

LAW

The final editing of the Palestinian Talmud (400 C.E.) and Babylonian Talmud (500 C.E., possibly later) did not produce anything like a code of Jewish law. The Talmud is instead a sprawling, unsystematic record of debates between sages that is spread over half a millennium. In some places, the Talmud states the law clearly; but in others, it is not always easy to determine exactly what it is. Minority voices compete with the majority, and, at times, debates over a law occur in more than one place—with contradictory results. Moreover, the sixth-century sages, called the *sevara'im*, who redacted the Babylonian Talmud did not always agree with the text they were editing and shaped that text in ways that preserved their reservations.

From the late sixth to the eleventh century, the Babylonian—or what would better be called the Iraqi—Jewish community was led by rabbinic authorities called *geonim* (singular, *gaon*; the word means “pride” or “splendor” and, in modern Hebrew, “genius”). The *geonim* were the leaders of the two great rabbinic academies in Babylonia—Sura and Pumpedita (see pp. 309–10 for a discussion of Saadya Gaon, who was not only a leader of the academy, but also the first important medieval Jewish philosopher).

The *geonim* faced the challenge of turning the Talmud into a workable body of law. While the evidence is not definitive for how widespread rabbinic law was during the half millennium that the two Talmudim were in formation, by the time of the *geonim*, it had become the dominant legal system for the Jews of the eastern Mediterranean as well as, later, the Jews of Spain and northern Europe. Geonic literature includes several types of legal works: codes, commentaries, and responsa. The law codes and commentaries are incomplete but reflect the attempt by the *geonim* to shape the Talmud into a systematic legal system. The responsa, sometimes called “case law,” are questions submitted to a rabbi on a specific issue that are followed by his response. Responsa literature became one of the main forms of legal innovation throughout the succeeding centuries, as rabbis worked to adapt talmudic law to new or unanticipated situations.

The responsum of Hai Gaon (also known as Hai ben Sherira, 939–1038) included below takes up a problem of the Sabbath laws, a theme that will be followed through in all the selections in this section. The problem comes from a talmudic law forbidding one to read by candlelight during the Sabbath because one might be tempted to light the candle, should it go out. Rabba (a talmudic sage) ruled that it was prohibited, even if the candle were hung out of reach. The talmudic law falls under the general category of “creating a fence around the law”—that is, creating additional prohibitions to make violation of the law even more difficult.

Hai Gaon reviews not only talmudic law, but also later customs and responsa. He concludes, against the opinion of Rabba, that it is permissible for two people to read by the light of a candle since they would prevent each other from relighting it. However, since it is the custom not to read by candlelight on the Sabbath, the prohibition is customary rather than legal. This introduction of custom into the law adds a complexity that characterizes Jewish law to this day: local custom often interprets the law in ways different from its explicit meaning, and such custom has often acquired the force of law.

As the *geonim* extended the reach of rabbinic law over Jewish communities in the eastern Mediterranean, they encountered significant resistance in the form of the Karaite movement, which rejected the Talmud in favor of reliance solely on the Bible

(see pp. 324–27 for an example of a Karaite argument against Saadya Gaon). Their understanding of the Bible is expressly literal, even though there is a body of Karaite exegesis that functions somewhat like rabbinic oral law. An example of Karaite law is that, as opposed to rabbinic Judaism, the Karaites hold to a patrilineal (i.e., through the father) definition of Jewish identity, since matrilineal descent is not biblical. The Karaites were not a small sect and, by the late geonic period (tenth and eleventh centuries), boasted significant populations in the Byzantine Empire as well as in the Muslim Middle East. Although greatly reduced in numbers, small communities of Karaites still exist in Israel and the United States.

The Karaites trace their origins to an eighth-century figure, Anan ben David, although there is some scholarly dispute as to whether Anan's movement really was the same as later Karaism. And some of the legal opinions attributed to Anan may have actually originated later. In the selection below, we find one of the prime issues dividing Karaites and Rabbinites: how to observe the Sabbath. While the Rabbinites allowed for fire lit before the Sabbath to burn in a house on the Sabbath (see p. 357), the Karaites, relying solely on a literal interpretation of the Bible, forbid any kind of fire. It is for this reason also that the Karaites do not light Sabbath candles, as do all other Jews.

While the *geonim* may have been in part moved to systematize the law in response to the Karaites, when Moses Maimonides composed his code of Jewish law, which he finished in 1178 (see pp. 358–64), his stated motivation was different. In the introduction to what he called the *Mishneh Torah* (Repetition of the Law), Maimonides reviews the history of Jewish law from the time of Moses to his own day. In his telling, it is a narrative of decline. The Oral Law was given to Moses and passed down faithfully “in unbroken succession” from one generation of sages to the next until the final compilation of the authoritative Babylonian Talmud. But the Talmud is notoriously difficult to decipher because of its obscure argumentation and the fact that much of it is in Aramaic, a language no longer spoken by Jews. The *geonim*, a term Maimonides uses for all *halakhic* authorities after the talmudic period throughout the Jewish world—and not just for the heads of the Babylonian academies—did yeoman's work in elucidating the difficult text of the Talmud; but by Maimonides' time, their commentaries had become obscure—even, it would seem, to rabbis. Thus, the need for a new code of Jewish law in Hebrew, the learned language of the legal elite.

Maimonides went far beyond his predecessors and created something unprecedented. Writing in Hebrew in the style of the original Mishnah, he developed his own arrangement of the law according to books and chapters. What had been scattered and unsystematic in the Talmud now took on an orderly appearance. More importantly, Maimonides decided what the law ought to be in definitive pronouncements that belied the often convoluted talmudic debates. He also did not give his sources, leaving it for later commentators to identify where in talmudic literature he had found the basis for his decisions.

So breathtakingly comprehensive is the *Mishneh Torah* that its name suggests not only a repetition of the law, but even a new Mishnah. Maimonides' laudatory remarks about Judah the Prince (Yehuda HaNasi), the rabbi who composed the Mishnah in the early third century C.E., now seem suspiciously like the author writing his own review. Even more, Maimonides now looks almost like a second Moses in synthesizing all of Jewish law of the previous two millennia. Not for nothing does Jewish tradition say of him: “Between Moses and Moses, there was no one like Moses [i.e., Maimonides].”

In his “Laws of the Sabbath” (*Hilkhot Shabbat*), Maimonides takes a definitive position that the lighting of the Sabbath candles, which some had previously thought to be optional and which the Karaites forbade entirely, is obligatory. Moreover, he defines resting on the Sabbath not as only a negative commandment against work (which one might think from the categories of prohibited work in the

Talmud—see pp. 362–64), but also as a positive commandment to rest. One must distinguish the Sabbath from the rest of the week by making special preparations for it the day before. A man who is not accustomed to shopping or doing housework must do one of these things to honor the Sabbath. A rich person who eats festive food during the week should distinguish the Sabbath by eating something different. In general, Maimonides rules that obeying the Sabbath laws is “equivalent to the sum total of all other commandments of the Law,” a position echoed by both earlier and later authorities. In this view, the Sabbath is the most distinctive Jewish practice.

Maimonides' code did not meet with universal approval. As if to symbolize Judaism's resistance to final codification, his attempt at a definitive statement of the law provoked vociferous dissent. Perhaps his most vehement opponent was his contemporary Abraham ben David (or Rabad) of Posquières, in southern France. Using such expressions as “confused, botched and muddled,” “darkness and not light,” and “an opinion out of his belly,” Abraham ben David composed a series of glosses (*hasagot*) to the *Mishneh Torah* that are now typically printed together with Maimonides' text. That Maimonides' code became canonical is thus qualified by the inclusion of Abraham ben David's critique: both the urge to codify and the failure of codification to put an end to debates about the law are exemplified in the juxtaposition of these two antagonists.

Maimonides' code was honored and debated in both the Sephardic and Ashkenazic worlds, which says much about the ability of learned Jewish culture to span wide geographical distances, linking communities on either side of the great religio-cultural divide between Christianity and Islam long before modern means of communication. In the Ashkenazic world, however, local legal traditions based on custom as well as talmudic law had particular importance. One of the most important legal minds of medieval Ashkenaz was Meir of Rothenburg, in Germany (ca. 1215–1293; also known by his acronym, Maharam). Meir inherited the traditions of biblical and talmudic commentary of the French scholar Rashi and his school (see pp. 365–69, 371–72). His responsa provide an extraordinary window into the daily lives of German Jews of his time, including their relationships with the German Christians among whom they lived. No question was too mundane or private to escape his scrutiny. Meir's responsa are thus an excellent example of this genre of legal literature, which can be used as a source for both legal and social history.

One way in which the dispute over Maimonides' *Mishneh Torah* took form was in the production of new law codes. Meir's preeminent student was Asher ben Yehiel (ca. 1249–1327; known generally by his acronym, the Rosh). Asher was unusual in migrating from Germany to Toledo, Spain, where he composed an abstract of Jewish law, focusing on a pragmatic application of the law to daily life. His son, Jacob ben Asher (ca. 1269–ca. 1342), went further still in his *Arba'a Turim* (Four Columns) in which he codified the law using an arrangement different than that of Maimonides.

Jacob ben Asher's massive work was used by the sixteenth-century Sephardic rabbi Joseph Karo (1488–1575) to compose his *Shulhan Arukh* (Set Table). Karo's biography is typical of a Spanish Jew of his day. At age four, in 1492, he, along with his family and many other Spanish Jews, was exiled from Spain to Portugal. In 1497, the family was once again driven into exile. They moved to Bulgaria, where Karo received his talmudic education. Later, he moved to Safed, which was becoming one of the most important rabbinical centers in Palestine and throughout the Middle East. Karo rose to the position of head of the rabbinical court. There, he also fell under the influence of messianic and mystical ideas (see pp. 448–49 for a discussion of Safed mysticism). Karo came to believe that the Mishnah, personified as a woman, spoke to him and commanded him to write a code of Jewish law. Like Maimonides but in a much more extreme and personalized way, Karo thought that he was “channeling” the Mishnah.

Maimonides was clearly a central presence for Karo because he based his code on an earlier commentary that he wrote on the *Mishneh Torah*, called the *Kesef Mishnah*, which identified Maimonides' sources. Unlike Maimonides' work, however, the *Shulhan Arukh* became a definitive code of law for Sephardic Jews and, with the glosses of the sixteenth-century Polish rabbi Moses Isserles, also for the Ashkenazim. But, as with Maimonides' code, Karo's generated commentaries and abridgments, as if to say that the adjective “definitive” in the Jewish tradition never means “without further comment.”

PRONOUNCING GLOSSARY

Chanukah: <i>chah'-nu-kah</i> [guttural <i>ch</i> as in <i>Bach</i>]	Oneg Shabbat: <i>oh-neg'shaw'-baht</i>
eruv: <i>ay'-roov</i>	Posquières: <i>poh-kee-air'</i>
Exilarchs: <i>ex'-ih-larks</i>	Rabad: <i>raw'-bahd</i>
Gemara: <i>geh-muh'-rah</i>	Rabba: <i>raw'-buh</i>
geonic: <i>geh'-oh-nik</i>	Sanhedrin: <i>san-heh'-drin</i>
Hai Gaon: <i>chahy guh'-own</i> [guttural <i>ch</i>]	Shabbat: <i>shaw'-baht</i>
Karaite: <i>kah'-re-ahyt</i> [<i>ahyt</i> as in <i>light</i>]	Shinar: <i>shin'-ahr</i>
Kairwan: <i>kayr'-vahn</i>	Sifra: <i>sif'-ruh</i>
Kalonymus: <i>kuh-lo'-nih-mus</i>	Sifre: <i>sif'-ray</i>
Maharam: <i>mah'-hah-rahm</i>	tefahim: <i>teh-fah-cheem'</i> [guttural <i>ch</i>]
Maimonides: <i>my-maw'-nih-deez</i>	Teshuvot ha-Ge'onim: <i>teh-shoo'-voht</i>
Meir: <i>may'-or'</i>	<i>ha-geh-oh'-nim</i>
Mishneh Torah: <i>mish'-nuh toe'-raw</i>	toseftot: <i>toe-sef'-toht</i>
mitzvot: <i>mitz'-voht</i>	taw: <i>taw</i>
	Ulla: <i>oo'-luh</i>

HAI GAON 936–1038

TESHUVOT HA-GE'ONIM

18a

[SHIP PASSENGERS ON THE SABBATH]

[I] Again they asked him: [Concerning] a ship that enters the harbor and the Sabbath limit¹ Friday afternoon—may [the passengers] alight on the Sabbath? He said, “Permitted.”

[II] Again they asked him: [Concerning] a ship [scheduled to set sail on the Sabbath and which therefore will be] travelling beyond the Sabbath limit—may they board it on the Sabbath? He said, “Permitted.”

From Peter J. Haas, *Responsa: A Literary History of a Rabbinic Genre*.

1. That is, close enough to the city to permit travel through it on the Sabbath.

[READING BY SABBATH LIGHT]

TO RAV HAI: You have asked: As regards what is said [in b. Shab. 12a], "One may not read by the light [of the Sabbath candle],¹ Rabba² said, 'Even if it is hung at twice a person's height [so that it is out of reach.]" We find in the rabbinic commentaries that the law follows Rabba. But our custom here in Kairwan³ is that men gather together in the synagogues on the eve of the Day of Atonement, and occasionally on Sabbath eves, to read Psalms by the light of the lanterns [in apparent contradiction to Rabba's ruling]. Is there a difference between a group of people at a synagogue and a group at home [such that the first group may read by the light of the Sabbath candle because Rabba's ruling applies only to the second group] or between the light of a candle [by which one may not read,] and the light of a lantern [by which one may read, as here]? Also, we have seen our masters say in some responsa that [although one person may not read alone by the Sabbath light, lest this one tinker with the flame and so violate the prohibition against kindling a fire] if two read together, it is permitted. [Does this mean that only matters such as] reading the Torah portion or chanting the service, which must be done on the Sabbath, are permitted [by candlelight with two or more people], or is any reading one wants to do permitted? [In particular,] if students want to study Talmud like they do on week days—all of them together at one place—is this permitted or not, for some of the early masters prohibited this? Let our master instruct us.⁴

To be sure, the law is according to Rabba and no one may disagree. But it is permitted for two [people] to read together [by the light of a Sabbath light], for thus has the tradition reached us, and it is a clear ruling that two may read together [by the Sabbath light]. The reason is that they will watch out for each other [to make sure that neither tinkers with the flame]. Nor is one to say that this is true only for matters such as reading the Torah portion or chanting the service, which must be done on the Sabbath. Indeed, anything that two [or more] wish to read may [be read], even Talmud. Although this teaching is accepted, our sages are not accustomed to doing so, nor have we seen or heard of anyone taking up a book and studying it by the light of the Sabbath candles. Thus the one who prohibits this is not stating the actual law but is ascribing to the custom [of not reading by the Sabbath light at all] the normative power of law.⁵

1. The question here relates only to the Sabbath candles, which are lit ceremonially at the beginning of the Sabbath. The responsum does not concern an ordinary candle lit before the Sabbath and allowed to continue burning.

2. The name of a talmudic sage.

3. A city in northeastern Tunisia.

4. The first paragraph of this selection contains the articulation of the issue in the form of a question, while the second paragraph contains Hai Gaon's response.

5. Custom and law may be different, as long as the custom is stricter than the law.

ANAN BEN DAVID
flourished eighth century

KARAITE LAW OF SABBATH

V

[ON WORK, FIRE, AND LIGHT]

1. Carrying a burden, which is forbidden on the Sabbath, signifies only the act of carrying upon one's shoulder, since it is written: *they carried upon their shoulders* (Num. 7:9).

2. [It is forbidden to light fire in Jewish homes on the Sabbath or to permit fire kindled before the arrival of the Sabbath to continue burning into the Sabbath, as it is written: *Ye shall not kindle fire in all your dwellings upon the sabbath day* (Exod. 35: 3).]

3. One might perhaps say that it is only the kindling of fire on the Sabbath which is forbidden, and that if the fire had been kindled on the preceding weekday it is to be considered lawful to let it remain over the Sabbath. Now the Merciful One has written here: *Ye shall not kindle fire*, and elsewhere: *thou shalt not perform any work* (Exod. 20:10), and both prohibitions begin with the letter *tav*.¹ In the case of labor, of which it is written: *thou shalt not perform any work*, it is evident that even if the work was begun on a weekday, before the arrival of the Sabbath, it is necessary to desist from it with the arrival of the Sabbath. The same rule must therefore apply also to the kindling of fire, of which it is written: *Ye shall not kindle*, meaning that even if the fire has been kindled on a weekday, prior to the arrival of the Sabbath, it must be extinguished.

4. In the case of work, just as one is forbidden to perform it himself, so also is he forbidden to have others perform it for him. [So, too, in the case of fire, one is forbidden to make others kindle it for him on the Sabbath, just as one is forbidden to kindle it himself.] Thus it is clear that we are forbidden to leave either a lamp or any other light burning on the Sabbath in any Jewish home.

TRANSLATED BY Leon Nemoy.

1. That is, the verbs pertaining to the prohibited actions both begin with the Hebrew letter *tav* (elsewhere, *tav*) and are, therefore, analogous.

MOSES MAIMONIDES

1136/38–1204

MISHNEH TORAH

Introduction

[THE LAW]

All the precepts which Moses received on Sinai, were given together with their interpretation, as it is said, "And I will give to you the tables of stone, and the law, and the commandment" (Ex. 24:12). "The law" refers to the Written Law; "the commandment," to its interpretation. God bade us fulfill the Law in accordance with "the commandment." This commandment refers to that which is called the Oral Law. The whole of the Law was written by Moses our Teacher before his death, in his own hand. He presented a scroll to each tribe and deposited one in the Ark for a testimony, as it is said, "Take this book of the law and put it by the side of the Ark of the Covenant of the Lord your God, that it may be there for a witness against you" (Deut. 31:26). "The commandment," which is the interpretation of the Law, he did not write down but gave a charge concerning it to the Elders, to Joshua, and to the rest of Israel, as it is said, "All this which I command you, that shall you do; you shall not add to, nor diminish from it" (*ibid.* 4:2). Hence, it is styled the Oral Law.

Although the Oral Law was not committed to writing, Moses taught the whole of it, in his court, to the seventy elders as well as to Eleazar, Phineas, and Joshua—all three of whom received it from Moses. To Joshua, his disciple, our teacher Moses delivered the Oral Law and charged him concerning it. So too, Joshua, throughout his life, taught orally. Many elders received the Oral Law from Joshua. Eli received it from the elders and from Phineas. Samuel, from Eli and his court. David, from Samuel and his court. . . .¹

R. Judah,² our teacher, the saint, compiled the Mishnah. From the time of Moses to that of our teacher, the saint, no work had been composed from which the Oral Law was publicly taught. But in each generation, the head of the then existing court or the prophet of that time wrote down for his private use a memorandum of the traditions which he had heard from his teachers, and which he taught orally in public. So too, every student wrote down, according to his ability, the exposition of the Torah and of its laws, as he heard them, as well as the new matter evolved in each generation, which had not been received by tradition but had been deduced by application of the thirteen hermeneutical rules³ and had been adopted by the Supreme Court.⁴ This was the method in vogue till the time of our teacher, the saint.

He gathered together all the traditions, enactments, interpretations, and expositions of every portion of the Torah, that had either come down from

Moses our Teacher or had been deduced by the courts in successive generations. All this material he redacted in the Mishnah, which was diligently taught in public, and thus became universally known among the Jewish people. Copies of it were made and widely disseminated, so that the Oral Law might not be forgotten in Israel.

Why did our teacher, the saint, act so and not leave things as they were? Because he observed that the number of disciples was diminishing, fresh calamities were continually happening, the wicked government⁵ was extending its domain and increasing in power, and Israelites were wandering and emigrating to distant countries. He therefore composed a work to serve as a handbook for all, the contents of which could be rapidly studied and not be forgotten. Throughout his life, he and his colleagues were engaged in giving public instruction in the Mishnah. . . .

All these sages . . . were the great men of the successive generations; some of them were presidents of colleges,⁶ some Exilarchs,⁷ and some were members of the great Sanhedrin; besides them were thousands and myriads of disciples and fellow-students. Ravina and Rav Ashi closed the list of the sages of the Talmud. It was Rav Ashi who compiled the Babylonian Talmud in the land of Shinar (Babylon), about a century after Rabbi Johanan had compiled the Palestinian Talmud. These two Talmuds contain an exposition of the text of the Mishnah and an elucidation of its abstruse points and of the new subject matter that had been added by the various courts from the days of our teacher, the saint, till the compilation of the Talmud. The two Talmuds, the *Tosefta*, the *Sifra* and the *Sifre*, and the *Toseftot*⁸ are the sources, from all of which is elucidated what is forbidden and what is permitted, what is unclean and what is clean, what is a penal violation and what involves no penalty, what is fit to be used and what is unfit for use, all in accordance with the traditions received by the sages from their predecessors in unbroken succession up to the teachings of Moses as he received them on Sinai. From these sources too, are ascertained the decrees, instituted by the sages and prophets, in each generation, to serve as a protecting fence about the Law, in accordance with Moses' express injunction, "You shall keep My charge" (Lev. 18:30), that is, "Ordain a charge to preserve My charge." From these sources a clear conception is also obtained of the customs and ordinances, either formally introduced in various generations by their respective authorities or that came into use with their sanction; from these it is forbidden to depart, as it is said, "You shall not turn aside from the sentence which they shall declare to you, to the right hand, nor to the left" (Deut. 17:11). So too these works contain the clearly established judgments and rules not received from Moses, but which the Supreme Court of each generation deduced by applying the hermeneutical principles for the interpretation of the Law, and which were decided by those venerable authorities to be the law—all of which, accumulated from the days of Moses to his own time, Rav Ashi put together in the *Gemara*.⁹

After the Court of Rav Ashi, who compiled the *Gemara* which was finally completed in the days of his son, an extraordinarily great dispersion of Israel

TRANSLATED BY MOSES HYAMSON.

1. A related but less detailed tradition appears in the Mishnah, *Pirkei Avot*.

2. I.e., Judah the Prince (Yehuda HaNasi).

3. Rules of interpretation developed by Rabbi

Ishmael, a tannaitic rabbi from the second century C.E.

4. The Sanhedrin, the Jewish religious court.

5. The Roman Empire.

6. Rabbinic academies.

7. Heads of the Iraqi, or Babylonian, community.

8. Collections of rabbinic teachings and *midrash*

halakhah (legal midrash).

9. The commentary that, with the Mishnah, constitutes the Talmud.

throughout the world took place. The people emigrated to remote parts and distant isles. The prevalence of wars and the march of armies made travel insecure. The study of the Torah declined. The Jewish people did not flock to the colleges in their thousands and tens of thousands as heretofore; but in each city and country, individuals who felt the divine call gathered together and occupied themselves with the Torah; studied all the works of the sages; and from these learned the method of legal interpretation.

If a court established in any country after the time of the Talmud made decrees and ordinances or introduced customs for those residing in its particular country or for residents of other countries, its enactments did not obtain the acceptance of all Israel because of the remoteness of the Jewish settlements and the difficulties of travel. And as the court of any particular country consisted of individuals (whose authority was not universally recognized), while the Supreme Court of seventy-one members had, several years before the compilation of the Talmud, ceased to exist,¹ no compulsion is exercised on those living in one country to observe the customs of another country; nor is any court directed to issue a decree that had been issued by another court in the same country. So too, if one of the Geonim taught that a certain way of judgment was correct, and it became clear to a court at a later date that this was not in accordance with the view of the Gemara, the earlier authority is not necessarily followed but that view is adopted which seems more reasonable, whether it be that of an earlier or later authority.

The foregoing observations refer to rules, decrees, ordinances, and customs that originated after the Talmud had been compiled. But whatever is already mentioned in the Babylonian Talmud is binding on all Israel. And every city and country is bound to observe all the customs observed by the sages of the Gemara, promulgate their decrees, and uphold their institutions, on the ground that all the customs, decrees, and institutions mentioned in the Talmud received the assent of all Israel, and those sages who instituted the ordinances, issued the decrees, introduced the customs, gave the decisions, and taught that a certain ruling was correct, constituted the total body or the majority of Israel's wise men. They were the leaders who received from each other the traditions concerning the fundamentals of Judaism in unbroken succession back to Moses our Teacher, upon whom be peace.

The sages, however, who arose after the compilation of the Talmud, studied it deeply and became famous for their wisdom, are called Geonim. All these Geonim who flourished in the land of Israel, Babylon, Spain, and France, taught the method of the Talmud, elucidated its obscurities, and expounded the various topics with which it deals. For its method is exceedingly profound. Furthermore, the work is composed in Aramaic mixed with other languages—this having been the vernacular of the Babylonian Jews at the time when it was compiled. In other countries, however, as also in Babylon in the days of the Geonim, no one, unless specially taught, understood that dialect. Many applications were made to the Gaon of the day by residents of different cities, asking for explanations of difficulties in the Talmud. These, the Geonim answered, according to their ability. Those who had put the questions collected the responses which they made into books for

1. With the death of the Sanhedrin's last leader in 425 and an imperial decree in 426 diverting the patriarchs' tax to the imperial treasury, the Sanhedrin ceased to function.

study. The Geonim also, at different periods, composed commentaries on the Talmud. Some of them explained specific laws; others, particular chapters that presented difficulties to their contemporaries; others again expounded complete treatises and entire orders of the Talmud. They also made compilations of settled rules as to things permitted or forbidden, as to infractions which were penal or were not liable to a penalty. All these dealt with matters in regard to which compendia were needed, that could be studied by one not capable of penetrating to the depths of the Talmud. This is the godly work in which all the Geonim of Israel engaged, from the completion of the Talmud to the present date which is the eighth year of the eleventh century after the destruction of the Second Temple.²

In our days, severe vicissitudes prevail, and all feel the pressure of hard times. The wisdom of our wise men has disappeared; the understanding of our prudent men is hidden. Hence, the commentaries of the Geonim and their compilations of laws and responses, which they took care to make clear, have in our times become hard to understand so that only a few individuals properly comprehend them. Needless to add that such is the case in regard to the Talmud itself—the Babylonian as well as the Palestinian—the *Sifra*, the *Sifre* and file *Tosefta*, all of which works require, for their comprehension, a broad mind, a wise soul, and considerable study, and then one can learn from them the correct practice as to what is forbidden or permitted; and the other rules of the Torah.

On these grounds, I, Moses the son of Maimon the Sefardi,³ bestirred myself, and, relying on the help of God, blessed be He, intently studied all these works, with the view of putting together the results obtained from them in regard to what is forbidden or permitted, clean or unclean, and the other rules of the Torah—all in plain language and terse style, so that thus the entire Oral Law might become systematically known to all, without citing difficulties and solutions or differences of view, one person saying so, and another something else—but consisting of statements, clear and convincing, and in accordance with the conclusions drawn from all these compilations and commentaries that have appeared from the time of Moses to the present, so that all the rules shall be accessible to young and old, whether these appertain to the (Pentateuchal) precepts or to the institutions established by the sages and prophets, so that no other work should be needed for ascertaining any of the laws of Israel, but that this work might serve as a compendium of the entire Oral Law, including the ordinances, customs, and decrees instituted from the days of our teacher Moses till the compilation of the Talmud, as expounded for us by the Geonim in all the works composed by them since the completion of the Talmud. Hence, I have entitled this work *Mishneh Torah* (Repetition of the Law), for the reason that a person who first reads the Written Law and then this compilation, will know from it the whole of the Oral Law, without having occasion to consult any other book between them.

I have seen fit to arrange this compendium in large divisions of the laws according to their various topics. These divisions are distributed in chapters grouped according to subject matter. Each chapter is subdivided into smaller paragraphs so that they may be systematically memorized. Among the laws in the various topics, some consist of rules in reference to a single Biblical

2. I.e., 1177.

3. From Spain.

precept. This would be the case when such a precept is rich in traditional matter and forms a single topic. Other sections include rules referring to several precepts when these all belong to one topic. For the work follows the order of topics and is not planned according to the number of precepts, as will be explained to the reader.

The total number of precepts that are obligatory for all generations is 613. Of these, 248 are affirmative;⁴ their mnemonic is the number of bones in the human body. 365 precepts are negative⁵ and their mnemonic is the number of days in the solar year.

Blessed be the all-merciful who has aided us.

* * *

Laws of the Sabbath

1:1. [RESTING FROM WORK]

Resting from work on the seventh day is a positive commandment, as it says: "On the seventh day you shall rest (Exodus 23:12; 34:21)." Everyone who does work on that day [both] contravenes a positive commandment, and transgresses a negative commandment, as it says: "You shall not do any work (Exodus 20:9; Deuteronomy 5:13)." For what [sort of punishment] is he culpable? If he did it willingly, out of malice, he is completely cut off [from his people], and if there were witnesses who saw it, he is [killed by] stoning. If he did [the work] accidentally, he is obligated to bring a routine sin offering.

5:1. [LIGHTING THE CANDLES]

Lighting Shabbat candles is not optional, [meaning] if one wishes to kindle them he may, but [he is not required] to light them if he does not want to. [Furthermore], it is not a commandment that one is not required to seek out in order to do it, such as [setting up] an *eruv*¹ or ritual hand washing for a meal.² Rather, it is an obligation incumbent on both men and women, to have a lit candle in their houses on Shabbat [Sabbath]. Even if one has nothing to eat—he should go begging from door to door, getting oil and lighting the candle. For this is included in the delight of Shabbat. One is required [to say] the blessing before lighting them, "who sanctified us with His *mitzvot*³ and commanded us to light a Shabbat candle," just as one blesses upon all other obligations instituted by the sages.

4. Commandments of things that one must do.
5. Prohibitions.

1. A boundary marker that turns a public space into a private space for purposes of carrying on the Sabbath.

2. If the opportunity did not present itself, the person would not have to perform the commandment. This is not the case with lighting the Sabbath candles.

3. Commandments.

30.1-10, 15. [MISCELLANEOUS SABBATH LAWS]

1. Four duties have been formulated with reference to the Sabbath, two on Scriptural authority, and two on the authority of the scribes, being explicitly mentioned in the prophets. Scripture says "Remember" (Ex. 20:8) and "Observe" (Deut. 5:12), while the prophets explicitly mention "Honor and Delight" in the verse, "And call the Sabbath a delight, and the holy of the Lord clothed with honor" (Is. 58:13).

2. What is meant by "honor"? This is explained by the statement of the sages that in order to honor the Sabbath one should, as a matter of religious duty, wash his face, hands, and feet with hot water on Friday, wrap himself in a fringed garment, and sit in a dignified manner waiting to receive the Sabbath, just as if one were going forth to meet the king. Indeed, the sages of old used to assemble their disciples on Friday night, put on their best clothes, and say, "Come, let us go forth to meet Sabbath, the king."¹

3. Honoring the Sabbath involves also putting on clean clothes, so as not to wear the same clothes on both weekdays and Sabbaths. If one has no other change of clothes, he should let down his cloak, so that it would not look the same as it does on weekdays. Moreover, Ezra² has enacted the rule that in honor of the Sabbath people should wash their clothes on Thursdays.

4. In order that the Sabbath should be suitably honored, it is forbidden to set a banquet or a drinking party for Friday afternoon. Furthermore, while eating and drinking are permissible until nightfall, one should, in honor of the Sabbath, refrain from having a regular meal from the time of the afternoon prayer onward, in order to enter into the Sabbath with an appetite for food.

5. One should set his table properly for Friday night, even if he feels no need for more than an olive's bulk of food. Similarly, one should set his table properly at the end of the Sabbath, even if he requires no more than an olive's bulk of food—in order to honor the Sabbath at both its commencement and its termination. One should also, in honor of the Sabbath, get his room ready while it is still day on Friday, by having a lamp lit, a table laid, and a couch properly spread. For all these are marks of reverence for the Sabbath.

6. Even if one is a person of very high rank and does not as a rule attend to the marketing or the other household chores, he should nevertheless himself perform one of these tasks in preparation for the Sabbath, for that is his way of honoring it. There were some among the sages of old who split firewood for the cooking; others cooked or salted meat, plaited wicks, lit lamps, or went to market to buy food or drink for the Sabbath, although none of these sages customarily performed such tasks on weekdays. Indeed, the more one does in the way of such preparation, the more praiseworthy he is.

7. What is Sabbath's delight? This is explained by the statement of the sages that one should prepare for the Sabbath the richest victuals and the choicest beverages that one can afford. The more one spends for the Sabbath and for

1. However, in Jewish mysticism (Kabbalah), the Sabbath is referred to as a queen.

2. I.e., Ezra the Scribe (fifth century B.C.E.), who led the Jews back from the Babylonian Exile.

the preparation of numerous and tasty dishes, the more praiseworthy he is. If, however, one cannot afford this, it is sufficient to make the Sabbath a delight to prepare even a plain vegetable stew, or the like. For one is not obligated to humiliate himself by begging from others in order to provide a large quantity of food for the Sabbath, and indeed the sages of old have said: "Make your Sabbath as a weekday, just so you depend not upon the charity of others."

8. If a person has been reared in luxury and wealth, so that all of his days are like a Sabbath, he should make his Sabbath food differ in some way from his weekday food. If no change is possible, he should at least vary the times of his meals, by eating late if he usually eats early, or early if he usually eats late.

9. It is one's duty to eat three meals on the Sabbath, one in the evening, one in the morning, and one in the afternoon; he should be particularly careful to have no less than these three meals. Even an indigent person living on charity should eat three meals on the Sabbath. If, however, an abundance of food makes one ill, or if one fasts regularly, he is exempt from the duty of eating three meals.

At each of the three meals one should have wine to drink and two whole loaves for the benediction over the breaking of the bread. The same rule applies to festival meals.

10. If one can afford it, eating meals and drinking wine on the Sabbath constitutes Sabbath's delight. It is, however, forbidden to have one's meal with wine on a Sabbath or festival during the time of the lecture in the schoolhouse,³ and so the custom of the righteous men of old was as follows: On Sabbath morning one would go to the synagogue for the morning service and the additional Sabbath service, then return home to eat the second meal, then go to the schoolhouse and read Scripture and Mishnah until the afternoon, then recite the afternoon service, and finally return home and sit down to the third Sabbath meal—which would include wine—eating and drinking until the termination of the Sabbath.

15. Observance of the Sabbath and abstention from idolatry are each equivalent to the sum total of all other commandments of the Law. Furthermore, the Sabbath is an eternal sign between the Holy One, blessed be He, and ourselves. Accordingly, if one transgresses any of the other commandments he is merely a wicked Israelite, but if he publicly desecrates the Sabbath he is the same as an idol worshiper, although both of these are regarded as heathens in every respect. Hence the prophet says in praise of the Sabbath observer, "Happy is the man that does this, and the son of man that holds fast by it: that keeps the Sabbath from profaning it," etc. (Is. 56:2). Furthermore, with regard to him who observes the Sabbath in full accordance with the rules thereof, and honors it and delights in it to the utmost of his ability, the prophet describes explicitly his reward in this world, over and above the reward laid up for him in the world to come, in the following verse: "Then shall you delight yourself in the Lord, and I will make you to ride upon the high places of the earth, and I will feed you with the heritage of Jacob your father; for the mouth of the Lord has spoken it" (Is. 58:14).

3. The *bet midrash* ("house of study").

ABRAHAM BEN DAVID OF POSQUIÈRES

(*Rabad*)

ca. 1125–1198

[MAIMONIDES CHALLENGED]

He¹ intended to improve but did not improve, for he forsook the way of all authors who preceded him. They always adduced proof for their statements and cited the proper authority for each statement; this was very useful, for sometimes the judge would be inclined to forbid or permit something and his proof was based on some other authority. Had he known that there was a greater authority who interpreted the law differently, he might have retracted. Now, therefore, I do not know why I should reverse my tradition or my corroborative views because of the compendium of this author. If the one who differs with me is greater than I—fine; and, if I am greater than he, why should I annul my opinion in deference to his? Moreover, there are matters concerning which the Geonim disagree and this author has selected the opinion of one and incorporated it in his compendium. Why should I rely upon his choice when it is not acceptable to me and I do not know whether the contending authority is competent to differ or not. It can only be that "an overbearing spirit is in him."²

FROM Isadore Twersky, *Rabad of Posquière: A Twelfth-Century Talmudist*.

1. Maimonides.

2. Daniel 5:12.

MEIR OF ROTHENBURG

(*Maharam*)

ca. 1215–1293

RESPONSA

[*Sabbath Rules in Ordinary Life*]

36 (D)

Q. Is there a custom of abstaining from work on Saturday night and the day of the new moon?

A. There is such a custom for women for the day of the new moon.

37

Q. Are women permitted to wear shawls in the streets on the Sabbath?

A. They are permitted to wear shawls the ends of which are tied together, making it impossible for the wind to blow them off.¹

38

Q. Are the Jews who travel on the roads permitted to wear their belts in which their money is sewed, on the Sabbath?

A. No, such act is prohibited.

39

Q. May a person attach a metal buckle to his girdle as an ornament, and then file the buckle into the shape of a key with which he can unlock the door of his house, and then wear this buckle on the Sabbath?

A. People do not usually wear metal keys on their girdles as ornaments. Therefore, this key is not considered an ornament and he is not permitted to wear it on the Sabbath.

40

Q. Is a person permitted to wear, on the Sabbath, a ring which encloses a loose stone or a piece of lead in a hollow cavity, thus emitting a tinkling sound when moved?

A. A person is not permitted to produce musical sounds on the Sabbath, and some authorities believe (Ulla, in Erub. 104a) that one is not permitted to produce on the Sabbath any sound that will serve a specific purpose. Since the ring in question produces neither a musical sound nor serves a useful purpose, a person is permitted to wear it on the Sabbath.

41 (D)

Q. Is a person permitted to carry objects on the Sabbath from a planted garden to the house and from the house to the garden, when the garden is adjoining the house?

A. If the major portion of the area of the garden is planted, it is considered a separate enclosure and a person is not permitted to carry objects on the Sabbath from the house to the garden or vice versa. But, if only a small part of the area of the garden is planted, the garden is considered part of the courtyard.²

1. In this and many of the following laws, the issue centers around whether one is deemed to be working by carrying something. Carrying is only permitted within certain closed perimeters.

2. Carrying within a house or an enclosure is permitted; it is not permitted between two enclosures.

42

On the Sabbath, a Jew is not permitted to pour sewage into a stone-trough, which is situated partly in his yard and partly in the public domain (used to carry off sewage into the street), unless the trough is covered for four cubits length in the public domain.³

43

Q. On the Sabbath, may a Jew use latrines which are built in the city wall and open into a ditch surrounding the wall, so that the feces falling into the ditch are moved (by his force) from one Sabbath domain into another?

A. He should fasten a board beneath the seat (within not more than three *tefahim*⁴ below the latrine walls) so that the feces first fall on the board and then into the ditch. Should the board break on the Sabbath, he would still be permitted to use the latrine on that day.

44

Q. Is it permissible to manipulate the rectum with a spigot, on the Sabbath, in order to stimulate defecation?

A. This is permissible when the spigot is held in a different manner than it is usually held, e.g., when it is held with two fingers.

45

Q. Is a Jew permitted to attach a belt to his trousers (without pinning or sewing) on the Sabbath?

A. Yes, even if the belt is new.

46

Q. Is a Jew permitted to milk a cow on the Sabbath?

A. No, but because of the danger to the cow in not being milked, one is permitted to tell a Gentile to milk it and keep the milk for himself.

47

Q. Is it proper to permit a Gentile servant to warm the winter house on the Sabbath, when he does it of his own accord?

A. Although in France such practice was not objected to, and Rabbi Jacob of Orleans even permitted one to tell a Gentile explicitly to fix the fire, it is not to be permitted in our country [Germany] where many are accustomed to consider it a desecration of the Sabbath.

3. The problem here involves movement of something from one domain to another, which is forbidden on the Sabbath. However, the cover on the sewer allows plausible deniability: once the sewage is disposed of, it is technically impossible

to know that it will move from one domain to another.

4. *Tefahim*, or hand breadths, are measurements based on the width of a hand. Three *tefahim* would equal 7½ to 12 inches.

48

Q. A teacher rendered a decision permitting Jews to instruct a Gentile on the Sabbath to go outside of the city limits in order to be ready to assist relatives of a deceased in their burial operations.⁵

A. The decision of the teacher is incorrect, for ordinarily whatever a Jew is not allowed to do on the Sabbath, he is not permitted to tell a Gentile to do.

* * *

49

Q. Before leaving his place in order to participate in congregational services, A gave money to a Gentile and told him to hire workers immediately and build A's house. Is such an act permissible?

A. A Jew is not permitted to tell a Gentile before the Sabbath to work for him on the Sabbath.

50

1) Q. Is a Jew, who lives alone among Gentiles, permitted to ask his Gentile friend to hire laborers to do his work on the Sabbath?

A. He is not permitted to do so lest the members of his family or occasional Jewish guests, think that he hired the laborers himself.

2) You were justified in forbidding the practice of the Jews who used to enter a Gentile's store on the Sabbath, choose hats for themselves, put them on their heads, and walk out with them, even though they bargained for them on the following day; for the hats might have been finished on that very Sabbath.

51

Q. Slaughtering of an animal on the Sabbath is punishable by stoning, while eating forbidden meat involves only the trespassing of a negative commandment. Why, then, are we permitted to slaughter an animal on the Sabbath for the benefit of the critically ill, when feeding them forbidden meat would involve a lesser deviation from the Law?

A. Work done on the Sabbath for the benefit of the critically ill is considered as if done on a week-day, thus involving no infringement of the law.

52

Q. Is a woman who has had an ulcer on her body for the past four years permitted to treat it with calcined ashes⁶ on the Sabbath?

5. It is forbidden to instruct a Gentile to do anything that a Jew is forbidden to do on the Sabbath. But one may benefit from a forbidden action performed by a Gentile, if he does it of his own volition. (This Gentile is called a "Sabbath Gentile.")

6. Ashes that have been alkalized at very high heats.

A. It is permissible to dust calcined ashes on an ulcer during the week, but not on the Sabbath unless thereby to save an endangered life.

53

Q. Is it permissible to cure a person's headache or eye-sore by a charm, on the Sabbath?

A. It is permissible.

54

Q. Since according to the Talmud (Shabb. 25b) a person is required to light the Sabbath candles, one should eat the evening meal in the light of these candles. Why, then, do we often leave the candles in the house and eat the evening meal in the courtyard?

A. The Sabbath candles are intended to enhance the pleasures of the Sabbath, and not to detract from it. Since we derive greater pleasure from eating in the open air and away from the flies [that infest the house], we are permitted to do so.

[Martyrdom and Suicide]

783

Q. A had Gentiles arrest his opponents. One of his opponents resisted arrest; he fled, but was pursued and killed by the Gentiles. A claims that he merely intended to coerce his opponents into answering his summons to court.

A. A is fully responsible for the murder of his opponent, for when a Jew falls into the clutches of Gentiles, his life as well as his property is in jeopardy; he can expect from them neither pity, mercy, nor restraint. The Gentiles are happy to hold a Jew in their power; and, especially when commissioned by another Jew, their cruelty is boundless. They consider it entirely legitimate and even praiseworthy to rob, maim, and even murder a Jew.¹ Therefore, a person who delivers a fellow Jew into the hands of Gentiles is directly responsible for all their cruelties. Thus A is to be considered as much a murderer as if he killed his opponent with his own hands. No punishment is too great for him, no penance too harsh, and no manner of self-torture too severe. Let him be flogged and publicly disgraced, let him wander as an exile in foreign lands, let his face become black through fasting and self-torture for a year or two, and seek atonement for his crime. I subscribe to any punishment you may impose upon him, no matter how severe; and I would agree to still sterner measures but not to milder ones.

1. Rabbi Meir reflects the hostile relations between Jews and non-Jews in Germany in the thirteenth century (in the wake of the Crusades).

2. During the massacre of the Jews of Koblenz,² A's wife and four sons begged him to kill them before they fell into the hands of the enemies.³ A did so, and was ready to kill himself, but Gentiles saved his life. He inquired of Rabbi Meir whether he was required to do penance for his sin.

A. I find great difficulty in deciding this case. A person is indeed permitted to take his own life for the sanctification of God's name; but whether one is permitted to take the lives of others, even for a deeply pious reason, is questionable. However, such an act became widely accepted as permissible, and we have heard of many great authorities who martyred their sons and daughters. Even Rabbi Kalonymus⁴ did so, as he later lamented in a dirge which begins with the words: "I say, look away from me [in abhorrence] . . .," [recited in the synagogue on the ninth day of Ab].⁵ Thus anyone who should require A to do penance, would thereby vilify the pious men of former days.

2. A city in Germany. This is probably a reference to a massacre of twenty Jews in 1265.

3. Such murders were considered forms of martyrdom by the medieval Ashkenazic Jews.

4. Kalonymus ben Judah was a liturgical poet who lived in Germany in the twelfth century.

5. The day commemorating the destruction of both the First and Second Temples.

JOSEPH KARO 1488–1575

SHULHAN ARUKH

263:2–3

[ON SABBATH]

2. Both men and women are obligated to have a kindled light in their homes on [the Sabbath].

Even one who has nothing to eat should go begging from door to door/so as to be able to buy oil and kindle a/[Sabbath]/light—for this is part/of the mitzvah/of making [the Sabbath] a delight (*Oneg*/[Sabbath]).

3. Women are more obligated in this/mitzvah than men/because they are generally at home and take care of the household needs.

If one cannot afford to buy both a light for [the Sabbath] and/wine for Kiddush,¹ the [Sabbath] light takes precedence. Similarly, if one cannot afford to buy both a light for [the Sabbath] and a light for Chanukah, the [Sabbath] light takes precedence, because/it contributes to maintaining/peace in the home—for there can be no domestic peace without a light.

FROM Yisroel Meirha-Kohen, *Mishnah Berurah: The Classic Commentary to the "Shulchan Aruch Orach Chayim," Comprising the Laws of Daily Jewish Conduct.*

1. The blessing said over the wine.

BIBLE COMMENTARY

Rabbinic literature is built on commentaries on the Bible, but the purpose of those commentaries, whether legal (*halakhic*) or literary (*aggadic*), is not to elucidate the literal meaning of the biblical text. The Bible itself is not the central text in a rabbinic education, which focuses instead on the Talmud and its commentaries. Educated—and even less educated—Jews, including women, would have been familiar with the Bible from the public reading of the weekly portion of Torah and prophets that took place in the synagogue, and men who studied Talmud would also know the Bible from the talmudic quotation of "proof texts," biblical verses used to "prove" a *halakhic* or *aggadic* argument. It was only in the High Middle Ages (the eleventh century and later) that, perhaps under the influence of Christian biblical exegesis, the Bible came into its own as a book to be studied.

The figure who restored the Bible to pride of place was a French rabbi, Shlomo Itzhaki, universally known as Rashi (an acronym for Rabbi Shlomo Itzhaki). Rashi (1040–1105), who spent his life in Troyes, in the Champagne region of France, was to Ashkenazic Jews as Maimonides was to Sephardic Jews: a towering figure whose mastery of rabbinic literature dwarfed all others. His comprehensive commentary on the Babylonian Talmud became canonical and was included as a gloss to the first printing of the Talmud in the 1520s; it was reprinted in every subsequent edition. This commentary was so influential that it gave rise to a school of French and German talmudic commentators in the twelfth and thirteenth centuries called the *Tosafot* (literally, "the additions"), a school that included Rashi's disciples and descendants. Where Rashi's goal in his talmudic commentary—as in his biblical—was to explain difficult words and passages, the Tosafists were interested in the legal dialectics of the text. The *Tosafot* also became canonical and were reprinted opposite Rashi's commentary as marginal glosses to pages of the Talmud.

Rashi's commentary on the Bible mixed elucidation of the literal meaning of the text with selective quotations of earlier midrash, as becomes clear from his two explanations of the phrase "In the beginning he [God] created." Drawing on midrashim, he makes two important points: (1) that the creation story is in the Bible to demonstrate that the earth belongs to God and he could, therefore, take the land of Israel from the Canaanites and give it to the Israelites; and (2) a correct grammatical understanding of the phrase is that God's first act of creation was not the heaven and the earth, but light.

In his introduction to the Song of Songs, Rashi reveals his exegetical philosophy. Where Maimonides was to later argue that the allegorical meaning of a biblical verse might contradict



Rabbi Shlomo Itzhaki, or Rashi (1040–1105), depicted in a much later image (1539).