Journey Through Jewish Law, Part 1: From Sinai to the Talmud

1. Rambam (12th century Spain/Egypt), Commentary to Mishnah, Sanhedrin ch. 10

The eighth Fundamental Principle of Judaism is that the Torah is from Heaven. This means that we must believe that this entire Torah, which was given to us from Moshe Our Teacher, may he rest in peace, is entirely from the mouth of the Almighty. [1313 BCE]

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

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

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

2. Rashi (11th century France), Commentary to Vayikra 26:46

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

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

אֶלֶה הַחֻקִּים וְהַמִּשְׁפָּטִים וְהַתּוֹרֹת אֲשֶׁר נָתַן ה' בֵּינוֹ וּבֵין בָּנֵי יִשְׂרַאָל בָּהַר סִינַי בָּיֵד מֹשֶה.

"וְהַתּוֹרֹת": אַחַת בִּכְתָב וְאַחַת בְּעֵל פֶּה, מַגִּיד שֶׁכֵּלֶם נִתְּנוּ לִמשָׁה בַּסִינִי.

3. Devarim 9:10 and Talmud Yerushalmi, Megillah 28a

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

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

וַיָּתֵּן ה' אֵלֵי אֶת־שְׁנֵי לוּחָת הָאֲכָנִּים כְּחֻבִּים בְּאֶצְבַּע אֶלֹקִים וַעֲלֵיהָם כְּכָל־הַדְּבָרִים אָשֶׁר דִּבֶּר ה' עִמֶּכֶם בָּחָר מִתּוֹד הָאֵשׁ בְּיָוֹם הַקָּהָל.

אָמֵר רָבִּי יְהוֹשֵׁעַ בֶּן לֵּוי: עֲלֵיהֶם "וְּעֲלֵיהֶׁם", דְּכַּרִים "הַדְּבָרִים", כָּל "בְּּכָל". מִקְרָא מִשְׁנָה וְתַלְמוּד וָאֲגָדָה. וַאֲפִילוּ מַה שֶׁתַּלְמִיד ווָתִיק עָתִיד לְהוֹרוֹת לִפְנֵי רַבּוֹ כְּבָר נָאֱמַר לְמֹשֶׁה מִסִּינַי. הָדָא הוּא דְכְתִיב "גַשְׁ דָּבֶר שֶׁיֹאמַר רְאֵה־זֶה תָּדָשׁ הָוּא?" וַחֲבֵירוֹ מֵשִׁיבוֹ: "כְּבָר הָיָה לְעוֹלְמִים אָצֶר הָיוּ מִלְּפָנֵינוּ."

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4. Midrash, Shemot Rabbah (Vilna) 41

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

וָכִי כַּל הַתּוֹרָה לַמַד משֶׁה? כָּתִיב בַּתּוֹרָה (איוב יא, ט): אָרֶכָּה מֵאֶרֶץ מִדָּה וּרְחָבָה מִנִּי יָם", וּלְאַרְבָּעִים יוֹם לְמָדָה" משֶׁה?! אֵלָא כָּלַלִים לִמְדַהוּ הַקַּדוֹשׁ בַּרוּךְ הוּא לִמשֶׁה.

5. Shemot 34:27

G-d said to Moshe, "Write these words down for yourself, since it is through these words (lit. by word of mouth) that I have made a covenant with you and Israel."

ַוַיָּאמֶר ה' אֶל־משֶׁה כְּתָב־לְךָּ אֶת־הַדְּבָרִים הָאֵלֶה כִּי עַל־פִּי ַ הַדְבַרִים הַאֵּלֵה כַּרָתִּי אָתִּךְ בִּרָית וָאַת־יִשְׂרַאֵּל.

6. Talmud Bavli, Gittin 60b (3rd century CE, Land of Israel)

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

דרש רבי יהודה בר נחמני מְתוּרְגָּמניה דרבי שמעון בן ַלקיש, כתיב: (שמות ל"ד) "כְּתָב־לְךָּ אֶת־הַדְּבָרֵים הָאֵלֶה" (אלמא נכתבה) וכתיב: (שמות ל"ד) "כִּי עַל פִּי הַדְּבָרִים הַאֵּלֵה" (אלמא לא נכתבה), הא כיצד? דברים שבכתב אי אתה רשאי לאומרן על פה, דברים שבעל פה אי אתה רשאי לאומרן בכתב.

A Tanna of the school of Rabbi Ishmael taught: דבי רבי ישמעאל תנא: "אָלֵה" - אלה אתה כותב, ואי [It is written] "[Write] these [words down]" – these you may write (i.e. the Written Torah), but you may not write Halachah (i.e., the Oral Torah).

אתה כותב הלכות.

7. Rabbeinu Nissim (14th c. Spain), Commentary on Talmud Bavli, Megillah 14a

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

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

8. Mishnah, Avot 1:1

Moshe received the Torah from Sinai [14th century BCE] and gave it over to Yehoshua. Yehoshua gave it over to the Elders, the Elders to the Prophets, and the Prophets gave it over to the Men of the Great Assembly [4th century BCE]

ָמשֶׁה קבֵּל תּוֹרָה מִסִּינֵי, וּמְסָרָה לִיהוֹשֻׁעַ, וִיהוֹשֵׁעַ לְזְקֵנִים, וּוְקֵנִים לְנְבִיאִים, וּנְבִיאִים מְסָרוּהָ לְאַנְשֵׁי כְנֶסֶת הַגְּדוֹלָה...

9. Rambam, Introduction to Mishneh Torah

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

Such had always been done, until the time of Rabbi Yehudah HaNasi. He gathered together all the traditions, enactments, explanations and interpretations that had been heard from Moshe ברבים ונגלה לכל ישראל וכתבוהו כולם. ורבצו בכלן Our Teacher or had been deduced by the courts of all the generations regarding all Torah matters; and he wrote the Book of the Mishnah from all of them. He taught it publicly to scholars, and it became known to all Israel; everyone wrote it down and taught it everywhere, so that the Oral Torah would not be forgotten by Israel. [~189 CE]

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

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

וכן היה הדבר תמיד עד רבינו הקדוש והוא קיבץ כל השמועות וכל הדינים וכל הביאורים והפירושים ששמעו ממשה רבינו ושלמדו בית דין שבכל דור ודור בכל התורה כולה וחיבר מהכל ספר המשנה. ושננו לחכמים מקום. כדי שלא תשתכח תורה שבעל פה מישראל.

ולמה עשה רבינו הקדוש כך ולא הניח הדבר כמות And why did Rabbi Yehudah HaNasi do so, and שהיה? לפי שראה שתלמידים מתמעטין והולכין והצרות מתחדשות ובאות ומלכות רומי פושטת בעולם ומתגברת. להיות ביד כולם כדי שילמדוהו במהרה ולא ישכח. וישב כל ימיו הוא ובית דינו ולמדו המשנה ברבים.

10. Rabbi Moshe ben Yaakov (13th century France), Sefer Mitzvot Gadol, Introduction to Negative Commandments

who is called simply "Rebbi" in the Mishnah, G-d הקדוש ברוך הוא חן בעיני אנטונינוס מלך רומי וקיבץ כל enabled him to find favor in the eyes of the Roman Caesar Antoninus. He (Rebbi) gathered all the Sages of the provinces and founded the six Orders of the Mishnah according to tradition.

In the days of our holy Rabbi [Yehudah HaNasi], ובימי רבינו הקדוש הקרוי "רבי" בלשון משנה שנתן לו חכמי הארצות ויסד ששה סדרי משנה על פי הקבלה.

11. ibid

After [the writing of the Mishnah], the Jews were subjected to terrible persecution. The Sages became dispersed, their intellectual capacities became limited and their questions about the Mishnah became increasingly difficult to resolve. The *Amora'im* [Sages of the Talmudic era] – Rav in Babylonia and Rav Yochanan in Israel, as well as their students after them – arose and clarified the explanations of the Mishnah and the rationale behind the disparate views presented therein. As time passed, the people were scattered throughout the world and the Sages of each land were not able to find common ground in explaining the Mishnah. Finally, Rav Ashi arose 358 years after the destruction of the Temple...

ואחרי כן עמדו צרות רבות ונתפזרו חכמי הדורות ונולדו ספיקות בביאור המשנה מפני שנתמעטו הלבבות. ועמדו אמוראים, רב בבבל ורבי יוחנן בארץ ישראל, ותלמידיהם אחריהם, וביארו טעמי המשנה ומחלקותיה כאשר האריך הזמן מפני הפיזור הגדול ולא היו חכמי הארצות בדעה אחת ובהסכמה אחת בפירוש המשנה עד שעמד רב אשי בשלש מאות ושמונה וחמשים שנה אחר...

Rav Ashi was the head of the yeshivot in the exiled Jewish community. Since the time of Rabbi ומימות ר' עד רב אשי לא מצינו תורה וגדולה במקום אחד [Yehudah HaNasi], no other individual had enjoyed such a combination of enormous material בעיני מלך פרס ושלח וקיבץ כל חכמי ישראל שבכל wealth and Torah erudition (Sanhedrin 36a, Gittin הארצות והוא המשנה על מתכונתו, והוא הנקרא 59a). G-d gave him favor in the eyes of the Persian king and he convened all the Sages of Israel from each country and they compiled the certified explanation of the Mishnah. This is what is called the Babylonian Talmud, and it was composed with the unanimous consent of all the Sages of that generation. [~427 CE]

האיש ההוא רב אשי היה ראש ישיבות גליות ישראל. סנהדרין לו, א גיטין נט, א), ונתן לו הקדוש ברוך הוא חן תלמוד בבלי, וסדרוהו בהסכמת כל חכמי הדור.

12. Rambam, Introduction to Mishneh Torah

Ravina and Rav Ashi and their colleagues were thus the last of the great Torah scholars of Israel who transmitted the Oral Torah in its entirety.

נמצא רבינא ורב אשי וחבריהם סוף גדולי חכמי ישראל המעתיקים תורה שבעל פה.

They were also the last to enact gezeirot and takanot ושגזרו גזירות והתקינו התקנות והנהיגו מנהגות ופשטו or to introduce binding customs. The gezeirot, takanot and customs that they instituted became law for all the people of Israel wherever they lived. After this period when the court of Rav Ashi composed the Talmud and his son

גזירותם ותקנותם ומנהגותם בכל ישראל בכל מקומות מושבותם ואחר בית דין של רב אשי שחיבר הגמרא וגמרו בימי בנו נתפזרו ישראל בכל הארצות פיזור יתר. completed it, the people of Israel were dispersed far more than they had been until then.

After the sealing of the Talmud, any rabbinical or a custom and imposed it on that city or a number of cities could not possibly be ratified by the entire Jewish nation. People lived too far away and travel was dangerous. Furthermore, the rabbinical court of any particular town has the status of an individual; the institution of Sanhedrin, a court consisting of seventy-one members, had ceased to function a number of years before the Talmud was composed.

וכל בית דין שעמד אחר הגמרא בכל מדינה ומדינה וגזר או court in any city that instituted a gezeirah, a takanah א לבני מדינתו או לבני מדינתו או לבני מדינות רבות לא פשטו מעשיו בכל ישראל מפני רחוק מושבותיהם ושבוש הדרכים. והיות בית דין של אותה המדינה יחידים ובית דין הגדול של שבעים ואחד בטל מכמה שנים קודם חיבור הגמרא.

13. Artscroll Talmud Yerushalmi, Berachos, Volume I, Preface, p. xxiv

The **Talmud Yerushalmi** is one of the fundamental components of the Oral Law...From about 200-350 CE, roughly five generations of Talmudic Sages flourished in the Galilee, the northern part of the land of Israel...Their task was never easy. They lived under brutal Roman occupation and there were periodic episodes of pogrom and persecution. But Torah is the lifeblood of the nation, and with stubborn courage and unfathomable dedication, they persevered, until finally, ruthless anti-Semitism decimated the lands' yeshivot, and the voice of Torah in the land of Israel was silenced. Their teachings lived on, however, in the Talmud Yerushalmi.

The Sages forced to leave the land of Israel joined the Sages already living in Babylonia to continue to teach the Talmud. The period of the Babylonian Talmud lasted for another 150 years, which made it possible for the Babylonian Talmud to be redacted and edited. Its text was refined and its halachic rulings clarified. This had not been possible for the Yerushalmi. In a sense, its sun had set at midday, before it could be put into final form.

14. Rabbi Yitzchak Alfasi (11th century Morocco), Sefer HaHalachot to Talmud Bavli, Eruvin 35b

Although (in this case under discussion) the Talmud Yerushalmi ruled that this is forbidden, we pay no attention to it since our Talmud (the Bavli) ruled that it is permitted. We rely on the rulings of our Talmud since it was edited and written later [than the Yerushalmi]. The Amora'im of the Bavli certainly understood what the Talmud Yerushalmi means better than we do. If they had not been certain that the ruling found in the Talmud Yerushalmi is unreliable, they would not have ruled that this is permitted.

ואנן לא סבירא לן הכי דכיון דסוגיין דגמרא דילן להתירא. לא איכפת לן במאי דאסרי בגמרא דבני מערבא, דעל גמרא דילן סמכינן דבתרא הוא, ואינהו הוי בקיאי בגמ' דבני מערבא טפי מינן. ואי לאו דקים להו דהאי מימרא דבני מערבא לאו דסמכא הוא, לא קא שרו ליה אינהו.

13. Itabbi Bavilence inclenicity vivi vinavilence inclenicities	15.	Rabbi	Lawrence	Kelemen,	www.lawrencekelemen.com
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Moshe	Mar Chanan Me-Ashkaya (608)	R' Shmuel ben Meir (Rashbam) (1174)
Yehoshua	Rav Mari	R' Yaakov ben Meir (Rabbenu Tam)
Pinchas	Ray Chana Gaon	(1171)
Eli	Mar Rav Rava	Eliezer Me-Metz (1175)
Shmuel	Rav Busai (689)	Rokeach (1238)
David	Mar Rav Huna Mari	R' Yitzchak of Vienna (Ohr Zarua)
Achiah	Mar Rav Chiyah Me-Mishan	Rav Meir of Rothenberg (1293)
Eliyahu	Mar Ravyah	R' Yitzchak of Duren (Shaarei Dura)
Elishah	Mar Rav Natronai	R' Alexander Zusiein HaKohen
Yehoyada	Mar Rav Yehuda (739)	(Agudah) (1348)
Zechariah	Mar Rav Yosef (748)	Meir Bar Baruch Halevi (1390)
Hoshea	Mar Ray Shmuel	R' Yaakov Moelin (Maharil) (1427)
Amos	Mar Rav Natroi Kahana	R' Yisroel Isserlein (Trumas
Yeshayahu	Mar Rav Avrohom Kahana (761)	Hadeshen) (1460)
Michah	Mar Rav Dodai	R' Sholom of Neustadt
Yoel	Rav Chananya (771)	R' Tavoli
Nachum	Rav Malka (773)	Rabbi Yaakov Margolies (1501)
Chavakuk	Mar Rav Rava	Rabbi Yaakov Pollak (1530)
Tzefaniah	Mar Rav Shinoi (782)	Rabbi Sholom Shachna (1558)
Yirmiyahu	Mar Rav Huna Mar Halevi (788)	Rabbi Moshe Isserles "Rama" (1572)
Baruch	Mar Rav Menasheh (796)	Rabbi Yehoshua Falk Katz (1614)
Ezra	Mar Rav Yeshaya Halevi (804)	Rabbi Naftoli Hirsch ben Pesachya
Shimon HaTzadik (310 B.C.E.)	Mar Rav Kahana Gaon (797)	(1650)
Antigonus of Socho (305 B.C.É.)	Mar Rav Yosef	Rabbi Moshe Rivkas – "Be'er
Yosi ben Yoezer and	Mar Rav Ibomai Gaon (814)	Hagolah" (1671)
Yosef ben Yochanon (280 B.C.E.)	Mar Rav Yosef	Rabbi Avraham Gombiner (1682)
Yehoshua ben Prachya and	Mar Rav Avrohom	Rabbi Moshe Kramer (1688)
Nitai of Arbel (243 B.C.E.)	Mar Rav Yosef (834)	Rabbi Eliyahu Chasid (1710)
Yehuda ben Tabai and	Mar Rav Yitzchak (839)	Rabbi Yissachar Ber (1740)
Shimon ben Shetach (198 B.C.E.)	Mar Rav Yosef (841)	Rabbi Shlomo Zalman (1765)
Shmaya & Avtalyon (140 B.C.E.)	Mar Rav Poltoi (858)	Rabbi Eliyahu Kramer – "Vilna
Hillel & Shammai (40 B.C.E.)	Mar Rav Achai Kahana	Gaon" (1797)
Rabban Shimon (10 B.C.E.)	Mar Rav Menachem (860)	Rabbi Chaim Voloziner (1821)
Rabban Gamliel Hazaken (20 C.E.)	Mar Rav Matisyahu (869)	Rabbi Zundel of Salant (1866)
Rav Shimon ben Gamliel (50)	Mar Rav Abba	Rabbi Yisroel Salanter (1883)
Rabban Gamliel (90)	Mar Rav Tzemach Gaon (891)	Rabbi Simcha Zissel Ziv Broide
Rabban Shimon (140)	Mar Rav Hai Gaon (897)	(1889)
Rabbi Yehuda Hanasi (180)	Mar Rav Kimoi Gaon (905)	Rabbi Nosson Zvi Finkel, the Alter of
Rav, Shmuel, and Rabbi Yochanan	Mar Rav Yehuda (917)	Slabodka (1927)
(230)	Mar Rav Mevasser Kahana Gaon	Rabbi Isser Zalman Meltzer (1953)
Rav Huna (270)	(926)	Rabbi Elazar Menachem Man Shach
Rabbah (310)	Rav Kohen Tzedek (935)	2001
Rava (340)	Mar Rav Tzemach Gaon (937)	
Rav Ashi (420)	Rav Chaninah Gaon (943)	
Rafram (443)	Mar Rav Aharon Hacohen (959)	
Rav Sama B'rei d'Rava (476)	Mar Rav Nechemiah (968)	
Rav Yosi (514)	Rav Sherirah Gaon (1006)	
Rav Simonia	Meshulam Hagadol	
Rav Ravoi Me-Rov (589)	Rav Gershom Meor Hagolah (1040)	
Mar Rav Chaninah Gaon Kahana	Rav Yaakov ben Yakar (1064)	
(785)	Rav Shlomo Yitzchaki – "Rashi"	
	(1105)	