

דברים

BRIEF HISTORY OF *TORAH SHEBE'AL PEH*

The nature of the book of *Devarim*, “*Mishneh Torah*,” is a source of debate between the *Rishonim* and *Acharonim*. The Ramban introduces *Parshas Devarim* by declaring that the book is a review of the entire Torah. It was meant as a primer for those who were about to enter *Eretz Yisrael*, and it was to warn them to observe the *mitzvos* and to explain areas that required further clarification (see also *Ramban Vayikra* 25:1). The Abarbanel begs to differ. He maintains that *Devarim* is neither a book of warning nor a book of instruction, but was intended instead to explain those issues about which questions had arisen. Certain events in the *midbar* had caused the people to develop doubts about various *mitzvos* and beliefs. In an effort to clarify improperly understood ideas and to correct erroneous views which had developed among the people, Hashem saw the necessity for a Book of *Devarim*. The Vilna *Ga'on* asserts that the book is divided into three distinct areas and purposes. The first section was fashioned to contain words of admonishment. The second section reviews the *mitzvos*, while the third section deals with the blessings and curses. What follows is a fascinating quest as we try to understand the development of Torah as we have it today.

All the Torah, both *Torah Shebeksav* and *Torah Shebe'al Peh* were given to Moshe at *Har Sinai*. *Torah Shebeksav* is the Five Books of Moshe, while *Torah Shebe'al Peh* consists of *Nevi'im*, *Kesuvim*, the *Mishnah* and the *Gemara* (*Berachos* 5•). Also included in the latter are the novellae, written by the later writers (*Yerushalmi Peah* 13•). At *Har Sinai*, Moshe was not given every specific detail of *Torah Shebe'al Peh*, but he was apprised of all the generalities (*Shemos Rabbah* 41:6; see Ramban, *Devarim* 1:1).

When *Klal Yisrael* first resided in *Eretz Yisrael*, the only written works they possessed were the Five Books of Moshe and the Book of *Yehoshua*. Unlike other great civilizations, *Klal Yisrael* initially did not have a vast literature. There was an injunction against writing books. Once we possessed the written word, dictated by Hashem to Moshe, who would have the audacity to promote his own book in the same arena? It was only with great trepidation that additional works were introduced into *Torah Shebe'al Peh*.

Up until the time of the exile of the *Aseres Hashevatim* — Ten Tribes — which was 133 years prior to the destruction of the first *Beis Hamikdash*, about 757 years after Sinai, only the Five Books of Moshe and the Book of *Yehoshua* were prevalent among *Klal Yisrael*. When Sancheriv commanded that the priests of the exiled *Aseres Hashevatim* return to Samaria to teach the new inhabitants of the Northern Kingdom of Israel “*es mishpat Elokei ha'aretz*” — “the law of the G-d of the land” (*Melachim* II 17:27) — these were the two works which they taught.

From the time of Shemuel (about 400 years after Yehoshua) until the last of the *Anshei Keneses Hagedolah* (about 100 years after the construction of the Second *Beis Hamikdash*), the words of the *Nevi'im* and *Kesuvim* were redacted (over a period of about 600 years). The *Navi* was mandated by Hashem to possess several important physical attributes. He had to be physically powerful, wealthy, wise, and humble (*Nedarim* 38•), tall (*Shabbos* 92•), and of course, proficient in oratory (*Beis Hatalmid* 4:203). Hashem spoke to the *Navi*, but the *Navi* was given great latitude in the way he chose to describe his prophecy. Hence, each of the *Nevi'im* and *Kesuvim* have a different literary style and flavor (*Yalkut, Hoshea* 12:11).

At *Kabalas Hatorah*, Moshe received both the Five Books of *Moshe* and the oral tradition. The oral tradition was in the form of an early *Mishnah* — it consisted of a brief collection of dictums which elaborated on the laws of the Torah (see Rashi, *Devarim* 12:28). It is impossible to decipher the intent of the Torah without the explanatory notes of the *Mishnah*. The Halachic presentation of the Torah is of a very general nature and requires explanation. What, for instance, is the precise intent of the first *mitzvah* of the Torah, “Be fruitful and multiply”? Does the Torah intend this statement as a blessing or a command, is it the responsibility of the male or female, how many children must one have, and of which gender? Also, the Torah contains what on the surface appear to be contradictions. For example: one *pasuk* stipulates “Seven days shall you eat *matzah*” (*Shemos* 12:15), and another *pasuk* states “Six days shall you eat *matzah*” (*Devarim* 16:8). Without the explanatory notes of the early *Mishnah*, the “Five Books of Moshe” would not have been understood at all.

The early *Mishnah* successfully served as a commentary on the *halachos* of the Torah up until the period in which the *Tzedokim* — Sadducees — gained power (about 180 years prior to the destruction of the second *Beis Hamikdash*), a period of about 1200 years. The *Chashmonaim* gained power over *Klal Yisrael* 206 years prior to the destruction of the second *Beis Hamikdash*. Yochanan Hyrcanus (*Berachos* 29•), one of the *Chashmonaim* kings, embraced the *Tzedokim* and effected a political alliance with them. They were arrogant, tyrannical oppressors of *Klal Yisrael*. They controlled all facets of the *Beis Hamikdash* and crippled the ability of *Klal Yisrael* to adhere to *Torah Shebe'al Peh*. (The *Tzedokim* were strict literalists, who followed only the plain meaning of the words of the Torah, and their culture was greatly influenced by the Greek environment in which they lived.) This resulted in a certain amount of *Torah Shebe'al Peh* being forgotten, and there arose doubt and confusion about *halachah*. During that period, *Klal Yisrael* was disheartened and burdened with turmoil which culminated in halachic errors (*Tosafos Yom Tov*, Introduction to the *Mishnah*). The Tannaic era was ushered in with the assumption of the position of *Nasi* by Hillel *Hazakein*, who emigrated from Bavel to *Eretz Yisrael* about 100 years prior to the second *churban*. Three years earlier, Herod overthrew the last of the *Chashmonaim* kings and established a dynasty which would last up until the *churban*. Simultaneous with his overthrow of the *Chashmonaim*, Herod also loosened their allies' grip over *Klal Yisrael*. The *Tzedokim* still maintained an element of power over *Klal Yisrael* and the *Beis Hamikdash*, but their reign of terror was lessened because they now had to deal with a monarchy that was suspicious of their every move.

Although Herod persisted in persecuting the Sages, the political climate was such that Hillel the *Nasi* and Shammai, his *Av Beis Din*, were permitted to expound on and clarify the early *Mishnah* (*Seder Hadoros, Os* 5). The term “*Tanna*” means “one who learns *Mishnah*.” The

Tannaic era lasted for five generations — until about 160 years after the *churban*. Their sole mission was to explain the *Mishnah*.

During the post-*churban* era, Rome viciously persecuted *Klal Yisrael* in *Eretz Yisrael*. *Klal Yisrael* was no longer permitted to reside in *Eretz Yehudah*, but was pushed into the Galil region — whose main cities were Tzipori, Tiveria, and Caesaria. It became painfully evident to Rabbi Yehudah *Hanasi*, a sixth generation descendent of Hillel *Hazakein*, that this situation could not continue. He understood that the Jews would soon be expelled from *Eretz Yisrael* entirely, and something would have to be done to preserve the Torah. Rabbi Yehudah *Hanasi* realized that the imminent persecutions and the ensuing *galus* would be detrimental to Torah learning, and that his brethren in Bavel, who had remained there since the first *churban*, would not always enjoy sovereignty from the reigning monarchs. Certain strong measures had to be taken because he saw that the people's capacity to understand and remember was diminishing, the wellsprings of wisdom were being blocked up, and Torah was disappearing (*Igeres* of Rav Sherira *Ga'on*).

Several years prior to this, Rabbi Yehudah had accompanied his father, Rabban Shimon ben Gamliel II, in a delegation to Rome. At that time, the young Rabbi Yehudah befriended a young member of the royal court, Marcus Aureilius Antoninus, who was destined to become the Roman Caesar. The Hand of Hashem, which controls all of history, determined that when Rabbi Yehudah became *Nasi*, Marcus Aureilius became emperor.

Marcus Aureilius sought out the company of his old friend, Rabbi Yehudah and established a summer residence in Caesarea, in order to be close by. The emperor had his staff secretly dig underground tunnels to Rabbi Yehudah's residence. Marcus Aureilius, who authored the work on ethics "Meditations of Marcus Aureilius" became a disciple and a secret financial backer of Rabbi Yehudah. All this had to be done clandestinely, for this type of behavior, even by an emperor, would not have been tolerated by the Roman court.

Rabbi Yehudah *Hanasi* enjoyed unparalleled prestige as the acknowledged *Gadol* of his generation, both for his Torah scholarship and his vast wealth (which was secretly buttressed by the emperor). Like Moshe *Rabbeinu*, Rabbi Yehudah was blessed with "*Torah ugedulah bemakom echad*" — Torah scholarship and extreme wealth invested in one man (*Gittin* 59•). Without this great wealth, his fellow scholars in *Eretz Yisrael*, and especially those farther away in Bavel, would have certainly regarded him as another great Torah-teacher, but not necessarily as the undisputed master of the entire generation.

Rabbi Yehudah decided that the proper action to take at this juncture in history was to convene a great assembly of scholars in order to seal the *Mishnah*. From this point on, the *Mishnah* would be closed and nothing further could be added to it. Rabbi Yehudah did not author the *Mishnah*, as some writers would have you believe. The *Mishnah* had evolved over the previous 260 years, from the time of Hillel *Hazakein*, as a commentary on the early *Mishnah*, which had been revealed to Moshe *Rabbeinu* at *Har Sinai*. Rabbi Yehudah and his assembly scrutinized each idea in the body of the *Mishnah*; they were meticulous in the spelling of each word; and they ordained that certain *mishnayos* be made anonymous (*Stam Mishnah*) in order to make them more authoritative. Rabbi Yehudah financially supported this vast undertaking and accomplished a monumental milestone in the history of Torah transmission. Assisting Rabbi Yehudah in this great endeavor was Rabbi Chiyya, who came from Bavel with his great twin sons Yehudah and Chezkuya, and Rabbi Chiyya's nephew, Rav, among many others.

The *Gemara* (*Sotah* 22•) states that it is not permissible to render an Halachic ruling just from the *Mishnah*.

התנאים מבלי עולם

Those who render ruling from just the *Mishnah* destroy the world.

Although Rabbi Yehudah sealed the body of the *Mishnah*, there was still an enormous reservoir of commentary and information explaining the *Mishnah*. Rav systematized the *Sifra* and the *Sifri* to clarify the *Mishnah*. Rabbi Chiyya arranged the *Tosefta*, while his disciple Rabbi Hoshiya organized the *Beraisas*. Bar Kappara arranged his *Beraisos*; and Karna, who resided in Bavel, arranged *Beraisos* on *Seder Nezikin*. Rabbi Yishmael and Rabbi Akiva prepared the *Michilta* (Rambam, Introduction to *Mishneh Torah*).

The significance of Rabbi Yehudah's sealing of the *Mishnah* is that there then existed a permanent structured body of law which defined *Klal Yisrael*. This could now be carried with them to the far reaches of the globe and it would yield uniform, consistent Halachic rulings. Once it was sealed, nothing further could be added. The only exception to this rule occurred with Rabbi Yehudah's grandson, Rabbi Yehudah *Nesia*, who together with his *Beis Din*, allowed one new ruling to the *Mishnah*.

Since the days of Daniel, the practice among *Klal Yisrael* was to prohibit the use of gentile olive oil. By the time of Rabbi Yehudah *Nesia*, *Klal Yisrael* had been totally ousted from the territory of *Eretz Yehudah* and was confined to the Galil region. They no longer had access to the olive groves, and olive oil was an essential ingredient in everyday life. Since the gentiles were in control of all the olive groves in the *Eretz Yehudah* territory, Rabbi Yehudah *Nesia* and his *Beis Din* ruled that Gentile olive oil was to be permitted (*Avodah Zarah* 35:). There was widespread resistance to this decision, and so Rabbi Yehudah *Nesia* felt it necessary to re-open the *Mishnah*. In fact, Rav refused to accept this ruling, and it was only due to the coercion of Shemuel that Rav finally relented (*Tosafos*, *Avodah Zarah* 36•; see *Seder Hadoros*, *Os* 10). It is evident from the controversy generated by his actions, that Rabbi Yehudah *Nesia* was not universally highly regarded (*Bava Basra* 111•; *Bava Kama* 24•), although many did honor him (*Yerushalmi Sanhedrin* 13•, *Mo'eid Katan* 17•).

This period marks the end of what *Chazal* called the “*Shnei Alafim*” — Two Millennia of Torah (*Avodah Zarah* 9•). From the time that Avraham *Avinu* was 52 years old until this period, all of *Klal Yisrael's* Torah leaders served as their secular leaders as well (except, of course, for certain kings). Rabbi Yehudah *Nesia's* children were certainly fine people, but they were not of Torah leadership calibre. No longer do we find the concept of “*nimni vegamru*,” that the *Beis Din* voted and ruled; this practice was discontinued after Rabbi Yehudah *Nesia*.

This point marks the beginning of the era of the *Amoraim*, which lasted for about 300 years. Rav descended to *Bavel* and established a *mesivta* — Academy — in *Sura*. The *mesivta* served as a form of *Sanhedrin*, without the real authority of the *Sanhedrin*. The *mesivta* was a place of adult scholarship; there were no children present, as we have today. There, Rav established the tradition of studying two tractates per year. In *Sura*, there were 2200 resident students, while during the two annual *Yarchei Kallah* public assemblies, the student body numbered in the tens of thousands. Concurrently, Shemuel established in *Nehardea* what was first known as the “*Rosh Sidra*” and then became known as the “*mesivta*.” In *Sura*, Rav had to create a Torah atmosphere

from the basement up; while Nehardea was an already established Torah city, which was surrounded by several other Torah cities. Shortly after Shemuel's departure from this world, Papa bar Neitzar, king of Palmeria, destroyed Nehardea. Rav Yehudah ben Yechezkel reestablished the *mesivta* in Pumbedisa. During the entire Amoraic period, their main objective was to explain the *Mishnah*.

Simultaneously, Rabbi Yochanan bar Napcha established a *mesivta* in Tiveria, and in so doing, he founded the *mesivta* system in *Eretz Yisrael*. There was a constant flow of ideas between the scholars of *Eretz Yisrael* and Bavel.

שלחו מתם

They sent from there (*Sanhedrin* 17:).

כי אתה רב דימי

When Rav Dimi came (*Berachos* 6:).

כי אתה רב יצחק בר יוסף

When Rav Yitzchak bar Yosef came (*Berachos* 9•. See *Berachos* 22•, 27:, *Shabbos* 19:, 52•, *Eruvin* 6:, *Pesachim* 33•, 51•, 104:, *Yoma* 78•, *Sukkos* 54•, *Beitza* 26:).

Abbaye and Rava succeeded Rabbah and Rav Yosef as *Rashei Yeshivah* in Pumbedisa. Abbaye served for 13 years and was succeeded by Rava, who served for the next 14 years. During Rava's tenure the *mesivta* was moved to Mechoza. Abbaye and Rava were great benefactors of *Klal Yisrael*. Their labors in Torah learning were called the “*havayas* of *Abbaye and Rava*.”

Soon after the passing of Rava, Rav Ashi assumed the position of *Rosh Mesivta* in *Masa Machasya*. Rav Ashi recognized that the relatively-benign reign of the Parthian kings over Bavel would soon come to an end. The battalions of Rome were already battering at the gates of the Persian cities. He realized that the time had come to seal the *Talmud Bavli* so that *Klal Yisrael* would have a definitive body of Torah to guide them no matter where Providence would send them. Like Moshe *Rabbeinu* and Rabbi Yehudah *Hanasi*, Rav Ashi was blessed with great Torah scholarship and great wealth. He therefore gained the attention and respect of the entire generation, and together with Ravina, declared the Talmud sealed.

And so, the Amoraic period came to a close, and the next 115 years were known as the era of the *Rabbanan Savorai*. “*Savorai*” means “explainers”; their role was to explain the Talmud. They were *mekarvei lehora'ah* — close to the era of Halachic determination — yet they were unauthorized to make any emendations within the Talmudic text. Although they never issued any *p'sak* — rulings — they did clarify the text of the *Talmud Bavli* somewhat. The sum total of the text which they added to the Talmud amounted to about one-third of a tractate. Rabbi Yosef of Pumbedisa finally closed the *Talmud Bavli* for all time. The era terminated with Rav Giza and Rav Sama, who were responsible for the redaction of the minor tractates.

Persecutions by the Neo-Persian Sassanid kings wreaked havoc with the academies of Sura and Pumbedisa. The *mesivta* of Peroz-Shavor (near Nehardea) flourished under the more benevolent Arab rule. The next 450 years saw the era of the *Ga'onim*. It was ushered in when Mar Chanan of Ashkaya was installed as the first *Ga'on* in the newly reopened *mesivta* of

Pumbedisa. Twenty years later, Rav Mar ben Rav Huna became the first *Ga'on* of the newly reopened *mesivta* of Sura. This era closed with the passing of Rav Hai *Ga'on*, and a new era of Torah dispersal and decentralization began.

aA