

ABSTRACT

Since D.Z. Hoffmann, and probably somewhat earlier, the extant halakhic *midrashim* are considered to originate from two tannaitic schools of study, the school of R. Yishmael and the school of R. Akiva. The halakhic portions of the *midrashim* of each school share common characteristics, in their terminology, sages, style and in their way of interpretation, characteristics which differ from those of the other school. For both Exodus and Numbers, we have received two *midrashim*: One from the school of R. Yishmael, and the other, partial and incomplete, from the school of R. Akiva. For the book of Deuteronomy we have received three *midrashim*, one complete, and the remains of two other *midrashim*.

However, we have but one *midrash* on the book of Leviticus, the *Sifra*, which is derived almost entirely from R. Akiva's school. Even so, it seems that the book of Lev. was also interpreted in a homiletic manner by the school of R. Yishmael. This is a reasonable conclusion, since we find many talmudic midrashic *baraytot* on Lev. that are attributed to the school of R. Yishmael. Also present in the *Tosefta*, are homilies and sequences of homilies, on the verses of Lev., whose characteristics suggest that they originate from the learnings of the school of R. Yishmael. Likewise, an analysis of other *midrashim* shows that their editors made use of homilies on Lev. from the school of R. Yishmael.

In the *Sifra* itself, a few sections were identified as secondary (later) additions that were not part of the original *Sifra*. Scholars are inclined to attribute these sections to the school of R. Yishmael. Amongst these, we find two appended *Mekhiltot*, *Mekhilta De-Miluim* and *Mekhilta Da-Arayot*. Recent scholarship assumed that these two sections are midrashic remnants attributed to the school of R. Yishmael, and perhaps even remnants of an earlier composition, which was a consecutive *midrash* on Lev., originating from the school of R. Yishmael.

On the basis of this accepted premise, it seems fitting to discuss these two *Mekhiltot* together. Nevertheless, this assumption was examined in this study, and the results necessitated separating our discussion and presentation into two distinct parts. The first part of this study deals with *Mekhilta De-Miluim* (ch. 1–4), and the second part deals with *Mekhilta Da-Arayot* (ch. 5–9), and will be presented as follows:

Part A: *Mekhilta De-Miluim*

The verses dealing with the dedication of the Tabernacle, in Lev 8:1–10:7, are narrative verses that do not contain laws and commandments for future generations. The midrashic unit of the *Sifra* that expounds these verses, is named *Mekhilta De-Miluim* in the printed editions of the *Sifra*. The *Mekhilta De-Miluim* is documented in all the direct textual witnesses of the *Sifra*, excluding one manuscript. However, in some of these textual witnesses, this documentation is partial.

The **first chapter** of this study is dedicated to the direct and indirect textual witnesses and textual inquiry. The primary textual witness is the 9–10th century Oriental ms. Vatican 66. The *Mekhilta De-Miluim* is found in this manuscript and has a *midrash* on portions *Tzav* and *Shemini*. However, the *Mekhilta* on the *Shemini* portion is partial and does not contain *barayot* 17–28. Alongside this manuscript there are two other manuscripts from Italy, ms. Vatican 31, copied in the year 1073; and ms. Parma 139 from the 13th century. The Italian manuscripts do not contain the *Mekhilta* on the *Shemini* portion at all. Two additional manuscripts from the 13th century, are from Germany and France (Ashkenazi): ms. Oxford 151 and the British Library (London) ms. The text of the Venice first edition of the *Sifra*, from the year 1545, also belongs to the Ashkenazi textual tradition. The Ashkenazi tradition contains the broadest version of the *Mekhilta De-Miluim* on portions *Tzav* and *Shemini*. There exist fragments from the Cairo *Geniza* and a segment from Karlsruhe in Germany. Furthermore I examined indirect textual witnesses, mainly *midrashim* that made use of *Mekhilta De-Miluim*. This sums up the geographic origin of the textual witnesses.

The textual witnesses are divided into two main branches of textual tradition. One branch is the Oriental-Italian tradition, primarily represented by ms. Vatican 66. The other branch is the German-French (Ashkenazi) tradition, represented primarily by ms. Oxford 151. Besides significant differences in the extent of *Mekhilta De-Miluim*, even in the common portions, as mentioned previously, the traditions are set apart by a total absence of whole homilies in one branch, which exist in the other branch. They further differ by textual differences of content-related meaning. Furthermore there are textual differences in terminology, in verses quoted as evidence, in the location of these verses in the homily, and linguistic differences. Differences were also found in the wording of the verses cited, and usually, the Oriental versions and the *Masora* are rather similar.

Apart from belonging to a branch of textual tradition, each textual witness has its own unique characteristics. As mentioned previously, the primary witness is ms. Vatican 66, and most quotations in this study are taken from this ms. The superiority of this manuscript is obvious in many areas, such as its linguistic form and its terminology, its preservation of relics of the assembling sources and editorial processes.

The Italian textual witnesses, mss. Vatican 31 and Parma 139 are very similar to one another. They have similar texts and even have common mistakes, further proving their similarity; nevertheless, they are not directly dependent on one another. Also, a widespread phenomenon of added homilies is evident in ms. Vatican 31. These added homilies are sometimes witnessed in other Oriental textual witnesses. Amongst the Ashkenazi witnesses, one should note the relative advantages of ms. Oxford 151, and the inferiority of the London ms. with its numerous mistakes.

In the **second chapter**, I examined the affinity of the *Mekhilta De-Miluim* to the midrashic tannaitic schools of R. Yishmael and R. Akiva, in order to test the consensus among scholars that the *Mekhilta De-Miluim* originated from the school of R. Yishmael. I studied the terms mentioned in the *Mekhilta De-Miluim*, the sages mentioned in it, and its parallels in the tannaitic literature. The findings are versatile and in fact somewhat confusing. The majority of the terms present, appear in all the halakhic *midrashim* and therefore do not indicate its origin. A few terms are indeed characteristic of R. Yishmael's school, but alongside these, we also find a few terms characteristic of the school of R. Akiva (as well as a few terms typical of the *Sifra*). The sages mentioned, are found in all the tannaitic *midrashim* and are not characteristic of a specific school. Examination of the parallel passages revealed parallels in both the school of R. Yishmael and the school of R. Akiva. In some of the homilies mixed characteristics appear, for example, a parallel in the *Sifre Num.* from the school of R. Yishmael, although its terms are those of the school of R. Akiva.

I therefore concluded that the *Mekhilta De-Miluim* is an eclectic composition whose editors used the midrashic materials available to them, which originated from both the school of R. Yishmael and the school of R. Akiva. Furthermore, many of the homilies lack characteristics of either of the schools.

These conclusions appear to contradict the accepted view in previous research affiliating the *Mekhilta De-Miluim* to the school of R. Yishmael. It is customarily thought that the main exponents of this view are leading scholars of the tannaitic

literature, D.Z. Hoffmann and Y.N. Epstein, although thorough examination of their writings show that even they did not see the *Mekhilta De-Miluim* as a complete midrashic unit originating from the school of R. Yishmael. Nevertheless, Epstein's view developed somewhat, and at its extreme, he thought that the last part of *Mekhilta De-Miluim* (*shemini* 29–43) is close (to some extent only), to the school of R. Yishmael. In my opinion the accepted view affiliating the *Mekhilta De-Miluim* to the school of R. Yishmael, is a result of editorial changes made to Epstein's book posthumously by his student E.Z. Melamed,.

In the **third chapter**, I discuss the composition of the homilies of the *Mekhilta De-Miluim*, regardless of their affinity to one of the tannaitic schools. In the *Mekhilta De-Miluim* there are five distinctive main units (*Tzav*; *Shemini* 1–13; *Shemini* 14–16; *Shemini* 17–28; *Shemini* 29–43). The third unit interprets again verses previously interpreted in the second unit, and the fifth unit interprets again verses previously interpreted in the fourth unit (which is usually found only in the Ashkenazi witnesses). Sometimes the homilies in these units repeat the same midrashic ideas in a different linguistic form or wording; occasionally they repeat exactly the same homilies, and at times they propose contradictory homilies. Probably each of these units was edited individually before being joined together. Furthermore, close examination of the homilies reveals a relatively large amount of complex homilies, whose editors used material from diverse origins in the process of their consolidation. This all supports the deduction that the *Mekhilta De-Miluim* is a very eclectic composition, whose editors used material from diverse sources in the process of its unification, and this process of consolidation underwent several stages.

In the **fourth chapter** I present several studies of *Mekhilta De-Miluim*'s contents. First, I discuss some irregular laws (varying from the accepted *halakha*), for example, putting the hands over the congregational sacrifices, presenting the blood of a sin offering and a burnt offering in an irregular order, and the position of the priest by the altar while sprinkling sacrificial blood on the altar. Additionally, I discuss some of the midrashic ideas frequently found in *Mekhilta De-Miluim* and their affinity to the bible: the perception of the days of the *Miluim* and the order of their sacrifices as a process of penance for the sin of the golden calf, and the biblical basis for this idea. Also, I discuss the perception of the days of the *Miluim*, as days of study and learning, and the significant difference between this way of thinking and the biblical perception. Also discussed, are the contradictory traditions for the date of the days of the *Miluim* (from

the 23rd of *Adar* or from the 1st of *Nissan*), the linkage of these traditions to the bible, and whether the disagreement about dates relates to the divergent schools of R. Yishmael and R. Akiva.

Part B: *Mekhilta Da-Arayot*

It is customary among scholars to name the midrashic unit in the *Sifra* which expounds the verses dealing with forbidden sexual relations in Lev. 18 and Lev. 20 – *Mekhilta Da-Arayot*. This *Mekhilta* is documented only in a minority of the direct textual witnesses of the *Sifra*. The textual witnesses in which the *Mekhilta* is found, show different traditions regarding its location in *Sifra*. There are those that integrated the *Mekhilta* as one integral unit in the portion of *Ahare Mot*, while others integrated it as one unit in the portion of *Kedoshim*. There are those who divided it between the two portions.

The **fifth chapter** of this study opens the second part of this thesis focusing on *Mekhilta Da-Arayot* and discussing its wording traditions and textual studies. The *Mekhilta Da-Arayot* has some direct textual witnesses: The primary text witness is the Oriental ms. Vatican 66, mentioned previously. Alongside is the Ashkenazi ms. Oxford 151, and in very close proximity is the testimony of the *Yalkut Shimoni* who quoted the majority of the *Mekhilta*. Also included with the main textual witnesses, is the first edition of *Mekhilta Da-Arayot*, printed in Venice in the year 1609, in R. Aharon Ben Haims' edition of the *Sifra, Korban Aharon*. Even though it was accepted to think, in continuance with the declaration of R. Aharon Ben Haim, that he collected the *Mekhilta Da-Arayot* from the excerpts in *Yalkut Shimoni*, it is proven in this study that R. Aharon could not have reconstructed it from the excerpts in *Yalkut Shimoni*, since the *Yalkut* presented only the majority of the *Mekhilta* and not all of it. It is therefore concluded that R. Aharon copied from an original manuscript of *Mekhilta Da-Arayot* which he possessed. Furthermore R. Aharon Ben Haims' version is closer to the version of ms. Vatican 66 and not to the version of the *Yalkut*. In addition, there exist some fragments, mainly from the Cairo *Geniza*, as well as other indirect witnesses, such as the testimony of R. Suliman Ohana who copied the entire *Mekhilta* in his proofreading of the *Sifra*.

Traditions of the text of *Mekhilta Da-Arayot*, divide into two main branches. One tradition is Oriental, primarily represented by the ms. Vatican 66 which is superior to other mss. in its linguistic form and its midrashic terminology. The other tradition is

Ashkenazi-French, represented primarily by the ms. Oxford 151. These traditions are distinct from one another in that the Ashkenazi tradition contains one extra homily, whose origin was probably influenced by the Babylonian *Talmud* parallel. The two branches also differ slightly in wording, terminology, and other fields. Even so, there are less differences between the traditions here than those present in *Mekhilta De-Miluim*.

In the **sixth chapter** of this study, I collected the terms used in *Mekhilta Da-Arayot*, and examined them according to their distribution throughout the halakhic *midrashim*. In *Mekhilta Da-Arayot* there are nearly one hundred terms, more than half of them are typical to the school of R. Yishmael. Eight terms are unique to *Mekhilta Da-Arayot* and about thirty are used throughout all the halakhic *midrashim*. Not one term characteristic of the school of R. Akiva was found. The sages of *Mekhilta Da-Arayot* are also representative of the *midrash* of the school of R. Yishmael: R. Yishmael himself, is mentioned in *Mekhilta Da-Arayot* more than any other sage, as common in all the *midrashim* of his school. Also mentioned are other prominent sages from this school, such as R. Yoshia and R. Yonathan, students of R. Yishmael. They are not mentioned at all in the *midrashim* of R. Akiva. It is therefore evident, that in contrast to the *Mekhilta De-Miluim* with its eclectic character and numerous sources, *Mekhilta Da-Arayot* has one very clear origin – the school of R. Yishmael.

In the **seventh chapter**, I discussed the parallel passages of *Mekhilta Da-Arayot* in the *Mishna* and the rest of the halakhic *midrashim*. There are six parallels to be found between the *Mishna* and *Mekhilta Da-Arayot*. In four of them a *mishna* is quoted prefacing with the term '*Mikan Ameru*' – 'Hence they said'. In all the six parallels, the *mishna* introduced is identical to our *Mishna*. This finding is somewhat surprising, since usually the *mishnayot* quoted in the school of R. Yishmael are not linguistically identical to our *Mishna*. Even so the significance of this finding cannot be exaggerated, since in two of the four quotations, the *mishna* quoted is probably of earlier origins (as I proved in this study), and it seems to have been repeated in the same linguistic form in both schools.

As mentioned, in this chapter I discussed parallels in the rest of the halakhic *midrashim*. As expected, the only parallels found were in the *midrashim* from the school of R. Yishmael – *Mekhilta De-R. Yishmael* on Ex., *Sifre* on Num. and *Mekhilta* on Deut. It is important to note the large amount of parallels in *Mekhilta De-R.*

Yishmael on Ex., that also includes consecutive sequences of complete homilies. I examined the literary relations and the relative chronological relations between the parallels, and it became clear that there are reciprocal relations of borrowing and transference; nonetheless, the relative antiquity of the homilies of *Mekhilta Da-Arayot* compared to their parallels in *Mekhilta De-R. Yishmael* on Ex. is now evident.

In this chapter I also discussed similar (but not parallel) consecutive sequences of complete homilies that are found in the *midrashim* of the school of R. Akiva. I examined aggadic and halakhic sequences. All these comparisons showed the relative homiletical freedom of the interpreters of the school of R. Akiva in contrast to the relatively reserved and systematic interpretation of the interpreters of the school of R. Yishmael.

In the **eighth chapter** I discussed the internal structure of *Mekhilta Da-Arayot*, pertaining both to its large units and their inner composition. As a rule, unlike *Mekhilta De-Miluim*, *Mekhilta Da-Arayot* is uniform and relatively organized, and even in places where there are signs of compilation from different sources, the final structure is deliberate and purposeful.

Mekhilta Da-Arayot opens with a preface which is aggadic, based on the verses in the portion of *Ahare Mot*; afterwards comes the large halakhic section dealing with the laws and prohibitions of forbidden sexual relations, that is based on the order of the verses in the portion of *Kedoshim*, while at the same time frequently referring to the verses in *Ahare Mot*. In the aggadic preface there are signs of editing of sources, though as mentioned previously it is carefully edited. In the middle of the large halakhic unit there is another long aggadic unit that interrupts the sequence of the halakhic homilies on the consecutive verses. This unit is apparently made up of homilies originally interpreted on the verses in Deut., and were perhaps borrowed from *Mekhilta* on Deut. However the editor succeeded in reworking these homilies into an impressive calculated composition, using firm symmetrical principles of structural arrangement.

In the **ninth chapter** I presented some general and exegetical discussions regarding *Mekhilta Da-Arayot*. At the head of this chapter, is a discussion as to how the sages comprehended the penal laws. The essence of this discussion is the reasoning behind the double instruction of these laws: the apodictic instruction (warning, prohibiting, 'azhara'), and the casuistic punitive instruction (punishment, 'onesh'). This double

structure appears in *Mekhilta Da-Arayot* nearly twenty times. I analyzed the fundamental differences between the school of R. Yishmael and the school R. Akiva. In my opinion the idea of the necessity of both prohibition and punishment developed in the school of R. Yishmael and originated in *Mekhilta Da-Arayot* itself. In the school of R. Yishmael, this principle was developed and implemented in a systematic fashion and remained on the philosophical, ethical, legal and theoretical level. In comparison, in the school of R. Akiva, this idea is not systematically implemented, yet transferred to the legal practical level. The outlook of the school of R. Akiva greatly influenced the amoraic sages of Babylon, who continued this outlook.

Next to this discussion, I presented some tendentious Babylonian arrangements of the homilies of *Mekhilta Da-Arayot*. In addition I discussed the literary structural analysis of the homily dealing with the gentile who keeps the *Tora*. Concluding this study is a discussion on two homilies that deal with the definition of the act of forbidden sexual intercourse, from different aspects (biblical, midrashic and linguistic).