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It is important for religious educators to properly understand how Jews, especially ancient Jews, understood the oral law in order to help students gain a greater appreciation for the world in which Jesus lived.

## “Torah in the Mouth”: An Introduction to the Rabbinic Oral Law

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One of the primary characteristics of modern Judaism, as it developed from its earliest forms, is the acceptance of what is commonly known as the oral law.<sup>1</sup> Over the thousands of years of Jewish/Christian interaction and discourse, Christians—including Latter-day Saints—have tried to understand the oral law and how it relates to their own beliefs and practices. In the historical relationship between Christianity and Judaism, this has sometimes led to the propagation of anti-Semitic beliefs, even unknowingly. When teaching about Judaism, whether in the context of the New Testament or world religions, it is important for Latter-day Saint teachers and religious educators to properly understand how Jews, especially ancient Jews, understood the oral law in order to help our students gain a greater appreciation for the world Jesus Christ lived in and to better help them follow the advice of Mormon and avoid “making game of the Jews” (3 Nephi 29:8). Because it is addressed to our day (see Mormon 8:35), it is worth helping our students take Mormon’s warning seriously.

Much of the difficulty in dealing with the oral law is centered in Christianity’s sometimes troubled relationship with the written law. How

to interact with the law of Moses, as found in the scriptures, is a question that has concerned Christianity from the very beginning. In the Sermon on the Mount, Jesus states, “Think not that I am come to destroy the law, or the prophets: I am not come to destroy, but to fulfil” (Matthew 5:17). This statement by Jesus illustrates the important realization that the relationship between Christianity and the law of Moses was not intended to be a destructive one. The difficulty here is figuring out what Jesus means by fulfill—what parts of the law of Moses remain under the “new” law, and what parts are “done away” (see 3 Nephi 9:19). This is not an easy question, and it is one that is further complicated by a general ignorance of those things that are actually part of the written law of Moses.

I have had numerous occasions as an instructor where I have asked about the precepts of the law of Moses and received responses about the number of steps it was acceptable to take on the Sabbath. This regulation is not actually found in the written law of Moses, but comes from the oral law.<sup>2</sup> Another misconception that I have found from students is that the oral law contained so many accretions that it had 613 commandments.<sup>3</sup> This number of 613 was reached not by some arbitrary decision by postscriptural Jews but instead by counting up the commandments in the law of Moses as we have it today in the Bible, a law that Latter-day Saints believe was given by God.<sup>4</sup> A discussion of Latter-day Saint views on the written law of Moses is in many ways outside the scope of the present article, but these questions lay behind any discussion of the oral law.<sup>5</sup>

Since The Church of Jesus Christ of Latter-day Saints comes, in many ways, from the broader Christian tradition, we have occasionally fallen prey to negative characterizations of Judaism. There is, in fact, a sort of dichotomy between how Judaism and Jewish tradition is portrayed in Latter-day Saint thinking and discourse.<sup>6</sup> A complete discussion is too large to discuss in this article, but a few examples will suffice to illustrate this point. In a volume discussing Latter-day Saint views on apostasy, Matthew J. Grey has recently published an article on how Latter-day Saints characterize Judaism just before the coming of Jesus Christ.<sup>7</sup> Grey observes, “Along with ‘the Great (Christian) Apostasy’ of the Middle Ages, LDS writers often depict intertestamental Judaism as one of the deepest periods of spiritual darkness in human history.”<sup>8</sup> Grey suggests part of these difficulties derive from Latter-day Saint use of Victorian Protestant scholars such as Frederick Farrar and Alfred Edersheim, who present “Jesus as European Protestant (in both appearance and spiritual

demeanor) who preached an ethical gospel of love.”<sup>9</sup> This was then contrasted with the Jewish (and by extension Catholic) belief that the proper interaction with God could contain elements of ritual law or ordinances.<sup>10</sup> As Grey shows, Latter-day Saints have occasionally adopted this view, in spite of our view of the spiritual and salvific efficacy of ordinances.<sup>11</sup> It is important to be aware of this trend in older writing and thinking, in both Latter-day Saint and non-Latter-day Saint sources.<sup>12</sup>

The other side of this is Latter-day Saint philo-Semitism. Because of our perspective as being members of Israel, broadly defined, Latter-day Saints feel a certain affinity for Judaism and Jewish ideas.<sup>13</sup> This tendency has a history stretching all the way back to the earliest days of the Church and the Restoration, when Joseph Smith went out of his way to study Hebrew, even going so far as to hire a Jewish teacher.<sup>14</sup> Jews have often been viewed as a privileged audience for proselytizing and teaching efforts.<sup>15</sup> That interest in Judaism and the relationship between Jews and Latter-day Saints has not died down.<sup>16</sup> Bringing up this affinity and appreciation for Judaism and Jewish practices is not intended as a condemnation of that appreciation. Indeed, I think that is a good thing. It does, however, illustrate something of the two often opposing ideas that inform Latter-day Saint thinking about Judaism. In fact, the appreciation has often helped increase understanding and dialogue on both sides. Understanding the oral law is a very important step in this process, since understanding this foundational aspect of Judaism will encourage even greater consideration of the world of Judaism.

In this article, I make some comparisons between aspects of the Jewish oral law and Latter-day Saint belief and practice. These comparisons are not intended to suggest that the two things being compared are in any way the same thing. Jewish law and thought developed along different paths than that of Christianity and Mormonism, and so notions developed are not going to be identical. Neither, however, are these comparisons intended to downplay or trivialize Jewish perspectives. Indeed, part of the purpose of this article is to help treat Judaism, in all its varieties and particulars, as a thing for itself and not simply as an object for either ridicule or overweening praise. In order to properly make comparison between Judaism and the Church, it is important to start from a proper understanding of what Judaism is and what it does. The comparisons with Latter-day Saint practice are, therefore, primarily intended to show functional similarities as well as to provide space for thinking about the ways in which both Latter-day Saints and ancient Jews approach and deal

with many of the same difficulties. Both the differences and the similarities can be very instructive, as they give students insight into ways in which God reveals truth to all of his children.

This article begins with an examination of the sources that modern scholars and teachers have at their disposal for understanding rabbinic literature and the oral law, as well as definitions of some distinctive Jewish terms. This is followed by an example from the New Testament showcasing Jesus's interaction with the version of the oral law practiced during his mortal ministry. After this, the primary rabbinic sources of the oral law, the Mishnah and the Talmud, are briefly described. Finally, several distinctive characteristics of the oral law, such as polysemy and the rabbinic view on revelation through community and discussion, are addressed in order to show the key similarities and differences and help build understanding.

### Sources and Terms for Understanding the Oral Law

In order to better help students understand the oral law and Judaism for itself, it will be helpful to explore what we know today about the Jewish oral law. There are a number of ancient sources that discuss and present this law and can help us to better understand its place in Jewish thinking, ancient and modern. These include the New Testament itself, the historical writings of the Roman-Jewish historian Josephus, and the final collected corpus of rabbinic oral law, known as the Mishnah and Talmud.<sup>17</sup> Each of these presents a slightly different perspective on the oral law. In this article, we will examine these sources in order to clarify what the Jewish oral law is and show ways to help students better understand both their own religious traditions and those of other faiths.<sup>18</sup>

According to the ancient Jewish-Roman historian Josephus, the Pharisees were one of the most prominent of the Jewish sects around the time of Jesus Christ.<sup>19</sup> This group plays an important role in the New Testament Gospels' portrayal of the life and ministry of Jesus Christ. Several prominent early Christians were originally Pharisees, not the least of which was the Apostle Paul (see Philippians 3:5). The Pharisees are also presented as some of Jesus's most ardent opponents, especially in the Gospel of Matthew.<sup>20</sup> The portrayal of the Pharisees in the Gospels is such that even the word "pharisee" has acquired in English a secondary meaning of "self-righteous person, or hypocrite."<sup>21</sup> Although there were some legitimate disagreements between Jesus and the Pharisees, this characterization is unfortunate. Jesus rejects certain

aspects of the Pharisaic oral law, but keeps others, even acknowledging the importance of keeping the oral law.<sup>22</sup> It is especially unfortunate when the New Testament characterizations of the Pharisees are applied first to rabbinic Judaism and then to Judaism more broadly, becoming something of a breeding ground for anti-Semitic thinking, as has sometimes happened in the Christian West.<sup>23</sup>

Rabbinic literature (and in many ways, rabbinic thinking) is grounded in the production and understanding of *halakhah*. *Halakhah*, which comes from a Hebrew word for *walking*, refers to Jewish legal decisions and law.<sup>24</sup> It is these legal discussions that rabbinic literature is most concerned with. The Mishnah and the Talmud, which are the foundational documents of rabbinic literature, are focused on discussing, analyzing, and interpreting *halakhah*. The center of rabbinic Judaism is the Torah (in this case, this means both the written and oral law), and, as such, it is primarily concerned with legal matters.<sup>25</sup> This focus on law pervades all levels of rabbinic textual construction. Even rabbinic biblical reading and interpretation, called midrash, seems to have originated in a desire to associate and ground rabbinic *halakhah* in the biblical world.<sup>26</sup>

### Oral Law, New Testament, and Pharisees

Matthew and Mark preserve an account where Jesus has a disagreement with certain Pharisees over the "traditions<sup>27</sup> of the elders" (Matthew 15:1–9, Mark 7:1–13). The original disagreement in this section is over washing hands and notions of purity among the Pharisees. Note that in 7:3 Mark indicates that this tradition of washing hands was not unique to the Pharisees, but that all the Jews followed this particular tradition. Mark does not present handwashing as a primarily Pharisaic innovation. In connection with this, it is clear from Jesus's discussion with the Pharisees that the handwashings, as such, do not represent his primary difficulty with his Pharisaic opponents. In Mark 7:9, Jesus says, "Full well ye reject the commandment of God, that ye may keep your own tradition." In this instance, the problem for Jesus is not the traditions per se, but rather in the use of that tradition to turn aside the specific commandment of God.

In the Gospel of Mark, Jesus responds to the questions of the Galilean Pharisees<sup>28</sup> about his lack of handwashing with a denunciation of another part of Pharisaic interpretation: "For Moses said, Honour thy father and thy mother; and, Whoso curseth father or mother, let him die the death: But ye



say, If a man shall say to his father or mother, It is Corban, that is to say, a gift, by whatsoever thou mightest be profited by me; he shall be free. And ye suffer him no more to do ought for his father or his mother” (Mark 7:10–12). Here, Jesus accuses the Galilean Pharisees of allowing the interpretive laws on the annulling of oaths to overcome the stated intent of the law of Moses because they could make an oath that dedicated their money to the upkeep of the temple rather than to their parents. Jesus quotes Exodus 20:12 and 21:17 in order to draw a contrast between the legal position of the Galilean Pharisees and his own position. He brings in the concept of *qorban*,<sup>29</sup> which originally referred to a sacrificial gift, but by the Second Temple period had come to mean a vow or offering.<sup>30</sup> As presented in the New Testament, this is not so much a denunciation of the oral law, as such, but a *halakhic* discussion on the relationship between the oral and written law, and which takes precedence over the other. Jesus allows for the oral law, but not at the expense of the written law.

In thinking about this story and what it tells us about the law, written and oral, it should be noted that the close genetic connection between the Pharisees and the later rabbinic movement is something that has previously simply been assumed. However, Jacob Neusner and others have shown that the picture offered by our ancient sources, both Jewish and Christian, is more complex than that.<sup>31</sup> Neusner observes that neither the New Testament, nor Josephus, nor even the Mishnah is especially concerned with the “historical character and doctrines of the Pharisees.”<sup>32</sup> In addition, we have no document deriving from the Pharisaic party itself. What we have is either very late, such as the Mishnah, or from a different tradition, such as the New Testament. With that in mind, however, it is sufficient to note that, although from what we can tell the *specifics* of the oral law differ between the Pharisees and the later rabbinic sages, both groups held to the importance of the oral law, as such, and so there is some continuity. The differences should be enough to warn us to be careful, while the similarities are sufficient to allow for broad understanding of what the oral law is and what it does.

### Mishnah and Talmud

The rabbinic sages called their version of the oral law the Mishnah. The word *Mishnah* comes from a Hebrew root that means “to repeat or recite” and indicates the way that the Mishnah was transmitted and reproduced, pointing to its oral nature. The Mishnah is a formal codification of various oral laws



Courtesy of Church History Library.

As a child, Jesus discussed both the written and oral law, as when he spoke with the doctors in the temple. To help students appreciate the world in which Jesus lived, it is important to properly understand how ancient Jews understood the oral law.

and traditions that formed the core of rabbinic tradition. This collection can provide intriguing insight into the New Testament and the concerns that faced Jesus Christ and his immediate followers. According to tradition, the Mishnah was compiled around AD 200 by Judah Ha-Nasi.<sup>33</sup> Although the text of the Mishnah as we have it today was compiled in the third century AD, long after the time of Jesus Christ and the destruction of the Jerusalem temple, it contains traditions that go back to even before the life of the Savior. Some care must be exercised in using traditions from the Mishnah in understanding earlier periods, but it is possible.<sup>34</sup> Understanding what the Mishnah is and how it works can help students better understand the important legal context that fed into Jesus's mortal ministry.

The Mishnah is divided topically into six orders, called *sedarim* in Hebrew.<sup>35</sup> These are *Zera'im* (Seeds, dealing with agricultural laws), *Mo'ed* (Appointed Feasts), *Nashim* (Women), *Neziqin* (Damages), *Qodashim* (Holy Things), and *Toharot* (Purities, really a euphemism for impurities). These orders are then subdivided, again by topic, into divisions commonly called tractates (*masseket* in Hebrew). For example, the order of *Mo'ed* is divided into tractates covering topics as diverse as the laws governing Sabbath observance (tractate *Shabbat*), the laws about festivals like Passover or Sukkot (tractate *Pesahim* and *Sukkah*), and more obscure topics such as the appropriate eating and cooking of eggs around holidays and festivals (tractate *Betzah*). A significant portion of the tractates centers around issues relating to the temple.<sup>36</sup> Within each of the orders, the tractates are arranged according to size, with the largest tractates coming before the shorter tractates. Each tractate is then divided, like the scriptures, into chapters and verses. The individual verse-level division is called a mishnah, although to avoid confusion it can also be called a paragraph. Generally speaking, when capitalized, Mishnah refers to the entire collection, while mishnah refers to an individual unit. When citing the Mishnah, one usually quotes it as m. (for Mishnah), plus the tractate, with the chapter and mishnah number. Thus, one could say *m. Berakhot 2:4*. This is the format followed in this article.

The Mishnah became a source for commentary and legal discussion. This commentary on the Mishnah is known as the *gemara*, from an Aramaic word meaning “verbal traditions.” The Mishnah and its gemara taken together are called the *Talmud*. Where the Mishnah is written in Hebrew, the gemara (and so the bulk of the Talmud) is written in Aramaic. There are two Talmudic collections, one compiled in Babylon and one in Roman Palestine. The one

compiled in Roman Palestine is often called the Palestinian Talmud or the Jerusalem Talmud. Between the Babylonian and Roman Palestinian collections, the Babylonian Talmud is the most important in Judaism, especially since the medieval period.<sup>37</sup> Generally speaking, unless otherwise specified, “Talmud” refers to the Babylonian Talmud. Although the Talmud continues the process begun in the Mishnah and so should also be understood as part of the ongoing tradition of oral law within Judaism, it contains a wide variety of non-halakhic material to support its halakhic arguments.<sup>38</sup> The Talmud is cited based on its tractate name and the folio page that the citation is found on, such as *b. Avodah Zarah 4b*.<sup>39</sup>

### Rabbinic Argumentation and Multiple Opinions

The Mishnah takes the form of a series of quotations from both named and anonymous sages. One of the intriguing aspects for modern readers of the Mishnah is that it often preserves a number of different opinions on a topic without necessarily ruling which of these opinions is the correct one. This acceptance of a plurality of voices is an essential characteristic of the Mishnah and the later Talmud. It is rooted in some of the oldest traditions in the Mishnah, the controversies between the House of Shammai and the House of Hillel. According to the sages, these two Pharisaic schools disagreed on many halakhic notions, and Mishnah preserves many of their disagreements. There is a tradition in the Babylonian Talmud that illustrates this: “For three years the House of Shammai and the House of Hillel differed. These ones said, The halakhah is according to us and these ones said, The halakhah is according to us. Then a heavenly voice<sup>40</sup> came down and said, These and these [i.e., both the opinions of the House of Hillel and the House of Shammai] are the words of the Living God, but the halakhah follows the House of Hillel” (*b. Eruvin 13b*).<sup>41</sup> The sages are able to acknowledge that there is a “correct” answer, so that the halakhah follows the House of Hillel, but also according to the heavenly voice, both opinions are equally valid.

Jewish oral law itself rarely makes any statement on which opinion is the “correct” one. The Mishnah is concerned with collecting various opinions, not with presenting a single orthodox ruling.<sup>42</sup> This trend is followed in later Jewish writings—Judaism never develops an orthodoxy in the Christian sense. This is something that is vital to remember when thinking about Judaism in general—belief, as such, is not the primary determinant of membership in the community. Although there are doctrines that would likely bar one from

the Jewish community, determining correct doctrine has never been primary in Jewish thinking.

Part of the reason behind this may come from the fact that the written law in the scriptures seems to tolerate multiple opinions as well. As is well known, the law of Moses, as recorded in the Bible, contains places that record different laws. For example, Exodus 21:2 commands that released Israelite slaves are to leave their masters without any additional property. On the other hand, Deuteronomy 15:12–18 contains a slavery law parallel to the one in Exodus, but Deuteronomy 15:13–14 commands that released slaves be given property from their master's property. The two laws on slavery have different provisions about whether the slave is to leave with or without property. Although scholars today generally believe that this kind of legal duplication and difference was the result of various sources and strands that were later tied together, the ancient rabbinic sages were not historical-critical readers of the scriptures.<sup>43</sup> For them, the law of Moses came from God on Sinai, and so the multiple voices in scripture were a divine feature to be explored and understood, not something to be rejected and removed.

One of the solutions they found derives from the fact that ancient Judaism (and therefore modern Judaism) is very much a religion focused on the community, and so the voice of God is heard through the discussion of the community. This is well-illustrated by a story about a halakhic dispute over what is known as the oven of Akhnai in *b. Baba Metzia 59b*. The specific halakhic disagreement is fairly technical and so will not be addressed in this article.<sup>44</sup> What matters for the current concern is that one sage, Rabbi Eliezer, disagrees with the rest of the community about whether a specific kind of oven is susceptible to uncleanness. R. Eliezer appeals to a variety of miracles to prove his halakhic point. He causes a carob tree to uproot itself, a river to go backwards, and the walls of the house in to cave in, each time asking God to prove that the halakhah follows his reading. Eventually R. Eliezer appeals to heaven (here a euphemism for God's direct intervention), and the story has the following conclusion:

A heavenly voice came down and said, "Why do you dispute with R. Eliezer, since the halakhah agrees with him in every place." R. Joshua stood up and said, "It [the Law] is not in Heaven' (Deut. 30:12)." What is meant by "It is not in Heaven?" R. Jeremiah said, "Because the Law was already given at Mt. Sinai, we do not pay attention to a heavenly voice, since you already wrote in the Law at Mt. Sinai, 'After the majority to incline' (Exodus 23:2)." R. Nathan met Elijah<sup>45</sup> [the Prophet] and said to him, "What did the Holy One, Blessed Be He, do at that same moment?" [Elijah

said to him, "He laughed and said, 'My children have defeated me. My children have defeated me.'" (*b. Baba Metzia 59b*)

This story has broad implications for understanding the relationship between the Oral Law and the Written Law, and their place within the Judaism of the sages.

In the course of the halakhic argument, a direct voice from heaven is not sufficient to solve it.<sup>46</sup> The reason given is that according to the written law, which was understood by the rabbinic sages to have been given by God through Moses, the law was not in heaven but was on the earth for humans to live.<sup>47</sup> Deuteronomy 30:11–14 makes the claim that God gave the law of Moses for mortal individuals living on the earth. R. Joshua extends the biblical statement to the rabbinic process of legal interpretation, saying that since God gave humans the law, he also gave to humans the ability to interpret that law. The law is not in heaven, and therefore, the interpretation of the law is also not in heaven, but in the hands of the authorized interpreters. For rabbinic Judaism, this means the rabbinic sages. The communal nature of this interpretation is facilitated by R. Jeremiah's deliberate misreading of Exodus 23:2. In the original context of Exodus, it is a command for judges to judge fairly rather than to accept majority or mob rule. It is turned around by R. Jeremiah to indicate the emphasis of the community in making legal decisions and scriptural interpretations.<sup>48</sup>

This does not mean, however, that the sages felt that the interpretation of the scriptures and the law of Moses became somehow "of private interpretation."<sup>49</sup> For one thing, the emphasis on the interpretation by majority rule protects against this. Additionally, the sages viewed their laws and traditions as being in continuity with, and even deriving from, Moses and the revelation at Mount Sinai. This is most clearly laid out in the mishnaic tractate *Avot*, or "Fathers," meaning the mishnaic sages.<sup>50</sup> This tractate begins with a statement about the passing down of the rabbinic tradition: "Moses received the Law from Sinai, and transmitted it to Joshua. Joshua [transmitted it] to the Elders, the Elders to the Prophets. The Prophets transmitted it to the men of the Great Assembly. They [the men of the Great Assembly] said three things: Be measured in judgment, make many students, and make a fence for Torah" (*m. Avot 1:1*). The chain then proceeds along various figures in the rabbinic movement. There is a lot going on in this particular passage, but for the present purposes, it is sufficient to note that the sages conceived of their traditions as being in direct continuity with the written law of Moses. This is in keeping



with their notion of written and oral Torah. In the rabbinic perspective, the written law and the oral law have the same source—God, through Moses on Mount Sinai.<sup>51</sup>

The rabbinic sages were not unaware that their interpretations were extrapolations of biblical law, not always the law itself. In one part of the Mishnah, the anonymous voice in the Mishnah observes, “[The laws concerning] the release from vows spread out in the air, and they do not have anything [from scripture] to support them.<sup>52</sup> The laws of the Sabbath, pilgrimage festivals, and sacrilege are as mountains suspended from hairs—for they have little Scripture and many laws. [The laws of] cases and the Temple Service, purity and impurity, and the forbidden sexual connections—these have much [from scripture] to support them. They are the substance of the Law” (m. Hagigah 1:8). This particular passage is very revealing on the relationship between the Mishnah and the scriptures. The Mishnah acknowledges that not all of the various topics that it legislates on are all equally based on the scriptures.

The Mishnah should not, therefore, be thought of as commentary on the Bible. It may be seen as biblical interpretation in the sense that the sages saw their law as being in continuity with the biblical law of Moses, but it is not a direct commentary on any particular part of the Bible. That more accurately describes the Midrashim.<sup>53</sup> For the present discussion, it is sufficient to note that the mishnaic laws are not necessarily dependent on any specific biblical law (although many are), and do not specifically claim to be.

This also means that when teaching students about the oral law, whether in a New Testament context or otherwise, it is important to not set it wholesale against the Bible and presume that somehow the oral law adds to or takes away from the written law (see Deuteronomy 4:2 and Revelation 22:19). With an understanding of what the oral law is and does, these statements make about as much sense as arguments against the Book of Mormon based on the existing revelation in the Bible. Latter-day Saints often speak about the ways in which the Book of Mormon is necessary to support and understand the Bible.<sup>54</sup> The sages make similar claims for the oral law. There is a story in the Babylonian Talmud, in Shabbat 31a, illustrating this point. This is another rabbinic tale about Hillel, one of the most famous of the sages and founder of the school discussed previously. In this story, a man comes to Hillel and says that he wants to convert to Judaism, but only with the written law and not the oral law. Hillel assents and teaches him the Hebrew alphabet (preliminary to teaching him the Hebrew language and the scriptures written in that

language). The next day the new convert comes back, and Hillel starts again to teach him the alphabet but with the letters reversed. When the convert protests, Hillel asks, “Do you not then need to rely on me [to learn Hebrew]? Then also rely on me concerning the [oral law].”

This Talmudic story illustrates the rabbinic view of the interconnectedness of the oral and the written law, but also illustrates a key point in thinking about the relationship between the oral law and the scriptures. This story reminds readers that there is no such thing as an unmediated reading of the scriptures. Every time people read the scriptures, they are influenced by their own experiences, and we all need teachers and expositors to help us understand the often difficult words of the scriptures. The oral law represents the attempts of the ancient Jewish sages to continue to make biblical law a lived law in their own lives.

### Oral Law and Audience

Another feature of the Mishnah that can be difficult for modern readers is that it was intended for an insider audience of rabbinic Jews. Although the sages presume to be speaking with authority for all of Judaism, the Mishnah itself assumes knowledge about both rabbinic tradition and method. Sometimes this means that the Mishnah makes reference to principles or ideas that are not explored or explained within the text of the Mishnah.<sup>55</sup> In connection with this, halakhic literature, such as is found in the Mishnah and Talmud, can be a very technical literature and often uses common terms in a very specific sense. In Herbert Danby’s excellent English translation of the Mishnah, he includes a five-page appendix of terms that he does not translate from the Hebrew, usually because they are technical terms within the halakhic discourse. This list includes terms such as *demai*, which refers to produce where its tithed status is uncertain; *erub*, the boundary in which a Jew may travel on the Sabbath; and *midras*, a specific kind of impurity based on items rendered impure through sitting or riding.<sup>56</sup>

The other effect of presenting to an internal audience means that many of the laws and discussions do not appear to have been initially intended for an external non-rabbinic, let alone non-Jewish, audience. This helps to explain the polysemy as well. The Mishnah and then the Talmud are modeling rabbinic methods of thinking and argumentation in addition to actually recording some of those arguments. In other words, the Mishnah shows not only what the rabbinic arguments for a given position are, but more

importantly, they also show how those arguments are made and constructed. The home of the sage is the schoolhouse, not the synagogue,<sup>57</sup> and so the pedagogical element in the production and promulgation of the Mishnah and Talmud should not be overlooked.

### Oral Law and Legalism

Within this discussion of audience comes the point that one of the characteristics of rabbinic Judaism, as framed within the world of rabbinic literature, is that it is primarily concerned with legal and ritual matters. It is, simply put, a halakhic literature. Sometimes this can seem to the modern Latter-day Saint reader unnecessarily complex and dealing with unimportant minutia. A classic example of this is the enumeration of the thirty-nine classes of work that are forbidden on the Sabbath (m. Shabbat 7:2). The rabbinic sages are often interested in defining places where biblical law seems to them to be unclear. Exodus 20:8–9 says, “Remember the sabbath day, to keep it holy. Six days shalt thou labour, and do all thy work.” For the sages, this leads to the question “What counts as labor? What is work?” This is a key point in understanding what the Oral Law is trying to do. Often times the scriptures will tell you what to do, sometimes they will tell you why, but very rarely will they tell you *how*. The purpose of halakhic literature is to answer the question of how one lives God’s law.

One of the most important dicta in all of rabbinic literature is “Make a hedge around the Law” (m. Avot 1:1). The sages are sufficiently anxious about breaking the law of Moses that they feel the need to clarify and explain what is meant by the various concepts that surround the law. This is not, of course, unique to rabbinic Judaism. I have sat in many a priesthood meeting listening to discussion about which activities are specifically forbidden to perform on the Sabbath. I have found it useful to illustrate the process of developing a halakhic argument to students by framing the question, “It is it appropriate to purchase something from a vending machine on Sunday?” The students are often taken aback, but they soon warm to the discussion. They know that they are to keep the Sabbath day holy, but the specifics of how to keep that law requires some thinking through. Although it is based on different assumptions, and so comes to different conclusions, the desire to categorize and explain the law in order to explain the *how* of keeping the commandments is a core part of rabbinic discourse that is shared by Latter-day Saints.

However, the desire of the sages to define and describe boundaries, combined with the New Testament statements against the Pharisees (which are, as noted, considered the ancestors of the sages by both Judaism and Christianity), provides much of the grist for accusations of rabbinic or Jewish “legalism.” The rabbis, and Jews in general, are often accused of being concerned with only external performances. It should be noted, however, that the sages did not view working through and promulgating halakhah to be an exercise devoid of religious and spiritual meaning. This is well illustrated in another Hillel story from Shabbat 31a in the Babylonian Talmud. In this tale, someone comes to Hillel asking to be made a proselyte if Hillel can “teach him Torah on one foot.” Hillel says to him, “What is hateful to you, do not to your neighbor. This is the whole Law—the rest is commentary, go and study.”<sup>58</sup> This is, of course, rabbinic Judaism’s version of the Golden Rule, and tells the reader much about how the Talmudic sages viewed themselves and their notions of what the law was about. This story encourages a recognition that the sages viewed their various legal statements and observations as having ethical value—they were all articulations and clarifications of what we now call the Golden Rule. Elder Neal A. Maxwell of the Quorum of the Twelve Apostles had this to say about the relationship between the spirit of the law and the letter of the law:

One of the ironies which is fostered, at times innocently, in the Church, is the feeling we have that the spirit of the law is superior to the letter of the law because for some reason it seems more permissive or less apt to offend others. The reverse is true. The spirit of the law is superior because it demands more of us than the letter of the law. The spirit of the law insists that we do more than merely comply superficially. It means, too, that we must give attention to the things that matter most and still not leave the others undone.<sup>59</sup>

Elder Maxwell reminds us to not denigrate the letter of the law since our religion requires both the spirit and the letter, a position that occasionally, and perhaps ironically, opens us up to accusations of legalism from other Christian groups.<sup>60</sup>

### Conclusion

The oral law and its relationship with the development of Judaism represent one of the key distinctive points in Judaism, in both its historical and modern expressions. Judaism, Jewishness, and law are notions that are integrated throughout all scripture, both ancient and modern. An examination



of the hows and whys of the oral law points out both stark differences with Latter-day Saint notions of scripture and law as well as important similarities. The dedication of the ancient rabbinic sages to preserving and understanding God's will created an environment that produced a singular literature focused on legal matters, but also applying those legal matters to all aspects of life. The acceptance of multiple voices and a priority given to revelation through community served for the sages as ways to explicate how to live a godly life. Although the conclusions that the ancient sages came to are often times very different from those that Latter-day Saints and other Christians have come to, the impetus behind these questions comes from a similar place. Understanding where the ancient rabbinic sages are coming from can better help students appreciate this important expression of Judaism for itself. This will better allow us to follow the Book of Mormon injunction to not "make game" of Jews and Judaism, including those aspects that seem especially strange or difficult to us. This in turn allows students to see the ways in which Jesus Christ was both a part of and transcended the Jewish world in which he lived, allowing us and our students to better understand the various ways in which God speaks with his children. **RE**

## Notes

1. In Hebrew this is known as the *torah shā-be-'al-peh*, literally "law in the mouth."
2. The ruling itself derives from the law given in Exodus 16:29, where the people are commanded: "Let no man go out of his place on the seventh day." This is combined with Joshua 3:4, which defined the limit of the city as 2,000 cubits, in order to come to the guideline of what qualifies as going out on the Sabbath. There is no specific law in any extant Jewish source specifically dictating how many steps were permissible.
3. This idea may have entered LDS discourse through Elder Talmage's *Jesus the Christ*, which quotes a lengthy section on the 613 commandments from Anglican author Frederic Farrar. See James E. Talmage, *Jesus the Christ* (Salt Lake City: Deseret Book, 1916, reprinted in 1982), 524, no. 4. Farrar's mischaracterization of the Jewish sages sounds anti-Semitic to modern ears.
4. See "Law" in *The Guide to the Scriptures*, <https://www.lds.org/scriptures/gs/law?lang=eng#>.
5. Recent Latter-day Saint discussions have also attempted to show the ways that the law of Moses actually integrates with Latter-day Saint understandings. On this, see Kent P. Jackson, "The Law of Moses and the Atonement of Christ (Leviticus)," in *Studies in Scripture: Volume 3, Genesis to 2 Samuel*, ed. Kent P. Jackson and Robert L. Miller (Salt Lake City: Deseret Book, 1985), 153–72; T. Benjamin Spackman, "The Israelite Roots of Atonement Terminology," *BYU Studies Quarterly* 55 (2016): 39–64; Julie M. Smith, "Point Our Souls to Christ: Lessons from Leviticus," *Studies in Bible and Antiquity* 1 (2009): 67–82. Intriguingly, the article on the law of Moses in the *Encyclopedia of Mormonism* was cowritten by Ze'ev

Falk, a Jewish legal scholar, in connection with Douglas H. Parker, a former professor at the J. Reuben Clark Law School.

6. This dichotomy is discussed in Armand L. Mauss, *All Abraham's Children: Changing Mormon Conceptions of Race and Lineage* (Urbana: University of Illinois Press, 2003), 158–90. Mauss points out that Latter-day Saints often hold positive and negative views about Judaism simultaneously. Mauss, *All Abraham's Children*, 199–200. See also Arnold H. Green, "Jews in LDS Thought," *Brigham Young University Studies Quarterly* 34, no. 4 (1994–95): 138–64.
7. Matthew J. Grey, "Latter-day Saint Perceptions of Jewish Apostasy in the Time of Christ," in *Standing Apart: Mormon Historical Consciousness and the Concept of Apostasy*, ed. Miranda Wilcox and John D. Young (Oxford: Oxford University Press, 2014), 147–73.
8. Grey, "Perceptions of Jewish Apostasy," 147.
9. Grey, "Perceptions of Jewish Apostasy," 150.
10. The best discussion of how Protestant/Catholic polemics undergirded much of the scholarship on ancient religion and early Christianity is found in J. Z. Smith, *Drudgery Divine: On the Comparison of Early Christianities and the Religions of Late Antiquity* (London: School of Oriental and African Studies, 1990), 16–25.
11. This view on the efficacy of ritual ordinances is well expressed by the third article of faith, which states Latter-day Saints believe "through the Atonement of Christ, all mankind may be saved by obedience to the laws and ordinances of the Gospel" (emphasis added).
12. This is especially true since the Holocaust highlighted the difficulties inherent in other, often-subtle, dismissals of Judaism. See the discussion in Elliot Horowitz, "The Use and Abuse of Anti-Judaism," *The Journal of Religion* 95 (2015): 94–106.
13. Mauss, *All Abraham's Children*, 164. See also Mauss, "In Search of Ephraim: Traditional Mormon Conceptions of Lineage and Race," *Journal of Mormon History* 25 (1999): 131–73, 134–35.
14. On this point, see L. C. Zucker, "Joseph Smith as a Student of Hebrew," *Dialogue: A Journal of Mormon Studies* 3 (1968): 41–55.
15. Orson Hyde's dedicatory prayer of the Holy Land, with its themes of Christian Zionism, is a great example of this. See *History of the Church*, ed. B. H. Roberts, 2nd ed. rev. (Salt Lake City: Deseret Book, 1976), 4:456–59.
16. This may be seen in both official and unofficial channels. The Church's official news site published an editorial pointing to the benefit to keeping the Sabbath that can be learned from Judaism. See Richard Neitzel Holzapfel, "Judaism Provides Insights to Calling the Sabbath 'A Delight,'" *Church News*, last modified 31 December 2015, <https://www.lds.org/church/news/judaism-provides-insights-to-calling-the-sabbath-a-delight?lang=eng>. On the unofficial side, there are the various books published on ways to incorporate Jewish practices and notions into Latter-day Saint thinking, such as Bradley J. Kramer, *Beholding the Tree of Life: A Rabbinic Approach to the Book of Mormon* (Salt Lake City: Greg Kofford Books, 2014) and Gale T. Boyd, *Days of Awe: Jewish Holy Days, Symbols & Prophecies for Latter-day Saints* (Riverton, UT: Millennial Press, 2002). The latter book promises a "complete Passover feast and fireside presentations, Jewish Holy Days Family Home Evenings[, and] Truths for teachers of Old or New Testament" (Boyd, *Days of Awe*, title page).
17. This is something of a simplification of the situation regarding rabbinic sources, as will be briefly discussed later in this article.
18. Part of this discussion also centers on the links between the Second Temple Pharisees, described in Josephus and the New Testament, and the later sages of the rabbinic

movement, as described in the Mishnah and Talmud, as well as the difficulties in linking these two groups.

19. Josephus, *Antiquities of the Jews*, 18.1.3.
20. See Matthew 23:1–33 in particular.
21. See *Oxford English Dictionary*, s.v. “pharisee,” <http://www.oed.com/view/Entry/142223?rskey=eHjEaL&result=1#eid>.
22. See Matthew 23:2–3.
23. This tendency is laid out in Horowitz, “Use and Abuse of Anti-Judaism,” 94–106. Horowitz’s article is itself a review essay on David Nirenberg’s *Anti-Judaism: The Western Tradition* (New York: W. W. Horton, 2013).
24. Marcus Jastrow, *Dictionary of the Targumim, Talmud Bavli, Talmud Yerushalmi and Midrashic Literature* (New York: Judaica Treasury, 1971), 353.
25. *Torah* is an extremely complex term, and one that is difficult to pin down. In his seminal work on the beliefs of the sages, E. E. Urbach noted, “In the two oldest traditions of the Oral Law the ‘Torah’ is used in two different connotations,” in Ephraim E. Urbach, *The Sages: Their Concepts and Beliefs*, trans. Israel Abrahams, vol. 1 (Jerusalem: Magnes Press, 1979), 286. Urbach continues to show the various meanings that Torah has beginning already in the biblical period. Generally speaking it refers to both the Torah of Moses, what we would call Pentateuch or the first five books of the Bible, and to various notions of collected precepts on correct living, including the later rabbinic dicta. For further discussion see Urbach, *The Sages*, 286–314. In this article, I use Torah broadly to refer to Jewish law. This includes both the written Torah of Moses and the oral law as it has developed in modern Judaism.
26. The ancient Jewish sages are, of course, not the only ones to do this. Take the example of many American Christians who are attempting to conform their lives to the biblical model, including expressions like “biblical marriage,” a phrase which has little or nothing to do with how marriage is actually presented in the Bible. These modern believers are negotiating a present social situation based on an authoritative text.
27. The Greek word here is *paradosis*, which refers to things passed down or transferred.
28. On the notion that this is primarily a local concern, see Daniel Boyarin, *The Jewish Gospels: The Story of the Jewish Christ* (New York: The New Press, 2012), 102–28.
29. This word is spelled with a “c” in the KJV, but the “q” more accurately represents the Hebrew.
30. For its original meaning, see Leviticus 1:2–3. The word translated as “offering” in the King James Version is *qorbān*. For another Second Temple example of this phenomenon see Joseph A. Fitzmeyer, “The Aramaic Qorbān Inscription from Jebel Hallet Et-Tūri and Mark 7:11/Matt 15:5,” *Journal of Biblical Literature* 78 (1959): 60–65. See also Yuval Baruch, Danit Levi, and Ronny Reich, “The Tomb and Ossuary of Alexa Son of Shalom,” *Israel Exploration Journal* 61 (2011): 96–105, where the word *qorbān* seems to refer to a curse formula on those who disturb the bones of the ossuary. This may provide some background as to why Jesus quotes Exodus 21:17, with its reference to cursing parents.
31. The traditional perspective is well-explored in S. D. Cohen, “The Significance of Yavneh: Pharisees, Rabbis and the End of Jewish Sectarianism,” *Hebrew Union College Annual* 55 (1984): 27–53. For a nuance on the traditional narrative see Jacob Neusner, “Pharisaic-Rabbinic Judaism: A Clarification,” *History of Religions* 12 (1973): 250–70; P. Schäfer, “Der vorrabbinische Pharisäismus,” in *Paulus und das antike Judentum*, ed. M. Hengel and U. Heckel (Tübingen: Mohr Siebeck, 1991), 168–70.
32. Jacob Neusner, “Cultic Piety and Pharisaism before 70 AD,” in *The Glory of God Is Intelligence: Four Lectures on the Role of Intellect in Judaism* (Provo, UT: Religious Studies

- Center, Brigham Young University, 1978), 13–28, <https://rsc.byu.edu/archive/glory-god-intelligence-four-lectures-role-intellect-judaism/2-cultic-piety-and-pharisaism>.
33. *Nasi* is a Hebrew term that is usually translated as “prince.” In rabbinic literature it refers to the head of the Great Sanhedrin and to the leader whom the Romans viewed as broadly responsible for the Jewish community. Judah Ha-Nasi was so important to the rabbinic movement that he is often simply called “Rabbi” in the text of the Mishnah.
  34. See Avram R. Shannon, “The Term ‘Apostle’: Issues in Using Jewish Sources in New Testament Studies,” YouTube video, 20:22, 31 July 2015, <http://www.byunewtestamentcommentary.com/conferences/conferencesmay-13-2015-conference/conference-videos/>.
  35. The best place for a scholarly introduction of rabbinic literature can be found in H. L. Strack and Günter Stemberger, *Introduction to the Talmud and Midrash*, trans. Markus Bockmuehl (Minneapolis: Fortress, 1996). This book contains a discussion of the major issues in scholarship on rabbinics as well as references for texts and similar resources. For an approachable introduction to the major Jewish texts that is not as scholarly or technical as Strack and Stemberger, see Barry W. Holtz, ed., *Back to the Sources: Reading the Classic Jewish Sources* (New York: Simon and Schuster, 1986).
  36. See Jacob Neusner, “Map without Territory: Mishnah’s System of Sacrifice and Sanctuary,” *History of Religions* 19 (1979): 103–27; Naftali Cohn, *The Memory of the Temple and the Making of the Rabbis* (Philadelphia: University of Pennsylvania Press, 2013).
  37. In fact, there is only one extant complete manuscript of the Jerusalem Talmud. See Strack and Stemberger, *Introduction*, 181.
  38. For a discussion of the type and mode of Talmudic organization and argumentation, see Robert Goldenberg, “Talmud,” in *Back to the Sources: Reading the Classic Jewish Texts*, ed. Barry W. Holtz (New York: Touchstone, 1992), 129–75. See also Strack and Stemberger, *Introduction*, 15–30.
  39. The Babylonian Talmud has two folio pages, so each section is divided into a and b, while the Jerusalem Talmud has four pages, such that it is divided into a, b, c, and d.
  40. This in Hebrew is *bat qōl*, which literally means the “daughter of a voice.” It refers in rabbinic literature to a pronouncement by a voice from heaven. See Jastrow, *Dictionary*, 200.
  41. All translations of rabbinic sources are the author’s own. Texts were taken from [www.sefaria.org](http://www.sefaria.org).
  42. Although, the existence of *baraita*, which are legal opinions from the Mishnaic period that are not included in the Mishnah, and the existence of the *Tosefta*, a collection of material excluded from the Mishnah, shows that the Mishnah does not collect every possible opinion from every sage.
  43. For a recent Latter-day Saint attempt to reconcile Latter-day Saint understandings of the composition of the Pentateuch with historical-critical readings and source criticism, see David Bokovoy, *Authoring the Old Testament: Genesis-Deuteronomy* (Salt Lake City: Greg Kofford Books, 2014). Bokovoy overstates his case in a number of places, but this is the best current book on this topic for a Latter-day Saint audience.
  44. The core of the halakhic question was over whether bricks in an oven held together only by sand counted as a single piece, or whether each piece acquired impurity separately. See A. I. Baumgarten, “Miracles and Halakhah in Rabbinic Judaism,” *Jewish Quarterly Review* 73 (1983): 238–53. For a discussion of the discursive purposes this story holds within the Talmudic context, see Geoffrey Rubenstein, *Talmudic Stories: Narrative Art, Composition, and Culture* (Baltimore: Johns Hopkins University, 1999), 34–63.

45. Because Elijah was taken bodily to heaven in 2 Kings 9:9–11, he is often found wandering the earth in rabbinic literature. As here, Elijah usually reveals to his earthly counterparts something that is happening in the heavenly realm.

46. This is reminiscent of the similar divine voice discussing the halakhic disagreements laid out by the houses of Shammai and Hillel.

47. This is a notion that actually has strong resonances for Latter-day Saints, as we believe that one of the reasons for continuing revelation is that God gives specific laws for people according to their needs at the time. It seems that there is no Word of Wisdom in heaven, because such a law would be unnecessary for heavenly beings.

48. Exodus 23:2 has *lō ta' aneh 'al-rib linṭōt aḥerey rabbim ləḥaṭōt*, which the KJV translates as “Thou shalt not follow a multitude to do evil; neither shalt thou speak in a cause to decline after many to wrest judgement.” R. Jeremiah simply quotes the statement *aḥerey rabbim ləḥaṭōt*, “incline after many.”

49. See 2 Peter 1:20.

50. This is one of the most famous of the Mishnaic tractates and is circulated in Judaism, with some changes and textual accretions, independent from the rest of the Mishnah.

51. For an example of a story illustrating the idea that the oral law and the written law were both parts of the law of Moses, and were, therefore, given by God, see Avram R. Shannon, “Mormons and Midrash: On the Composition of Narrative Expansion in Genesis Rabbah and the Book of Moses,” *BYU Studies Quarterly* 54 (2015): 15–34.

52. Note that it is precisely the laws on vows and their annulling that Jesus Christ accuses the Pharisees of using to abrogate God’s law. The later rabbinic sages are aware of the difficulties with these particular laws. This is obviously not intended by the sages to be a condemnation of their own system.

53. See Shannon, “Mormons and Midrash,” 1–5. See also James Kugel, “Two Introductions to Midrash,” *Prooftexts* 3 (1983): 131–55.

54. See especially 1 Nephi 13:40. See also M. Russell Ballard, in Conference Report, April 2007, 81.

55. A famous example of this is in the very first passage in the Mishnah, in m. Berakhot 1:1, which asks, “When is it appropriate to say the morning Shema?” This mishnah references the practice of reciting Deuteronomy 6:4–9 (which begins “Hear, O Israel”—Hebrew “Shema Yisrael”) as part of Jewish prayers. As Robert Goldenberg points out, this very first mishnah makes a number of assumptions that leave certain questions unanswered. What is the morning Shema? Is it different from the evening Shema? It also assumes there are set times to say Jewish prayers, and that it might be impermissible to say the prayers at other times. Goldenberg, “Talmud,” 133–34.

56. This category derives from Leviticus 15:3–10 and 15:25–27.

57. Although in the present age rabbis are closely associated with synagogues, there is no clear indication that the ancient rabbinic sages were the leaders or promulgators of the synagogue. See Shaye J. D. Cohen, “Epigraphical Rabbis,” *Jewish Quarterly Review* 72 (1981): 1–17; Hayim Lapin, “Epigraphical Rabbis: A Reconsideration,” *Jewish Quarterly Review* 101 (2011): 311–46.

58. The Aramaic here is *gemar*, which refers specifically to studying rabbinic laws and interpretations.

59. Neal A. Maxwell, “*For the Power Is in Them . . .*”: *Mormon Musings* (Salt Lake City: Deseret Book, 1970), 46–47.

60. A quick internet search of the terms “Mormon” and “legalism” is sufficient to illustrate this point.