Chapter 4
Special features that modify the structure of simple and compound lists
Introduction
The previous Chapter delineated the categories of the simple and the compound list and noted that each group contains several distinct sub-categories. This Chapter will deal with special features that may be found in some of these lists. Most of these features are equally common to the simple and the compound list. I will first examine special cases of the list caption, and I will then consider those of the list items. However, there is some overlap between these two sections, as the features of the caption may affect the list items and *vice versa*.

1. Special features of the list caption
The general characteristics of the list caption, including the division into obligatory and non-obligatory elements, were described in Chapter 2. The first special feature concerns the key obligatory element, the list theme, while two further special features relate to non-obligatory elements of the caption.

1.a. The use of very general words in the list caption

A number of lists themes contain very general words to describe the list items. Peah 1:1 serves as an example of this phenomenon.

> Peah 1:1
> These are the **things** (דברים) for which there is no prescribed
> measure: *Peah*, First fruits, etc.
>
> These are the **things** (דברים) whose fruit a man enjoys in this
> world while the capital is kept for him in the World to Come:
> honouring one's father and mother, deeds of loving kindness,
> etc.

In this text is not entirely clear even after the reader has completed reading the entire list what the "things" (דברים) actually are. After reading the list, the reader may be inclined to think that the "things" are commandments, as this is one feature common to all the items. The Mishnah may perhaps be referring to a sub-group of the commandments. However, the Mishnah's precise meaning is not clearly spelled out at all. Were the suggestion of "commandments (in general) that have no fixed measure" correct, then we should note that not all the commandments that are mentioned, either in the Pentateuch, or of Rabbinic origin, as having no measure, are recorded in this list. For example, Deuteronomy 4:8 states the commandment of wearing phylacteries without recording either a maximum or minimum length of time required for this wearing. In Bava Batra 6:7 and Sanhedrin 2:4, the Mishnah also records other norms, which have no Biblical mention, that "have no measure" not listed in Peah 1:1. We will return to the issue of the completeness of a list in the next Chapter. For our present purpose, an awareness of the difficulty of ascertaining the exact scope of the word "thing" will suffice.

Another example of the use of this general term "things" (דברים) in the list theme is found in Pesahim 2:5.

> These are the **things** (דברים) with which one fulfils his obligation on Passover:
>
> wheat, barley, spelt, goat-grass and oats.

In the Mishnah the word דגן is used for grain. An example of the usage of the word דגן occurs in Hallah 3:7. Hallah 1:2 employs a more specific phrase, מן דגן, meaning, type(s) of grain. In Pes 2:5 the "things" appear to be types of grain and the obligation is that of eating *matsah*. But this only becomes clear after reading the list items. The use of the expression "things", as opposed to a more specific term such as grains (דגן), is particularly conspicuous, as the passage that follows, m2:6, uses the specific term "herbs" (ירקות) in a similar situation.

> And these are the herbs with which one fulfils his obligation on Passover: with lettuce, with chicory, with pepperworth, with snakeroot and *maror*.[1]

The Mishnah often formulates adjacent, intimately-related statements in a syntactically parallel manner and we will investigate this topic in the next Chapter. However, we need to note for our present purposes that it is somewhat unusual that the word "things" is found in the first list and the word "herbs" is found in the second list. We may have expected that the second list too would again repeat the word "things".

The use of such a general word in a theme clearly introduces ambiguities into a text. These are perhaps greater in the Peah example cited above, because even after reading the ensuing text of Peah 1:1 there is uncertainty as to whether the "things" could be commandments in a general sense, or a specific group of commandments, as opposed to Pesahim where we discern easily that "things" refers to grain.

A search of the Mishnah using the Bar Ilan CD reveals that there are 14 cases where the phrase אלו דברים is used in a list caption as a component of the theme. There are also 16 instances of the use of the word in a theme that is part of a caption containing a numerical element and these 30 passages are listed in Table 2 of the Appendices. It would appear that the editor has specifically chosen this particular word ("things") in the theme of a number of lists in the Mishnah. The number of occurrences of the very general word "things" in list captions is sufficiently large to suggest that this choice of wording is significant. However, it is not possible to determine what this significance actually is with our current state of knowledge.

1.b. The "two that are four" formula

We investigated the use of hierarchies in the previous Chapter. We shall now encounter a specific hierarchical formula found in list captions, the phrase שתים שהן ארבע, "two [types] that are [really] four [types]". Here we find a special case of a list caption that contains numerical elements that define the size and structure of a branching hierarchy of the list items that follow. The phrase conveys to the reader that there are four list items and that some particular criteria will group the list items into two pairs of two.

Let us analyse the usage of this phrase to see how the expression functions in a list in Negaim 1:1.

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[1] The word *maror* may be translated as 'bitter herbs' or a specific type of herb; see section 2.c. below for a discussion of the translation.

Caption	The [appearances of] scale-disease are **two [types] which are [really] four [types]:**

First set of list items	**the bright spot**, which is bright like snow – and the **second** shade of it is [as white] as the lime used in the Sanctuary;

Second set of list items	and the **swelling**, which is [as white] as the skin in an egg – and the **second** of it is [as white] as wool …

In this case the list caption contains a single theme, the appearance of the signs of scale-disease, which is, in the terminology of Cruse, called a superordinate. The caption also prepares the reader for a bifurcation in the list, as from the superordinate come two nodes leading to two sub-sets, the "bright spot" and the "swelling". These two signs are on the same hierarchical level. The reader is also prepared for the fact that each of these two sub-sets, the bright spot and the swelling, will each in turn be divided into two further groups: the colours of snow and white lime for the bright spot, and egg white and wool white for the swelling. These four hues are on the same hierarchical level, and rank below the "bright spot" and the "swelling" in this hierarchy.

There are two other occurrences of lists in the Mishnah whose caption contains the phrase "two [types] which are [indeed] four": Shevu'ot 2:1 and Shabbat 1:1. The phrase is also found in Shevu'ot 1:1 which shares the list captions of Negaim 1:1, Shevu'ot 2:1 and Shabbat 1:1. This shared phraseology has been noted in the Babylonian Talmud Shabbat 2a-b. These usages have in common that they are performing some kind of introductory function, which we will investigate further in Chapter 5 section 2. We will see there that one scholar, Weiss, has observed that the introduction of a number of tractates, including Shabbat 1:1 which contains the phrase "two [types] which are [indeed] four", appear to be only weakly related to the material that follows and may be later additions to the text.

We may add, for the sake of completeness, that the similar phrase שתי מתנות שהן ארבע (two acts of sprinkling - lit., "givings") occurs in Zev 5:4-7 four times in a non-list context. In Zevahim the phrase refers to two sprinklings around the altar, which by a dexterous movement of the hand, has to cover all four sides of the altar.[2]

1.c. Apparently dysfunctional numerical elements
There are instances where the number of list items announced in the numerical element of the caption, and the items apparently listed, do not accord with information presented in the co-text. This disagreement may be with text that is contiguous or with material elsewhere in the tractate. Both of these two types of apparent inconsistency will be dealt with in Chapter 5. By contrast, within a single list structure the numerical element in the list caption always seems to correctly predict the actual number of list items within the list, except in one apparent case that I have found.

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[2] See B.T. Zev 53b-54a and the commentary of Rashi on this *mishnah* for a discussion as to how the procedure was carried out.

Avot 4:13
R. Shim'on says: There are three crowns, the crown of the Law,
the crown of the priesthood, and the crown of kingship; but the
crown of a good name excels them all.

This case may be viewed either as rhetorical, or as the conflation of the opinions of two different Rabbis. We can suggest that if this was a case of rhetoric then it may be related to the feature of parallelism and the X/X+1 that we investigated in Chapter 3. There are three crowns listed in the section of the utterance, and this would represent the X. Another element, "the crown of a good name" is suggested making a total of four, i.e. X+1. This isolated case does not require more than a passing reference here.

2. Special features of the list items
2.a. The patterned sequencing of list items
After exploring the special features of list captions, I now turn to the special features of the list items. We saw in Chapter 3 how the Mishnah contains hierarchies. The examples that we examined there were clearly sequenced. However, there are times when the Mishnah uses a hierarchical arrangement without specifically acknowledging it. Let us examine this phenomenon in Sanhedrin 7:1 where the only clue to the existence of the hierarchy is the specific sequencing of the list items.

Sanhedrin 7:1
The court had power to inflict four kinds of death penalty:
stoning, burning, beheading and strangling.
Rabbi Shim'on says: [Their order of gravity is]
burning, stoning, strangling, and beheading.

The above example illustrates a case where the sequence of list items only is the subject of a dispute. This dispute is the sole indication to the reader that the sequence of the list items is important, and that the arrangement is therefore hierarchical. It can be assumed that the dispute is related to the relative severity of the punishment, but this is not explicit in the text. However, even when we have established that the dispute implies a ranking, we are still unclear from this text if the ranking is presented in ascending, or descending order of severity. We can suggest that the presence of tacit ranking in the Mishnah is evidence that the intended audience of the Mishnah was expected either to have direct knowledge of, or access to, a source of information that was outside the text of the Mishnah.

We may also observe, for the sake of completeness, that there are certain passages of sequenced nouns which do not fit into my definition of a list, as they do not have a list caption. Avot 1:1 is an example of a non-list form sequence.

Avot 1:1
Moses received [the] Torah on Mount Sinai and transmitted it to Joshua.
And Joshua [transmitted] it to the Elders.
And the Elders [transmitted] it to the Prophets.
And the Prophets transmitted it to the Men of the Great Assembly.

The text gives a chronological account of the transmission of the Law from the time of Moses until the days of the Men of the Great Assembly. This passage clearly contains sequenced data, but there is no formal list caption to the data.

A further example of sequenced data in a list is R.H. 2:4.

> R.H. 2:4
> And from where did they kindle beacons?
> From the Mount of Olives to Sartaba,
> and from Sartaba to Agrippina,
> and from Agrippina to Hauran …

This passage states the places along the route of signal stations from Jerusalem to Babylon, along which signs were passed to proclaim the new moon, and contains an overt sequencing of the locations. In R.H. 2:4 the caption of the list is in question form. We observed the use of a question as a caption, and the issue of functional form in Chapter 1 section 2. Cruse calls this type of order a chain.[3]

We can conclude that the fact that some lists contain tacit sequencing of list items is significant. Additionally, it might be suggested, as was observed earlier, that this serves as evidence that the student of the text was expected to have access to a corpus of knowledge beyond the text.

Thus far we have discussed the features of the list. We will now examine two features that govern how lists in the Mishnah are constructed.

2.b. The predominance of three list elements

Gail Jefferson[4] has noted the importance of the three-part list in what she calls "natural conversation"[5] in contemporary English. Jefferson analysed word lists in conversation and found that the most common number of items in spoken lists is three. On the basis of her research, she has gone as far as to suggest that not only do lists occur most commonly in three parts, but also that the speaker will often tailor his/her words to ensure that the list will have three items in a list in a conversation i.e. the speaker will orientate the list construction to ensure that there are three list items, if he/she has a choice to do so.[6] Jefferson reached this conclusion by investigating the elements of the three parts and found that not only did many of the utterances in her raw data contain three parts, but also that in many instances the last item was sometimes of a more general nature than the other two. She called this third item a "generalised list completer",[7] and she gives the following example from a speech transcript:[8]

We were building camps, and airfields and, uh everything like that.

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[3] *Lexical Semantics*, p. 187.
[4] "List-Construction as a Task and a Resource" in. Psathas, G. (ed.), *Interaction Competence*, pps.63-92.
[5] P. 63.
[6] P. 66.
[7] P. 66.
[8] P. 67.

The phrase "and, uh everything like that" makes the saying a three-part saying and by its very general meaning indicates the termination of the list. We will investigate the "generalised list completer" in the next section.

Researchers in the field of conversation analysis have applied Jefferson's findings to different areas of conversation analysis. Atkinson, for example, investigated how political speakers were able to raise applause even before the end of a speech.[9] He found that one of the techniques that politicians employed was the use of either a three-part list, or more effectively a pair of lists of three statements followed by three corresponding negatives of the first three statements, or *vice versa*.

A speaker on labour issues may for example say:

We want no more low pay, no more bad working conditions and no more long hours.

We want fair pay, fair working conditions and fair hours.

Atkinson suggested that because the audience would share with the speaker the convention that three items would exhaust the list, the audience would know in advance when the speaker would finish that section of the speech. Atkinson argued that this foreknowledge would give the audience a cue as to when to commence applause even before the speaker has completed that part of the speech. In our example, the commencement of the words "fair hours" would be the cue to the audience to commence applause. It is the third item in the second sequence and the audience would sense that the current section of the speech would be completed. The ability to control and manipulate the reactions of an audience to a political speech was felt by Atkinson to be a vital tool in the armoury of a political speaker.

Gail Jefferson's research was conducted using transcripts of conversations as raw data. However, while we believe that the Mishnah was initially an orally-transmitted text, it appears that it also may have undergone some editing. It may therefore be suggested that Jefferson's results are not directly applicable to the Mishnah, as it is to some extent a more formalised text. However, an analysis of the number of elements in Mishnaic lists containing a deixis or numerical element in a caption placed before the list items reveals that the number three is indeed the most predominant by a significant amount.[10] Research into lists of three is therefore, in principle, of interest to the study of the Mishnah as well.

The three-part patterning of speech has also been noted in other literary contexts. Claybourne and Treays, writing of Shakespeare, note that:[11]

Some of the lines in his [Shakespeare's] plays have three parts
or a word repeated three times. At the Globe [Theatre], lines
like these allowed an actor to address the audience on all three
sides of the stage which struck out into the middle of the yard.

It is of interest to compare this description of the seating arrangements of the Globe Theatre with the description of the seating arrangements of the Sanhedrin given in the Mishnah.

Sanhedrin 4:3-4
The Sanhedrin was arranged like the half of a threshing floor
so that one might see one another. Before them stood two
scribes of the judges ...

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[9] "Public Speaking and Audience Responses: Some Techniques for Inviting Applause".
[10] See Tables 5-6 in the Appendices.
[11] A. Claybourne and R. Treays, *The World of Shakespeare*, p. 13.

Before them sat three rows of disciples …

There is some evidence that the Sanhedrin was not only a court of law for the judgment of certain cases, but a place where legal issues were discussed.[12]   A number of Rabbinic decrees and ordinances, called תקנות and גזרות emanated from the Sanhedrin.[13]   It is possible that such legislation would have to be debated before enactment and that the speaker may have stood in the centre of the group.

It is also possible that in the Tannaitic schools the teachers were surrounded by their pupils in a crescent formation, with the teacher also standing in the centre of the group.

If this were to be the case then the three-part utterance would have allowed the speaker to turn and deliver each part of the utterance to a different part of the audience. However, considerable work needs to be done in this area before even tentative conclusions can be drawn; in particular the type of rhetoric used in the Mishnah would need to be closely compared to orators rhetoric.

Towner has investigated lists whose caption contains a numerical element in Tannaitic literature, with special reference to the *Mekhilta D'R. Ishmael*.[14]   He does not use the term "caption" as we have used it in this study. However, he observes that the form of a list that commences with a heading containing a numerical element is common in other cultures of the Ancient Near East. He also notes examples from other Ancient Near Eastern cultures of texts containing lists that are not organised thematically, but by the size of the numerical element in the caption. Although he notes that three was a common number for size of the numerical element,[15] he does not suggest that the three is a significant number in list construction. In particular, in the tractates of Avot and Eduyyot the grouping together of lists with an identical numerical element in the caption appears to be a very significant organisational principle, and in these two tractates three-part lists whose captions contain a numerical element constitute a very high proportion.

Let us now examine Avot 1:3 where there is a possible case of an item being added to the list to make up a three-part saying.

> Avot 1:3
> Antigonus of Socho … used to say:
> Be not like a slave that ministers to the master for the sake of receiving a bounty but
> be like a slave that ministers to the master not for the sake of receiving a bounty;
> and let the fear of heaven be upon you.

In this quotation the message contained in the first two pieces of advice is very similar and it is possible that one of these two statements was inserted to make this *mishnah* conform to the three-part pattern of its neighbours and the three-part form of speech that Jefferson suggests speakers and listeners orientate towards. However, it should be noted that the occurrence of possibly redundant elements, such as a generalised list completer to transform utterances into three-part

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[12] Sanhedrin 5:6.

[13] On the history and functions of the Sanhedrin see *The Highest Court in the City of the Sanctuary* by D. Hoffman. An extensive list and history of Rabbinic ordinances in Mishnaic times may be found in S. H. Chajes, *A Student's Guide Through the Talmud*, chaps 6-13. Also see E. Schürer, *The History of the Jewish People in the Age of Jesus Christ (B.C. 175 – A.D. 135)*. In vol. 2 Schürer discusses the Sanhedrin pp. 199-225 and the Tannaitic schools pp. 417-22.

[14] *The Rabbinic 'Enumeration of Scriptural Examples'*.

[15] Pp. 16-17.

sayings, is very rare and even in Avot 1:3 is not a clear example of the addition of a redundant statement to make the *mishnah* into a three-part unit. Epstein says nothing on this issue.

I entered into an e-mail correspondence with Professor Jefferson to discover if there had been any research about the orientation of lists to three in other languages or cultures. Unfortunately, she had not conducted any such research, and nor could any be traced. On the basis of the evidence presented it is possible that the orientation of lists to three may be prevalent in the period of the Mishnah. More research needs to be undertaken in this area before any firm conclusions can be drawn, however.

Further support for the importance of the number three as a patterning tool comes from an interesting paper by Louis Jacobs.[16] He explores the occurrence of numbers and of literary patterns in the Babylonian Talmud and in particular the numbers 3, 5, 7, 10 and 13. It is significant that of the ten pages allocated to the discussion of these numbers, approximately half are devoted to the number three. Jacobs points out the preference of the Rabbis to learn things in threes from the Tannaim using the formula שמע מינה תלת (three things can be inferred from this).[17] Jacobs is fascinated by the fact that it is always three things that the Sages wanted to infer. He writes:

> The only explanation of this phenomenon is that it was the accepted
> procedure to draw three and only three conclusions from any given
> source; that is to say it is a wholly contrived formulation in no way
> suggesting any real "objective" examination of the source for
> discovering the conclusions to be drawn from it.[18]

Jacobs also cites a Baraita in Bavli Qid 6a where six valid formulae for betrothal are presented as two lists each consisting of three items.[19] The reason presented in the Talmud for this apparently unusual method of presentation is that:

The Tanna heard them in threes and thus he recorded them in threes.

Evidence for the use of three as a literary device in the Mishnah may be found in the Tractate Avot. An extract of a *mishnah* from this chapter was cited previously in this section. We also find in Avot 2:10 that each of the five major pupils of R. Yochanan are reported as each having said three "things" or major ethical rules.

Jacobs stresses throughout the essay that in such a brief paper he cannot fully explore the vast subject of numbered sequences in the Babylonian Talmud and urges caution in basing conclusions on such a small sample of evidence. This prudence is to be commended.

However, in the light of the tables presented in the Appendices, particularly Table 7 that show a predominance of the number three in the Mishnah, not only in lists containing a numerical element in the caption, but also in lists with a deictic element, we can suggest that the employment of three-part lists is a very significant feature of Mishnaic discourse.

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[16] "The Numbered Sequence as a Literary Device in the Babylonian Talmud".

[17] A search of B.T. in the Bar Ilan CD discloses 25 instances of the use of this expression. An example is B.T. Ber 27a.

[18] P. 139.

[19] P. 141.

2.c.   The use of the final list item to show the end of the list

We observed above Jefferson's research concerning the orientation of a speaker and listener to a three-part list and the phenomenon of the "generalised list completer". We also noted that Jefferson states that the use of the "generalised list completer" accomplishes two tasks: it can be used to transform a two-part saying into a three-part saying, and it can act as a signal that the list is finished. [20] We will now present a further example of this phenomenon cited by Jefferson:[21]

> And they had like a concession stand at a fair where you can
> buy coke and popcorn and that type of thing.

The words "and that type of thing" tell us that there were items other than coke and popcorn for sale at a particular place but it does not tell us what these items were. It transforms a two-part list into a three-part list and also signifies the end of the list.

I have discovered only a small number of clear cases and one ambiguous one,[22] of a generalised list completer in the Mishnah. However, no cases could be found of the use of the phrase to turn an utterance into a three-part saying.

One of the clear cases of a generalised list completer is at the end of a list of eight locations in Arakhin 9:6:

> These are [deemed to be] the houses of walled cities [from the time of Joshua]:
> … Gamala, Gedud, Hadid, Ono, Jerusalem, and others like these (וכן וכיוצא בהן).

The phrase also occurs in other places in a list context, such as in Niddah 9:8, where it is the seventh item in the list.

There is also a possibility that Pesahim 2:6 contains a generalised list completer.

> Pesahim 2:6
> And these are the herbs with which one fulfils one's obligation
> on Passover: with lettuce, with chicory, with pepperworth, with
> snakeroot and with *maror*.

The meaning of the word *maror* is the subject of a dispute. Rashi[23] suggests that it is wormwood and Maimonides[24] identifies it as wild lettuce. However, some medieval commentators[25] suggest that it is "a generic term embracing all bitter herbs with the characteristics listed in the Gemara".[26] One supporter of this opinion is R. Menahem ben Meir the author of the work בית הבחירה.[27] The word *maror* in this *mishnah* is definitely not converting a two-part list into a three-part list. However, it may be a general item placed at the end of the list to show that it is the final item, as the expression "and that type of thing" in the example cited by Jefferson previously. Hence, it may

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[20] Pp. 88-9.
[21] P. 66.
[22] Avot 1:3 cited above.
[23] B.T. Pesahim 39a.
[24] המשנה עם פירוש רבינו משה בן מימון, vol.1, p. 106.
[25] The commentary in the ArtScroll edition of the Mishnah Mo'ed vol. 2, pp. 36-7, gives a full digest of different opinions as to the meaning of the word *maror*.
[26] ArtScroll edition p. 36.
[27] See vol. 3, Pesahim p. 124.

be that the general term *maror* is being used as a signal that the list is finished, as per the second function accorded to the generalised list completer by Jefferson.

Nevertheless, in view of the paucity of examples of the generalised list completer in Mishnaic lists, we must conclude that it is not a significant trait.

2.d. Biblical quotations in lists

The Mishnah occasionally quotes Scripture explicitly and also sometimes changes the wording to modify a Scriptural segment without a direct acknowledgement of the source. We will now see instances of both.

We will commence with B.Q. 1:1, a text that we have encountered several times before, which is an example of the reformulation of a passage from Scripture. B.Q. 1:1 informs the reader that there are four classes of injury, and proceeds to list them. This passage is a restatement of cases of damages found in Exodus 21:28-22:6, with the exception of the crop-destroying beast. However, the text contains no acknowledgement of the fact that this is a restatement of Biblical case law in terms of legal principles.[28]

In contrast to B.Q. 1:1 we will now look at instances where Scriptural influence is explicitly acknowledged. The acknowledgement of Scripture can be incorporated into the list structure in several ways.

Type 1 The creation of sets of list items from explicit Scriptural sources

One use of Scripture is to validate the inclusion of member(s) in a list. An example of this may be found in Avot 1:18.

> Rabban Shim'on ben Gamaliel said: By three things the world is
> sustained: by truth, by judgment and by peace, as it is written
> (שנאמר):[29] *Execute the judgement of truth and peace*.

In this case the three list items have been culled from an acknowledged Biblical source. The exegetical operation employed Samely calls Redundancy 9.[30] A further example of the creation of a list in the Mishnah from Scriptural sources is Sotah 7:2. However, this is a special case in that the list items are themselves Biblical segments for ritual recitation.

> And these may be said in Hebrew [only]: the recital [of the
> paragraph of] the First Fruits,[31] [the paragraph of] *halitsah*,[32] [the
> paragraph of] the Blessings and the Curses,[33] the Blessings of the
> Priests,[34] the Blessings of the High Priest,[35] the paragraph of the

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[28] The relationship of B.Q. 1:1 and Exodus 2:28-22:6 has been discussed in detail by Samely in *Rabbinic Interpretation*, pp. 94-5. The text is also described in his *Database*.
[29] Zechariah 8:16.
[30] See *Rabbinic Interpretation*, p.409. This procedure involves the transformation of a syntagmata into the enumeration of the members of a paradigm, i.e. a list.
[31] Deuteronomy 26:3, 5-10.
[32] Deuteronomy 25:7-9.
[33] Deuteronomy 27:15-26.
[34] Numbers 6:24-6.
[35] Leviticus Chapter 16 and 23:26-32. See Sotah 7:7.

King,[36] the paragraph of the heifer whose neck is broken,[37] and [the words of the priest who is] the Anointed for Battle in the hour when he talks to the people.[38]

The Sotah text continues by providing Biblical proofs regarding some of these items, for which the readings have to be done in Hebrew. These Biblical proofs are not prefaced by the word "as it is written (שנאמר)" as in the Avot case cited above, but by the question "How so (כיצד) [that we derive the law that the passage must be read in Hebrew]?"[39]

Type 2 The use of a Scriptural quotation to clarify the meaning of a list member

In the previous examples we saw how Biblical verses or segments thereof were used to form list items. A different type of function of Scripture in the Mishnah is the clarification of the meaning of a list member. Let us consider an example of this in Miqwa'ot 9:1-2.

> Miqwa'ot 9:1-2
> These interpose in the case of a person [between the water and the body]: … "miry clay", "potter's clay", and "road-lime". What is "miry clay"? This is the clay of pits, as it is said:[40] *And he lifted me out of the watery pit, out of the miry clay.*

The exact type of hermeneutic operation employed here has been described in detail by Samely.[41] In this case the Scriptural text segment is not an integral part of the list structure. It is appended at the end to clarify the meaning of a list term, not to support the presence of the item in the list, which would be introduced by the question term מנין (from where do we know …?).[42]

No specific influence of Biblical wording on list captions in the Mishnah was found.

2.e. The interspersing of the repetition of part of the theme among the list items

We saw in Chapter 3 section 2.a. that a list can be seen as the contraction of several sentences, each contributing to a common theme. There is one case of a list where part of the theme is repeated in every list item.

> Gittin 5:8
> These are the things (דברים) that they [the Sages] enjoined **for the sake of peace**.
> A priest reads [from the Law] first, and after him a Levite and after him an Israelite - **for the sake of peace.**
> They put an *Erub* in the old house - **for the sake of peace**

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[36] Deuteronomy17:14-20.
[37] Deuteronomy 21:7.
[38] Deuteronomy 20:2-7.
[39] See Ruth Shasha *The Form and Function of Questions*, p. 147.
[40] Psalms 40:3.
[41] *Rabbinic Interpretation of Scripture*, p. 97.
[42] Shasha, *op .cit*, p. 207.

> The pit which is nearest to a watercourse is filled up first - **for the sake of peace**.
> Traps for wild animals, or birds, or fishes come partly under (i.e. are covered by) the laws of theft **- for the sake of peace.** R. Jose says this is definite theft**.**
> Anything found by a deaf-mute, a mentally defective person or a minor comes partly under the laws of theft **- for the sake of peace.** R. Jose says this is definite theft …

In the above case the theme of the list is "the things that they [the Sages] enjoined **for the sake of peace**". As can be seen however, only the phrase "for the sake of peace" is repeated as part of each list item**.** The repetition of the phrase does not add any new information to the text, but serves to emphasise the reason for the making of certain rules.

2.f. Text that interrupts the patterning of the list items

There are occasions where additional information breaks the pattern of the enumeration of the list items. The temptation to generalise and call these "glosses" has been resisted, as there is no conclusive evidence that these pieces of text were inserted at a later date. However, certain scholars such as Epstein, have suggested that in some instances they are later additions to the text, as will be illustrated.

> Sheqalim 5:1-2
> These are the appointed [officers] which served in the Temple:
> Johanan ben Phineas was over the seals,
> Ahijah was over the drink-offerings,
> Mattithiah ben Samuel was over the lots,
> Petahiah was [in charge] the Bird Offerings. **This same Petahiah is Mordecai; why was his name called Petahiah? Because he was able to "open" matters and expound them, and because he knew seventy languages.**
> Ben Ahiyah was [appointed to help] concerning [cases of] bowel sickness,
> Nehunyah was the trench digger,
> Gabini was the herald,
> Ben Geber was [in charge] of the shutting of the gates,
> Ben Bebai was [in charge of] the whip,
> Ben Arza was over the cymbal,
> Hygros ben Levi was over the singing,
> the House of Garmu was over the preparation of the Show-bread,
> the House of Abatinas was over the preparation of the incense,
> Eliezer was [in charge of] the hangings,
> and Phineas was over the vestments.

It can be seen that the enumeration of the list items is interrupted by the question in the middle of the passage.[43] The text that interrupts the patterning has been highlighted in bold type and is

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[43] The case is discussed in Shasha, *op. cit.*, p. 42 and 216.

present in MS Kaufmann. However, Epstein suggests that the question concerning the identity of Petahiah-Mordechai (but not the list item "Petahiah was [in charge] the Bird Offerings"), is a later addition to the text. He says that the source of the text is a *Baraita* that is found in the fifth chapter of Sheqalim in the Jerusalem Talmud. He suggests that this was later inserted into the Mishnah and he supplies various manuscript traditions that support his hypothesis that this is a subsequent addition to the text.[44]

Insertions can also appear in captions, although this is very rare. An example of this phenomenon is Zev 5:5.

> The Peace-offerings of the congregation and the Guilt-offerings -
>
> **These are the Guilt-offerings: the guilt-offerings because of false dealing, the Guilt-offerings because of Sacrilege, the Guilt-offerings because of [intercourse with] a betrothed bondwoman, the Guilt-offering of a Nazirite, the Guilt-offering of one with scale-disease, and the Suspensive guilt-offering -** were slaughtered on the north side of the [altar] and their blood was received in a vessel of ministry on the north side and their blood …

The bold section of text, which itself is of the form of a complete list, could be seen as an insertion. Danby puts the section of text that I have reproduced in bold type in brackets.[45] Epstein says nothing on this passage.

2.g. Disputes in lists

The subject of disputes in the Mishnah appears to be very wide-ranging and complex and can only be touched upon briefly here.

Disputes commonly occur in the Mishnah in both list and non-list passages and are a very important phenomenon. Neusner discusses the topic very briefly.[46] He records all the disputes in the order of Purities and finds there to be 437. Unfortunately there is little analysis of the data in his book. Some work on the literary side of the issue has been undertaken by Samely.[47]

Within list text a dispute can be located either in the list caption or in the section containing the list items. If a dispute is found concerning the list items, the extent of the dispute could range from the membership of a single list item of the class given in the theme, to the totality of the list items. Examples of all of these different types of disputes in lists will be examined below.

Disputes that are found in the caption may relate either to the obligatory element of the caption, the list theme, or a non-obligatory part, such as a numerical element. Indeed the size of a numerical element, where present, can provide one extra parameter to the dispute. It is conceivable that a numerical element in the caption used to act as a form of checking device to ensure that the list was always transmitted with the same number of items.[48] If the list contains more items than the numerical element in the caption leads the reader to anticipate, as in the one case of Avot 4:13 quoted in section 1.c. of this Chapter which may have been rhetorical, the reader is forced to try and make sense of the material s/he is presented with. There are cases where the

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[44] P. 952.

[45] P. 474.

[46] *A History of the Mishnaic Law of Purities*, part 21, pp. 167-189.

[47] *Forms*. See in particular chapter 6.

[48] See Chapter 2 section 4.c.ii.

quantity of the numerical element is disputed, and hence the number of members of a class is disputed. Three examples of such disputes may be found in Orlah 3:7, Sheq 5:3 and Niddah 2:6. Examples are also found where there is no dispute as to the size of the numerical element in the caption, but there is a dispute regarding the correct members of the class mentioned in the list theme.

We will now examine two of the cases of disputes regarding the quantity of the numerical element. In the first case to be presented, the number in the caption is explicitly disputed and the non-disputed members are recapitulated in the text. The textual structure of the dispute is that of two alternative lists under a common caption.

> Sheq 5:3
> There were **four** seals in the Temple and on them were inscribed [respectively] "Calf", "Ram", "Kid", "Sinner".
> **Ben Azzai says there were five** [seals in the Temple] and on them were inscribed in Aramaic [respectively] "Calf", "Ram", "Kid", "Poor sinner" and "Rich sinner".

The dispute is that of the anonymous *mishnah* and a named Sage. Even though the dispute relates to the size of the numerical element in the caption, the reader is informed of the dispute only in the caption of the second list as opposed to the initial caption. In the second list, the one attributed to the named Sage, the disputed numerical element only is given while the theme is not recapitulated and the reader has to refer back to the initial caption of the previous list to understand the following text. There follow the undisputed three list items from the previous list. The final two items, of this second list, the "poor sinner" and the "rich sinner", are in place of the last item of the previous list and the additional item in the second list is a differentiation of the last item in the first list, the "sinner", into two separate list items.

As already said, the presentation of the first list gives no indication that a dispute will follow. The second list does not make sense when disaggregated from the first list, because the theme is not repeated in the second list caption. This creates a tightly-cohered unit of text. The placing of the two versions of the numerical element in separate captions and the verbatim repetition of three common list elements has the effect of highlighting the two opinions.

This piece of text appears to be a case of an argument formulated as two simple lists. The text could have been formulated as a compound list as follows:

> There were four seals in the Temple.
> Ben Azzai says there were five.
> On them were inscribed [respectively] "Calf", "Ram", "Kid", "Sinner".
> Ben Azzai says that on them were inscribed in Aramaic [respectively]
> "Calf", "Ram", "Kid", "Poor sinner" and "Rich sinner".

In this case there is more repetition than in the Mishnaic text. I have found no disputes in list format expressed in this particular style.

In the next example, the numerical element in the caption is explicitly disputed, as it was in the previous case. However, in contrast to the previous case, the non-disputed list items are not repeated in the statement of the second opinion.

> Orlah 3:7
> For R. Meir used to say: Whatsoever a man is wont to count [when he sells them] can [when it is forbidden produce] render forbidden [other

produce with which they are mixed, so that they all must be burnt]. But the Sages say: only six [such] things render forbidden [that with which they are confused]. R. Aqiba says seven.

And these are they: nuts from Perakh, pomegranates from Baddan, sealed jars, beetroot-tops, cabbage-stalks and Greek gourds. R. Aqiba says: also (אף) the loaves of a householder, which he bakes himself.

In this passage the word "also" (אף) is functionally very important, as it replaces the non-disputed list items and prepares the reader for the announcement of the additional list item according to Rabbi Aqiba. The reason for this different structure from the previous case is that in Orlah 3:7 the dispute regards the legitimate addition of an item to a list, whereas in Sheq 5:3 the dispute concerns the replacement of one list item by two other items.

The previous two cases have been primarily concerned with disputes in the caption. We will now examine disputes concerning the list items. Bekhorot 9:5 is an example of this type of dispute.

Bekhorot 9:5
There are three seasons in the year for the Tithe of Cattle: a half-month before Passover, a half-month before Shavu'ot, and a half-month before the Feast [of Sukkot]. So says R. Aqiba.
Ben Azzai says: on the 29th of Adar, on the 1st of Sivan, and on the 29th of Ab.
R. Eliezer and R. Shim'on say: on the 1st of Nissan, on the 1st of Sivan and on the 29th of Elul.

All three opinions dispute which the three periods are, but not the number of the items in the list.

The next category is a dispute as to the number of list members, where the number is only disputed implicitly.

Niddah 2:6
Five kinds of blood in a woman are unclean: red and black and bright crocus colour and a colour like earthy water and like mixed [water and wine]. The School of Shammai say: Also (אף) the colour like water in which fenugreek has been soaked and a colour like the juice that comes out of roast flesh.
But the School of Hillel declare these clean.
If it is yellow, Aqabya ben Mahallel declares it unclean, but the Sages declare it clean.

In this case the dispute is placed at the end of the list. It is expressed using the words בית שמאי אומרים אף ... The House of Shammai says: Also (אף), i.e. another member in addition to those previously given. Here as in Orlah 3:7 cited above, the word "also" is functionally very important, as it informs the reader that the previous list items are not disputed and that an alternative opinion adds on an extra list item. However, unlike Orlah 3:7, the reader is not forewarned until the word "also", of the existence of a dispute regarding the overall number.

The final example will illustrate a dispute concerning individual list items only. In this example there are two separate disputes by two separate groups of Sages. In the first dispute encountered in the text, two Sages argue about a date given for one of the list items. This dispute has ramifications for the numerical element in the caption, as we will see below. The second dispute also concerns a date given for one of the list items, but in this case there is no effect on the numerical element in the caption. These disputes are in the form of insertions woven into the text of the list.

> Rosh Hashanah 1:1
> There are four [days that are called] New Year.
> On the 1st of Nissan is the New Year for kings and feasts;
> On the 1st of Elul is the New Year for the Tithe of Cattle.
> R. Eli'ezar and R. Shim'on say: The 1st of Tishri [is the New Year for the Tithe of Cattle].
> On the 1st of Tishri is the New Year for [the reckoning of] the years of [foreign] kings, of the Years of Release and Jubilee years, …
> and the 1st Shevat is the New Year for Trees, according to the School of Shammai: and the School of Hillel say: The 15th.

The structure of the list is that of a caption containing a numerical element followed by four list items. After each item has been stated any dispute concerning the date is mentioned. There is no dispute as to the legitimacy of any of the list items. However, if the opinion of R. Eli'ezer and R. Shim'on were to be normative, then there would be only three New Year days in the calendar.

These cases serve as illustrations of the types of disputes that occur in lists. No statistical analysis was carried out to compare the incidence of disputes in list and non-list-text. However, it is my impression that they are possibly slightly rarer in lists.

2.h. The separation of similar list items into different contiguous lists or non-list sentences
Occasionally the Mishnah will present members of a common class, not as one long list, but as separate lists and/or non-list sentences. The reason for this separate presentation, as opposed to an accumulation of material, is not clear, as the Mishnah does not overtly state the principles of grouping list items together in these cases.
Let us now examine Sanhedrin 1:1 where we will see a collection of norms that could be presented as a single list into separate sentences of list and non-list form.

> Sanhedrin 1:1
> Cases concerning property [are decided by] three [judges].
> Cases concerning theft or personal injury, [are decided by] by three [judges].
> Claims for full damages, two-fold restitution, or fourfold or fivefold restitution, and [claims against] the violator, the seducer and him that hath bought an evil name [are decided] by three [judges], so says Rabbi Meir.
> But the Sages say him that hath bought an evil name [must be judged] by twenty-three for there may arise from it a capital case.

Mishnayyot 1: 2-3 also contain legal matters that can be decided by three judges. Some of these legal norms contain disputes. The rest of the chapter is taken up by comments on the number of judges required to judge different types of legal cases. The entirety of Sanhedrin 1:1-3 could have been presented as a single list with a caption, "These are cases that are decided by three judges".
This case and the next appearing in this section have similarity to the phenomenon of the reiteration of part of the theme in the list items noted in 2.e. The cases in this section are not identical to the case of Gittin 5:8, cited above, in which we saw a repetition of the theme "for the sake of peace" interspersed amongst the list items. The Sanhedrin passage does not commence or conclude with a component that could be considered a list caption. The first two sentences are definitely not lists.

> Sanhedrin 1:1
> Cases concerning property [are decided by] three [judges].
> Cases concerning theft or personal injury, [are decided by] by three
> [judges].

The sentence after that appears to be a list of the Type 2 variety that we encountered in Chapter 1 section 2.

> Claims for full damages, two-fold restitution, or fourfold or
> fivefold restitution, and [claims against] the violator, the seducer
> and him that hath bought an evil name [are decided] by three
> [judges], so says Rabbi Meir.

It is not clear why the anonymous *mishnah* has grouped these items together in one sentence while separating out other items in the previous two sentences. In Gittin 5:8 the repetition of the refrain "for the sake of peace" was found at predictable intervals. In this case, there is a refrain "[are decided] by three [judges]". However here there are no predictable intervals.

Kilaim 1:1-3 provides a further example of text containing items of the same class that are presented as different sentences, some of which could have been aggregated into a larger list. The reason for this differentiation, as in this case of Sanhedrin 1:1, is not spelled out explicitly. Epstein in the *Mavo* says nothing on this issue.

This Chapter completes the discussion of the list as a text unit in its own right. The next Chapter will investigate the function of the list unit in its immediate co-text as well as in the entirety of the Mishnah.