

The Written Torah, the Oral Torah, and their Interrelationship

Commonly, the word “Torah” conjures up the image of a scroll written down by Moshe Rabeinu (Moses our teacher) according to God’s dictation. However, there is another Torah, which bears just as much significance in Judaism – the Oral Torah. A fundamental principle of Judaism is that God taught Moshe a comprehensive oral explanation of the Torah along with the written text. God taught the Oral Torah to Moshe on Mount Sinai, repeated to him in the Ohel Moed, and again in the Plains of Moav. Moshe passed this tradition verbally to the people, who in turn taught it to the subsequent generation, and so it was passed on by word of mouth from teacher to student for over one thousand years. Eventually, it was preserved in writing in the form of the Mishnah, Talmud and the Midrashim. We thus speak of two Torahs: the Written Torah (*Torah SheBiKetav*) and the Oral Torah (*Torah SheB’Al Peh*).

In this class we will focus on the general content of the Written and Oral Torahs and how they relate to each other. In the process we will show that the revelation of the Torah not only included, but in fact was mainly concerned with, the Oral Torah. The Morasha shiur, System of Halachah III will explore the content of the Oral Torah in greater detail.

This class will address the following questions:

- What is the Written Torah?
- What is the Oral Torah?
- What is its relationship between the Written and the Oral Torah?
- Why was the Oral Torah recorded in writing over the Second to Fourth Centuries?
- Why wasn’t it written down any earlier?

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SECTION I. THE TWO TORAHS

In the Morasha shiur, The System of Halachah I: Revelation, we learned that the Torah was taught by God to Moshe at Mount Sinai, in the Ohel Moed and at *Aravot Moav*. In this class we will examine the two separate components of the Torah which are intrinsically interrelated – the Written Torah (*Torah SheBiKetav*) and the Oral Torah (*Torah SheB'Al Peh*).

What is contained in these Torahs and what is the nature of their inter-relationship?

PART A. THE CONTENT OF THE WRITTEN TORAH

The written Torah, known primarily as the *Chumash*, the Five Books of Moshe, was written down by Moshe Rabeinu in Torah scrolls. The *Neviim* (Prophets) and *Ketuvim* (Writings) also have the status of the written Torah, but do not reflect the same level of prophecy as that of Moshe.

1. **Rambam, Commentary on the Mishnah, Sanhedrin 10:1 – Moshe Rabeinu's prophecy was qualitatively different from all other prophets – it was perfectly pure.**

The Seventh Foundation [of Jewish belief] is the prophecy of Moshe Rabbeinu, may he rest in peace. This means to believe that he is the father of all the prophets, both those who preceded him and those who followed; all of them were below his level. He was the chosen one from all of mankind, for he attained a greater knowledge of God, more than any other person ever attained or will ever attain.

והיסוד השביעי נבואת משה רבינו. והוא, שנאמין שהוא אביהן של כל הנביאים שקדמו לפניו והבאים אחריו, הכל הם למטה ממנו במעלה, והוא בחיר ה' מכל המין האנושי, אשר השיג מומנו יתעלה יותר ממה שהשיג וישיג כל אדם שנמצא ושימצא.

The Chumash tells the history of the world from creation until the death of Moshe and includes the 613 commandments. The Torah itself is divided into five books, or *chumashim* in Hebrew. The breakdown of these five books is as follows:

2. **Rabbi Mordechai Becher, Gateway to Judaism, pp. 475-476 – The content of the Written Torah.**

Five Books of Moses – Torah, Chumash

1. Genesis – Bereishit

Bereishit means “In the beginning.” It deals with Creation; Adam and Eve; the Flood; the Patriarchs and the Matriarchs of the Jewish people, and ends with the descent of Jacob and his family to Egypt. It also contains the commandment of circumcision, and God’s promise to Abraham that he would receive the Land of Israel and that his descendants would be a major, positive influence on the entire world.

2. Exodus – Shemot

Shemot, meaning “Names,” refers to the names of the Jews who entered Egypt with Jacob. It deals with their exile, slavery and suffering; the life of Moses, and his initial prophecies; the Ten Plagues and the Exodus. It also describes the Revelation at Mt. Sinai, where the Jewish people received the Ten Commandments, and the Written and Oral Torah. Exodus closes with the building of the Tabernacle (Mishkan), a portable Temple that housed the Holy Ark containing the Tablets of the Law.

3. Leviticus – Vayikra

Vayikra means “He called.” God calls to Moses and informs him in detail of the laws regarding the festivals, Priests (Kohanim) and the Temple service. Much of the Jewish code of morality, ethics and charity appears in Vayikra, including the famous commandment to “Love your neighbor as yourself” (Leviticus 19:18).

4. Numbers – Bamidbar

Bamidbar, “In the desert,” details the travels, battles and struggles of the Jews during their 40-year sojourn in the desert after the Exodus. It records a census of the tribes, the positioning of each tribe when they camped and traveled Korach’s rebellion, and the events surrounding sending the spies to Israel. Bamidbar ends with the capture of the East Bank of the Jordan River and the subsequent settlement there of the tribes of Reuben and Gad.

5. Deuteronomy – Devarim

Devarim, “Words,” refers to Moses’ address to the Jewish people before his death. This prophetic farewell includes rebuke, encouragement, warnings and prophecies. In it, many commandments that would only apply in the Land of Israel and that govern interaction with other nations are explained, and new commandments are given, many of which concern the courts and justice system. After his farewell, Moses wrote 13 complete copies of the Torah, gave one to each tribe, and placed one in the Holy Ark. The Five Books close with the death of “the greatest of all prophets” and “the most humble of all men,” Moses.

Before his death, Moshe wrote thirteen Torah scrolls. Twelve of these were distributed to the Twelve Tribes. The thirteenth was placed in the Ark of the Covenant. This was eventually transferred to the Holy of Holies in the Temple. This last Torah was the standard by which all other scrolls were judged. (See the Morasha class, Evidence for Torah M’Sinai II, which addresses the remarkable conformity of Torah scrolls worldwide today, after three thousand two hundred years, including two thousand years of scattered exile!)

3. **Devarim Rabba 9:9 – Moshe wrote thirteen Torah scrolls before his death.**

The Sages said: “Since Moshe knew that he was going to die that day, what did he do?” Rabbi

רבנן אמרי כיון שידע משה שהיה לו למות באותו היום
מה עשה, א”ר ינאי כתב י”ג תורות י”ב ל”ב שבטים

Yanai said: "He wrote thirteen Torah scrolls, twelve for the twelve tribes, and one he placed in the Ark so that if anyone ever wished to forge part of the Torah, then they would take that one out (for verification)."

ואחת הניח בארון שאם יבקש לזייף דבר שיהיו מוצאים אותה שבארון.

God's direct communication with mankind did not end with Moshe Rabeinu in Devarim. God continued to speak with over one million prophets from 1273 BCE (Yehoshua – Joshua) until 420 BCE (Malachi), and then drew to a close with the redaction of Divrei Hayamim (Chronicles) in 350 BCE. For the most part, these communications were private, but those prophets who were given a message for posterity had their words canonized in *Tanach*, or the Hebrew Bible as it is called. (For further discussion about the exact date that the books of Ezra, Nechemiah, Daniel, and Divrei HaYamim were codified, see Rabbi Shimon Schwab, "Comprehensive Jewish Chronology" in Selected Speeches, CIS Publications, pp. 255-285).

The prophets whose writings are included in Tanach tell the "moral and ethical" history of the Jewish people from the conquest of the Land of Israel, until the rebuilding of the Second Temple in Jerusalem.

4. The Prophets and the Writings – *Nach* (the acronym of *Nevi'im* [Prophets] and *Ketuvim* [Writings]) is the collection of prophetic writings that have an eternal teaching either in Jewish ethics, philosophy or law.

Prophets (נביאים / *Nevi'im*)

1. יהושע / Yehoshua - Joshua
2. שופטים / Shoftim - Judges
3. שמואל / Shmuel - Samuel (I & II)
4. מלכים / Melachim - Kings (I & II)
5. ישעיה / Yeshayahu - Isaiah
6. ירמיה / Yirmiyahu - Jeremiah
7. יחזקאל / Yechezkel - Ezekiel
8. תרי עשר - The Twelve Prophets
 - a. הושע / Hoshea - Hosea
 - b. יואל / Yo'el - Joel
 - c. עמוס / Amos - Amos
 - d. עובדיה / Ovadyah - Obadiah
 - e. יונה / Yonah - Jonah
 - f. מיכה / Michah - Micah
 - g. נחום / Nachum - Nahum
 - h. חבקוק / Chavakuk - Habakkuk
 - i. צפניה / Tsephanyah - Zephaniah
 - j. חגי / Chagai - Haggai
 - k. זכריה / Zecharyah - Zechariah
 - l. מלאכי / Malachi - Malachi

Writings (כתובים: *Ketuvim*)

9. תהלים / Tehillim - Psalms
10. משלי / Mishlei - Proverbs
11. איוב / Iyov - Job

The Five Megillot (Part of the Writings)

12. שיר השירים / Shir Hashirim - Song of Songs

- 13. (רות / Rut) - Ruth
- 14. (איכה / Eichah) - Lamentations
- 15. (קהלת / Kohelet) - Ecclesiastes
- 16. (אסתר / Esther) - Esther

The rest of the "Writings":

- 17. (דניאל / Dani'el) - Daniel
- 18. (עזרא ונחמיה / Ezra v'Nehemiah) - Ezra-Nehemiah
- 19. (דברי הימים / Divrei Hayamim) - Chronicles (I & II)

In addition to relating the central events of our history from Creation until the building of the Second Temple, the Chumash and Tanach describe the mitzvot by which we forge and develop our relationship with God. The Chumash contains 613 *d'oraitah* (Torah) or biblical commandments.

5. **Talmud Bavli, Makkot 23b-24a – There are 613 mitzvot in the Torah.**

Rabbi Simlai expounded: 613 mitzvot were told to Moshe – 365 prohibitions corresponding to the days of the solar year and 248 prescriptions, like the [number of] limbs in a person. Rabbi Hamnuna said: What verse supports this? "Moshe commanded us 'Torah,' a heritage..." (Devarim 33:4): "Torah" has the numerical equivalent (*gematria*) of 611, while "I (am the Lord, your God)" and "You shall have no other (gods before me)" were heard directly from God.

דרש רבי שמלאי: שש מאות ושלוש עשרה מצות נאמרו לו למושה, שלש מאות ושישים וחמש לאוין כמנין ימות החמה, ומאתים וארבעים ושמונה עשה כנגד איבריו של אדם. אמר רב המנונא: מאי קרא? (דברים ל"ג:ד) תורה צוה לנו משה מורשה, תורה בגימטריא שית מאה וחד סרי הוי, אנכי ולא יהיה לך מפי הגבורה שמענו.

The task of a prophet as an emissary of God was to strengthen the observance of God's commandments. The many enactments established by the prophets were not additional Torah laws. Rather, they were instituted to strengthen or safeguard existing Torah laws.

What are the goals of the mitzvot? The mitzvot are the primary means to achieve attachment to God and to perfect our character. In fact, the word "mitzvah" actually means connection.

6. **Rabbi Osher Chaim Levene, Set in Stone, p. 31 – Each mitzvah we fulfill intrinsically connects us with God.**

Judaism is not as much a religion as it is a relationship. It is only through mitzvah observance that man can build a deep, enduring, and meaningful relationship with God... That a mitzvah is the very process of forging the bond [with God] is contained within the very word מצוה, "mitzvah," closely related to the word צוהתא, "tzavta," meaning a connection or a binding.

One of the ways that mitzvot connect us to God is by helping us to refine our character and thereby become more Godly.

7. **Rambam, Hilchot Temurah – The Mitzvot are God's instructions and advice for living and improving our character.**

And all these matters [the mitzvot] are to [help us to] overcome our negative inclinations and to

וכל אלו הדברים כדי לכופ את יצרו ולתקן דעותיו ורוב

correct our traits; and most laws of the Torah are timeless instructions from the Great Adviser [to help us] to correct our character traits and straighten our ways.

דיני התורה אינן אלא עצות מרחוק מגדול העצה לתקן הדעות וליישר כל המעשים.

PART B. THE WRITTEN TORAH WAS GIVEN WITH AN ORAL EXPLANATION

All of these 613 mitzvot have specific parameters and applications. The details of a mitzvah are rarely apparent from the text of the Written Torah. One of the essential tenets of Judaism is that the Written Torah was given with an oral explanation.

1. Rambam, Introduction to Sanhedrin, Chapter 10 – There has always been an Oral Torah.

The eighth Fundamental Principle of Judaism is that the Torah is from Heaven. This means that we must believe that this entire Torah, which was given to us from Moshe Our Teacher, may he rest in peace, is entirely from the mouth of the Almighty.

All this is also true for the explanation of the Torah [the Oral Torah], which was also received from the mouth of the Almighty. The manner in which we today perform the mitzvot of Sukkah, Lulav, Shofar, Tzitzit, Tefillin, and other items is precisely the way that God, blessed be He, told Moshe, who then informed us. And the one whom God appointed as an agent is surely to be relied upon.

והיסוד השמיני היות התורה מן השמים והוא שנאמין שכל התורה המצויה בידינו עתה, היא הנתונה על ידי משה רבנו ע"ה שהיא כולה מפי הגבורה כלומר שהגיע אליו כלה מאת ד' יתברך...

וכמו כן פרוש התורה המקובל גם כן מפי הגבורה. וזה אנו עושים היום מתבנית הסוכה והלולב ושופר ציצית ותפילין וזולתם, הוא בעצמו התבנית אשר אמר השם יתברך למשה והוא אמר לנו והוא נאמן בשליחותו.

There are hints in the written text to the fact that the Written Torah was given together with the Oral Torah.

2. Vayikra (Leviticus) 26:46 with Commentary of Rashi – There are two Torahs, both given to Moshe by God.

These are the statutes, the ordinances, and the Torahs that the Lord gave between Himself and the children of Israel on Mount Sinai, through Moshe.

Rashi – *and the Torahs* [Why the plural form, "Torahs"? This denotes two Torahs]: One Written Torah and one Oral Torah. It teaches us that all was given to Moshe on [Mount] Sinai. [Torat Kohanim 26:54]

אלה החקים והמשפטים והתורות אשר נתן יְקֹנֶק בֵּינוּ וּבֵין בְּנֵי יִשְׂרָאֵל בְּהַר סִינַי בְּיַד מֹשֶׁה:

והתורות: אחת בכתב ואחת בעל פה, מגיד שכולם נתנו למשה בסיני:

Moshe was taught both on Mount Sinai.

3. Devarim 9:10 and Talmud Yerushalmi, Megillah 28a – Moshe was taught all of the Oral Torah.

God gave me the two stone tablets inscribed with the finger of God. And upon them was [it written] according to all the words that God declared to you on the mountain out of the fire, on the Day of Assembly.

Rabbi Yehoshua ben Levi said: The text does not say, “upon them” rather “and upon them”; not “words” rather “the words”; not “all” rather “according to all.” These extra words allude to Scripture, Mishnah, Talmud and Aggadah. Even what an experienced student was destined to rule before his teacher was already said to Moshe at Sinai. And so it is written, “Is there a matter about which one can say ‘Look, this is new!’? To which his fellow will reply, ‘It has already been in the times that came before us’” (Kohelet 1:10).

ויתן יקוק אלי את שני לוחות האבנים כתבים באצבע
אלהים ועליהם ככל הדברים אשר דבר יקוק עמכם
בהר מתוך האש ביום הקהל:

אריב"ל עליהם ועליהם דברים הדברים כל בכל מקרא
ומשנה ותלמוד ואגדה ואפי' מה שתלמיד ותיק עתיד
להורות לפניו רבו כבר נאמר למושה מסיני הדא הוא
דכתיב יש דבר שיאמר ראה זה חדש הוא וחבירו
משיבו כבר היה לעולמים אשר היה לפנינו.

Moshe then transmitted all that he was taught by God, both the Written and the Oral Torah.

4. Talmud Bavli, Eruvin 54b – The Oral Torah was taught to Moshe and transmitted by him to the entire nation.

Our Rabbis taught: What was the procedure of the instruction in the Oral Torah? Moshe learned directly from God. Then Aharon entered and Moshe taught him his lesson. Aharon then moved aside and sat down on Moshe's left. Thereupon, Aharon's sons entered and Moshe taught them this lesson. His sons then moved aside, Eleazar taking his seat on Moshe's right and Ithamar on Aharon's left.

Rabbi Judah stated: Aharon was always on Moshe's right. Thereupon, the elders entered, and Moshe taught them the lesson. When the elders moved aside, all the people entered, and Moshe taught them the same lesson. It thus followed that Aharon heard the lesson four times, his sons heard it three times, the elders twice and all the people once. At this stage Moshe departed, and Aharon taught them the same lesson. Then Aharon departed, and his sons taught them the lesson. His sons then departed, and the elders taught them the lesson. It thus followed that everyone heard the same lesson four times.

תנו רבנן, כיצד סדר משנה? משה למד מפי הגבורה,
נכנס אהרן ושנה לו משה פירקו. נסתלק אהרן וישב
לשמאל משה. נכנסו בניו ושנה להן משה פירקו,
נסתלקו בניו, אלעזר ישב לימין משה ואיתמר לשמאל
אהרן.

רבי יהודה אומר: לעולם אהרן לימין משה חוזר. נכנסו
זקנים ושנה להן משה פירקו, נסתלקו זקנים, נכנסו כל
העם ושנה להן משה פירקו. נמצאו ביד אהרן ארבעה,
ביד בניו שלשה, וביד הזקנים שנים, וביד כל העם אחד.
נסתלק משה, ושנה להן אהרן פירקו. נסתלק אהרן שנו
להן בניו פירקו. נסתלקו בניו, שנו להן זקנים פירקו.
נמצא ביד הכל ארבעה.

5. Devarim 4:14 God commanded Moshe to teach the Oral Torah to the people

And God commanded me at that time to teach you the statutes and laws to fulfill them in the land that you will enter to inherit.

Rashi – this refers to the Oral Torah

ואתי צוה יקוק בעת ההוא ללמד אתכם חקים ומשפטים לעשותכם אתם בארץ אשר אתם עברים שמה לרשתה:

רש"י – זו תורה שבעל פה.

Rashi's interpretation is apparently based on the verb "to teach you." This is in contrast to other verses where the verb "giving" or "placing" is used, such as Devarim 4:8, "...The Torah that I am placing before you today." The verb to teach implies a Torah that needs to be taught and explained orally.

As we will see in the Morasha shiur System of Halacha III – The Content of the Oral Torah, the Oral Torah expounds both the narrative and legal dimensions of the Written Torah. But first, we will outline the relationship between the two Torahs and explain why the Oral Torah is not entirely oral anymore.

KEY THEMES OF SECTION I.

- ≈ The Written Torah consists of both a narrative as well as a legal component.
- ≈ The narrative component tells the story of the creation of the world, the creation of mankind, and the birth of the Jewish people. It tells of the Exodus from Egypt and the Revelation at Mount Sinai, followed by forty years of wandering in the desert until Moshe died.
- ≈ The legal component of the Written Torah contains the 613 mitzvot, the means by which we develop a relationship with God and strive to perfect our character.
- ≈ The writings of the prophets continue the narrative of Jewish history through the conquering of the Land of Israel, the establishment of a monarchy there, and the building and ultimate destruction of the Holy Temple in Jerusalem.

SECTION II. RELATIONSHIP BETWEEN THE WRITTEN AND ORAL TORAH

The Oral Torah is what gives depth and profound meaning to the written text of the Torah. In this section we will explore three ways to understand the relationship between the Written and Oral Torahs: 1) as a system of interpretation, 2) as macro principles and their applications and 3) as the means for a covenant with God.

PART A. INTERPRETATION

The Oral Torah is the tradition of how to correctly understand the meaning of the Torah. Without it the Torah would be nonfunctional as a code of law.

1. **Ramchal, Ma'amer Halkarim, Chapter 10 – The Oral Torah transmits the meaning of the Written Law.**

God did not wish to write the Torah so clearly that it would not require explanation. On the contrary, He wrote therein many extremely vague matters so that it would be impossible for anyone to understand their true meaning if not for a Divine explanation handed down from the Originator of those teachings. As an example: Mitzvot such as tefillin and mezuzah, which are commanded in the Scripture, are not explained there. Yet, in truth, God purposely hid the true meaning of His words, for reasons known to Him. However, all that was hidden in the Written Torah was transmitted to Moshe orally, and from there the transmission continued from generation to generation.

Thus, through this tradition, the true intent of Scripture is explained, and we know the exact way that God intended for us to perform the mitzvot.

הנה האדון ב"ה לא רצה לכתוב את התורה בביאור מספיק שלא יצטרך לה פירוש, אלא אדרבא כתב בה דברים הרבה סתומים מאד שלא היה אפשר ביד אדם בעולם לעמוד על כוונתם האמיתית, בלי שימסר הפירוש בקבלה שתבא ממנו ית' שהוא בעל הדברים. דרך משל, מצות תפילין, מצות מזוזה וכיוצא בהם, שבא הציווי עליהם, ולא נתבאר בכתוב מה ענינם. אמנם האמת הוא, שבכוונה מכוונת העלים האדון ב"ה כוונת דבריו האמיתית לטעמים נודעים אצלו. ואמנם כל זה שהעלים בתורה שבכתב הנה מסרו למשה רבינו ע"ה בעל פה וממנו נמשך המסורת לחכמים דור אחר דור:

והנה במסורת הזה נתבארה כונת הכתובים לאמתה ונודע לנו אמתת מעשה המצות כמו שהאדון ב"ה רוצה בהם:

PART B. GENERAL VS. PARTICULAR

The way that the Oral Torah relates to the Written can be described as applied details of general principles. The Written Torah would have been endless had it contained all possible cases and variables. Therefore, the solution was to give a Written Torah which was "coded," with all the principles in condensed form. The original text of the Torah is actually no more than a shorthand text, so cleverly composed that it makes sense even in its shorthand face, while its longhand meaning is discernible only by making use of the key to decode its many hints. The Oral Torah is the key by which these principles are translated into the final, specific instructions for day-to-day living and for all the changing circumstances of mankind.

1. **Midrash Tanchuma, Parshat Noach 3 – The Oral Torah contains the details only hinted to in the Written Law.**

[God] gave us the Written Torah with cryptic hints, while their elucidation is in the Oral Torah, and these He revealed to Israel. Not only that, but the Written Torah is general while the Oral Torah is detailed; the Oral Torah is lengthy while the Written Torah is concise. About the Oral Torah it is said, "Longer than the earth is its measure, and wider than the sea" (Iyov/Job 11:9).

ונתן לנו את התורה בכתב ברמז צפונות וסתומות ופרשום בתורה שבע"פ וגלה אותם לישראל, ולא עוד אלא שתורה שבכתב כללות ותורה שבע"פ פרטות ותורה שבע"פ הרבה ותורה שבכתב מעט ועל שבע"פ נאמר ארוכה מארץ מדה ורחבה מגי ים (איוב י"א).

Aside from deciphering the code of the Written Torah, the Oral Torah also draws out the specific details of the general laws stated in the written text. As we said, the Torah could not possibly cover every possible case that could develop under its jurisdiction. Therefore, it provides the general principles which are then applied to landmark cases that form the basis of a functional legal system. Hence, the Oral Torah applies the general

rules of the Written Torah to specific cases.

But even the Oral Torah could not contain every possible ramification of Jewish Law. Rather, it consists of a system of principles for applying the Torah to new situations as they arise.

2. Midrash Shemot Rabbah (Vilna) 41 – Moshe was taught the general principles of how to apply the Torah to any situation that might arise in the future.

Did Moshe really learn the entire Torah (from God)? But, as the verse attests, “its breadth is wider than the Earth,” and he learned it in only forty days?! Rather, God taught Moshe the principles.

וכי כל התורה למד משה כתיב בתורה (איוב יא) ארוכה מארץ מדה ורחבה מגי ים ולא רבעים יום למדה משה אלא כללים למדהו הקב"ה למשה.

As noted above, Moshe himself received the Oral Torah from God. So when we consider the breadth of the Oral Torah compared to the brevity of the Written Torah, we could perhaps describe the relationship between them in the following way:

3. Samson Raphael Hirsch, Commentary to Shemot 21:2 – The Written Torah is like the shorthand notes to the extended lecture of the Oral Torah.

The Written Torah is to be to the Oral Torah in the relationship of short notes on a full and extensive lecture on any scientific subject. For the student who has heard the whole lecture, short notes are quite sufficient to bring back afresh to his mind at any time the whole subject of the lecture. For him, a word, a mark of interrogation or exclamation, a dot, the underlining of a word etc. etc., is often quite sufficient to recall to his mind a whole series of thoughts, a remark, etc. For those who had not heard the lecture from the Master, such notes would be completely useless. If they were to reconstruct the scientific contents of the lecture literally from such notes, they would of necessity make many errors. Words, marks, etc., serve those scholars who had heard the lecture as instructive guiding stars to the wisdom that had been taught and learned.

PART C. THE MAIN COVENANT

God forged a covenant with the Jewish people through which we would observe his laws and thereby develop a relationship with Him, and through which He would uphold his promise for reward. What is viewed as the primary expression of this covenant – the written or oral law?

1. Talmud Bavli, Gittin 60b – The covenant was sealed primarily on account of the Oral Torah.

Rabbi Yochanan said: God made a covenant with Israel only for the sake of that which was transmitted orally, as it says (Shemot 34), “For by the mouth of these words I have made a covenant with thee and with Israel.”

א"ר יוחנן: לא כרת הקב"ה ברית עם ישראל אלא בשביל דברים שבעל פה, שנאמר: (שמות ל"ד) כי על פי הדברים האלה כרתי אתך ברית ואת ישראל.

2. Jerusalem Talmud, Peah 2:4 – The Oral Torah is the primary covenant between God and the Jewish People.

Rabbi Chagga said in the name of Rabbi Shmuel bar Nachman: Some matters were said orally, and

ר' חגי אמר בשם ר' שמואל בר נחמן נאמרו דברים בפה ונאמרו דברים שבכתב ואין אנו יודעין איזה מהן

some matters were said in writing, and we only know which of them is dearer from the verse (Shemot 34:27), “for in accordance with these words (literally, “by mouth of these words”), I [God] have made a covenant with you [Moshe] and with Israel.” This means to say that those said orally are dearer.

Rabbi Yochanan and Rabbi Yodan bar Shimon – one said that if you observe both what was taught orally and what was taught in writing, then God makes a covenant with you, but if not then He does not make a covenant with you. The other said that if you observe what was taught orally and fulfill what was taught in writing then you shall receive reward, but if not then you shall not receive reward.

חביב אלא מן מה דכתיב כי על פי הדברים האלה
כרתי אתך ברית ואת ישראל הדא אמרה אותן שבפה
חביבין.

ר' יוחנן ור' יודן בי ר"ש חד אמר אם שמרת מה שבפה
ושמרת מה שבכתב אני כורת אתך ברית ואם לאו אין
אני כורת עמך ברית וחרנא אמר אם שמרת מה שבפה
וקיימת מה שבכתב אתה מקבל שכר ואם לאו אין
אתה מקבל שכר.

3. MaharaI, Tiferet Yisrael, Chapter 68 – The Oral Law creates an internal connection between God and the Jewish people.

That which is stated in the Talmud (Gittin 60b) that “God made a covenant with Israel only for the sake of that which was transmitted orally, as it says, ‘For by the mouth of these words I have made a covenant with thee and with Israel,’” can be explained as follows: The Torah is a covenant between God and Israel insofar as Israel has the Torah which is from God with all the commandments that God has decreed upon people. This covenant forms an attachment between God and the Jewish people, those who accept His laws. (That is, the covenant – God’s giving the law and the Jewish people’s acceptance of it – forms a bond between the two “parties.”)

Now this bond is only formed by way of the Oral Torah; it is the covenant and the bond between God and the Jewish people. Only the Oral Law, which is given to an individual, not merely written on a scroll, lives within a person, and therefore only it can form a connection between the two parties: the forger of the covenant and the one who accepts it. Not so the written Torah, which remains external to the person, written out before him. Such an external relationship is not the basis of a covenant that binds the receiver of the covenant, mankind, with the forger of the covenant, God.

וזה אמרם בפרק הנזקין (גיטין ס:ב), לא כרת הקב"ה
ברית עם ישראל אלא בשביל דברים שבעל פה,
שנאמר (שמות לד:כז) "על פי הדברים האלה כרתי
אתך ברית". וביאור זה, כי התורה היא ברית בין הקב"ה
ובין ישראל, כאשר ישראל יש להם התורה שהיא
מאת ה', וגזרותיו אשר גזר השם יתברך על האדם.
וזהו בעצמו החבור בין הקב"ה ובין ישראל המקבליים
גזרותיו.

והחבור הזה שיש לישראל בתורה אינו רק על ידי
דברים שבעל פה, הוא הברית והחבור שיש בין השם
יתברך ובין ישראל. והתורה שבעל פה, שהיא עם
האדם בפרט, שהיא אינה כתובה על קלף בפני עצמה,
רק היא עומדת באדם, ודבר זה הוא הברית והחבור
שמחבר שני דברים יחד; נותן הברית, והמקבל הברית.
לא התורה שבכתב, שהיא אינה עומדת באדם, רק
כתובה לפני האדם, ואין זה כריתות ברית שמחבר
המקבל את הברית, הוא האדם, עם כורת הברית, הוא
השם יתברך.

4. Rabbi Yosef Dov Soloveichik, Beit Halevi, Drush #18 – The Oral Torah is written on the mind of the Jewish people.

Since the Torah was given as an oral law, the Jewish people rose to great heights...for now Israel are the “parchment” upon which the Oral Torah is “written,” as the verse says, “Write them on the tablet of your heart” (Mishlei/Proverbs 3:3). Just as the parchment of a Torah scroll is invested with intrinsic sanctity, not as merely an accessory, and just as the parchment and the words printed on it together make a Torah scroll, so too are the Torah and the Jewish people completely united.

על ידי זה שניתן להם אחר כך בעל פה נתעלו בה ישראל מעלה גדולה יותר...דישראל הם בבחינת קלף של תושבע"פ וכמאמר הכתוב "כתבם על לוח לבך" (משלי ג:ג) וכמו שהקלף של ספר תורה הוא עצם הקדושה ולא תשמיש דהקלף והכתב שכתוב בו שניהם ביחד הם ספר תורה כמו כן התורה וישראל כולא חד הוא.

The Oral Torah is the primary basis of the Jewish people's covenant with God, because as an oral body of law, it can only be understood, retained, taught, and practiced if it becomes a part of one's very being. In the Oral Law we have the ultimate bond between God – as expressed by the revelation of His will in the Torah – and the Jewish people, who accepted to observe and to understand it. Rabbi Soloveitchik puts this idea in practical terms as well: while the written Torah has been translated into many languages and has become the basis for many religions, only the Jews have the Oral Torah. Our way of practicing the mitzvot of the Torah, based as it is on the Oral Torah, is unique to us alone.

When we discuss the necessity for the Oral Torah in the next class in this series, it will become apparent why even on a practical level the Oral Torah is the only real basis for a covenant with God.

KEY THEMES OF SECTION II.

- ⌘ The Oral Torah refers to the traditional understanding of the Torah's text as it was originally given to Moshe from God. It clarifies ambiguities and provides interpretation of the text.
- ⌘ While the written Torah itself is concise, the Oral Torah expands the understanding of its laws with principles and cases to enable further derivations and applications.
- ⌘ The Oral Torah is the body of law derived either directly or indirectly from the Torah's text, as well as a repository of traditional laws either taught to Moshe directly by God or developed over time through the Torah's own legislative process. As such, it is the Oral Torah that transforms the Torah into a practical system for living.
- ⌘ God forged a covenant with the Jewish people when He gave us the Torah. This covenant was formed over the Oral Torah, because only the Oral Torah makes God's will an internal and intrinsic element of the Jewish people.

SECTION III. WHY THE ORAL TORAH WAS WRITTEN DOWN

The Oral Torah was transmitted with the intention of remaining a verbal accompaniment to the Written Law and was, in fact, initially forbidden to be written. Nevertheless, the Sages also had a parallel tradition that if a time would come when the perpetuation of the Oral Torah would be threatened, it could then be put into writing. Consequently, after the destruction of the Second Temple in 70 CE and the exile of the Jewish nation, the Oral Torah was recorded as the Mishnah, Talmud and Midrashim, between the Second and Fifth Centuries. Significantly, even once it was written, it was committed to writing in such a way that its oral element would remain intact.

PART A. THE GENERAL PROHIBITION TO WRITE DOWN THE ORAL TORAH

1. Shemot 34:27 – Is the Torah to be in writing or by word of mouth?

God said to Moses, “Write these words down for yourself, since it is through these words (lit. by word of mouth) that I have made a covenant with you and Israel.”

ויאמר יקוק אל משה כתב לך את הדברים האלה כי על פי הדברים האלה כרתתי אתך ברית ואת ישראל:

2. Gittin 60b – The Oral Torah is not supposed to be written down.

Rabbi Yehuda bar Nachmani, the public orator of Rabbi Shimon ben Lakish, taught as follows: It is written, “Write these words down for yourself” (implying that the Torah is to be put into writing), and it is also written, “since it is through these words (lit. by word of mouth)” (implying that it is not to be written down). What are we to make of this? It means: Regarding the written words, you are not at liberty to say them by heart, and the words transmitted orally, you are not at liberty to recite from writing.

A Tanna of the school of Rabbi Ishmael taught: [It is written] “[Write] these [words down]” – *these* you may write (i.e. the Written Torah), but you may not write Halachah (i.e., the Oral Torah).

דרש רבי יהודה בר נחמני מתורגמניה דרבי שמעון בן לקיש, כתיב: (שמות ל"ד) כתוב לך את הדברים האלה, (אלמא נכתבה) וכתיב: (שמות ל"ד) כי ע"פ הדברים האלה (אלמא לא נכתבה), הא כיצד? דברים שבכתב אי אתה רשאי לאומרו על פה, דברים שבעל פה אי אתה רשאי לאומרו בכתב.

דבי רבי ישמעאל תנא: אלה - אלה אתה כותב, ואי אתה כותב הלכות.

3. Rabbeinu Nissim, Commentary on Talmud Bavli, Megillah 14a (Dapei HaRif) – The Oral Torah must be oral to ensure that it will be transmitted accurately, teacher to student.

The reason for [the prohibition to write down the Oral Torah] is that the oral tradition contains explanations of the Written Torah that can only be understood when explained well by a teacher. Were it written down, one might be tempted to suffice with just that, even though one did not really understand it.

מעמא דמילתא משום... דברים שבעל פה הם פירוש לדברים שבכתב וכשאין נאמרים אלא בעל פה א"א לעמוד עליהן אלא מפי מלמד שיפרש לו הפירוש יפה ואילו היה נכתב אפשר שיסתפק בו שלא יבין הלשון.

4. **Rabbi Tzadok HaKohen, Machshevot Charutz, pg. 113 – The written word cannot capture the depth of the spoken word.**

One cannot compare that which one's teacher says to that which is written in a book...for speech issues from the depths of the heart, while the written word cannot capture that depth.

דאין דומה לומד מפי רבו למפי כתבו... כי בפה מתגלה
מועמקי הלב, מושא"כ בכתב שאי אפשר לכתוב מה
שבבלב.

PART B. THE LENIENCY TO PUBLISH THE ORAL TORAH

So the Oral Torah should not be written down, at least not published in a way that it could simply be recited from a book. But what if that were the only way to ensure that the Oral Torah remained intact?

1. **Rashi to Gittin 60b – If the Oral Torah was written down, it must only have been done so out of necessity, not convenience.**

"...And the words transmitted orally you are not at liberty to write": From here we learn that the Talmud was only permitted to be written down out of fear that it would be forgotten.

ודברים שבעל פה אי אתה רשאי לכותבן: מכאן אתה
למד שהתלמוד לא ניתן לכתוב אלא מפני שהתורה
מושכחת.

The writing of the Mishnah was a historical necessity to prevent the Oral Torah from being lost. With the loss of sovereignty of the Land of Israel to the Romans, the destruction of the Temple and the exile of many Jews, people simply did not have the peace of mind necessary for the great demands of mastering the Oral Torah.

2. **Rambam, Introduction to Mishnah Torah – Rabbi Yehuda Hanassi wrote the Mishnah to keep the Oral Torah from being forgotten.**

Our Holy Rabbi (Yehudah HaNassi) wrote the Mishnah. From the time of Moshe until Our Holy Rabbi, no one had written a work from which the Oral Torah was publicly taught. Rather, in each generation, the head of the court or the prophet of the time wrote down for his personal notes on the traditions he had heard from his teachers, but he taught in public from memory. So too, each individual wrote down, according to his ability, parts of the explanation of the Torah and of its laws that he had heard, as well as the new matters that developed in each generation, which had not been received by tradition, but had been deduced by applying the Thirteen Principles for Interpreting the Torah, and had been agreed upon by the Great Rabbinical Court.

Such had always been done, until the time of Rabbi Yehudah HaNasi. He gathered together all the traditions, enactments, explanations and

ומימות משה רבינו ועד רבינו הקדוש לא חיברו חבור
שמלמדין אותו ברבים בתורה שבעל פה. אלא בכל דור
ודור ראש בית דין או נביא שהיה באותו הדור כותב
לעצמו זכרון השמועות ששמע מרבותיו והוא מלמד
על פה ברבים. וכן כל אחד ואחד כותב לעצמו כפי כחו
מביאור התורה ומהלכותיה כמו ששמע. ומדברים
שנתחדשו בכל דור ודור בדינים שלא למדום מפי
השמועה אלא במדה משלש עשרה מדות והסכימו
עליהם בית דין הגדול.

וכן היה הדבר תמיד עד רבינו הקדוש והוא קיבץ כל
השמועות וכל הדינים וכל הביאורים והפירושים
ששמעו ממושה רבינו ושלמדו בית דין שבכל דור ודור

interpretations that had been heard from Moshe Our Teacher or had been deduced by the courts of all the generations regarding all Torah matters; and he wrote the Book of the Mishnah from all of them. He taught it publicly to scholars, and it became known to all Israel; everyone wrote it down and taught it everywhere, so that the Oral Torah would not be forgotten by Israel.

And why did Rabbi Yehudah HaNasi do so, and did not leave the matter as it had been before? Because he saw that the students were becoming fewer and fewer, calamities were continually happening, the Roman government was extending its domain and increasing in power, and the Jewish people were migrating to remote places. He thus wrote a work to serve as a handbook for all, so that it could be rapidly studied and would not be forgotten. Throughout his life, he and his court continued giving public instruction in the Mishnah.

בכל התורה כולה וחיבר מהכל ספר המשנה. ושננו לחכמים ברבים ונגלה לכל ישראל וכתבוהו כולם. ורצו בכל מקום. כדי שלא תשתכח תורה שבעל פה מישראל.

ולמה עשה רבינו הקדוש כך ולא הניח הדבר כמות שהיה. לפי שראה שתלמידים מתמעטין והולכין והצרות מתחדשות ובאות ומלכות רומי פושטת בעולם ומתגברת. וישראל מתגלגלין והולכין לקצוות. חיבר חיבור אחד להיות ביד כולם כדי שילמדוהו במהרה ולא ישכח. וישב כל ימיו הוא ובית דינו ולמדו המשנה ברבים.

The legal basis for publishing the Oral Torah came itself from a verse in Scripture: “There is a time to act for God; they voided Your Torah” (Tehillim/Psalms 119:126). This verse implies that when the Torah is in danger of becoming forgotten, it is a time to take action for God, even by means normally forbidden.

3. **Gittin 60a with Commentary of Rashi – The prohibition was relaxed for the sake of the Torah itself.**

Rabbi Yochanan and Rabbi Shimon ben Lakish used to peruse written copies of Aggadah on Shabbat. But Aggadah may not be written down! Nevertheless, since it was not possible otherwise (not to write it down since man’s intellectual capacity had weakened and the Torah was liable to be forgotten), “There is a time to act for God; they voided Your Torah.” (If circumstances call for a rule to be instituted sincerely for Heaven’s benefit, they may override words of the Torah for as long as it is necessary).

ר' יוחנן ור"ש בן לקיש מעייני בספרא דאגדתא בשבתא, והא לא ניתן ליכתב? אלא כיון דלא אפשר (מליכת שנתמעט הלב והתורה משתכחת). (תהלים קי"ט) עת לעשות לה' הפרו תורתך (ואם בא עת לעשות תקנה לשם שמים הפרו דברי תורה לשעה הצריכה).

PART C. NEVER FULLY WRITTEN DOWN

It is important to note that even though the Mishnah and Talmud, along with thousands of commentaries, have been written and are available for everyone to read and study, the Oral Torah remains essentially just that – oral. The written works provide the basic framework of the principles of the Oral Torah. In order to truly understand the Oral Torah, one still needs proper training and instruction from one already well versed in the tradition.

1. **Samson Raphael Hirsch, *The Nineteen Letters*, pg.118 – The Oral Torah was committed to writing in a way that kept its oral element intact.**

The oppressions and afflictions of the times and the dispersion of Israel threatened destruction to the traditional science; the great and holy men who stood at the nation's head, wielding to necessity, decreed that the Mishnah be written down as far as its mere external word was conceived, but its spirit was still left to the traditional exposition of the living word. Increased external sorrows demanded more; they put into writing the spirit of the Mishnah in the Gemara, but the spirit of the Gemara was still reserved for oral interpretation. The affliction increased, making further safeguards necessary; they put the spirit of Bible and Gemara into the Aggadot or allegorical interpretations, but disguised and veiled so that personal research should still be required to discover the true spirit of the traditional teachings thus perpetuated.

Rabbi Mendel of Kotzk, the Kotzker Rebbe, commented often that the Sages of the Mishnah and Talmud who permitted the writing of the Oral Torah did not actually violate the prohibition against recording it in writing, for the depth of the Oral Torah can never be contained in a book!

KEY THEMES OF SECTION III.

- ⌘ Ideally, the Oral Torah should never have been committed to writing; it was supposed to always remain just that, oral. But with the destruction of the Second Temple in 70 CE and the exile of the Jewish nation, the students of the Oral Torah lacked the political peace, as well as peace of mind, to be able to retain the entire Oral Torah.
- ⌘ For fear that parts of the Oral Torah would be forgotten, the general rule against writing it down was relaxed. This breach of the Torah was considered necessary for the Torah's preservation.
- ⌘ Nevertheless, the manner in which the Oral Torah was written, first in the form of the Mishnah and later in the form of the Talmud, still managed to maintain its oral nature. As anyone who has ever tried to study Talmud knows, the Oral Torah has never completely been reduced to the written word. One still needs a tradition – and a rabbi – to be able to grasp the teachings of the Oral Torah.

CLASS SUMMARY:

WHAT IS THE WRITTEN TORAH?

The Written Torah consists of the Five Books of Moshe (the Chumash) and Nach (the Prophets and the Writings). Together these books relate the “moral and ethical” accounts of creation, of the birth of mankind and of the development of the Jewish people; they tell of the Exodus from Egypt, the Revelation at Mount Sinai, the conquest of the Land of Israel, the development of a Jewish monarchy, and the building and ultimate destruction of the Holy Temple.

The Written Torah is more than a chronicle of that history; it is also the means of forging and fostering a relationship with God. Through the 613 mitzvot of the Torah, we bind ourselves to God.

WHAT IS THE ORAL TORAH?

The Written Torah was given with an oral explanation. Moshe received this explanation of the written text at the same time that he received the Torah on Mount Sinai. Just as Moshe transmitted the Written Torah scroll, he also taught the oral explanation of the written text.

The details of the Oral Law were also taught by God to Moshe in the Ohel Moed and at Aravot Moav.

WHAT IS THE RELATIONSHIP BETWEEN THE WRITTEN AND THE ORAL TORAH?

There are several ways to describe the relationship of the Oral Torah to the written text of the Torah. One way is to say that the written text is general while the Oral Torah gives it more specific and practical application.

But the Oral Torah does not contain every possible ramification of the written text; rather, it consists of a system of general principles for applying the rules spelled out in the Torah.

The written text of the Torah can be likened to notes from the original lecture, which is the Oral Torah.

WHY WAS THE ORAL TORAH RECORDED IN WRITING OVER THE SECOND TO FOURTH CENTURIES? WHY WASN'T IT WRITTEN DOWN ANY EARLIER?

The Oral Torah was not meant to be written down. (See the shiur on the System of Halacha IV for a detailed description of the advantages of the Oral Torah). And while teachers and student were allowed to keep written notes of their lectures, it was considered prohibited to make public any written compendium of the Oral Torah.

It was only out of absolute necessity that the Oral Torah was first written down in the form of the Mishnah. Because of the weakened state of the Jewish people, due to the destruction of the Second Temple in 70 CE and exile, the Oral Torah was in danger of being lost.

Even though the Oral Torah was committed to writing, it was done so in a way that retained as much of the oral component of the information as possible. This conciseness eventually necessitated further elaboration in the form of the Talmud and its commentaries.

RECOMMENDED ADDITIONAL READING

Rabbi Tzvi Hirsch Chajes, Mevo Ha-Talmud or The Student's Guide through the Talmud, translated by Jacob Schachter, Chapters 1-16

Rambam, Hakdama Lefeirush HaMishnayot or Maimonides' Introduction to the Talmud, translated by Tzvi Lampel

H. Chaim Schimmel, The Oral Law