

Sukkot and the Oral Tradition

Rambam, in the introduction to his *Commentary to the Mishnah* explains how the Mishnah is a collection of laws that comprise the Oral Tradition. These laws can be divided into five categories: explanations of Scripture received from Moshe, *halakhah l'Moshe miSinai*, laws derived from hermeneutical principles, *gezeirot*, and *takanot*. Before elaborating on the various categories of laws, he explains the difference between the first two categories that may be confused with one another.

What is the difference between the explanations of the Torah that we received from Moshe along with the Torah that was taught at Sinai and the laws which are called *halakhah l'Moshe miSinai* (an Oral Mosaic Tradition from Sinai)? Rambam explains that in the Talmud, there are no disputes regarding the explanations for Scripture that we received from Moshe. For example, there is no opinion that “an eye for an eye”¹ means to blind someone’s eye and no one disagrees that when the Torah states that one should take the fruit of a beautiful tree,² it means an etrog, or that the *avot* tree³ refers to a hadas.

Rambam preempts any question based on the Talmudic discussions and debates that we find regarding these received explanations. He explains that although these are received explanations that are not subject to dispute, they can be derived through hermeneutical principles.

וכשתראה בתלמוד נושאים ונותנים ונחלקים על דרך העיון, ומביאים ראייה על אחד מן הפירושים הללו ודומיהם ... אין זה מפני



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שהדבר ספק אצלם עד שלמדו עליו בראיות אלו, אלא ראינו בלי ספק מיהושע עד עכשיו, שהאתרוג הוא הניטל עם הלולב בכל שנה, ואין מחלוקת בכך. ורק חקרו על ההוראה שיש במקרא לפירוש המקובל הזה.⁴

And when you see in the Talmud [the Sages] deliberating and debating with one another in the course of the discussion and they bring proofs for one of these explanations and the like... This [debate] is not because the matter was unclear to them until they deduced them from these proofs. Rather we have undoubtedly seen from the time of Joshua until the present that the etrog was taken with the lulav each year, and there is no dispute [about that]. However, [the Sages] searched for the Scriptural teaching for the accepted interpretation.

According to Rambam, when we find discussions and disputes in the Talmud regarding these accepted explanations, and the different disputants offer different proofs for the explanations (from logic or derivations from Scripture),⁵ these disputes do not reflect an actual dispute or doubt regarding what the law is, but rather a dispute regarding how the law can be derived or proven from the Written Torah.

However, Rambam differentiates, that while these explanations were received from Moshe, they are not considered *halakhah l'Moshe miSinai*:

אלא שאע"פ שהם קבלה ממושה, לא אמרו

בהם הלכה למשה מסיני, שאין אנו אומרים, פרי עץ הדר הוא אתרוג, הלכה למשה מסיני... לפי שכבר קדם שהכלל אצלנו שכל הפירושים כולם קבלה ממושה ויש להם כמו שאמרנו רמזים במקרא, או שנלמדים באחת המדות.

Although these [explanations] were received from Moshe, we do not say that they are halakhah l'Moshe miSinai. So we do not say that “the fruit of a beautiful tree” meaning etrog, is halakhah l'Moshe miSinai... Because, as we have already established, the rule that we follow is that all these explanations were received from Moshe. But as we have said they have allusions in Scripture or can be derived through some of the hermeneutical principles.

Since these explanations can be derived from Scripture they are not purely oral laws that are only known through the tradition from Moshe.

וכל ענין שאין לו רמז במקרא, ולא אסמכתא, ואי אפשר ללמדו באחת המדות, באלה בלבד אומרים הלכה למשה מסיני.

And any matter that has no allusion in Scripture or no real basis and cannot be derived though the hermeneutical principles, only these laws are labeled halakhah l'Moshe miSinai.

Only laws which have no true derivation from Scripture are called *halakhah l'Moshe miSinai*. These laws have no dispute (even with regard to a source). However, sometimes we find ways to remember these laws by

hanging them on the Written Torah (only after knowing them).

What is striking in Rambam's discussion regarding these first two categories of *Torah she'b'al peh* (the Oral Torah) is the prominence of laws related to the holiday of Sukkot.

When choosing examples of his first category, he employs the etrog and hadas to illustrate his point and elaborates on the discussion in the Talmud. Furthermore, when discussing the second category of laws called *halakhah l'Moshe miSinai*, he lists many such laws and a significant number of examples are laws related to the holiday of Sukkot:

והנני מסדיר לך כאן רוב הדינים שאמרו בהם הלכה למשה מסיני, ואולי כולם. כדי שיתברר לך נכונות מה שאמרתי לך, שאין בהם אף אחת שנלמדה באחת המדות, ואי אפשר ללמדה מפסוק אלא על דרך האסמכתא, כמו שביארנו... ואלו הם... גוד ולבוד ודופן עקומה, הלכה למשה מסיני... ערבה, וניסוך המים, הלכה למשה מסיני.

And I will list for you here most of the laws that have been labeled halakhah l'Moshe miSinai and possibly all of them [are included in this list], in order that the accuracy of what I have said will be clarified to you that not even one of them has been derived through any reasoning

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nor can any of them be deduced from a Scriptural verse except as a suggestive support, as we have explained... And these are the examples... [Laws of] gud, lavud, and dofen akumah are halakhah l'Moshe miSinai. Aravah, nisukh hamayim are halakhah l'Moshe miSinai.

Included on Rambam's list are the following laws related to the holiday of Sukkot:

Gud is a principle of virtually extending a wall. As explained in *Sukkah* 4b, as long as we have a halakhic wall (minimally 10 *tefachim*), even if the wall starts from the ground, but does not go all the way up to the *skhakh*, we can imagine as if that wall extends all the way up (*gud asik*).⁶

The **lavud** rule considers any two parts that are within three *tefachim* of each other to have no gap. For example, if one wall of a sukkah is within three *tefachim* of the adjacent wall, the gap is considered closed and the walls are connected.⁷

Dofen akumah means crooked wall. The principle allows us to arrange the *skhakh* adjacent to a permanent overhang (with a width up to 4 *amot*) where the *skhakh* may be up to 4 *amot* away from the wall. However we can treat the overhang as a continuation of the wall so that the *skhakh* is considered to be adjacent to the wall and the sukkah is kosher.⁸

Aravah refers to the special ceremony performed with the aravah in the Beit Hamikdash during the week of Sukkot. As described in *Sukkah* 45a, they would take aravah branches and encircle the Mizbe'ach, then place the aravah branches on the side of the Mizbe'ach.

Nisukh hamayim was the special water libation brought in the Beit Hamikdash during the holiday

of Sukkot in addition to the wine libation that was brought every day of the year.⁹

In addition to the prevalence of laws related to the holiday of Sukkot that illustrate the first two categories of the Oral Torah, for each of the remaining three categories we can also find examples from laws related to Sukkot.

Rambam summarizes the five categories starting with the two previously mentioned:

החלק הראשון, הפירושים המקובלים ממה, שיש להם רמז בכתוב, או שאפשר ללמדם באחת המדות, וזה אין בו מחלוקת כלל... החלק השני, הם הדינים שבהם אמרו שהם הלכה למשה מסיני, ואין עליהם ראייה כמו שאמרנו, וגם זה ממה שאין בו מחלוקת:

Category 1: Explanations received from Moshe which have some indication or possible derivation from Scripture. There is no dispute in these laws.

Category 2: Laws that are labeled as halakhah l'Moshe miSinai. They have no real Scriptural basis. There is no dispute with these laws as well.

As we mentioned, Rambam himself refers to several laws related to the holiday of Sukkot when discussing these first two categories.

The third category that Rambam mentions is laws that are derived through hermeneutical principles. These laws are subject to dispute because they are not received traditions from Moshe.

החלק השלישי, הם הדינים שנלמדו באחת המדות, ובהם נופלת מחלוקת כמו שאמרנו... אבל סברת מי שחשב שגם הדינים שיש בהם מחלוקת קבלה ממה, ונפלה בהם מחלוקת מחמת טעות בקבלה או שכחה, ושהאחד צודק בקבלתו והשני טעה בקבלתו, או ששכח, או שלא שמע מרבו כל מה שצריך לשמוע... הנה זה חי' דבר מגונה ומוזר מאד.

Category 3: Laws derived through hermeneutical principles and may have

a dispute, as we mentioned... But the idea that one may think that even these laws which are subject to dispute were received from Moshe and the disputes arose due to an error in the transmission or forgetfulness, and that one opinion has the right tradition and the other erred in his tradition or forgot or did not fully listen to everything from his teacher, such an idea is extremely corrupted and bizarre.

Rambam is adamant that there are only disputes in laws that were not a received tradition.¹⁰ The disputes are often due to how each Tanna or Amora based his opinion on some logic or approach in applying hermeneutical principles. Rambam emphasizes that these laws that are subject to dispute are not received traditions from Moshe and we should not think that the disputes developed because some Sages made a mistake or forgot the tradition. When the Talmud states that “with the increase of disciples of Shammai and Hillel, who did not fully train themselves, dispute increased on Israel,”¹¹ it does not mean that the tradition became a matter of dispute. Rather they had different opinions in their logic or hermeneutical approach. Shammai and Hillel themselves had similar understanding, analysis and knowledge of principles so that their thinking was generally alike and they had very few disputes. However, their students, who did not have as thorough a grounding like Shammai and Hillel, had many more disputes since their thinking was not similar from one group to the other.

Rambam continues that we cannot fault them for not being as great as Shammai and Hillel. They just used their intellect as best as they could and they used different approaches and reached different conclusions. But they did not have disputes regarding laws that were explanations received from Moshe such that one side had the true tradition and the other a mistake.

Several laws of Sukkot are derived though hermeneutical principles. One example is the mandatory requirement to eat in the sukkah on the first night of Sukkot. This law is derived through the *gezeirah shavah* principle linking the usage of “fifteenth day” that the Torah states with regard to Pesach¹² and Sukkot.¹³ Just as eating matzah on the first night of Pesach is mandatory, so too eating in the sukkah on the first night is mandatory.¹⁴

The fourth category includes *gezeirot*:

והחלק הרביעי, הם הדינים שקבעום הנביאים והחכמים שבכל דור ודור, על דרך הגדר והסייג לתורה... והם קוראים אותם חז"ל גזרות... וגם בהם יש שתהיה מחלוקת כגון שייראה לאדם לאסור כך משום כך ואחר לא ייראה לו... וכל זמן שפשט איסורה בישראל, אין דרך לבטל אותה גזרה.

Category 4: Laws that the Prophets and the Sages of each generation issued as a protection for the Torah laws... The Sages called these laws gezeirot... There can be disputes in these laws as well if one person thinks it is appropriate to make something forbidden because of [the protection] of some [other law] and another does not... But anytime that

the prohibition is accepted by all, such a gezeirah cannot be revoked later.

Gezeirot are not limited to prohibiting optional actions. Sometimes even a mitzvah can become forbidden to perform. The accepted practice is that we do not take the lulav on Shabbat. This law is based on the *gezeirah* of Rabbah that we are concerned one may take the lulav to an expert to learn how to properly shake it.¹⁵

Finally, the fifth category of laws consists of the *takanot*:

והחלק החמישי, הם הדינים שנעשו בדרך העיון להסדרת הענינים שבין בני אדם... או בענינים שהם מפני תקון העולם בעניני הדת. והם שקוראים אותם חכמים תקנות ומנהגות. ואסור לעבור עליהם בשום פנים הואיל והסכימה עליהם כל האומה.

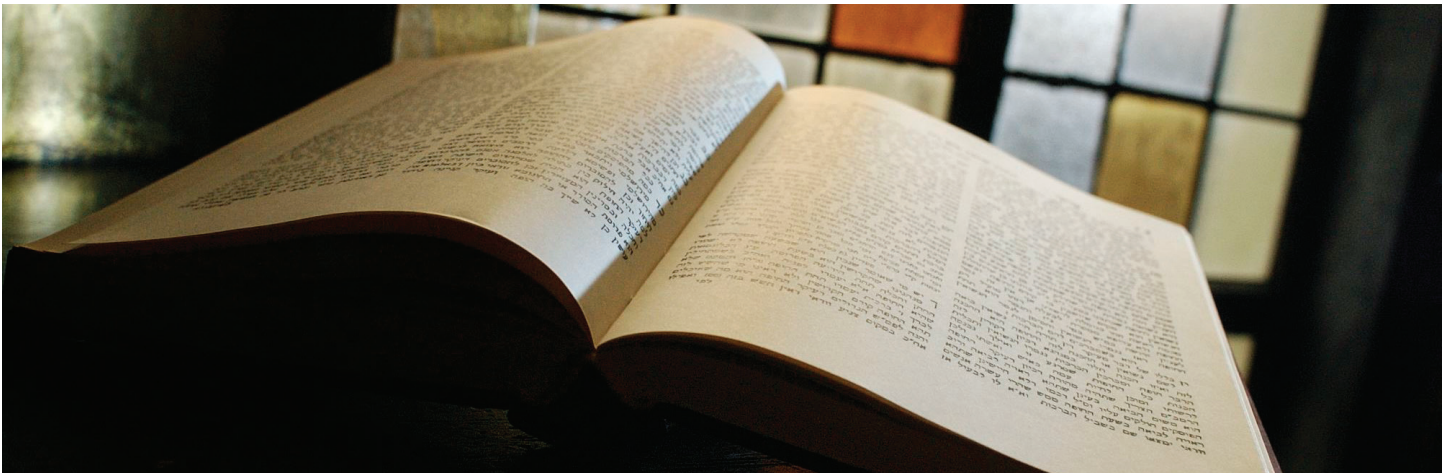
Category 5: Laws that were made through investigation for the sake of maintaining social order among people... or for matters that improve the religiosity in the world. The Sages called these laws takanot or customs. Since these takanot were universally agreed upon by the entire nation they cannot be violated under any circumstance.

Takanot were established to ensure proper civil conduct or religious observance. One example of a *takanah* that was established for religious observance relates to the mitzvah of taking the four species, including the lulav, on Sukkot.

According to Torah law, the lulav is taken in the Beit Hamikdash for all seven days of Sukkot. However outside of the Beit Hamikdash, the lulav would only be taken on the first



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day of the holiday. Nevertheless, the Talmud teaches that R. Yochanan ben Zakkai established the law that we take the lulav throughout the week of Sukkot even outside of the Beit Hamikdash.¹⁶ This law is universally observed to this day.

Thus we find that the laws of Sukkot encompass all five categories of Torah that Rambam delineates. In particular, in the category of *halakhah l'Moshe miSinai*, which is the most pure oral category of the Oral Tradition, there is a preponderance of laws related to the holiday of Sukkot.

Is this a coincidence or is there some significance to this?

Yom Kippur is the date when the Jewish people received the second set of *luchot*. When Moshe started to feel

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sorry that he broke the *luchot*, Hashem comforted him and said:

אל תצטער בלוחות הראשונות שלא היו אלא עשרת הדברות לבד ובלוחות השניים אני נותן לך שיהא בהם הלכות מדרש ואגדות. שמות רבה פרשה מו פסקה א

Do not feel sorry about the first set of luchot that only had the 10 commandments. The second set of luchot that I am giving you [also] contain the halakhot, midrash, and aggadot (the Torah she'b'al peh).

Shemot Rabbah 46:1

The Midrash indicates that with the second *luchot*, the Oral Law was more prominent than before.¹⁷

When we celebrate the holiday of Sukkot soon after Yom Kippur we are celebrating the receiving of the Torah in general and in particular the *Torah she'b'al peh*.¹⁸ Therefore it seems fitting that all categories of the Oral Torah are reflected in the mitzvot of Sukkot and that many laws from the category of *halakhah l'Moshe miSinai* are connected to the holiday of Sukkot.

Notes

1. Shemot 21:24 and Vayikra 24:20.
2. Vayikra 23:40.
3. Ibid.
4. The text of Rambam's introduction to the Mishnah is taken from R. Yosef Kapach's

edition (Yerushalayim : Mosad ha-Rav Kook, 1963). The translation is a free translation partially based on Fred Rosner's translation (Northvale, N.J. : Jason Aronson, 1995).

5. Such as the discussion in *Sukkah* 35a, regarding the possible interpretations for "*pri eitz hadar*" based on deductive reasoning, or the discussion in *Sukkah* 32a regarding the possible interpretations for "*anaf eitz avot*."

6. See also *Sukkah* 18b and 22a for applications of *gud achit*, to virtually extend downwards.

7. See *Sukkah* 7a.

8. See *Sukkah* 4a. Note that one should not sit under the overhang since he is considered to be sitting under the wall of the sukkah instead of under the roof of the sukkah.

9. See *Sukkah* 48a-b.

10. See however, Ritva to *Rosh Hashanah* 16b.

11. See *Sanhedrin* 88b.

12. See Vayikra 23:6.

13. See Vayikra 23:34.

14. See *Sukkah* 27a.

15. See *Sukkah* 42b.

16. See *Sukkah* 41a.

17. See R. Tzadok haKohen of Lublin in *Pri Tzaddik*, Parshat Devarim and *Machashavot Charutz* 18.

18. The Midrash in *Vayikra Rabbah* 30:3 connects Sukkot to Yom Kippur explaining the mitzvah of taking the four species as a sign of victory in the successful atonement that we received on Yom Kippur.