

## 2. THE WRITTEN TORAH AND THE ORAL TORAH

### Introduction

The Oral *Torah* (*Torah shebe'al peh*) is a fundamental reality of Judaism, for which God's revelation at Sinai includes not only the written *Torah* (*Torah she-bikhtav*) recorded in the Bible, but also an equivalent set of traditions that, until the 2nd century AD, were transmitted only orally: "Moses received the Torah from Sinai and passed it on to Joshua, and Joshua to the elders, and the elders to the prophets, and the prophets to the men of the great assembly. They said three things: be careful in your judgement, make many disciples, and make a hedge around the *Torah*"<sup>3</sup>.

What is the content of the Oral *Torah* to which this famous passage of the *Mishnah* alludes, and how does it differ from the Written *Torah*? How did this oral *Torah* come to be written? How does it still guarantee the correct observance of Judaism today?

### The relationship between the Oral Torah and the Written Torah

The word *Torah* (from the root *yarah*: "to teach") is commonly used to refer to the Pentateuch, which is distinguished from the other two bodies of writings that make up the Hebrew Bible, the Prophets and the Writings. On closer inspection, however, the term is already used in the Pentateuch to designate a specific body of laws and also the entire legislation received from Moses on Mount Sinai, which Jewish tradition distinguishes into the written *Torah* and the oral *Torah*<sup>4</sup>. The term *Torah* is also used to refer to the Bible as a whole; and finally, it encompasses the entire body of Jewish legislation, from the Bible to the most recent development of *Halakhah* ("law of righteous behaviour")<sup>5</sup>, i.e. the complete legal system that governs every aspect of Jewish life.

As already noted, the *Mishnah* states that "Moses received the Torah from Sinai"<sup>6</sup>, and Midrash *Genesis Rabbah* teaches that the *Torah* already existed, in heaven, before God revealed it to Moses, or rather before the world was created, being one of the six things created before the creation of the world<sup>7</sup>. Moreover, Rabbi Eleazar ben

<sup>3</sup> *Pirqè Avot* 1,1.

<sup>4</sup> The term "Oral *Torah*" first appears in a story (*Haggadah*) related to Shammai (1st century BCE - 1st century CE). When asked by an aspiring convert how many *Torot* there were, Shammai replied: "The written *Torah* and the oral *Torah*". *bShabbat* 31a.

<sup>5</sup> Literally: 'the way to walk', from the verb *halakh* 'to walk'.

<sup>6</sup> *Pirqè Avot* 1,1.

<sup>7</sup> *Genesis Rabbah* 1:4: "Six realities preceded the creation of the universe, some of them were created, others were foretold: the *Torah* and the Throne of Glory were created. The *Torah*, how do we

Sadoq (early 2nd century AD) and Rabbi Aqivà speak of the *Torah* as “the instrument with which the world was created”<sup>8</sup>. The allusion to Proverbs 8:22-31, where “wisdom” (*hokhmah*) plays the same role, is obvious. For this reason, some Kabbalists identified the original *Torah* specifically with wisdom.

The Oral *Torah* and the Written *Torah* form an indivisible unity, the former being the authoritative interpretation of the latter. According to tradition, both *Torahs* were given to Moses at the same time on Sinai<sup>9</sup>, and neither can exist without the other: the Oral *Torah* has its basis and derives its validity from the explicit verses of the Written *Torah*, but at the same time the Written *Torah* itself derives its full validity and authority for practical *halakhah* from the Oral *Torah*. There is a clear example of how the Written *Torah* establishes the authority of the Oral *Torah* in Deut 17:8-11: “If cases come before your courts that are too difficult for you to judge, [...] take them to the place the Lord your God will choose. Go to the Levitical priests and to the judge who is in office at that time. Inquire of them and they will give you the verdict. You must act according to the decisions they give you at the place the Lord will choose. Act according to whatever they teach you and the decisions they give you. Do not turn aside from what they tell you, to the right or to the left”. (Deut 17:8-11). The interpretive authority of the Levitical priests and the judge referred to in this text derives precisely from the oral *Torah*, of which they are the custodians, which determines what the *Halakhah* contained in the written text consists of in practice. For this reason, the Sages maintain that the Oral *Torah* is the largest and most important part (in quantity and quality) of the *Torah*: “The Holy One - Blessed be He - made a covenant with Israel only because of what was orally transmitted”<sup>10</sup>.

It is also said of the Oral *Torah* that it contains the mysteries of the Holy One. The fact, then, that it was transmitted orally determines its vitality: it is not immutable, but alive and constantly evolving.<sup>11</sup>

The main function of the oral *Torah* is to clarify and make explicit what is contained in the written text, to convey the meaning of words and specific expressions: some

know this? It is said: *The Lord has possessed me from the beginning of his ways, even before his works* (Prov. 8:22). The throne of glory, how do we know this? *Your throne is established ab antico, from eternity you are* (Ps 93:2). Creation was foretold of the patriarchs, of Israel, of the sanctuary and of the name of the Messiah.” A. Ravenna - T. Federici, *Commentary on Genesis (Berešit Rabba)*, Turin 1978, 31.

8 *Sifrè Deuteronomy* 48; cf *Avot* 3,14.

9 Rabbi Aqivà considered the oral *Torah* implicit in the written *Torah*, in its words and letters; in fact, he is said to have given the following explanation: “These are the laws, the regulations and the *torot*” (Lev 26:46) - from this we learn that two *torot* were given to Israel, one written and one oral [...] “on Mount Sinai, through Moses” [ibid. ] - from this we learn that the *Torah* was given complete, with all its laws, details of interpretation and explanations through Moses on Sinai”. *Sifrà, Be-Huqqotai* 8.

10 *bGittin* 60b. And the text continues: “And Rabbi Yoḥanan says: The majority of the *Torah* was transmitted orally (*‘al peh*), while the minority was transmitted in writing, as it is stated regarding the giving of the *Torah* to Moses on Mount Sinai: “For on the basis of (*‘al pi*) these words I made a covenant with you and with Israel” (Ex 34:27), which indicates that the majority of the Sinaitic covenant was taught orally”.

11 “The Oral *Torah* contains the mysteries of the Holy One, Blessed be He, and He reveals His mysteries only to the righteous, as it is said: *The counsel of the Lord is with those who fear Him* (Ps 25:14)”. *Tanḥumà Vayerà* 5.

are perfectly understandable, but others are not so clear and unambiguous and it is necessary to pass on their interpretation. For example, when the *Torah* speaks of a “tree with thick leaves” (in Hebrew, *‘avot*) among the four varieties to be used during the Feast of Tabernacles (*Sukkot*) (Lev 23:40), the text uses a generic term that can refer to different types of trees. It is therefore up to the oral tradition to explain that it refers specifically to a branch of myrtle.

Another example is what the Decalogue says about Sabbatical rest: “The seventh day is a Sabbath to the Lord your God: you shall do no work” (Ex 20:10), without specifying what is to be included in the category of “work”. Elsewhere in the written *Torah*, certain activities are specifically mentioned as certainly constituting work that is forbidden on the Sabbath: ploughing and reaping, lighting a fire, baking, and more. But there is no definition of what constitutes work that is incompatible with Sabbath rest (and other festivals that require the same rest). The Oral *Torah* therefore fills this gap by specifying thirty-nine categories of work prohibited by this commandment, and by including dozens of other types of work under these thirty-nine headings.

Another function of the Oral *Torah* is to build a “hedge” - understood as an extension - around the biblical precepts (cf. *Pirqè Avot* 1:1), to protect and ensure their observance. In the oral tradition, for example, there is a prohibition against talking about business on the Sabbath, thus violating the prescribed rest. Or, in another area, the injunction not to swear an oath, lest it become a vain oath.

### **Oral Torah in the post-exilic period**

After the exile, from the time of Ezra and Nehemiah, the role of certain sages (*hakhamim*), who devoted themselves specifically to the study and interpretation of the Torah, was affirmed in order to respond to the new challenges facing the Jewish people in a changed state of individual and community life. Of Ezra the biblical text says: “He was a scribe expert in the law of Moses, given by the Lord, the God of Israel. [...] For Ezra had devoted himself to the study and observance of the Law of the Lord, and to teaching its decrees and laws in Israel.” (Ezra 7:6, 10). Ezra thus symbolises the beginning of an era known in the history of Israel as the period of the “Great Assembly”, consisting of the so-called “scribes” (*soferim*). Their main task was to collect the sacred writings in order to clearly define the scriptural *corpus*. They also began to reorganise and study the oral tradition, including interpretations, customs and legal precedents, in order to relate them to the expressions contained in the written *Torah*.

The scribes also established a large number of ‘religious decrees’ (*taqqanot*) according to the needs of the time, and reorganised the vast amount of oral material into new forms to enable it to be transmitted and systematically studied.

### **Towards the written redaction of the Oral Torah: the Mishnah**

By the end of the Second Temple period, the oral Torah had become so voluminous that it could no longer be memorised by study and repetition alone. However, there was

still the great *Sanhedrin*, based in the Temple in Jerusalem, which ruled unequivocally and incontrovertibly on all matters requiring clarification.

But with the destruction of the Sanctuary and the consequent loss of reference to a central authority, it became necessary to intensify a process that had already begun before the destruction of the Sanctuary, namely the systematisation of the various subjects of the Oral *Torah* and the precise classification of the ‘normative traditions’ (*halakhot*), which were expressed in the form of short sayings that were easy to remember.

This was done by the so-called ‘Tannaites’ (*tannaim*), whose name comes from the Aramaic *t-n-y*, meaning ‘to repeat’ and, by extension, ‘to learn’ or ‘to teach’. They were the sages who were active immediately before and during the century and a half following the destruction of the Temple (70 AD). The texts recording the traditions of these sages are called “tannaitic” and found their way into various texts to be discussed below, the *Mishnah*, the *Tosefta*, the halakhic *midrashim*<sup>12</sup>, and a wide variety of traditions preserved in the Jerusalem (or Palestinian) and Babylonian *Talmud*, which are called *baraitot* (from the Aramaic *bar*, “external”), i.e. those “traditions outside or excluded from the *Mishnah*”.

A decisive contribution was made by Rabbi Aqivà (d. 135 AD) and later by his disciples, among whom Rabbi Meir stood out: they organised the entire *Halakhah* in a systematic way, according to a defined order, and placed each of the many topics in its own framework. This compilation of the Oral *Torah* became the basis on which Rabbi Yehudah ha-Nasì (c. 135-217 AD) later compiled the *Mishnah* (“repetition”, from the Hebrew root *sh-n-h*, “to repeat”<sup>13</sup>), classifying most of the topics of the *Halakhah* into six categories, corresponding to the six orders of the *Mishnah*. The orders were then divided into treatises and each treatise into chapters and sections, resulting in a total of 63 treatises divided into 531 chapters.

The six orders of the *Mishnah* deal mainly with different areas: agriculture, festivals, marriage law, civil and criminal law, worship in the sanctuary and ritual purity. Each sentence of the *Mishnah*, and each of its expressions, summarises the conclusion reached at the end of a discussion in the rabbinical school (*yeshivah*) of Rabbi Yehudah ha-Nasì.

To complete the writing of the *Mishnah*, the disciples of Rabbi Yehudah ha-Nasì later compiled the *Toseftà* (“Addition”), which contains rabbinic material that was not included in the *Mishnah*, but whose structure it retains.

## The Jerusalem Talmud and the Babylonian Talmud

The generations that followed Rabbi Yehudah ha-Nasì and his disciples no longer had to study the Torah orally from a collection of numerous unrelated *halakhot* from different sources. They had before them a definitive work which became the

<sup>12</sup> The *Midrashim*, the rabbinic commentaries on the Scriptures and also bearers of the Oral *Torah*, are divided into halakhic and haggadic (from the verbal root *n-g-d* “to tell”). The former mostly dictate rules of conduct, while the latter, the Haggadic, deal with the non-legal interpretation of Scripture through edifying narratives.

<sup>13</sup> This is the Hebrew equivalent of the Aramaic root *t-n-y*, from which the term ‘tannaites’ is derived.

source of all further study.

The scholars of the *Mishnah*, while retaining the text, took on the responsibility of interpreting it. In this way, over time, a vast commentary on the *Mishnah* came to be known as the *Gemara* (“study”)<sup>14</sup>.

The rabbis of the period immediately following the writing of the *Mishnah* are called *amoraim* (from the Aramaic *amar*, “to say, to discuss”) because their characteristic contribution to the development of the tradition was to discuss the *Mishnah* itself at length.

In a process that cannot be traced with certainty, the text of the *Gemara* underwent periodic revision until the two Talmudic texts that we know today emerged: the Jerusalem *Talmud* and the Babylonian *Talmud*.

The Jerusalem *Talmud* is the work of the rabbinical academies of Galilee and was substantially completed by the middle of the fifth century A.D. It is generally of a rigorous style, characterised by brevity and the absence of exposition. Discussions often take the form of simple notes attributed to one or other of the *Amora*. Sometimes, however, such commentaries are constructed in a more elaborate dialectical form, with answers to objections, contradictions cited and resolved, and evidence drawn from the biblical text. The Babylonian *Talmud* was first edited by the Amorites Rav Ashì and Ravinà around the beginning of the 6th century BC. However, historians claim that what makes this Talmud different from the others is the work of several generations of rabbis who followed these two authorities and who are known under the collective name of “savoraim” (from the Aramaic root *s-b-r* “to hold, to have an opinion”), i.e. those who reworked the Talmudic text and established its final form. Thanks in part to the work of these later editors, the Babylonian *Talmud* is far more elaborate than the Jerusalem *Talmud* and is characterised by greater logical clarity.

The term *Talmud* (‘study’)<sup>15</sup> can be understood as the short form of the expression *talmud torah*, ‘study of the Torah’. Studying the *Talmud* therefore means listening to the Word of God and reliving the events of Sinai. In Judaism, even today, the culmination of a boy’s education is the moment when he is finally ready to study the *Gemara*.

### Topicality of the oral Torah

The *Torah* governs all spheres of life, so a Jew who wishes to live according to God’s precepts derives his conduct from the *Halakhah*, that is, from all that has been handed down by the sages and transmitted to us mainly through the *Talmud*. It is, as has already been said, a reality that is considered to be incessantly current and therefore capable of responding to the ever-changing demands of today’s world. It is the starting point for discernment on very sensitive specific issues such as abortion, the defence of life and creation, the dignity of the human person and, in general, the right

<sup>14</sup> The term is actually derived from the verb *g-m-r*, which means ‘to complete’. So *ghemara* could be translated as ‘completion’.

<sup>15</sup> From the verbal root *l-m-d* ‘to study’.

relationship with God, oneself, one's neighbour and things.

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