

What Version of the Mishnah did Paul Read?

Investigating the Emergence of the Oral Torah as Authoritative Halachah

Tim Hegg • TorahResource • 2012

Introduction

The title I have chosen for this study is a “tongue-in-cheek” attempt to highlight something that seems to be missed by many, namely, that the Mishnah did not exist as a written document in the pre-destruction era, so it is quite obvious that no one, including Paul, could have possibly *read* what is known in our day as the Mishnah. In fact, as we shall see, the Mishnah was not widely *read* by Jewish communities in the centuries immediately following the destruction of the Temple (70 CE) either, for the Mishnah was not “published” as a written document until much later.

Along the same lines, it is a methodological error to speak of “1st Century Judaism,” for no such monolithic Judaism existed. We must rather speak of “Judaisms” (plural) in the pre-destruction era. Granted that the variety of Judaisms extant in the 1st Century surely had some things in common (Shabbat, circumcision, Tanach, etc.), it was nonetheless their clear and (in some cases) radical differences that produced the variegated Judaisms of that era.¹

Unfortunately, the presupposition of some in the Messianic movement is that the later corpus of rabbinic literature presents a monolithic, historically accurate description of “the Judaism” practiced by Yeshua and His disciples. Not only is this premise illogical, but it also misuses the very literature it pretends to champion. As Neusner puts it:

It seems to me self-evident that sources deriving from the early third, fourth or fifth centuries first have to be read as testimonies to the prevailing viewpoints of those centuries, and only with very great reserve as evidence of the viewpoints of, or on, the earlier periods, to which they may or may not even claim to refer.²

Using sayings and stories in rabbinic literature as though anyone in that time and place subjected himself to the disciplines of contemporary historical method is worse than anachronism; it is an accusation that “our sages of blessed memory” cared mostly about preserving and handing on information. That is not what their literature proposed to transmit; that is not what they wished to accomplish.³

Based upon the notion that the extant body of rabbinic literature provides an accurate historical record of belief and practice of “1st Century Judaism,” some have presumed that this corpus of literature likewise informs us about the *halachah* practiced by Yeshua and His disciples. This has led to the teaching that Messianic Jews (and Gentile believers who join them) should submit to “rabbinic *halachah*” as having divine authority.

When God entrusted Israel with the Torah, he commanded them to appoint leaders to interpret the Torah and to judge whether or not people had broken the Torah. Inherent in this process is the development of “case law,” established precedent that fleshes out the full meaning and implication of each commandment.

¹ See Gary G. Porton, “Diversity in Postbiblical Judaism” in Kraft and Nickelsburg, eds. *Early Judaism and its Modern Interpreters* (Fortress, 1986), pp. 57ff

² Jacob Neusner, “The Use of Later Rabbinic Evidence for the Study of First-Century Pharisaism” in William Scott Green, ed., *Approaches to Ancient Judaism: Theory and Practice* (Scholars Press, 1978), p. 219.

³ Jacob Neusner, *Rabbinic Literature & the New Testament* (Trinity Press, 1994), p. 68.

This body of tradition was created by the Jewish people at the command of God.⁴

In order to assess these claims, we must first investigate the historical development of the oral Torah, asking how it came to be written and eventually “published,” and what authority it was accorded in the evolving, post-destruction rabbinic Judaism. Only such a gleaning of the historical background will allow us a proper evaluation of the claims being made for the oral Torah.

The Oral Torah: A Definition

The actual designation “oral Torah” is first found in the Babylonian Talmud (Bavli) in the phrase תּוֹרָה שֶׁבְּעַל פֶּה (*torah sheb' al peh*), which literally means “the Torah which is upon the mouth.”⁵ This designation is used to differentiate the “oral Torah” from the “written Torah,” which is called תּוֹרָה שֶׁבְּכִתָּב (*torah sh' bichtav*), “the Torah which is in writing.”

Initially, the Mishnah (מִשְׁנָה) formed the basic core of the oral Torah. Compiled by R. Yehudah HaNasi (R. Judah the Prince) during the late 2nd Century CE, the law code of the Mishnah gathered together the formulated rulings of the earlier sages which had only been transmitted orally. Following the compilation of the Mishnah, explanations of its contents began to be composed. The first was the Tosefta (תּוֹסֵפְתָא, late 3rd or early 4th Century) which added supplemental sayings, followed by the Yerushalmi (Jerusalem Talmud, ca. 400 CE) and the Bavli (Babylonian Talmud, ca. 500–600 CE), both of which offered systematic exegesis of the Mishnah. In addition to the Tosefta and Talmuds, the Midrashim (commentary and discussion on the text of the Tanach, including homiletical compilations)⁶ fill out the rabbinic literature that comprises the primary corpus of the oral Torah.

To these ancient works have been added, down through the centuries, rabbinic commentary and rulings (responsa) which have, to one extent or another, continued the evolution of the oral Torah in order to make it applicable for changing times, cultures, and geographical locations of Jewish communities worldwide. In 1563, Yosef Karo authored the *Shulchan 'Aruch* (“A Set Table”) which became known as the “Code of Jewish Law.” It was published two years later in Venice. Karo sought to gather together all of the primary *halachic* rulings into one work in order to give the Jewish people a convenient source for making legal and *halachic* decisions. It was written from the *minhag* of the Sephardim, but subsequently commentary was added to indicate where Ashkenazic *minhag* differed. Though the *Shulchan 'Aruch* initially met with stern rejection from some leading rabbinic authorities, in time, it has been received as the most widely accepted compilation of Jewish law ever written.

In the study that follows, we will be looking primarily at what the rabbinic literature tells us about the oral Torah before it was compiled by R. Yehudah HaNasi and the traditions accorded to the oral Torah in the pre-destruction era. Our primary goal in this study will be to discover how the oral Torah generally functioned vis-à-vis the written Torah, and then to ask the same question with particular focus upon the community of Yeshua and His followers. The materials we will use for our inquiry are the rabbinic sources themselves, and are therefore representative of only one pre-destruction sect of Judaism, i.e., Pharisaism. Yet given that the Pharisees were (by most accounts) the dominant sect of the 1st Century Judaisms and the sect that championed oral Torah, we may pro-

⁴ Boaz Michael, address to the 2012 UMJC International Conference, July 19–22, 2012. [quote retrieved from <http://dailyminyan.com>].

⁵ b.*Shabbat* 31a, b.*Yoma* 28b, b.*Ya'anit* 28a, b.*Kiddushin* 66a.

⁶ Some of the Midrashim (Genesis Rabbah, Leviticus Rabbah) can be dated with fair certainty to the 5th Century CE. The dating of others is debated, though traditionally they are usually assigned to the 3rd and 4th Centuries CE (Exodus Rabbah, Numbers Rabbah, Deuteronomy Rabbah, Sifra on Leviticus, Sifré Numbers, Sifré Deuteronomy).

ceed on the basis that what we find in the extant rabbinic literature most likely paints a general picture of at least some of the traits and teachings of the primary Jewish sect of the pre-destruction era and how that sect viewed the relationship of written and oral Torah. But it also must be mentioned at the outset that the Mishnah we now have (the final form of which derives from the Talmudic era, 400–600 CE) is clearly not the same as the “Mishnah” that was transmitted orally in the early centuries. We may presume to have the substance of what was accepted and taught in the pre-destruction era, but we do not have the formulations of these earlier generations, nor do we know the context in which they taught the laws.⁷

Likewise, I should note how I am using the word “Torah” in the following study. The word “Torah” has a wide range of meanings: it can refer specifically to the books of Moses (Pentateuch), to the whole of Tanach, or (for those of us who are Messianic believers) to the whole Bible—Tanach and Apostolic Scriptures. In traditional Judaism, “Torah” can also include the teachings of the rabbis and the *halachic* rulings that have been formulated by rabbinic authorities down through the centuries. In the broadest sense, the term “Torah” is used as a collective designation for the entire body of authoritative, sacred teachings. When I use the designation “oral Torah,” I am simply referring to that corpus of rabbinic writings which rabbinic Judaism (and thus traditional Judaism that embodies rabbinic Judaism to one extent or another) deemed authoritative. When I use the term “written Torah,” I am referring to the Bible, whether the Tanach (in the era before the Apostolic Scriptures were written) or the whole Bible (Tanach together with the Apostolic Scriptures).

Written and Oral Torah: Keeping Them Distinct from Each Other

When we read the rabbinic literature on the subject at hand, we are met with a clear and repeated distinction: the Scriptures (Tanach) are to be written and transmitted in written form, while the teachings and rulings of the sages, even translations of the Tanach into Aramaic (the Targumim), must be memorized by repetition and transmitted orally. Additional clarity of this distinction is made in the basic terminology of study. The Tannaitic rabbis consistently use different terms to denote the study of the two disciplines, showing that a clear dividing line between written and oral Torah was maintained within Rabbinic Judaism. Thus, “to study the written Torah” is always denoted by the verb קָרָא (*qara*’, “to read”) and that which is studied (the Scriptures) is referred to as מִקְרָא (*miqrâ*).⁸ In contrast, “to study the oral Torah” uses the verb שָׁנָה (*shānâh*, “to repeat”) and that which is studied (the traditions) is therefore referred to as מִשְׁנָה (*mishnâh*) “that which is repeated.” The more complete terminology, respectively, is קָרָא אֶת הַמִּקְרָא, “to read that which is read” and שָׁנָה אֶת הַמִּשְׁנָה, “to repeat that which is repeated.” It should be noted that the Aramaic equivalent of מִשְׁנָה, *mishnâh* is מַתְּנֵיטָא, *matniytâ*’ and the Aramaic equivalent of שָׁנָה is תְּנֵי (*t̄neyi*) or תְּנָא (*t̄nah*). Thus, the Tannaim were those who “repeated” the traditions, learning them by memory through repetition and repeating them to their students. In contrast, those who transmitted the written Torah were called סוֹפְרֵיִם, *sôfriym*, “scribes.” Their principle work was that of writing.

It is not as though the scribes never memorized the written text, nor that the Tannaim never used writing to aid in their memorization of the traditions. For instance, tradition has it that scribes, after writing the Torah many times, were able to quote large sections from memory, and even to quote the entire Torah from memory. R. Ish-

⁷ See Anthony J. Saldarini, “Reconstructions of Rabbinic Judaism” in Kraft and Nicklesburg, eds., *Early Judaism and its Modern Interpreters* (Fortress, 1986), p. 443.

⁸ As is often the case with nouns formed by prefixed מ, the noun מִקְרָא denotes both that which is studied (the biblical text) as well as the activity of the study itself. The same is true with the noun מִשְׁנָה, which may refer both to the act of repetition and the object of repetition. cf. Birger Gerhardsson, *Memory and Manuscript* (Eerdmans, 1998), p. 28.

mael b. Yose (late 2nd Century) claimed to be able to write out the whole Scripture from memory.⁹ Yet the standing rule was that not one letter of the written Torah was to be “copied” from memory, but that one must copy the written Torah from a written Torah. “R. Yohanan said: It is forbidden to write one letter that is not written.”¹⁰

Yet there was a part of the transmission of the written Torah that required oral memorization. This relates to the scribal traditions such as the קְרִי (*qere*) and כְּתִיב (*ketiv*). *Qere* means “read,” while *ketiv* means “written.” Scribal traditions noted that certain words were written one way, but were to be read a different way. Only in the later Masoretic era (600 CE and following) was this מְסוּרָת (*massoret*), this “chain of tradition,” written down. In previous generations, the scribes passed these traditions on orally.¹¹ It can thus be understood why writing a scroll of the Scriptures from memory was prohibited. It would have been too easy for a scribe to write into the text the *qere* in place of the *ketiv*. As Gerhardsson notes:

The rule that copies must be made from a written text made it possible effectively to avoid turning *ketib* gradually into *qere*. And the distinction between *ketib* and *qere*, finally determined by the post-Talmudic Masoretes, is still eloquent witness to the success with which the copyists were prevented from turning their memorized versions into scripture.¹²

Quite the opposite was the case with the transmission of the oral Torah, for in regard to that which is repeated and memorized (*mishnah*), it was prohibited to be written or to be transmitted as a written text.

You shall not transmit orally that which is written; you shall not transmit in writing that which is oral.

¹³ דברים שבכתב אי אתה רשאי לאומרן על פה; דברים שבעל פה אי אתה רשאי לאומרן בכתב.

This rabbinic dictum appears to have been established even in the pre-destruction era. A story is told by R. Yose involving Gamliel HaZaken who led the Sanhedrin 20–40 CE, which thus reflects a pre-destruction perspective.

Said R. Jose: It once happened that my father Halaftha visited R. Gamaliel Berabbi at Tiberias and found him sitting at the table of Johanan b. Nizuf with the Targum of the Book of Job in his hand which he was reading. Said he to him, I remember that R. Gamaliel, your grandfather, was sitting on the stairs of the Temple, when the Book of Job in a Targumic version was brought before him, whereupon he said to the builder, “Bury it under the bricks.”¹⁴

Here, the Targum of Job is not the actual Hebrew text of Job, but a translation and thus was not to be written. The Targumim were to be transmitted orally.¹⁵ Indeed, the *meturganim* (translators) who translated the Torah as it was

⁹ y.*Megillah* 4.1, cp. b.*Megillah* 18b. This may be a typical hyperbole, but it does emphasize the role of memory among those who worked with the written Torah.

¹⁰ b.*Megillah* 18b. It is only logical that if this rule was applied to the writing of the Megillah (Scroll of Esther), it would surely be applied to the whole of the Tanach.

¹¹ Note the use of יש אִם לְמִקְרָא, “the traditional reading has a genealogy (mother)” to defend a traditional reading, cf. *Sifra* on Lev 12:5; b.*Sanhedrin* 4ab (which names R. Akiva, among others, as upholding the scribal tradition in cases where the text was questionable). Likewise the rabbis occasionally referred to something which they called מְקָרָא סוּפְרִים, “the reading of the scribes,” which was regarded as giving the proper reading of a text that was doubtful, cf. b.*Nedarim* 37b.

¹² Birger Gerhardsson, *Memory and Manuscript* (Eerdmans, 1998), p. 47.

¹³ b.*Gittin* 60b; cf. b.*Temurah* 14b.

¹⁴ b.*Shabbat* 115a.

¹⁵ Cf. y.*Megilla* 4, 74d; *Tanchuma*, *Ki Tisaa* 34 (127a); *Pesiqta’ Rabbatai* 5 (14a-b); See also P. S. Alexander, “The Targumim and the Rabbinic Rules for the Delivery of the Targum” in *Supplements to Vetus Testamentum* vol. xxxvi (Brill, 1985), pp. 14–28. Apparently the only exception to this rule was the Lxx, which was allowed to be written, and even a Lxx translation in a Torah scroll was permitted, m.*Megillah* 1.8; b.*Megillah* 9a. More than likely this exception was based

read in the synagogue were not allowed to do so from a written source.¹⁶ Thus, when Gamliel the Elder saw the written Targum, he demanded that it be permanently hidden away. In other words, Gamliel wanted to make sure it was not read by others, for only the actual biblical text was to be written. Along the same lines, t.*Shabbat* 13.4 contains this dictum: “Thus they said: Those who write benedictions are like those who burn the Torah.” The point here is that written benedictions (liturgy) also were contrary to the injunction that only the Tanach itself could be written and transmitted in written form. Written benedictions (prayers) could in time be mistaken by the populace as the actual words of Torah, thus blurring the distinction between the divine revelation in Scripture and the teaching of men. Moreover, a very similar notice is found in b.*Temurah* 14b, being applied to *halachot* in general: “R. Abba the son of R. Chiyya bar Abba says, R. Yochanan said, Those who write *halachot* are as one who burns the Torah, and he who learns from them receives no reward.”

Still, the rabbinic literature includes indications that at times the Tannaim used written notes to aid them in the process of memorization of the oral traditions.¹⁷ However, apart from the “Scroll of Fasting,” whatever might have been written down of the oral Torah was done so for personal use and was not to be considered authoritative.¹⁸ Indeed, even when Yehudah HaNasi himself was consulted by questioners in order to ascertain the exact wording of his Mishnah, he referred them, not to a deposited or published book of his Mishnah, but to R. Yitzchak, his own authorized *tanna*!

A pair of students asked Rabbi: How should we read the Mishnahs of this chapter [מעשר שני, פרק חמישי]? Should we read *kerem reva'i*, a fourth-year vineyard, or should we read *neta reva'i*, a fourth-year sappling? Rabbi told them: Go and ask R. Yitzchak *rubba'* [the Authority], for I have examined all of the Mishnahs with him.¹⁹

The distinction between oral and written Torah is also marked by the locations in which each was taught and learned. While historic documentation describing the educational methods in the Judaisms of the pre-destruction era is sparse, the picture becomes clearer for the 2nd and 3rd Centuries. Primarily there were two types of schools: *בֵּית סוּפֵר* (*beit sôfer*), “house of writing” or *בֵּית סֵפֶר* (*beit sefer*), “house of (the) book” and *בֵּית הַמְדַרְשׁ* (*beit hamidrash*), “house of study.”²⁰ The *beit sefer* was usually located in the synagogue or an adjacent room and was the place where children first began to learn the alephbet and to read.²¹ According to one tradition, Shimon b.

upon the idea that the Lxx translation was the product of divine intervention. Cf. *The Epistle of Aristeeas*, 301–7.

¹⁶ *Tanchuma, Vayera* 6 (44a-b); 5 (26a).

¹⁷ Strack and Stemberger note that there are conflicting accounts which seem to divide between the French (Rashi) and the Spanish (Maimonides) on the subject of whether *halachot* were written and transmitted in writing during the pre-destruction era. Rashi, on b.*Shabbat* 13a, writes that with the exception of the Scroll of Fasting, “All the rest of the Mishnah and baraita was not written, for it was forbidden to write it down.” Similarly, on b.*Eruvin* 62b, he writes: “In their time there was no written halachah, not a single letter, except the Scroll of Fasting.” By contrast, Saadya, Maimonides, and others held the view that the rabbis wrote down their teachings and that Rabbi (Yehudah HaNasi) too, wrote down his Mishnah. See Strack and Stemberger, *Introduction to the Talmud and Midrash* (Fortress, 1992), pp. 36f.

¹⁸ It seems quite probable that what students and teachers wrote down were the “catch-words” they used as mnemonic devices. Such “catch-words” are found throughout the rabbinic materials. For further information indicating that ספרי זכרון (“reminder-books”) and מגילות סתרים (“scrolls of secrets”) were used by students and teachers in the process of memorizing the repeated traditions, see Birger Gerhardsson, *Memory and Manuscript*, pp. 157ff.

¹⁹ y.*Ma'asei Sheini* 45b [in the Schottenstein Edition, 45b²]

²⁰ See Strack and Stemberger, *Introduction to the Talmud and Midrash*, Op. cit., pp. 9ff; Gerhardsson, *Memory and Manuscript*, Op. cit., pp. 56ff.

²¹ b.*Shabbat* 31a; y.*Ketuvot* 3.1; b.*Ketuvot* 105a; b.*Gittin* 58a; Mid. Rab. *Canticles* 5.12; Cf. *ARN* 29 (pp. 119f in Judah Goldin, trans., *The Fathers According to Rabbi Nathan* [Yale, 1955]).

Shetach (1st Cent BCE) arranged for children to attend a *beit sefer*.²² Another tradition has it that elementary schools originally began in Jerusalem, then spread to the outer regions. It is said that the High Priest Yehoshua b. Gamala (ca. 60–70) established schools in every province and every town.²³ It seems likely that this claim is exaggerated, but it is probable that numbers of elementary schools (*beit sefer*) were established in Israel at the time of the destruction.

The primary purpose of the *beit sefer* was (as the name implies) to teach the students to read and to write. Thus, the Tanach itself, beginning with the Torah (and specifically Leviticus²⁴) formed the textbook for such instruction. According to *Avot*, when the boys were 10 years old,²⁵ those who wished to pursue further studies went to the academy (*beit Hamidrash* or *bet Talmud*) to study under a teacher of Mishnah. Here, the method of instruction was oral: the students listened to the words of their instructor, repeated these words, and sought to memorize them through constant repetition. The goal was to teach the students the established Jewish tradition and *halachah*, derived from the biblical text through various methods of interpretation and re-interpretation.

In contrast to the *beit sefer*, the means of instruction in the *beit midrash* was that of oral repetition. A *baraita* in *b.Eruvin* 54b establishes that such repetition should be at least four times for each section, since this mimics the manner in which (according to the rabbis) the oral Torah was initially given to Moses on Sinai:

Our Rabbis learned: What was the procedure of the instruction in the oral law? Moses learned from the mouth of the Omnipotent. Then Aaron entered and Moses taught him his lesson. Aaron then moved aside and sat down on Moses' left. Thereupon Aaron's sons entered and Moses taught them their lesson. His sons then moved aside, Eleazar taking his seat on Moses' right and Ithamar on Aaron's left. R. Judah stated: Aaron was always on Moses right. Thereupon the elders entered and Moses taught them their lesson, and when the elders moved aside all the people entered and Moses taught them their lesson. It thus followed that Aaron heard the lesson four times, his sons heard it three times, the elders twice and all the people once. At this stage Moses departed and Aaron taught them his lesson. Then Aaron departed and his sons taught them their lesson. His sons then departed and the elders taught them their lesson. It thus followed that everybody heard the lesson four times. From here R. Eliezer inferred: It is a man's duty to teach his pupil [his lesson] four times. For this is arrived at by *kal v'chomer*: Aaron who learned from Moses who had it from the Omnipotent had to learn his lesson four times how much more so an ordinary pupil who learns from an ordinary teacher. (*b.Eruvin* 54b)

Given a minimum standard for a teacher to repeat the lesson in the *beit midrash*, we should not be surprised to find that a teacher's excellence and diligence would be noted by his willingness to exceed the minimum. Thus, a saying attributed to Hillel is:

Bar He-He said to Hillel: "Then shall you again discern between the righteous and the wicked, between him that serves God and him that serves Him not." (Mal 3:18) 'The righteous' is the same as 'he that serves God'; 'the wicked' is the same as 'he that serves Him not'! — He answered him: He that serves Him and he that serves Him not both refer to such as are perfectly righteous; but he that repeated his chapter a hundred times is not to be compared with him who repeated it a hundred and one times. (*b.Chaggigah* 9b)

Similarly, the hyperbolic notice regarding R. Pereda shows that a good teacher was known by doing whatever was necessary to be sure that his students learned the material:

R. Pereda had a pupil whom he taught his lesson four hundred times before the latter could master it. On a

²² y.*Ketuvot* 8.11.

²³ b.*Bava Batra* 21a.

²⁴ Mid. Rab. *VaYikra* 7.3.

²⁵ m.*Avot* 5.21; *Pesiqta R. Kahana* 15.5 has the age set at 13 years.

certain day having been requested to attend to a religious matter he taught him as usual but the pupil could not master the subject. ‘What’, the Master asked: ‘is the matter today?’ — ‘From the moment’, the other replied. ‘the Master was told that there was a religious matter to be attended to I could not concentrate my thoughts, for at every moment I imagined, now the Master will get up or now the Master will get up’. ‘Give me your attention’, the Master said, ‘and I will teach you again’, and so he taught him another four hundred times. A *bat kol* issued forth asking him, ‘Do you prefer that four hundred years shall be added to your life or that you and your generation shall be privileged to have a share in the world to come?’ — ‘That’, he replied. ‘I and my generation shall be privileged to have a share in the world to come’. ‘Give him both’, said the Holy One, blessed be He. (b.*Eruvin* 54b)

What is of interest for our study is that in the *beit midrash*, orality is the method for teaching the students, and even when a student has difficulty, the teacher does not resort to written materials. Where a student needs further help in memorizing the *halachah* or *midrash*, the method is simply to repeat the material orally until it is learned.

Yet even though multiplied repetitions may be needed to help a slow or distracted student learn, the goal was to teach in such a way that the students learned most quickly. Thus, in b.*Pesachim* 3b we read: “A man should always teach his pupil orally in the shortest way.” This involved a common pedagogical tendency in Rabbinic Judaism, namely, to consolidate teachings through summaries and fundamental statements, and to express oneself concisely yet in a way to encompass the material.

We see, then, that though there was a mixture of written and oral learning in both the *beit sefer* as well as the *beit midrash*, the *beit sefer* was predominately concerned with the written text of the Tanach (קְרָא/מְקַרָא) and thus with reading and writing. The *beit midrash*, on the other hand, was almost entirely dominated by listening and repeating the traditions (שְׁנָה/מְשָׁנָה), with writing being done only for personal use, and most likely for listing mnemonic terms which would aid in the process of memorization. Here, then, in the methodology for learning and transmitting the oral and written Torah, we see that a clear distinction between the two was carefully guarded and maintained even into the post-destruction era. Indeed, the compilation of the Talmuds had as one of its objectives to tie the Mishnah to the written text of the Tanach. Thus, while the Mishnah often does not itself reference a Torah text as foundational for its rulings, the Gemara regularly does.

What Motivated the Sages to Require that the Traditions be Transmitted Orally and Not Written?

A number of possibilities have been suggested to explain why the sages prohibited the oral Torah to be transmitted in written form. One explanation is given in the rabbinic corpus itself:

[Ex 34:27] AND THE LORD SAID UNTO MOSES: WRITE DOWN THESE WORDS. This text is related [to Hos 8:12]: IF I WERE TO WRITE DOWN FOR HIM THE FULLNESS OF MY TORAH [i.e., including the oral Torah].... When the Holy One came to give the Torah, He spoke it to Moses in [this] order: the Scriptures, the Mishnah, the Aggadah, and the Talmud. It is so state [Ex 20:1]: THEN GOD SPOKE ALL THESE WORDS. After Moses had learned it, the Holy One said to him: God and teach it to your children. Moses said to Him: I want to give it to them in writing, because it has been revealed to me that the people of the world are going to have dominion over them and take it away from them, so that my children would be like the peoples of the world. Then give them the Scripture in writing but the Mishnah, the Aggadah, and the Talmud orally. [Ex 34:27]: AND THE LORD SAID UNTO MOSES: WRITE DOWN—this is Scripture. ON THE MOUTH²⁶—the Mishnah and the Talmud, since they separate Israel from the peoples of the world.²⁷

²⁶ The Hebrew is על-פי, literally “upon the mouth,” but this is a Hebrew idiom meaning “in accordance with,” thus על-פי הדברים האלה, “in accordance with these words.” The Midrashist has found a play on terms by which he is able to introduce תורה שבעל פה (“oral Torah”) into the text, simply on the presence of the Hebrew word for “mouth.”

²⁷ *Tanchuma, Ki Tissa*, 9.17 (taken from John Townsend, trans. *Midrash Tanhuma*, 3 vols. [KTAV, 1997], 2.161).

Thus, the prohibition against writing the oral Torah was to give Israel a means of remaining distinct from the Gentiles, and particularly from the Christian Church. For the emerging Christian Church had claimed the Tanach for itself, including the covenants made with Israel, and proclaimed itself as the “new Israel.”²⁸ Thus, according to the Midrash, only the oral Torah remained by which the Jewish people could be distinguished from the Christians.

But as Safrai has noted,²⁹ this argument is a *non sequitur*. The Midrash quoted above was being compiled during the 3rd or 4th Centuries, the very era in which the oral Torah was becoming more and more finalized. It was already in the process of becoming more widely known, not increasingly sequestered as a “secret” known only to Jews. Moreover, it seems clear that the emerging Christian Church had no attraction to the oral Torah, nor were they anxious to “look Jewish” by adhering to the oral Torah as though it belonged to them. Indeed, proof that the emerging Christian Church viewed itself as “other” vis-à-vis Jewry is amply seen in the manner in which the written Torah was being reinterpreted away from a Jewish context in order to fit the Church as the “new Israel.”³⁰

A second suggestion given for why the sages would have prohibited transmitting the oral Torah in writing was to maintain a distinction between the written and oral Torah. The rule that the translator (*meturgaman*) was not allowed to read his translation from a written source³¹ as the Torah was read in the synagogue was apparently established for this purpose. Likewise, the teaching that those who write out liturgical prayers or *halachot* are as those who burn the Torah³² seems best understood as a safeguard to maintain the uniqueness of the written Torah. At a time when most people did not have their own copy of the written Torah but heard it as it was read in the synagogue, it would have been presumed that someone reading from a scroll during the synagogue service was reading the written Torah. The distinction had to be maintained, therefore, that the written Torah is *read* and all other teachings were *repeated*, i.e., not read from a written source.

Safrai offers yet a third suggestion to explain why the sages prohibited the writing of the oral Torah.³³ He notes that the issue of prayer could provide the answer, for there are multiple references in the rabbinic literature of the Tannaic and Amoraic periods indicating that there was no set text of the benedictions of communal prayer. There were well-established macro-structures, with beginnings and endings of prayers more or less fixed, but the substance of the prayers remained fluid. As a result, there are notices in the rabbinic literature of those who expand their prayers and others who shorten them.

And He Cried unto the Lord, etc. [Ex 15:25] – From this you learn that the righteous are not hard to complain to. By the way, you also learn that the prayer of the righteous is short. It happened once that a disciple, in the presence of R. Eliezer, when up to read the service, and made his prayers short. The other disciples remarked to R. Eliezer: “You notice how sos and so made his prayers short.” – And they used to say about him: “This one is a scholar who makes short prayers.” But R. Eliezer said to them: He did not make it shorter than Moses did, as it is said: “Heal her now, O God, I beseech Thee” (Num 12:13). Again it happened once that a disciple in the presence of R. Eliezer went up to read the service and made his prayers

²⁸ E.g., *The Epistle of Barnabas*, 4.6–8; Clement, “The Instructor,” Bk 1, Ch. 5.

²⁹ Shmuel Safrai, “Oral Tora” in Safrai, ed., *The Literature of the Sages: First Part – Compendia Rerum Iudaicarum ad Novum Testamentum* (Fortress, 1987), p. 47.

³⁰ Urbach (*The Sages* [Harvard Univ Press, 1987], pp. 305–6) suggests that this Midrash was written as a polemic against Paul and his use of the Hagar/Sarah analogy in Gal 4. That is, the possession of the oral Torah would exonerate Israel as God’s true Israel when the Church claimed that right for itself. While Urbach may be correct in seeing the Church’s doctrine of supersessionism as one of the motives for exonerating the oral Torah in the Talmudic era, this highlights more the manner in which rabbinic Judaism reacted to the Church’s re-interpretation of Paul as foundation for their replacement theology than a genuine motive for maintaining the original prohibition against writing the oral.

³¹ See notes 13 and 14 above.

³² See p. 4 above.

³³ Safrai, “Oral Tora,” Op. cit., pp. 48–9.

long. The other disciples remarked to R. Eliezer: “You notice that so and so made his prayers long.” And they used to say about him: “This one is a scholar who makes long prayers.” But R. Eliezer said to them: He did not make them longer than Moses did, as it is said: “So I fell down before the Lord the forty days,” etc. (Deut 9:25). For R. Eliezer used to say: There is a time to be brief in prayer and time to be lengthy.³⁴

Safrai reasons that in the same way prayers were prohibited to be written in order to retain their fluidity, the targum, midrash, halachah, and aggada were to be left in oral form for the same reason.

This would imply that the very concept of Oral Tora was generated by the wish of the Sages to preserve the fluidity of their tradition and its openness to change and development. Only the words of God spoken to Moses and the prophets, and laid down in the Pentateuch and the prophetic books of the Bible, were considered as fixed texts by the Sages. These served as the unvarying foundation for the teaching of the Sages which should, in contradistinction, ‘be fruitful and multiply’: a living instruction – *tora* – which is created, studied and passed on, not in books but in the course of live discussion.³⁵

It seems to me most probable that the motivation for the rabbinic prohibition against writing the oral Torah may be a combination of all three of these suggestions. The need for self-definition vis-à-vis the Church as it became the dominant power surely made the role of the oral Torah increasingly important for rabbinic Judaism. Yet the need to maintain the ancient idea of the supremacy of the written Torah required that it remain distinct from the oral torah, and this was done by retaining the dictum that the oral Torah was to remain oral, not written. And, in its orality, the oral Torah provided a flexible and accommodating hermeneutic by which the written Torah could be variously interpreted to fit changing circumstances. However we may posit the motivation for the prohibition, one thing is clear: In the first two centuries, the oral Torah was never conceived of as a fixed body of rulings to which every future generation would be compelled to conform. On the contrary, the oral Torah, in its orality, was intended to remain flexible and fluid, thus reinforcing the necessity of local or regional authorities to determine how the *halachot* for their own communities would function in line with the fixed written Torah.

When was the Oral Torah Transformed from Orality to a Written Entity?

As noted above,³⁶ the precise era in which the oral Torah began to be transmitted in written form is debated. A strong tradition is that in the 2nd Century, R. Yehudah HaNasi compiled the Mishnah in written form. But Rashi himself thought differently, holding that in the Tannaitic era, “there was no written *halachah*, not a single letter, except the Scroll of Fasting.”³⁷ If, in fact, R. Yehudah HaNasi did commit the oral Torah to writing in the 2nd Century, it seems very probable that it was not “published” in the modern sense of that word but that his copy was kept for personal reference and not deposited as an official text to be copied. Further, we find no indication that authoritative copies of the Mishnah circulated even during the Talmudic era (300–600 CE). For though the Bavli mentions other written works, it never refers to a single copy of the Mishnah, nor does it every introduce a mishnaic quote with the formula “as it is written.” If the Mishnah existed in written form during the era in which the Bavli was being compiled, then these written copies were apparently not in official use.³⁸

³⁴ *Mechilta, VaYassa* ‘ 1 [in the Lauterbach edition, 2.90–91].

³⁵ Safrai, “Oral Tora,” Op. cit., p. 49.

³⁶ See n. 15 above.

³⁷ Rashi on b.*Eruvin* 62b.

³⁸ See Birger Gerhardsson, *Memory and Manuscript*, pp. 159–60.

How Widely was the Oral Torah Studied in the Pre-Destruction Era?

We have noted briefly the manner in which the oral Torah and written Torah are distinguished in the rabbinic literature, both by the terminology used to identify them as well as the language of study which is distinct for each. We have also seen that the “publication” or transmission of a recognized, written Mishnah did not occur in the early centuries following the destruction of the Temple, but awaited the compilation and completion of the Talmuds. It follows, therefore, that the unification of *halachah* across the wide spectrum of diaspora Jewry was not a reality during the time in which Rabbinic Judaism was being defined, i.e., up through the 3rd and 4th Centuries, and perhaps a bit later. While rabbis may well have had their own written copies of sections of the Mishnah, there is no indication that a “standard” written text of the Mishnah was established during this period. Therefore, while certain *halachot* of Rabbinic Judaism doubtlessly would have been widely held by religious Jewry wherever it was found, one could hardly posit a standardized *halachic* practice among the diaspora communities. The knowledge, determination, and application of the oral Torah remained in the hands of local rabbis, much as it had in the earlier centuries.

Indeed, even as late as 1565, when Yoseph Karo’s *Shulchan ‘Aruch* (“a prepared table”) was published in Venice, many rabbis opposed it. Karo’s purpose (like other codifiers before him) was finally to unify the *halachah* for world Jewry and thus, *in written form*, to establish the fixed *halachah* for every possible application of the oral Torah.³⁹ It was this rigid approach to the oral Torah that brought opposition. The most powerful opponent was Solomon Luria, who noted that “every code gives rise to commentaries and supercommentaries which have just the opposite effect intended by the authors of the original code.”⁴⁰ In spite of the opposition, the *Shulchan ‘Aruch* was received and became the standard codification of *halachah* for orthodox Judaism. Still, additional works were written in which the decisions of the *Shulchan ‘Aruch* were modified, adjusted, or replaced. Even in our modern, 21st Century, the era of information explosion, “ask your local rabbi” remains a watchword among the observant Jewish communities worldwide.

Given this historical development of the oral Torah, from orality to written source, and the centuries-long process of making the “written-oral Torah” available as a published, body of literature, the obvious question that remains important for our current study is: How widely among the Jewish population of the pre-destruction era was the oral Torah taught and studied? Did the majority of the Jewish people in the 1st Century know the oral Torah, or was such knowledge reserved for a minority? The answer to this question is important because, as I noted in the introduction, key voices in the Messianic movement are suggesting that we should accept the “oral Torah” of Rabbinic Judaism as normative and even as divinely sanctioned.⁴¹ A primary reason given to substantiate this teaching is that “Yeshua and His disciples lived in accordance with the oral Torah, and thus so should we.” Even if, for sake of discussion, we were to accept the idea that the “traditions of the elders”⁴² in the pre-de-

³⁹ Karo kept a diary in which he recorded the messages that a heavenly mentor (a *maggid* or “herald”) spoke through his mouth. Karo’s *maggid* gave him “kabbalistic interpretations and personal advice, encouraged him to be modest, gentle, and patient, exhorted him to pray with devotion and to follow ascetic practices. It praised or criticized his legal decisions and promised that his desire to die a martyr’s death for God’s sake would be fulfilled (which did not happen).” Robert M. Seltzer, *Jewish People, Jewish Thought* (Macmillan, 1980), p. 460.

⁴⁰ “Shulhan Arukh” in *Encyclopedia Judaica*, 14.1476. See also the extended discussion on this topic in “Codification of Law,” *Encyclopedia Judaica*, 5.651–55.

⁴¹ Even this statement reveals a misconception about the oral Torah, for it considers the oral Torah as a monolithic, fixed body of literature, which, as we have seen, was not the case in the pre-destruction era, and even in the centuries following the destruction, was not fixed or standardized as an official rule by which all *halachic* decisions could be made.

⁴² παράδοσιν τῶν πρεσβυτέρων, cf. Matt 15:2; Mark 7:3, 5.

struction era were essentially the same as the later oral Torah of Rabbinic Judaism, the question still remains: was the oral Torah widely known and studied in the Jewish population of pre-destruction Israel? Safrai believes it was:

What place and influence did the Oral Tora have in Second Temple Jewish society? The external evidence, which is more ample here, and the internal evidence, justify the conclusion that the teachings of the Sages embodied the social, cultural and religious traditions adhered to by a majority of Second Temple Jewry. This is not to say that Oral Tora was a monolithic body of teaching – on the contrary, it allowed for a great deal of diversity.... We may point here to another difference with Essene doctrine as documented in the Qumran scrolls. Oral Tora did not have the character of a closed group ideology, but was rather a body of teachings created and supported with varying intensity by large parts of society. It is precisely here that we encounter one consequence of its being oral: It allowed diversity and flexibility within the framework of generally accepted attitudes and concepts. This diversity taken into account, Oral Tora must have had a prominent place in society.⁴³

One wonders how Safrai has come to this conclusion, however, since it is widely accepted among scholars that the extant rabbinic literature essentially reflects the teaching of only one of the early sects, that of the Pharisees. Granted, the Pharisees appear to be the majority sect of the pre-destruction era, but still, it is not certain what percentage of the Jewish population would have been considered “observant” or “religious” as defined by the later rabbinic literature. Moreover, participation in the synagogue or at the Temple (during the Festivals) would not necessarily indicate a familiarity with the oral Torah as it was taught in the *beit midrash*. Even a person who was unlearned in the oral Torah could participate in religious activities as long as those leading knew the proper procedures and traditions.

If we remember, however, that the oral Torah was taught by a Tanna in the *beit midrash* by means of oral recitation which then was repeated by the student, the question arises: what percentage of the Jewish male population actually studied in this environment? The repeated derogatory references to the עַמֵּי הָאָרֶץ (‘*ammei ha’aretz*, “people of the land” = those people who are unschooled) in the rabbinic literature suggests that there were plenty of people who were uneducated in matters relating to the legal rulings of the oral Torah. And this, all the more, in the Jewish communities of the diaspora.

The rabbinic literature warns that the ‘*ammei ha’aretz* were not to be trusted in matters relating to *halachah*, nor was it required to fulfill *mitzvot* in respect to them. Moreover, they were suspected of low morals or even the lack thereof:

Our Rabbis taught: Let a man always sell all he has and marry the daughter of a scholar. If he does not find the daughter of a scholar, let him marry the daughter of [one of] the great men of the generation. If he does not find the daughter of [one of] the great men of the generation, let him marry the daughter of the head of synagogues. If he does not find the daughter of the head of synagogues, let him marry the daughter of a charity treasurer. If he does not find the daughter of a charity treasurer, let him marry the daughter of an elementary school-teacher, but let him not marry the daughter of an ‘*am ha’aretz*, because they are detestable and their wives are vermin, and of their daughters it is said, “Cursed be he that lieth with any manner of beast” (Deut 27:21).

Our Rabbis taught: Six things were said of the ‘*ammei ha’aretz*: We do not commit testimony to them [testify in their favor]; we do not accept testimony from them [accept them as witness in court]; we do not reveal a secret to them [they cannot be trusted to keep the secret]; we do not appoint them as guardians for orphans [they are irresponsible] ; we do not appoint them stewards over charity funds [they are thieves]; and we must not join their company on the road [they do not value life]. Some say, We do not proclaim their losses too [if they lost something, it is not required to be returned to them when found].⁴⁴

⁴³ Safrai, “Oral Tora,” pp. 36–7.

⁴⁴ b.*Pesachim* 49b.

Who were the *'ammei ha'aretz*? They are portrayed as an uneducated segment of society and often associated with those who make their living from the land or sea. They come from the rural, agrarian part of the population. Interestingly, the Galil was apparently the main center of the *'ammei ha'aretz*⁴⁵ and thus we sense the same Phari-saic angst toward the *'ammei ha'aretz* when we read Nathaniel's impression of Yeshua: "Can any good thing come out of Nazareth?" (Jn 1:46).

Indeed, when we consider the Twelve who followed Yeshua, we are confronted with fishermen (Peter, Andrew, James, John, and perhaps Philip), a tax collector (Matthew), and generally, those who hailed from the Galil. As a whole, the disciples of Yeshua appear to be good candidates for those the Pharisees considered *'ammei ha'aretz*. In Acts we read an interesting note about Peter and John, who were giving witness of Yeshua to the Jerusalem leaders (rulers, elders, scribes, Acts 4:5) –

Now as they observed the confidence of Peter and John and understood that they were uneducated and un-trained men (ἄνθρωποι ἀγράμματοί εἰσιν καὶ ἰδιῶται), they were amazed, and began to recognize them as having been with Yeshua. (Acts 4:13)

It may well be that "uneducated" (ἀγράμματοί, *agrammatōi*) indicates that they had not studied in the *beit sefer* where writing and reading the biblical text was the focus,⁴⁶ while "untrained" (ἰδιῶται, *idiōtai*) could mean that they had never studied in the *beit midrash*, where the oral Torah was heard, repeated, and memorized, and where one would learn the traditional interpretation and application of the biblical text.⁴⁷ How would the "rulers, elders, and scribes" have made such an assessment of Peter and John? It is likely that, recognizing them as fishermen from the Galil, they reasoned that they would not have been the kind of men who would have attended school. Their family occupation (fishing) would have generally precluded them from the daily attendance necessary for those who studied at either the *beit sefer* or the *beit midrash*.

And this may have been the case for most, if not all, of Yeshua's disciples. The fact the He compares them to "new wineskins"⁴⁸ would indicate that they had not undergone formal training before becoming Yeshua's disciples. If this were the case, then it seems highly probable that they had not studied the oral Torah, yet apparently Yeshua did not consider this an impediment to the mission for which He was training them. Indeed, the final mis-sional instructions to the Twelve which Matthew records (Matt 28:19–20) directs them to make disciples of all the nations, "teaching them to observe all that I commanded you." The question we now must ask is this: Did Yeshua consider the "oral Torah," whatever it may have been in His day, to be essential for the work He commission His disciples to accomplish? Or to state it another way: Did Yeshua consider the oral Torah to be an essential part of making disciples of all the nations?

Yeshua and the Oral Torah

When we seek to ascertain Yeshua's own evaluation of the "oral Torah" as it was being formulated in His day, we must turn to the only source of information available to us, that is, the Apostolic Scriptures. In fact, the Apostolic Scriptures provide for us the most ancient witness of 1st Century Judaism, for the earliest extant wit-

⁴⁵ Salo Baron, *A Social and Religious History of the Jews*, 15 vols. (Columbia Univ Press, 1952), 1.278.

⁴⁶ In other words, they had no scribal training: γραμματεὺς is the normal word used for a "scribe."

⁴⁷ It should be noted that D omits ἰδιῶνται, but probably does so "because the double expression ἀγράμματοί εἰσιν καὶ ἰδιῶται seemed to depreciate the apostles too much." Bruce M. Metzger, *A Textual Commentary on the New Testament* 2nd Edition (Deutsche Bibelgesellschaft, 1994), p. 277.

⁴⁸ Matt 9:17; Mark 2:22; Luke 5:37–38.

nesses of the Apostolic Scriptures pre-date the earliest fragments of rabbinic literature by nearly 500 years. The earliest manuscript evidence for the Apostolic Scriptures is the fragment P⁵², dated 100–125 CE, with other papyri being dated from 150 CE and later. The earliest manuscripts containing the complete Apostolic Scriptures (Ⲛ, A, B) date to the 4th and 5th Centuries CE. In comparison, the earliest manuscript evidence for the Mishnah is to be found in the Cairo Genizah fragments, dated to the late 7th or early 8th Century CE,⁴⁹ with earliest complete Mishnah manuscript being the Kaufmann,⁵⁰ dated to the 10th or 11th Centuries CE.⁵¹

When we read the Gospels, we find a number of indications that suggest Yeshua and His disciples had a general knowledge of the “traditions of the elders” (ἡ παράδοσις τῶν πρεσβυτέρων). For example, we find Yeshua offering a *berachah* (blessing) before eating (Matt 15:36), something which is not explicitly commanded in the written Torah but is found in the Mishnah.⁵² Likewise, a number of times Yeshua refers to the traditions of the fathers when dialoging with His detractors. For instance, in Matt 15:1–6, when the Pharisees and scribes charge the disciples with “breaking the traditions of the elders” by not properly washing their hands before eating, Yeshua counters by noting that the Pharisees themselves transgress the fifth commandment by a misuse of the laws of *korban*.⁵³ The clear indication is that Yeshua knows the “traditions of the elders” by which a person was able to withhold support from his father and mother by dedicating it for a period of time to the Temple. Another example may be found in Lk 11:44f. There Yeshua compares the Pharisees to “concealed tombs” over which people walk and are unaware that they have done so. The point seems clear: people who walk over tombs contract ritual impurity. But the written Torah has it that a person becomes ritually impure by contact with a corpse (or any part of a corpse) or being in an enclosure (tent) with a corpse.⁵⁴ The Pharisaic fences had widened the communication of corpse impurity to anyone who overshadowed a corpse or whose shadow passed over a corpse.⁵⁵ Thus, when Yeshua incorporates aspects of the traditions of the elders in His polemical dialog with detractors, it is clear that He had knowledge of the oral Torah as it existed in His day. There is no indication, however, in the Gospel accounts, that Yeshua was educated in either the *beit sefer* or the *beit midrash*, however they may have existed in the pre-destruction era.

But the fact that Yeshua was knowledgeable of the traditions of the fathers does not mean that He considered these traditions as having divine authority or as a body of teaching essential to the mission for which He was training the Twelve. Surely He recognized the authority of leaders in His community, but it also is clear that He considered such leaders as necessarily subordinate to the authority of the Scriptures, for throughout the Gospels when we see Him engaged in dialog with the Jerusalem leaders, He constantly points to the Scriptures, calling them to pay heed to God’s word and to obey what had been written by Moses and the prophets.

There are two primary passages in the Gospels in which Yeshua touches on the matter of the oral Torah and its authority. These are Matthew 15:1–9 (cp. Mark 7:1-9) and Matthew 23:1–3, and it will be important for us to look at these briefly.

⁴⁹ Stack and Stemberger, *Introduction to the Talmud and Midrash*, Op. cit., p. 157.

⁵⁰ Currently owned by the Hungarian Academy of Sciences, Budapest.

⁵¹ Michael Krupp, “Manuscripts of the Mishnah” in Samuel Safrai, ed., *The Literature of the Sages*, First Part; *Compendia Rerum Iudaicarum ad Novum Testamentum* (Fortress, 1987), p. 253.

⁵² m.*Berachot* 6.

⁵³ cf. m.*Nedarim* 5.6; 9.1; b.*Bava Batra* 120b–121a; see the comments in my *Commentary on the Gospel of Matthew*, 3.595ff.

⁵⁴ Num 19:11–15.

⁵⁵ m.*Oholot* 16.1–2.

A complete exposition of this text is beyond the scope of the present essay,⁵⁶ but it will be important for our purposes to look closely at several important details which inform us about Yeshua’s view of the oral Torah vis-à-vis the written Torah.

The text recounts an accusation against Yeshua’s disciples, made by the Pharisees and scribes who had come from Jerusalem. They want to know why Yeshua’s disciples break (παραβαίνω, *parabainō*) the “traditions of the elders” (τῆν παράδοσιν τῶν πρεσβυτέρων) by not washing their hands before they eat bread (v. 2). Note that the Pharisees and scribes consider the traditions of the elders (oral Torah) to have authority which requires obedience and can be transgressed, for the Greek παραβαίνω (*parabainō*) is regularly used in the Lxx to translate Hebrew verbs such as סור (*sur*, “to turn aside from”), מַעַל (*ma’al*, “to act unfaithfully”), and מָרָה (*marah*, “to rebel”).⁵⁷ Thus, the accusation of the Pharisees and scribes against the disciples and Yeshua is not merely one of disagreement with their *halachah* but that they were transgressing Torah.

Yeshua does not argue whether His disciples have, in fact, engaged in transgressing an actual commandment, but turns the dialog immediately to the written Torah and the manner in which the Pharisees and scribes have failed to obey what God commands. He answers: “Why do you yourselves transgress (παραβαίνω, *parabainō*) the commandment of God for the sake of your tradition?” (v. 3). Rather than answering the question of the Pharisees directly by discussing matters of ritual purity,⁵⁸ Yeshua gives a stern counter, charging them with transgressing the commandment of God. He quotes Is 29:13 to show that they are doing the very thing that the prophet denounces, i.e., according the traditions of man authority superior to that of the very word of God.

What is the point our Lord is making? The answer seems clear: He intends to set in stark contrast the traditions of the elders and the commandments of God, not to prohibit the traditions of the elders altogether, but to show that they were not divinely given and must therefore be judged by the light of the written Torah. While the Pharisees were concerned that the disciples (and by extension, Yeshua) had transgressed a tradition of the elders, Yeshua charges them with transgressing the very commandment of God. In short, what Yeshua teaches us here is that the oral Torah does not have divine authority even though the Pharisees and scribes thought it did. Moreover, not only did the traditions of the elders lack divine authority but at times they even stood contrary to the written Torah itself, the very standard by which all matters of life are to be judged.

The parallel in Mark includes two more statements of Yeshua to the Pharisees and scribes:

“Neglecting the commandment of God, you hold to the tradition of men.” He was also saying to them, “You are experts at setting aside the commandment of God in order to keep your tradition. (Mark 7:8–9)

Here He charges them with “neglecting” (ἀφίημι, *aphiēmi*) and “setting aside” (ἀθετέω, *atheteō*, “to rebel against, to reject”) the commandment of God. As is often the case in the history of God’s people, the traditions had gained an ascendancy over the word of God. The protestant reformer, Martin Bucer, made an insightful comment on the tendency of people to hold tradition as more important than God’s word:

A man is rarely to be found, who pays an excessive attention to human inventions in religion, who does not put more trust in them than in the grace of God.⁵⁹

⁵⁶ For a more extensive discussion and exposition, see my *Commentary on the Gospel of Matthew*, 3.586ff.

⁵⁷ Note these examples in the Torah: Ex 32:8; Lev 26:40; Num 14:41; 27:14; Deut 1:43; 9:12, 16; 11:16; 17:20; 28:14.

⁵⁸ Yeshua’s direct answer awaits v. 20.

⁵⁹ Quoted from J. C. Ryle, *Ryle’s Expository Thoughts on the Gospels: Matthew–Mark* (Zondervan, 1951), p. 173.

That Yeshua was not alone in condemning traditions which usurp the authority of the Torah of Moses may be seen by references on the subject in early Jewish pseudepigrapha. In the *Testament of Levi* (probably written around 150 BCE) we read:

What will you do to all the nations, if you are darkened by ungodliness, and you bring curses upon our family? For which the light of the law that was given to you to be a light to every person, you wish to destroy this by teaching commandments opposed to the requirements of God. (14.4)

In the *Testament of Asher* the same theme is found:

For I know that you will be thoroughly disobedient, that you will be thoroughly irreligious, heeding not God's Law but commandments of men, being corrupted by evil. (7.5)

We see, then, how important this text is for our present study. Yeshua clearly did not consider the traditions of the elders to have had divine authority. While there may be value in the traditions that have been created by men, they do not have a binding authority upon God's people and they should not be received as though they do. Whatever else may be said about this pericope, it is clear that Yeshua upholds the written Torah as having divine authority, an authority by which the traditions of men must be judged and received or dismissed accordingly. Additionally, the doctrine of the divine inspiration of Scripture brings an important truth to bear upon our topic: The inspired revelation of God cannot be, by its very definition, contradictory with itself. Therefore, we may conclude from Yeshua's words in this pericope that the "traditions of the elders" are not divinely sanctioned, for Yeshua makes it clear that in some cases they stand in opposition to the inspired commandment of God.

Matthew 23:1-3

It is not uncommon in our times to hear Messianics using this text from Matthew to teach that the oral Torah should set the pattern for how we obey God's commandments. The general line of their argument is this: since Yeshua commands His disciples to obey what the scribes and Pharisees teach, He must have recognized their authority as divinely sanctioned. A "logical" extension is then made: since the extant rabbinic literature is essentially the compilation of the Pharisees' *halachah*, it should be received by us as the collected "voice" of the Pharisees preserved for us in our day.

Then Yeshua spoke to the crowds and to His disciples, "The scribes and the Pharisees have seated themselves in the chair of Moses; therefore all that they tell you, do and observe, but do not do according to their deeds; for they say things and do not do them." (Matt 23:1-3)

The first point which should be made is to dismiss the idea that the Mishnah, Tosefta, and Talmuds which are now extant are one-and-the-same with the "oral Torah" as taught in Yeshua's day. Our previous study has shown that what we now recognize as the Mishnah reached its present form sometime between 400 and 600 CE. To posit that the Mishnah as we now have it is somewhat "equivalent" with what functioned as the "traditions of the elders" in the pre-destruction era is not only to disregard what we know about how the Mishnah was transformed from an oral to a written entity,⁶⁰ but to negate the very character of the oral Torah itself, for the essence of the oral Torah was that it must remain flexible to change and innovation.

⁶⁰ See Abraham Goldberg, "The Mishna – A Study Book of Halakha" in Samuel Safrai, ed., *The Literature of the Sages*, First Part; *Compendia Rerum Iudaicarum ad Novum Testamentum* (Fortress, 1987), pp. 215–16, who notes four layers of redaction in the Mishnah, beginning at Yavne and continuing on through the 3rd Century and later.

It happened that R. Yochanan ben Beroka and R. Elazar Hisma came from Yavne to Lod to pay honor to R. Yoshua at Pekiin. R. Yoshua asked them: what innovation (חדוּשׁ) was taught today in the House of Study? They answered: we are your disciples and it is of your water that we drink. He said: the House of Study cannot exist without innovation! [Then the two disciples pass on the *derasha* of R. Elazar ben Azaria, which concludes as follows:] Just as a plant bears fruit and multiplies, so the words of Torah bear fruit and multiply.⁶¹

This was one of the reason the sages insisted that the oral Torah remain unwritten: it was not to be a fixed text but was to be flexible, so as to meet the multifaceted needs that each successive decade would bring. Thus, it is an error to think that what the scribes and Pharisees taught from the “seat of Moses” during the time of Yeshua can be known by a study of the Mishnah, Tosefta, and Talmuds extant in our day.

But the second point is even more important: while the exact identification and function of the “seat of Moses” in 1st Century Judaism eludes us, most scholars agree that “the seat/chair of Moses” was connected with the synagogue, not the *beit midrash*. Moreover, that Yeshua speaks of the “scribes and the Pharisees” sitting in the “seat of Moses” would very likely make a connection to the written Torah, not the oral Torah. First, as noted earlier, the scribes (*soferim; grammateis*) were the preservers and transmitters of the written, biblical text, not the orally repeated traditions. Second, the fact that Yeshua states the scribes and Pharisees “sit in the seat of *Moses*” favors a linkage to the written Torah given at Sinai by the hand of Moses. Some might argue that the oral Torah was also linked to Moses, for the rabbis taught that all of the oral Torah was also revealed at Sinai. However, the rabbinic teaching that God gave the oral Torah to Moses at Sinai was not extant in the 1st Century but was first introduced by rabbis in the Amoraic period (3rd Century CE).⁶² Thus, in the time of Yeshua, there would have been no direct connection between the “seat of Moses” and the oral Torah.

Was the “seat of Moses” to which Yeshua refers an article of furniture in pre-destruction synagogues? No one can be certain, even though a number of stone chairs have been recovered in excavations of ancient synagogues in Israel.⁶³ Such uncertainty prevails because none of these excavated stone chairs have any inscriptions to identify them conclusively as the “seat of Moses.”⁶⁴ Some scholars suggest that the “seat of Moses” was a platform or table upon which the Torah scroll was placed while being read.⁶⁵ Whatever the “seat of Moses” was, it seems most likely to be linked with the Synagogue and, by virtue of it being identified with Moses, with the reading of the written Torah which was at the heart of the synagogue service.⁶⁶

That the reading of the written Torah was one of the primary activities of the 1st Century synagogue is reinforced both in the Apostolic Scriptures as well as in the rabbinic literature. In Lk 4:16ff, we see Yeshua *reading* from a scroll of the prophets in the synagogue at Nazareth. Likewise, James, during the Jerusalem council, states

⁶¹ t.Sota 7:9–10.

⁶² The opening line of m.*Avot* 1.1 claims an unbreakable chain of the oral Torah from the Sanhedrin back to Moses at Sinai. But most rabbinic scholars believe tractate Avot was added to the Mishnah later. Not only is Avot an entirely different genre (aggadah), but it has clearly been redacted, the seventh chapter being added even after the first six chapters were compiled. Strack and Stemberger favor the view of A. Guttman, who held that Avot was only inserted into the Mishnah at the late date of c. 300 CE. See Strack and Stemberger, *Introduction to the Talmud and Midrash*, Op. cit., p. 137. Likewise, Safrai writes: “The unambiguous statement that Oral Tora as such was given at Sinai is found from the early Amoraic period onwards.” (Safrai, “Oral Tora” in *The Literature of the Sages: First Part*, Op. cit., p. 57.

⁶³ See Lee Levine, *The Ancient Synagogue: The First Thousand Years* (Yale, 2000), pp. 323ff; Kenneth G. C. Newport, *The Sources and Sitz im Leben of Matthew 23* (Sheffield, 1995), pp. 81–85.

⁶⁴ The earliest mention of the “seat of Moses” in rabbinic literature is in *Pesikta de Rab Kahana*, *Piska* 1.7 (see Braude and Kapstein, *Pesikta de-Rab Kahana* [Routledge & Kegan Paul, 1975], p. 17).

⁶⁵ C. Roth, “The ‘Chair of Moses’ and Its Survivals,” *PEQ* 81 (1949), pp. 100–101.

⁶⁶ See the comments of Levine, *The Ancient Synagogue: The First Thousand Years*, p. 154.

that “Moses...is *read* in the synagogues every Shabbat” (Acts 15:21). Paul uses the same language in 2Cor 3:15 when he writes: “But to this day when Moses is *read*...” This accords with the Mount Ophel inscription (in Greek) which records the building of a synagogue and gives this description:

Theodotus the son of Vetenus, priest and *archisynagogus*, son of the *archisynagogus* and grandson of an *archisynagogus* built the synagogue for the reading of the Torah and the study of the commandments...⁶⁷

The other activity associated with the synagogue was that of prayer, so much so that προσευχή (*proseuche*, “place of prayer”) could be used to designate the place of gathering or even the building in which the συναγωγή (*sunagōgē*, “synagogue”) met.⁶⁸ Thus, based upon all of the extant data available, the reading of the Torah and prophets, the discussion of these readings, and prayer formed the primary activities in the synagogue.

In contrast, the teaching and study of the oral Torah was not the focus of the synagogue but was the primary curriculum of the *beit midrash*. Given this reality, when Yeshua speaks of the scribes and Pharisees sitting in the seat of Moses, He is making reference to their role of reading and expounding the Tanach, the written Torah. It is upon this basis that He commands His disciples: “all that they tell you, do and observe.” In short, when this text is read with the clear distinction between oral and written Torah well in mind, the distinction that was very much in place in the pre-destruction era, it fits the *reading* of the written Torah in the synagogue, not the *repeating* of the oral Torah in the *beit midrash*.⁶⁹ This is all the more reasonable when we remember that the average person did not possess a copy of the Tanach, and thus the reading and discussion of the Scriptures in the synagogue services was the primary source by which they could know and understand the Bible.

The Apostolic Scriptures: Written, not Repeated

Having seen how the careful distinction between the written and oral Torah was maintained during the period when the oral Torah was being compiled, it is important to point out that the teachings of Yeshua’s apostles were transmitted as written documents, not as oral traditions. Thus, both the form in which they were transmitted and the language associated with this process (i.e., writing and reading), classes them with the written Torah, not the oral Torah.

It would seem quite possible that the felt need to transmit the teachings of Yeshua and the narrative of His life in written rather than oral form may well have stemmed from His words, found in all three of the Synoptics: “Heaven and earth will pass away, but My words will not pass away” (Matt 24:35; Mk 13:31; Lk 21:33). This phenomenal assertion by our Messiah marks His teaching as unique and of divine authority, for it puts His teach-

⁶⁷ Quoted from S. Safrai, “The Synagogue” in *The Jewish People of the First Century*, 2 vols. in *Compendia Rerum Iudaicarum ad Novum Testamentum* (Fortress, 1987), 2.912. Safrai also notes that “Scripture reading was not part of the services in the Temple before the Babylonian exile.” Ibid.

⁶⁸ Greeven, “προσευχή” in *TDNT*, 2.808; Levine, *The Ancient Synagogue: The First Thousand Years*, pp. 153–55; cf. 1Macc 3:46. Safrai, however, makes the statement that “The primary and seminal element in the synagogue was not prayer but Scripture reading. (Ibid., p. 912).

⁶⁹ Some have contended that a 14th Century translation of Matthew into Hebrew (the “Even Bohan” or “Shem Tov” Matthew) gives a clear and unequivocal understanding of Matt 23:3 by reading “the scribes and the Pharisees sit the seat of Moses, therefore whatever *he* [i.e., Moses] says, do and observe....” However, honest textual criticism must conclude that this reading is not to be favored by any account. Of the nine extant manuscripts of the Shem Tov Matthew, only three have this alternate reading, and there is every reason to conclude that the lack of a final *shuruq* on the verb דָּבַר is better accounted for as a scribal omission than that it was a scribal addition. For a detailed description of this late text and its reading at Matt 23:3, see my *Commentary on the Gospel of Matthew*, 4.1015–19.

ing on par with the Scriptures of Moses and the Prophets:

The grass withers, the flower fades, but the word of our God stands forever. (Is 40:8, cp. 1Pet 1:24–25)

Lift up your eyes to the sky, then look to the earth beneath; For the sky will vanish like smoke, and the earth will wear out like a garment and its inhabitants will die in like manner; but My salvation will be forever, and My righteousness will not wane. (Is 51:6)

Forever, O LORD, Your word is settled in heaven. (Ps 119:89)

The fact that all of the Synoptic Gospels contain sections which are nearly verbatim with each other requires that their authors must have had access to the same written source. While modern Gospels studies have posited a “Q Document”⁷⁰ as that source, Edwards⁷¹ has compiled important data to show that an early source, written in Hebrew, was that to which the Church Fathers made reference when they spoke of having seen Matthew’s Gospel written in the Hebrew language.⁷² Edwards has shown that the quotes from this “Hebrew Matthew” used by the Church Fathers themselves do not match anything found in the canonical Matthew. He therefore proposes that a written document containing sayings and teachings of Yeshua, as well as narrative descriptions of significant events in His life, was composed (most likely by Matthew) in Hebrew and that this written document was utilized by the Synoptic authors as one of the sources for the composition of their respective canonical Gospels. Whether one fully accepts Edwards’ thesis or not, he has added evidence to the scholarly consensus that before 70 CE, written documents were circulating among the communities of The Way, and that in some cases, such written documents were used by the authors of the Synoptic Gospels. Luke, in the prologue to his Gospel, makes it clear that he used sources (possibly both oral and written⁷³) in order to “write out” (γράφω, *graphō*, 1:3) his story. Moreover, Peter, in his second epistle, refers to the fact that some distort Paul’s epistles the same way they do “the rest of the Scriptures” (τὰς λοιπὰς γραφὰς), grouping Paul’s written epistles together with those Scriptures already received as divinely given.

It is true that Paul speaks of the “traditions” (παράδοσις, *paradosis*) which he delivered to those he taught,⁷⁴ and in his second epistle to the Thessalonians he exhorts them to “stand firm and hold to them [the traditions received from him]” (2Thess 2:15). But he goes on to note in this verse that these traditions came to the Thessalonians both “by word or by our epistle” (διὰ λόγου εἴτε δι’ ἐπιστολῆς ἡμῶν). In the same epistle (2Thess 3:6), Paul uses *paradosis* (“tradition”) to describe the conduct of life which he had commended to them as followers of Yeshua. He taught them these traditions orally when he was with them (v. 10) but it is clear that Paul also wrote such *halachah* in his epistles as well (cf. 1Thess 4:1–2). Obviously the Apostles established their teaching orally as they traveled from community to community, but it must not be overlooked that they also wrote their teachings and that these writings, which became the Apostolic Scriptures, would have been viewed in the culture of the 1st Century Judaism as fixed and therefore as being viewed by the communities of The Way as authoritative on the level of Scripture, not as oral Torah that was to remain unwritten and thus to retain a fluidity open to innovation.

We may also note that in the Apostolic Scriptures themselves, statements are made which indicate that the writings of the Apostles were done under the guidance and direction of the Ruach HaKodesh, even as were the

⁷⁰ From German *quelle* meaning “source.”

⁷¹ James R. Edwards, *The Hebrew Gospel and the Development of the Synoptic Tradition* (Eerdmans, 2009).

⁷² E.g., Eusebius, *Hist. eccl.* 3.39.16; Irenaeus, *Against All Heresies* 1.26.1; Clement of Alexandria, *Stromata* 2.9.45; Hege-sippus (in Eusebius, *Hist. eccl.* 4.22.8).

⁷³ See Darrell Bock, *Luke*, 2 vols. in *Baker Exegetical Commentary on the New Testament* (Baker, 1994-96), 1.54f.

⁷⁴ 1Cor 11:2; 2Thess 2:15; 3:6.

Scriptures of the Tanach.⁷⁵ In John 14:26 Yeshua promises that the Ruach, Whom He would send, would bring to the memory of His disciples “all that I said to you.” Thus, those who were eyewitnesses of the life and teachings of Yeshua were aided by the Ruach in the process of compiling and transmitting the words and deeds of our Messiah in a written (and therefore a fixed) form, which we now know as the Gospels and Acts. Likewise, Paul spoke of his own writing as having the authority of the Lord’s commandment.

If anyone thinks he is a prophet or spiritual, let him recognize that the things which I write to you are the Lord’s commandment. (1Cor 14:37)

And we have already noted Peter’s assertion that Paul’s writings are to be grouped with “the rest of the Scriptures.” Taken together, then, these references surely indicate that the communities of The Way received the Apostolic writings as divinely inspired and therefore as authoritative Scripture. The fact that they were transmitted in written rather than oral form put them in the same class with the written Scriptures of the Tanach, at least from the perspective of the Apostles and the communities of The Way that possessed these written documents.

The Ascendency of the Oral Torah over the Written Torah

We have seen that in the 2nd through the 6th Centuries, the oral Torah was transformed from orality to a written body of literature that became the foundation upon which Rabbinic Judaism was established. The fear that committing the oral traditions to writing might elevate them to a place of equality with the written Torah, or even usurp its primary authority, motivated the tannaim to prohibit such an enterprise. In fact, their fear was realized in the Amoraic period, for the Bible eventually was placed in a subordinate position to the oral Torah. As Schiffman notes:

The displacement of the Bible was a process long in the making. Fear of such a development led the tannaim to practice a system of oral teaching designed to highlight the greater authority of the written word. The rabbis went so far as to prohibit the writing down of the oral law. Yet as the oral tradition became so extensive and complex, the distinction between the oral and written materials no longer held. More important, the ever-expanding, developing nature of the oral law attracted the best minds, leaving the written Torah to serve as a subject of elementary instruction, midrashic exegesis, and technical grammatical study by a select few. By the amoraic period, the rabbis were openly asserting the superiority of the oral law, and so it was natural that the Mishnah became the central teaching to be studied. When the amoraic commentary in the form of the Talmuds became available, this material became the new scripture of Judaism, and the authority of the Bible was no defined in terms of how it was interpreted in the rabbinic tradition. Scripture had been displaced by Talmud.⁷⁶

A similar phenomenon within the history of Christianity forms an interesting parallel. In the early centuries of the Christian Church, three primary controversies were strategic in bringing about the issue of continuity and authority. Marcion sought to sever the bond between Christian revelation and the Tanach and to isolate the Apostle Paul from the other apostles, accrediting to him the only true message about the relationship of law and gospel. A second challenge came from the rise of Gnosticism, which taught a disjunction between creation and redemption

⁷⁵ One of the primary criterium utilized by the rabbinic authorities to determine what was and was not canonical Scripture was whether the text was composed during the time in which the “Spirit of prophecy” was active. It was believed that after the deaths of Haggai, Zechariah, and Malachi, the Ruach HaKodesh ceased revealing Scripture to the prophets (cf. t.Sotah 13:2, b.Yoma 9b; b.Sotah 48b; b.Sanhedrin 11a; b.Megillah 7a).

⁷⁶ Lawrence H. Schiffman, *From Text to Tradition: A History of Second Temple & Rabbinic Judaism* (KTAV, 1991), pp. 266–67.

and made of it an ontological principle, rooted within the very nature of the divine reality itself. As such, they charged the apostles with accommodating the erroneous thought patterns of their day, which meant that true knowledge (*gnosis*) could not be derived directly from the Apostolic Scriptures, but could be acquired only through the Gnostic hermeneutic and mystical revelation. The teaching of the Montanists brought a third challenge to the early Christian Church. Their view was that since the time of the apostles, the church had fallen away from the truth through worldliness and compromises to its teaching. They taught that the true succession from the apostles lay with those who, like the apostles, continued to receive divine revelations in all subsequent generations. Thus, the Montanists claimed to possess the prophetic office as a continuous succession to the earlier prophets and apostles.

These primary controversies with which the early emerging Christian Church was engaged all centered on a key issue: What was to constitute divine authority for the Church following the apostolic era? Marcion, along with Valentinus and his Gnostic teaching, as well as the Montanists, were condemned as heretics and their teaching likewise condemned by the Church councils. Divine authority was not to be vested in Pauline theology as distinct and separate from the rest of Scripture, nor was it dependent upon mystical revelations within the dualistic worldview of Gnosticism nor the ongoing voice of Montanist prophets in each successive generation. Rather, the divine will of God was to be known in the Church through two combined channels—the canonical Scriptures and the collective teachings of the Bishops, who (it was claimed) formed an unbroken succession with the Apostles themselves.⁷⁷

Thus, early in the history of the Christian Church, the Scriptures were paired with the oral authority of the Bishops, apart from which, it was taught, the Scriptures had no authority. Just as the written Torah was eventually subjugated to the authority of the oral Torah in Rabbinic Judaism, so the Roman Catholic Church put the authority of the Bible as secondary to that of its magisterium. So sure was the Church that the written Scriptures could not be rightly used without the interpretive function of the magisterium, that when the Bible was being translated and published in the vernacular of the people in the 16th Century, it was the Roman Catholic Church who went about destroying printed Bibles and executing those who dared to translate it for the people. Clearly tradition had usurped the authority of the Bible itself.

Interestingly, a very similar phenomenon occurred in the development of Islam. The central sacred text of Islam was the Quran, which was said to be written by Muhammad between 609 and the year of his death, 632, being verbally revealed from God through the angel *Jibrīl* (Gabriel). Shortly after the death of Muhammad, the first caliph, Abu Bakr, compiled Muhammad's writings into a single book. By the time of the third caliph (Uthman), issues of pronunciation of the Arabic prompted the need for a committee to compile an authorized version of the Quran with added diacritical marks to assure proper pronunciation in the Quraish dialect. It is traditionally thought that this authorized version of the Quran was based upon a text in the possession of Hafsa, Muhammad's widow.

However, the written Quran did not deal sufficiently with all issues of jurisprudence nor with detailed descriptions of manners and customs which Muhammad himself practiced. As such, the companions (*saḥāba*) of Muhammad, began to teach the *sunna*, the actions, sayings, virtues, opinions, and ways of life of Muhammad. These were primarily taught orally, though some wrote them down for their own use. By the end of the Umayyad period (c. 750 CE), the *sunna* were compiled into a written form known as the *Hadith*. The oldest extant documents of the *Hadith* are a fragment on papyrus dated to c. 790 CE, found in Egypt and containing traditions which are

⁷⁷ See Jaroslav Pelikan, *The Christian Tradition: A History of the Development of Doctrine*, 5 vols. (Univ of Chicago, 1971), 1.108ff; The dogma of Apostolic Succession in the Roman Catholic Church is stated plainly in The Council of Trent, 4th Decree.

mainly of an eschatological nature.

In the subsequent decades following the writing of the *Hadith*, many more traditions were added, so much so that by 9th Century, six collections of *hadiths* were written and accepted as reliable by Muslims. Two of these (those by Muslim [d. 875] and al-Bukhāri) were particularly esteemed. Muslim's *hadith* contains 7,275 traditions which the author selected from about 200,000 that had been collected.⁷⁸

Ultimately, the question of what to do with contradictions between the Quran and the *Hadith* created factions within Islam, some demanding that the Quran take precedence while others giving greater credence to the traditions. In modern times, the majority of Islamic clerics consider the *Hadith* to have given the proper interpretation of the Quran, and thus the *Hadith*, originally existing in oral tradition, became the written documents through which the Quran was to be interpreted. Thus, in Islam as in Rabbinic Judaism and Christianity, the oral tradition as held and transmitted by the religious leaders, eventually was committed to writing and thus became a fixed text. As a result, the traditions which began as oral and became written took precedence over the Quran, that which was originally the primary, sacred text of Islam.

Summary

Below is a summary of the main points I have attempted to substantiate in the above essay.

1. It is clear that in the late 2nd Temple period, a marked distinction was maintained between the “oral traditions,” also called “the traditions of the fathers,” and the written Scriptures, the Tanach. In the Talmudic era, these were respectively called “oral Torah” (תּוֹרָה שֶׁבְּעַל פֶּה) and “written Torah” (תּוֹרָה שֶׁבְּכַתָּב).
2. The distinction between the oral and written Torah is evident, not only in its subject matter, but also in the terminology consistently used for the study and transmission of each. The oral Torah is spoken of as *repeated* (שָׁנָה) and thus the substance of the oral Torah is called *mishnah* (מִשְׁנָה, that which is repeated). Likewise, the study of the oral Torah is located in the *beit midrash*, where the teacher would recite and the students would repeat. The common mode of learning and transmitting the oral Torah was that of oral repetition and memorization.
3. In distinction to the oral Torah, the written Torah was *read* (קָרָא) and *written* (מְקָרָא). Moreover, the study of the written Torah took place in the *beit sefer* which was connected to the synagogue, and where *reading* and *writing* were the core activities.
4. In order to maintain the clear distinction between the written and oral Torah, certain prohibitions were enacted: The written Torah could not be written out from memory, but had to be copied from a written source. Conversely, it was prohibited to write the oral Torah or to learn it from a written source. It seems most likely that these measures, taken to assure that the written and oral Torahs were kept distinct, had as their primary purpose to assure that the written Torah would remain the primary authority in the life of the Jewish people.
5. The most common tradition is that the oral Torah was first compiled in writing by the end of the 2nd Century CE by R. Yehudah HaNasi. However, it appears that he wrote his Mishnah in order to preserve it in the face of growing persecution and dispersion of the Jewish people but did not to produce a standardized, fixed Mishnah. For he did not deposit it as an authoritative copy, nor make copies of it for others. The wider availability of the oral Torah in written form (i.e., its publication) did not take place until the Talmudic period, i.e., 4th

⁷⁸ Meir Jacob Kister and Haim Z'ew Hirschberg, “Hadith” in *Encyclopedia Judaica*, 7.1051–52. See also Fred Astren, *Karaite Judaism and Historical Understanding* (Univ of S. Carolina Press, 2004), Chapter 1 (pp. 23ff), “The Islamic Context of Jewish History.”

Century and later. This means that the Mishnah and subsequent documents which comprise the literature of the oral Torah were not universally possessed, read, and studied throughout the dispersed Jewish communities until the end of the Talmudic period (6th Century).

6. Once the oral Torah was committed to writing and published more broadly throughout world Jewry, it became the primary focus of study and dialog, eventually replacing the Bible as the authority by which the Judaism of the world would be governed and defined. A similar phenomenon (oral tradition gaining precedence over sacred written texts) occurred in the history of Christianity and Islam.
7. When we look in the Gospels to discover how Yeshua viewed the relationship of the Scriptures and the “traditions of the elders,” we see His consistent emphasis upon the Scriptures (written Torah) as endowed with divine authority in contrast to the “traditions of the elders” which He considered the rulings of men and therefore as necessarily subservient to the Scriptures. This is clear in Matt 15:1–9 (Mk 7:1–9) where Yeshua reprimands the Pharisees for neglecting to keep the commandments of God in order to adhere to the “traditions of the elder.” Similarly, in Matt 23:1–3, the authority of those who sit in the seat of Moses is vested in their reading and expounding the written Torah, for this was the primary focus of the synagogue service, where, it is most likely, the “seat of Moses” was to be found.
8. Given the fact that the Jewish leaders required the oral Torah to remain oral and unwritten, and this in order to give precedence to the written Torah, it is significant that the Apostles adopted writing as the means of transmitting their teaching, for in doing so, they clearly gave the appearance of holding their teachings to be on par with the written Torah (Tanach). This perspective may well have been based upon Yeshua statement: “Heaven and earth will pass away, but my words will not pass away” (Matt 24:35; Mark 13:31; Luke 21:33). Thus, when the Apostles wrote, they did so as passing on the eternal teachings of Yeshua, as having the same authority as the word of God revealed in the Tanach.

Conclusion

The primary purpose of this study was to investigate the historical background of the oral Torah. Such historical background is needed to assess the claim, currently being taught by some in the Messianic movement, that as followers of Yeshua who have embraced the Torah as the pattern of righteous living for God’s people, we should receive the rabbinic literature (oral Torah) of our day as the divinely authoritative guideline describing the manner in which God intends His people to keep His commandments.

Our study has shown some clear problems with this teaching.

1. The “oral Torah” as we have it today is clearly not one and the same with the oral Torah of the late 2nd Temple period. Therefore, it is wrong to read the extant rabbinic literature and presume that it embodies the voice of authority in a continuous chain back to the beliefs and practices of the 1st Century.
2. Since the oral Torah was not written and published until the Talmudic era or even later, it is wrong to presume that there was a “universally accepted” oral Torah in the time of Yeshua. It is likewise presumptuous to think that the traditions of the elders were widely studied and practiced by the diverse sects of Judaism in the 1st Century. Such a monolithic approach to the oral Torah is anachronistic, reading the later rabbinic literature (the written form of the oral Torah) back into the 1st Century. The argument that “Yeshua obeyed the oral Torah” or that Rabbinic Judaism of our day was the Judaism which Yeshua practiced is therefore a *non sequitur*.
3. Moreover, we see in the teaching of Yeshua (Matt 15:1–9; Mk 7:1–9) that He held the written Torah, the Scriptures, as having supreme and final authority by which the “traditions of the elders” were to be judged.

Consistently throughout the Apostolic Scriptures we see Yeshua and His Apostles appealing to the written Torah, not the oral traditions, as the divine and special revelation of God for His people. And Luke, in writing Acts, commends the Bereans, “for they received the word with great eagerness, examining the Scriptures daily to see whether these things were so” (Acts 17:11). Nowhere in the Apostolic Scriptures are the traditions of the elders specifically appealed to as providing divinely appropriated guidance for God’s people to walk righteously as He desires.

4. The appeal to Deut 17:8ff, that the priests were authorized as judges who speak for God, and that this would give a precedence for divine authority invested in the oral Torah,⁷⁹ misses the point. The priests were a special class of servants who were to teach the people the commandments of God (Lev 10:11; Deut 17:10; 33:10). That judgment is put in their hands means that they were to apply the commandments of God (written Torah) to the special cases that came before them. They did not make case law which was then compiled as a universal precedent for future generations. They dealt with each individual case brought before them, determining how the written Torah of Moses was to be applied. They were not commissioned to make new laws nor to alter the statutes and ordinances given by God to Moses. They were given authority simply to administer the written Torah in accordance with their wisdom and knowledge.
5. We see, then, that there is no historical nor biblical case for accepting oral Torah as divinely sanctioned. Even the suggestion itself is ill-founded, for it both presumes a monolithic “oral Torah” and that the rabbinic authorities who formulated and compiled the current corpus of rabbinic literature did so by the leading of God. The first idea, that there ever existed or now exists a universally accepted “oral Torah” is an idea outside the realm of reality, and the second idea has no support whatsoever from Scripture, and even falters in light of the Scriptures (Matt 15:14; 23:3; Col 2:8, 16-17; Gal 4:25).
6. Our conclusion is that, while the rabbinic literature does have much value, it is not to be received as having divine authority in matters of our faith and *halachah*. The value of the rabbinic literature may be summed in several categories:
 - a. It is valuable for the study of the history of Judaism and particularly for understanding the development of rabbinic Judaism.
 - b. If judicially used, it can offer an important window into the Judaism of the late 2nd Temple period, and thus provide some aid in understanding the historical, cultural, and even grammatical background of the Apostolic Scriptures.
 - c. The oral traditions of the scribes, which deal with textual issues of the biblical text (i.e., the Masorah), is very valuable for ascertaining matters of textual criticism of the Hebrew Bible.
 - d. The oral Torah offers important insights into the perspectives, beliefs, and worldview of modern Judaism, and therefore aids Messianic believers in appreciating and understanding the religious perspectives of observant Jews in our own day.
7. As we avail ourselves of the wealth of rabbinic literature and gain value from the study of it, we must also keep well in mind that it is the product of men and not that of divine revelation. It does not come to us with any sense of a divine *imprimatur*⁸⁰ nor should the rabbinic literature be considered as

⁷⁹ This is the line of argumentation proposed by Mark Kinzer, *Post-Missionary Messianic Judaism* (Brazos, 2005), pp. 238ff.

⁸⁰ Latin for “let it be printed,” indicating that a book has received the approval of religious leaders and therefore to be received by those under their authority. The term is most often used in our day with regard to approved literature by the Roman Catholic Church for its members, but the term has also become more generally used simply to mean that which has a mark of approval or endorsement.

having a sacred value greater than the works of non-rabbinic authors or sources. All the writings of men must be equally scrutinized in the light of the eternal word of God, the Bible. Where there is agreement, the teaching should be received, but to whatever extent there is a disagreement, the Bible must remain the touchstone judging all things. Only to the extent that we remain faithful to the divinely inspired word of God as revealed to us in the Scriptures will we remain faithful to our calling in Yeshua, our Messiah.