

Class I – Origins of the Oral Tradition
Rabbi Moshe Davis

I. Introduction

- **What is the Oral Tradition?**
(Maybe a better question is what is not part of the Oral Tradition?)

i. Law

Example:

What it says in the Written Tradition...

Exodus 13:16

And it shall be for a sign upon your hand, and as *totafot* between your eyes; for with a mighty hand did the LORD bring us forth out of Egypt.

What it says in the Oral Tradition...

Sefer HaChinuch 421 – 10 Requirements of Tefillin

- The scroll must be written with ink.
- The scrolls must be made of parchment.
- The boxes and their stitches must be perfectly square.
- On the right and left sides of the head-tefillin the letter shin must be embossed.
- The scrolls must be wrapped in a strip of cloth.
- The scrolls should be bound with kosher animal hair.
- The stitching must be done with sinew of a kosher animal.
- A “passageway” must be made for the strap to pass through.
- The straps must be black.
- The straps should be knotted in the form of the letter dalet.

ii. Explanation of Written Law

Example:

What it says in the Written Tradition...

Leviticus 24:19-24:21

¹⁹Anyone who maims another shall suffer the same injury in return:
²⁰fracture for fracture, eye for eye, tooth for tooth; the injury inflicted is the injury to be suffered. ²¹One who kills an animal shall make restitution for it; but one who kills a human being shall be put to death.

What it says in the Oral Tradition...

Rashi s.v. "The injury to be suffered"

Our rabbis have explained that this not mean that one actually inflicts a wound in return but rather makes financial restitutions as per the damage incurred.

iii. Philosophy

Example:

What it says in the Oral Tradition...

Maimonides, Guide for the Perplexed

As Theologians are divided on the question whether the actions of God are the result of His wisdom, or only of His will without being intended for any purpose whatever, so they are also divided as regards the object of the commandments which God gave us. Some of them hold that the commandments have no object at all; and are only dictated by the will of God. Others are of opinion that all commandments and prohibitions are dictated by His wisdom and serve a certain aim; consequently there is a reason for each one of the precepts: they are enjoined because they are useful. All of us, the common people as well as the scholars, believe that there is a reason for every precept, although there are commandments the reason of which is unknown to us, and in which the ways of God's wisdom are incomprehensible.

iv. Mysticism

Example:

What it says in the Oral Tradition...

Orot HaKodesh, Rabbi Abraham Isaac Kook

The purpose of all existence, from the standpoint of the hidden endless desire and limited by the way it is revealed to us, is a great plan. The master plan is to create and to cause an ascension and amplification of eternal existence. In short, we must always grow. If not for the potential for smallness and deficiency, there would only be greatness and fullness, however the possibility for growth would be absent. In such a world there could be no directive for an addition of blessing. Even though there is no

limit to the greatness of the supreme and complete perfection manifest in the endless creator, as there is no supremacy greater than He, nonetheless included in the ultimate perfection is the lofty power of constant ascension and growth. This means that absolute perfection is completed by the becoming of perfection. This happens through the manifestation of the small to that of great, and this service is of great necessity.

- **When did the Oral Tradition begin?**

Avot 1:1 (PART I)

Moses received the Law on Sinai and delivered it to Joshua; Joshua in turn handed it down to the Elders; from the Elders it descended to the prophets, and each of them delivered it to his successors until it reached the men of the Great Assembly.

Rabbi Dovid Tzvi Hoffman, Die Erste Mischna pg.2 (Berlin, 1882)

The Bible word read from the written book and the teachings heard from the mouth of the Sages are for the [Jew] the two sources from which he draws the Torah received by Moshe from God on Sinai. The Torah is one, although the source from which it issues is twofold, the teaching which comes to us from the Mishnah is of identical date and origin as that which is derived by interpretation of the Scriptural word; all is given by one God and communicated by one and the same prophet. Hence, when we speak of written law and the oral law, we have in mind one and the same law of God derived in part from the Divine word committed to writing and in part from the authoritative statements of the teachers of tradition.

NEGAIM 7:1

THE FOLLOWING BRIGHT SPOTS ARE CLEAN: **THOSE THAT ONE HAD BEFORE THE TORAH WAS GIVEN**,¹ THOSE THAT A HEATHEN HAD WHEN HE BECAME A PROSELYTE OR A CHILD WHEN IT WAS BORN, OR THOSE THAT WERE IN A CREASE² AND WERE SUBSEQUENTLY LAID BARE. IF THEY WERE ON THE HEAD OR THE BEARD, ON A BOIL, A BURNING OR BLISTER THAT IS FESTERING, AND SUBSEQUENTLY THE HEAD OR THE BEARD BECAME BALD, AND THE BOIL, BURNING OR BLISTER TURNED INTO A SCAR, THEY ARE CLEAN. IF THEY WERE ON THE HEAD OR THE BEARD BEFORE THESE GREW HAIR,³ AND THEY THEN GREW HAIR⁴ AND SUBSEQUENTLY BECAME BALD,³ OR IF THEY WERE ON THE BODY BEFORE THE BOIL, BURNING OR BLISTER WAS FORMED⁵ AND THEN THESE⁶ FORMED A SCAR⁷ OR WERE HEALED,³ R. ELIEZER B. JACOB RULES THAT THEY ARE UNCLEAN SINCE AT THE BEGINNING AND AT THE END THEY WERE UNCLEAN, BUT THE SAGES RULE THAT THEY ARE CLEAN.⁸

- **Why is an Oral Tradition important?**

- Not all material is best communicated in writing
(Describe what a spiral stair case looks like)
- The Written Law can only be so long
(Daf Yomi takes 7 years, imagine how much longer Moses would have been on Mount Sinai copying all that down...there would have been a whole herd of golden calves by the time he was done.)
- Every written book by definition contains ambiguity
(Ever take an interpretation of literature class in college?)
- Maintains the sanctity of the Written Law
(The Oral law was originally not allowed to be written down)
- The entire Oral Tradition had not been entirely developed at Sinai
(For thousands of years no one would have understood why Blackberries are *muktza* on Shabbat)
- Fluidity, Elasticity
(*Pruzbul*, Selling of *Chametz*, Enactments of Rabbeinu Gershom)
- Necessitates a *Mesorah*

Bava Kama 3:5

MISHNAH: If A places a jug in the street and B stumbles over it and breaks it, B is not obligated to pay compensation to A.

GEMARA: Is B not obligated to look where he is going? Shmuel explains that the Mishnah is talking about an accident which happens at night, when it is dark and one cannot see.

Nachmanides, Deuteronomy 4:9

ט) רק השמר לך וגו' פן תשכח את הדברים - אז כשלא תשכחם, ותעשום על אמתתם, תחשבו חכמים ונבונים, ואם תעוותו אותם מתוך שכחה, תחשבו שוטים, לשון רש"י. ואינו נכון כלל. אבל הכתוב הזה לפי דעתי מצות לא תעשה, הזהיר בה מאד, כי כאשר אמר שנזהר בכל המצות ונשמור החוקים והמשפטים לעשותם, חזר ואמר רק אני מזהירך מאד להשמר ולשמור עצמך מאד מאד לזכור מאין באו אליך המצות, שלא תשכח מעמד הר סיני מכל הדברים אשר ראו שם עיניך הקולות והלפידים את כבודו ואת

גדלו ודבריו אשר שמעת שם מתוך האש, ותודיע כל הדברים אשר ראו עיניך במעמד הנכבד ההוא לבניך ולבני בניך עד עולם. ופירש הטעם כי השם עשה המעמד ההוא כדי שתלמדו ליראה אותו כל הימים ואת בניכם תלמדו לדורות עולם, אם כן עשו אתם ככה ואל תשכחו אותו:

- **What is the responsibility of the bearers of the tradition?**

Avot 1:1 (PART II)

The Men of the Great Assembly originated three maxims: “Be deliberate in Law, develop many disciples and make a fence for the Torah.”

In other words...

1. Interpretation
2. Pass on the Tradition
3. Legislation

II. Sources in the Written Torah for the Oral Torah

References to an Oral Tradition...

Deuteronomy 12:21

If the place which the LORD thy God shall choose to put His name there be too far from thee, then thou shalt kill of thy herd and of thy flock, which the LORD hath given thee, as I have commanded thee, and thou shalt eat within thy gates, after all the desire of thy soul.

Leviticus 21:46

These are the statutes and ordinances and laws, which the LORD made between Him and the children of Israel in mount Sinai by the hand of Moses

מו אלה החקים והמשפטים, והתורת, אשר נתן יהוה, בינו ובין בני ישראל--בהר סיני, ביד-
משה. {פ}

Deuteronomy 17:8-11

If a matter of judgement is hidden from you, between blood and blood, between verdict and verdict, between plague and plague, matters of dispute in your cities -- you shall rise up and ascend to the place that the L-rd, your G-d, shall choose. You shall come to the priests, the Levites, and to the judge who will be in those days; you shall inquire and

they will tell you the word of judgement. You shall do according to the word that they will tell you, from the place that G-d will choose, and you shall be careful to do according to everything that they will teach you. According to the teaching that they will teach you and according to the judgement that they will say to you, shall you do; you shall not deviate from the word that they will tell you, right or left.

Passages that cannot be understood without an oral tradition...

Exodus 12:2

This month shall be unto you the beginning of months; it shall be the first month of the year to you.

Leviticus 3:17

It shall be a perpetual statute throughout your generations in all your dwellings, that ye shall eat neither fat nor blood.

Exodus 16:29

See that the LORD hath given you the sabbath; therefore He giveth you on the sixth day the bread of two days; abide ye every man in his place, let no man go out of his place on the seventh day.'

Exodus 20 :10

For in six days the LORD made heaven and earth, the sea, and all that in them is, and rested on the seventh day; wherefore the LORD blessed the sabbath day, and hallowed it.

III. Theoretical proof for an oral tradition

Rabbi Yehudah Halevi, Kuzari 3:35 – The words of the Written Torah cannot even be read without a tradition as to how they are pronounced.

IV. Periods of the Oral Tradition

Dates	Period
0 B.C.E. - 500 B.C.E.	Biblical
150 B.C.E. – 70 C.E.	Pharisees
50 B.C.E. – 200ss C.E.	Tannaim
200 C.E. – 500 C.E.	Amoraim
500 C.E. – 700 C.E.	Savoraim
700 C.E. - 1038 C.E.	Geonim
1038 C.E. – 1500 C.E.	Rishonim
1500 C.E. – Present	Achronim
1850 C.E. – Present	Poskim

V. Major Early Works of the Oral Tradition

Major Works	Date Written	Period	Author	Genre
Tanach	0 B.C.E. - 500 B.C.E.	Biblical	G-d, Moshe, Prophets	Story, Law
Midrash Halacha	200 C.E. - 500 C.E.	Tannaim/Amoraim	Tanaim/Amoraim	Law
Mishnah	200 C.E.	Tannaim	Rabbi Judah the Prince	Law, philosophy
Tosephta	350 C.E.	Tannaim	(Rabbi Hiya, Rabbi Oshiya)	Law, philosophy
Midrash Agadah	200 C.E. - 1500 C.E.	Amoraim	Various Amoraim	Philosophy
Babylonian Talmud	500 C.E.	Amoraim	Ravina, Rabbi Ashi	Law, Philosophy
Jerusalem Talmud	350 C.E.	Amoraim	Rabbi Muna Rabbi Yossi	Law, Philosophy
Geonic Literature	700 C.E. - 1038 C.E.	Geonim	Various Geonim	Responsa, Law and Philosophy