposed in the century following the publication of Frankel's pioneering work, since others have already done so in comprehensive fashion; but I may summarize by saying that almost everyone who dealt with the topic of Mishnah-Tosefta relations during this period emphasized the characterization of the Tosefta as dependent on the Mishnah and supplementing it, although many of them also mentioned aspects of the preservation of ancient material in the Tosefta and even cases in which particular passages in the Mishnah appear to reflect reworking (and especially abridgment) of parallel passages preserved in the Tosefta.[3]

In the last several decades there has been a shift in the trend of research in this area: scholars are more and more inclined to emphasize those cases in which one may conjecture that the Tosefta preserves ancient materials and these or something similar were the sources of corresponding passages in the Mishnah, although most of them agree that there are also cases in which the Tosefta responds to the Mishnah, and when we consider the two works as redacted wholes, the Tosefta is later than the Mishnah.

So, for example, Shamma Friedman offers the following tripartite characterization in lieu of Frankel's:[4]

> 1. The Tosefta responds to a law included in the Mishnah, which it explicates or broadens ("literary dependence").
> 2. The Tosefta transmits an independent law which is lacking in the

3 See the extensive survey in Friedman, *Tosefta Atiqta*, pp. 15-63, and the brief summary in Houtman, *Mishnah and Tosefta*, pp. 7-19.

4 Friedman, ibid., pp. 10-11.

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