

# HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

## 169 - IS THE SHULCHAN ARUCH FROM SINAI? IF NOT, WHY SHOULD WE KEEP HALACHA?

OU ISRAEL CENTER - SUMMER 2020

- Last week we looked at the origins of the Chumash and how it was written. We also looked at why this is so important to us today.
- In this shiur, still in honor of Shavuot<sup>1</sup>, we will look at the Oral Law, examine how it differs from the Written Law, and why, in the form of the halachic system, it has critical relevance today.

1. ח - אני מאמין באמונה שלמה, שכל התורה המצויה עתה בגדינו היא הנתונה למשה רבנו עליו השלום.  
ט - אני מאמין באמונה שלמה, שזאת התורה לא תהא מחלפת ולא תהא תורה אחרת מאת הבורא יתברך שמו.

יג עקרים להרמב"ם - עקר ח' וט'

*Our principles of faith<sup>2</sup> include statements that the 'entire Torah' was given to Moshe at Sinai, and that it will never be changed. How does this relate to the Oral Law and the halachic process?*

2. אלה החקים והמשפטים והתורות אשר נתן ה' בילו ובין בני ישראל בחר סיני ביד משה

ויקרא כו:מו

3. והתורות - מלמד ששתי תורות ניתנו להם לישראל אחד בכתב ואחד בעל פה

ספרא בחוקותי פרשה ב

*The Chumash refers to the giving of 'Torot'. Chazal understand this<sup>3</sup> to refer to the twin Written Torah and Oral Torah.*

### A] DOES THE ORAL LAW COME FROM SINAI?

#### A1] THESIS: MOSHE RECEIVED EVERYTHING AT SINAI!

4. ולאמר ה' אל-משה עלה אל הרה והיה שם ואתנה לך את-לחת האבן והתורה והמצוה אשר כתבתי להורותם

שמות כד:יב

*The Torah itself makes it clear that Moshe received more than just the 10 commandments on Har Sinai.*

5. ואמר רבי לוי בר חמא אמר רבי שמעון בן לקיש: מאי דכתיב ואתנה לך את לחת האבן והתורה והמצוה אשר כתבתי להורותם? לחות - אלו עשרת הדברות, תורה - זה מקרא, והמצוה - זו משנה, אשר כתבתי - אלו נביאים וכתובים, להורותם - זה תלמוד מלמד שכולם נתנו למשה מסיני.

ברכות ה.

*Chazal understand that Moshe received far more than just the luchot on Har Sinai. Chazal state here that Moshe received all of the Tanach, Mishna and Talmud at Sinai!*

6. ואמר רבי חייא בר אבא אמר רבי יוחנן: מאי דכתיב (דברים טו) וְעַלֵּיהֶם כָּל־הַדְּבָרִים אֲשֶׁר דִּבֶּר ה' עִמָּכֶם בְּהַר - מלמד שהראהו הקדוש ברוך הוא למשה דקדוקי תורה ודקדוקי סופרים, ומה שהסופרים עתידין לחדש...

מגילה יט:

*Moshe was shown every detail in halacha - even what would be innovated by the Rabbis in the future.*

1. The 6 days after Shavuot are a part of the halachic framework of the Chag since one can still bring the relevant korbanot for the Chag - see Rambam Hilchot Chagiga 1:7 and Shulchan Aruch OC 529:2. Some poskim rule that it is also possible to buy jewelry for one's wife for the Chag during these days!  
2. Of course, the 13 Ani Ma'amins are a highly abbreviated and, at times, even misleading summary of what the Rambam writes in his introduction to Perek Chelek. A full treatment of the Rambam's Ikarim is well beyond the scope of this shiur. See however <https://rabbimanning.com/index.php/audio-shiurim/13-ikarim/13-principles/>  
3. This is a drash understanding. On a pshat level, 'Torot' means a discrete and distinct body of laws.

7. רבי יהושע בן לוי אמר.... מקרא משנה תלמוד ואגדה אפילו מה שתלמיד וותיק עתיד להורות לפני רבו כבר נאמר למשה בסניני. מה טעם? יש דבר שיאמ' (קהלת א:י) **רְאֵה-זֶה חֲדָשׁ הוּא וְגו'**, משיבו חבירו ואומר לו (שם) **כְּכֹר הָיְתָה לְעֵלְמִים**

*Chazal even state that ANY new idea that any serious Torah student might say in future has already been told to Moshe on Sinai!*

There are many questions on this midrashic description of a maximal revelation (at least to Moshe) at Sinai. These include:

- How are we to understand that Moshe received the whole of Chumash and Nach? Are Chazal suggesting that Moshe had before him the text of the Chumash? We saw last week that there is NO opinion that the Chumash was written at Sinai. Also, even if Moshe only had the content of the Chumash, why did he send out the spies, hit the rock etc etc!?
- Chazal explicitly state (Bava Batra 14b) that the books of the Tanach were written later by the prophets. How could Moshe already have them at Sinai? Did he hand over the Book of Yehoshua and then tell Yehoshua to write it decades later!?
- The Talmud was not compiled until around 500 CE (around 1800 years after Sinai). Are we to understand that Moshe received the actual wording of the Talmud, with all of its later historical and linguistic references and simply passed this down through the generations? What about later Rabbinic works, halacha, midrash etc. Was the Mishna Berura given at Sinai? In detail? In outline?

## A2] ANTITHESIS: MOSHE DID **NOT** RECEIVE EVERYTHING AT SINAI!

8. וכי כל התורה למד משה? כתיב בתורה (איוב יא:ט) **אֲרָכָה מֵאֲרָכָּץ מִדָּה אֲרָחָבָה מִנִּיגָם**, ולא רבעים יום למדה משה!! **אלא כללים** למדהו הקב"ה למשה

שמות רבה פרשה מאו

*Chazal state elsewhere in the Midrash that Moshe was taught only the principles and not every detail. How are we to reconcile this with the first approach seen above - that every detail was given?*

9. ועוד לפי שאי אפשר שתהיה תורת השם יתברך 'שלמה' באופן שתספיק בכל הזמנים. לפי שהפרטים המתחדשים תמיד בענייני האנשים במשפטים, והדברים הנפעלים, הם רבים מאד משיכללם ספר. על כן נתנו למשה בסניני על פה דרכים **כוללים**.... כדי שעל ידם יוציאו החכמים שבכל דור ודור הפרטים המתחדשים.

ספר העיקרים מאמר ג פרק כג

*The Sefer Halkarim (Spain 15C) writes that halacha is inherently renewing and changing. It is therefore impossible for Moshe to have been given every detail that would be applicable in the future! He was therefore given general principles from which the Rabbinic leaders of future generations could draw the halachic details which were relevant to their times.*

## A3] SYNTHESIS: TORAH FROM SINAI MEANS REVELATION IN POTENTIAL

10. **כללים למדהו הקב"ה למשה** - אלו דרכי הדרשות, שכל מדה מלמדת לאין חקר:

פירוש המהרזו מוילנא על שמות רבה פרשה מאו

*Rav Zev Wolf Einhorn (Vilna, 18C) explains in his commentary on Shemot Rabba, that the 'principles' that Moshe received are the 13 Middot of Drash (and other means of extracting halacha from the verses).*

11. כי כמו שהוא כחכמת המבע שהאדם בשכלו ותבונתו ממציא חדשות מן היסודות הישנות, כן הוא בחכמת תורתנו הקדושה. כי אם שמוע בישר תשמעו בחדש אמרו חז"ל, וכונתם שמן התורה הישנה המצוי בידנו, המתנגע בה וממית עצמה עליה, יוכל להוציא חדש שלא היה עוד לעולמים. ובבחינה זו אמרו חז"ל שהקב"ה הראה למשה כל מה שתלמיד ותיק עתיד לחדש. **כי בכח היה מונח בתורה כל מה שהיה עתיד להתחדש בכל דור ודור**

הקמה לספר דור רביעי

*A classic source on explaining the nature of the Oral Law is the introduction to Sefer Dor Revi'i by R. Moshe Glasner (great-grandson of the Chatam Sofer). He explains that the entire Torah was given to Moshe at Sinai in potential.*

- Derashot are the means of connecting Written and Oral Law and deriving halachic detail from the verses.
- The Sanhedrin needed only 3 things to maintain the relevance of Oral Law: (i) The unchanging text of the Chumash which comes from God; (ii) The rules of Drash - hermeneutical exegesis, which also came from Sinai<sup>4</sup>; (iii) The trained and focused brain of the talmid chacham, which is also a gift from God!

4. Every line in this shiur deserves an entire shiur of its own and this is no exception! For an helpful discussion as to the extent to which the principles of Drash came directly from Sinai or were themselves developed through a mesorah and process of Torah MiSinai, see Rav Amnon Bazak's new book on the development of the Oral Law - Nitzchuni Banai, pp 84-89.

- In the following famous midrash, Chazal deal with the critical definition of 'Torah MiSinai' as a developmental process whereby the halachic system is formed through the process of Drash.

12. אמר רב יהודה אמר רב: בשעה שעלה משה למרום, מצאו להקב"ה שיושב וקושר כתרים לאותיות. אמר לפניו: רבש"ע, מי מעכב על ידך? אמר לו: אדם אחד יש שעתיד להיות בסוף כמה דורות ועקיבא בן יוסף שמו, שעתיד לדרוש על כל קוץ וקוץ תילין תילין של הלכות. אמר לפניו: רבש"ע, הראהו לי. אמר לו: חזור לאחורך! הלך וישב בסוף שמונה שורות, ולא היה יודע מה הן אומרים. תשש כחו. כיון שהגיע לדבר אחד, אמרו לו תלמידיו: 'רבי, מנין לך?' אמר להן: 'הלכה למשה מסיני!' נתישבה דעתו. חזר ובא לפני הקב"ה, אמר לפניו: רבונו של עולם, יש לך אדם כזה ואתה נותן תורה ע"י?! אמר לו: שתוק! כך עלה במחשבה לפני.

מנחות כט:

*Moshe was (midrashically) transported to the Beit Midrash of R. Akiva, 1400 years later! Distressed to find that he was unable to understand the Torah of R. Akiva, he assumed that the Torah had been distorted over the intervening period. R. Akiva informed his students that the Torah he had learnt through drash<sup>5</sup> was actually part of process of Torah MiSinai!*

13. דברים שלא נגלו למשה נגלו לר"ע וחביריו

במדבר רבה פרשת חקת פרשה יט סימן ו

*Chazal state explicitly that some matters were 'revealed' to Rabbi Akiva which were not known to Moshe Rabbeinu.*

14. כבר בארנו בפתיחת חבורנו בפרוש המשנה (בריש ההקד') שרוב דיני התורה יוצאו בשלש עשרה מדות שהתורה נדרשת בהן .... וכשהיה זה כן הנה לא כל מה שנמצא החכמים שהוציאו בהקש משלש עשרה מדות נאמר שהוא נאמר 'למשה בסיני' ...

רמב"ם ספר המצות שורש שני

*It is clear from the Rambam in a number of places that the content of the derashot Chazal make from verses was not NOT given to Moshe<sup>6</sup>. As we have seen above, derashot were developed later throughout history in order to generate halacha. Although Moshe had the tools to make those derashot, the actual derashot, and thus the halachot derived from them, were not yet extant.<sup>7</sup>*

15. אך הענין שבכל מקום שנאמר 'הלכה למשה מסיני' אין הפירוש שנמסר לו למשה ההלכות ..... רק שנמסר למשה הכת לדרשו בפלפולו מן התורה ולהמציא ההלכות.

ספר פרי צדיק פרשת כי תצא - אות טו

*Even the expression 'Halacha leMoshe MiSinai' can be understood not only as material actual handed over to Moshe at Sinai but also as material developed through later generations as part of a legitimate halachic process.*

- As such, the process of Oral Law is one of evolution through a Mesora which is grounded in Sinai. On that basis, the halacha emerging from that process is 'Torah MiSinai'.

16. שכיון שנאמר למשה בסיני שיקבלו עליהם ישראל מצות ב'ד הגדול ובאו הם ותקנו את אלו, כבר נאמר כולם למשה בסיני. אין הפרש ביניהם באמירת סיני אלא שזה בפרט וזה בכלל

רמב"ן אל ספר המצות, שורש ראשון, ס' ז'

*This explains why some Rishonim even include Rabbinic mitzvot (e.g. Chanukah) as part of the 613 mitzvot given on Sinai! The Ramban explains that since God stated in the Torah that we must listen to Rabbinic legislation, **all future Rabbinic legislation and interpretation was given in potential** at Sinai. Some mitzvot (e.g. Shabbat) were given specifically and directly at Sinai and others (e.g. Chanukah) were given generally, through the mitzvah to listen to the Rabbis.*

5. In this case, the Torah R. Akiva learned was the mystical Torah derived from the crowns on the letters - such as †.

6. Another critical question is whether the halachic midrash seen on virtually every page of the Talmud, and of course in the books of Midrash Halacha such as the Mechilta, Sifra and Sifrei, is actually the SOURCE of the law or merely a linguist method of connecting that law to the verses. For the last 2000 years, subsequent generations of rabbinic commentators have differed as to whether halachic midrash is מדרש יוצר - creating new law through an innovative linguistic and analytical process, or מדרש מקיים - underpinning existing law which was known from antiquity through tradition, and simply connected to the verses through the creativity of Drash. This issue is dealt with in many works on Oral Law, including in Rav Bazak's new sefer. By far the best analysis of this however is *How Do We Know This*, by Jay M. Harris (SUNY 1994) <https://www.amazon.com/How-Do-Know-This-Fragmentation/dp/0791421449>

7. A different explanation brought by some mefarshim is that, whilst Moshe did have the halachot which accompanied each mitzvah, he did not have the derashot which link the halachot to the verses in the Torah. Later generations 'joined the dots' as it were, and connected these known halachot with their sources in Chumash through the derashot. This is consistent with other approaches taken to the midrash concerning R. Akiva, such as the Or HaChaim's commentary to Vayikra 13:37. He learns that Moshe DID know the halachot being discussed in the Beit Midrash of R. Akiva, but just did not recognize how they connected into the verses. Note that Rashi on Menachot 29b s.v. *nityashva da'ato* learns that Moshe experienced this vision before he received the Torah. This would explain why he did not recognize the Torah, but not why he was surprised or upset at this!

**B] THE IMPORTANCE OF A TORAH WHICH CAN CHANGE**

17.

דברי הגמ' הכא יסוד גדול המה, דזאת התורה אפשר לקיימה בכל מקום ובכל זמן, ובכל המצבים. וע"ד הדרוש היה אומר רבנו, שאולי כדאי לסגנון עוד אני מאמין י"ד, שאני מאמין באמונה שלמה, שזאת התורה אפשר לקיימה בכל המצבים, ושיש לה משמעות בכל מדינה שבעולם ובכל תקופה שבהיסטוריה.]

נפש הרב עמ' 276

*We saw above that one of the 13 Principals of Faith is that the Torah will NOT change. Rav Soloveitchik stressed that it is no less important for us to understand that that Torah we have is applicable in EVER generation. In order for this to be the case, there must be a system whereby Torah can evolve and adapt.*

18. How to face the confrontation between the text and the actual life situation, how to resolve the problems arising out of the confrontation, is the task of the *Torah Shebe'al Peh*, the Oral Law. This second Torah, ever since the days of Moses, handed down from generation to generation, accompanies the *Torah Shebiktav*, the Written Word, along its journey of realization in the innumerable concrete situations through which the Jewish people passes in the course of its history. It is the wisdom of Torah implementation in the daily life of the Jewish people. It makes the Torah *Torat Hayim* - living, teaching and relevant law

R. Eliezer Berkovitz, Not In Heaven, Intro page xx

19. Kant was of the opinion that man knows he is duty-bound to obey a 'universal system of law' but does not understand the source of that law. .... Kant is able to write: "The supreme principle of morality I shall, therefore, call the principle of the autonomy of the will, to distinguish it from all other principles, which I shall call principles of heteronomy." Needless to say, a law commanded by God, usually referred to as theonomous, is one form of heteronomy. The fact is that there is no such thing as *the* will of man. .... *Man* as a creator of his values just does not exist. There is no man in the abstract; there are only men ..... each claiming the authority of the autonomous will. Autonomy thus degenerates into everyone's 'doing his own thing'. The result is social and international decadence. If, then ... we concentrate on heteronomy in the sense of the revealed system of law, the confrontation between autonomy and theonomy appears in a new sense. It is the collision between a relativism that leads to social as well as international decadence and a barren fundamentalism that stifles human nature. In the morality of the covenant, theonomy and autonomy serve together a common purpose. The supreme principle of the law to which a man is subject is theonomous, its ultimate source of authority being the will of God; the interpretation of the law and its application to innumerable and forever-changing life situations are autonomous. Theonomy liberates the human will from the potentially destructive relativism of its subjectivity. Human autonomy protects the absoluteness of the law against the occasional negative consequences of its time-alienated objectivity. Through halacha, the word from Sinai has become the way of life of the Jewish people throughout history

R. Eliezer Berkovitz, Not In Heaven, pages 125-7

**C] THE STRUCTURE OF ORAL LAW**

The Rambam<sup>8</sup> divides Oral Law into 5 categories:-

1. Traditions received at Sinai as to the halachic meaning of Torah verses - פירוש המקובל
2. Halachot received at Sinai with no hint in the written Torah - הלכה למשה מסיני
3. Halachot derived later by the Rabbis through interpretative drash - דרשות
4. Rabbinic Gezeirot - laws (often framed as negative/restrictive) to safeguard the Torah mitzvot - גזירות
5. Rabbinic Takanot - laws (often framed as positive) to introduce necessary religious innovation - תקנות

In many ways 1&2 can be grouped together, as can 4&5, producing 3 major categories of Oral Law:-

- A. Material received at Sinai.
- B. Material developed from Sinai onwards through interpretation.
- C. Rabbinic Legislation made after Sinai.

The process of development of Oral Law and its transmission through the generations<sup>9</sup> thus takes place in 3 modes:-

8. In the lengthy Introduction to his Commentary on the Mishna.

9. At least while there was an active and effective Sanhedrin. Once the Sanhedrin ceased to be effective, Oral Law was codified in the Talmud, which is less flexible and responsive to the times. This is a product of exile and is only a 'holding position' until we are able iy'H to restore a Sanhedrin. For two shiurim on the restoration of the Sanhedrin see <https://rabbimanning.com/wp-content/uploads/2019/10/The-Reestablishment-of-the-Sanhedrin-Part-1.pdf> and <https://rabbimanning.com/wp-content/uploads/2019/10/The-Reestablishment-of-the-Sanhedrin-Part-2.pdf>. Audio shiurim are on <https://rabbimanning.com/index.php/audio-shiurim/cji/>

- (a) **TRANSMITTING** the material that Moshe received on Sinai.  
 (b) **INTERPRETING** the pesukim by means of the principles of exegesis and making derashot to learn out new halachot.  
 (c) **LEGISLATING** new mitzvot, gezeirot and takannot derabbanan.

## D] THE AUTHORITY OF ORAL LAW

- Rabbinic authority<sup>10</sup> is a massive topic. Ultimately, its authority comes from the Torah itself, in particular the two mitzvot to listen to the Sanhedrin and not to deviate - Lo Tasur - from its psak.<sup>11</sup>

20. א בית דין הגדול שבירושלים הם עיקר תורה שבעל פה. והם עמודי ההוראה ומהם חק ומשפט יוצא לכל ישראל. ועליהן הבטיחה תורה שנאמר (דברים יז:יא) על־פי התנ"ך אֲשֶׁר יוֹרֵךְ - זו מצות עשה. וכל המאמין במשה רבינו ובתורתו חייב לסמוך מעשה הדת עליהן ולישען עליהן

רמב"ם הלכות ממרים פרק א הלכה א

*The Sanhedrin are the essential body of Torah Shebe'al Peh.*

21. ב כל מי שאינו עושה כהוראתן עובר בלא תעשה שנאמר (דברים יז:יא) לֹא תִסּוּר מִן־הַדְּבָר אֲשֶׁר־יִגִּדוּ לָךְ יְמִין וְשְׂמָאל .... (1) אחד דברים שלמדו אותן מפי השמועה והם תורה שבעל פה (2) ואחד דברים שלמדו מפי דעתם באחת מן המדות שהתורה נדרשת בהן ונראה בעיניהם שדבר זה כך הוא (3) ואחד דברים שעשאו סייג לתורה ולפי מה שהשעה צריכה והן הגזרות והתקנות והמנהגות. כל אחד ואחד מאלו השלשה דברים מצות עשה לשמוע להן. והעובר על כל אחד מהן עובר בלא תעשה.

רמב"ם הלכות ממרים פרק א הלכה ב

*The Rambam rules that ALL THREE categories of Oral Law (A, B and C<sup>12</sup> above) are underpinned by the authority of these Torah mitzvot.*

## E] WHY IS HALACHA IS SO CRITICAL, YET SO CHALLENGING?

22. (1) בנוהג שבעולם, המשוררים והמליצים מתארים יפה את הדרת החיים בכלל, את כל פנותיהם היפות ביחוד הכוללות זרם רב וטל-חיים מרובה. הם יודעים גם להציג לראוה את הכעור הכללי של הקלקולים שבחיים ולמחות נגדם בכל תוקף.  
 (2) אבל לחדור לתוך-תוכם של כל הגורמים הפרטיים, איך מכשירים את החיים ומעמידים אותם על הבסיס הטוב. ואיך משמרים אותם מכל קלקלה גם קטנה שבקטנות, שסופה להעלות שרטון גדול ולהרס הרבה מאד - דבר זה אין לו עסק עם כח המדמה החם והעז, כי אם עם החכמה המדיקת. כאן תחל עבודת הרופאים, החסכנים, המודדים, השופטים, וכל החכמים המעשיים ....  
 (3) השערות הדקות, שמהן מצטרפות עבות העגלה של החטאת. גידי-החיים הדקים, שמהם ישורגו מזרקי-הדם הגדולים. אלה המה המסתרים הצפונים מעין כל נביא וחווה. המצות המעשיות כולן ופרטי הלכותיהן בכל דיוקם הנמרץ. איך בהמשך-הזמן על-ידי קיומם ותלמודם, הרגלם וחבתם, יצא הנעם הפנימי החבוי בהם. וזרם-החיים האלהי הטהור יגרש בעזו את חשכת עבודת אלילים מבלי תוכל עוד קום. .... דבר זה לא נתן לנבואה בכלל - לנבואה של אספקלריא שאינה מאירה. אמנם נתן לנבואתו של משה - אותה הנבואה של 'פה אל פה', של אספקלריא המאירה. שרק היא יכולה לראות עזם של הכללים ודיקנותם של הפרטים כאחד. אבל לא קם כמוהו - (דברים לד:י) וְלֹא־קָם נְבִיא עוֹד בְּיִשְׂרָאֵל כְּמֹשֶׁה אֲשֶׁר יָדַעַנִי ה' פְּנִים אֶל־פְּנִים.

(4) והוצרכה עבודת הכללים להמסר לנביאים ועבודת הפרטים לחכמים. וחכם עדיף מנביא. מה שלא עשתה הנבואה, בכלל מלחמתה החוצבים להבות אש לבער מישראל עבודת אלילים ולשרש אחרי עיקרי ההשפלות היותר גרועות של עשק וחמס - של רצח וזמה, רדיפת שחד ושלמונים - עשו החכמים בהרחבת התורה, בהעמדת תלמידים הרבה ובשנון החוקים הפרטיים ותולדותיהם. (ותבוק ג:ו) הַלִּיכֹת עִוְלָם לָךְ - אל תקרי הליכות אלא הלכות' (מגילה כח:).

(5) במשך הזמן הרב נתגבר עסק החכמים על עסק הנביאים והנבואה נסתלקה. ארכו הימים, והכללים החלו להתרופף, נבלעו בהפרטים ולא יראו החוצה.

10. For a series of shiurim on Rabbinic Authority and Da'at Torah, see <https://rabbimanning.com/index.php/audio-shiurim/daat-torah/>

11. Other key questions include (i) What types of ruling by the Sanhedrin are covered by this authority - halacha only or also aggada/hashkafa? (ii) How does this authority continue into the world of Chazal and the Talmud? Almost all the Amoraim (certainly in Bavel) were not members of the Sanhedrin and the Talmud was completed long after the Sanhedrin had ceased. As such, what is the basis for its authority; (iii) What is the authority of Rabbis after the Talmud - the Geonim, Rishonim, Shulchan Aruch and Acharonim?; (iv) Wherein lies the halachic authority of today's rabbinic leadership and which areas of contemporary life does that authority affect - purely halachic, hashkafic, societal, political, personal? All of these questions (and more!) are addressed in the shiurim on Rabbinic Authority and Da'at Torah referred to above. Those source sheets also include an extensive further reading list on the topic.

12. The Ramban rules that Category C - Rabbinic legislation - is not underpinned by the authority of Lo Tasur. R. Elchanan Wasserman asks what then is the authority of Rabbinic law!? His answer - that its authority is rooted in 'Ratzon Hashem' - opens up a fascinating aspect of Da'at Torah and the extent to which Rabbis (and which Rabbis!) are blessed with Divine inspiration.

(6) על כן באחרית הימים צמחיית מהלך שיבת אור הנבואה תתחיל להופיע, אֶשְׁפּוֹף אֶת־רוּחִי עַל־כָּל־בְּשָׂר (ויאל ג:א). אז שנאת הפרטים תתגבר. (משנה סוטה ט:טו) [בעקבות משיחא חוצפא יסגא ...] 'חכמת סופרים תסרה, ואנשי הגבול - אלו תלמידי חכמים שמשמימים גבול לדבריהם - ילכו מעיר לעיר ולא יחוננו.'  
 (7) עד אשר לא כפרי-בוטר כי אם כבכורים מלאים טל וחיים יצאו הניצוצות של התחלת אור הנבואה מנרתיקם. וזו תכיר בכללה את גדל פעולת החכמה ובענות צדק תקרא: 'חכם עדיף מנביא'. (תהלים פה-יא-יג) חֶסֶד וְיִמְתָּ נִפְגְּשׁוּ צְדָק וְשָׁלוֹם נִשְׁקוּ; אֵמֶת מֵאֲרָץ תִּצְמַח וְצְדָק מִשְׁמַיִם נִשְׁקֶף. גַּם־ה' יִתֵּן הַטּוֹב וְאֲרָצֵנוּ תִתֵּן יְבוּלָהּ. וּנְשַׁמְתּוּ שֶׁל מֹשֶׁה תִּשׁוּב לְהוֹפִיעַ בְּעוֹלָם.

הרב אברהם יצחק הכהן קוק, "חכם עדיף מנביא" אורות, זרעונים ב'

*Rav Kook describes the challenge of balancing the importance of a focus on the 'big picture' of values and ethics, with attention to the minutiae of halachic detail which ultimately determine the myriad choices of our everyday lives. The prophets focused on the major broad issues of human life - God, peace, justice, truth etc. Ultimately, their message went unheeded. Following the return from Bavel and the building of the Second Temple, the focus shifted to the Rabbis, with the explosion of Drash and Oral Law. Halacha succeeds in creating REAL personal and societal change because it deals with issues on the micro level. Millions of tiny disciplined decisions can create a beautiful macro picture, in the same way that detailed musical notation can create a symphony or thousands of careful brush strokes can create a Rembrandt! However, the danger of a halachic life is the very same focus on detail, which can lead to robotic and decontextualized orthopraxy. Rav Kook explains how, in the lead up to Mashiach, the Jewish world yearns again for prophecy and the bigger picture, and therefore resists and rejects the halacha and Rabbinic authority. The resolution is a synthesis of macro and micro, which is the prophecy of Moshe Rabbeinu, for which we pray<sup>13</sup>!*

As a rule poets know how to portray the nobler side of life, its beauty, its dynamism and vitality. They also know how to describe the evils of life and to protest against them vigorously. But the passionate force of the imaginative faculty is unable to determine the various factors and particular conditions that preserve life and safeguard it from defects that are liable to generate very destructive consequences. This is a body of knowledge that concerns itself with the particulars. Here begins the work of physicians, economists, engineers, judges, and all those who pursue practical fields.

The distinction has even wider application. Prophecy saw the evil force of idolatry in ancient Israel, and protested against it with all its might; it envisioned the majesty and delight associated with the belief in one God, and portrayed it in all its radiance. It saw corruption and moral depravity and it was religiously inspired to change society through its holy and sophisticated articulation.

But the little lapses out of which was forged the gross body of sin - these remained hidden from the eye of every prophet and seer. It is the practical daily observance of the mitzvot (commands) with all their detailed laws that will decisively vanquish the darkness of idolatry. Through the observance, study, habituated performance and the love of the law, after a span of time they will release their hidden elegance and grace along with the pulse of pure Godly living. Conversely, the gradual negligence of disparaging the performance of the commandments, with their pedantic attention to detailed performance, will trigger a process of erosion, destroying the vessels in which is stored the exalted spirit, causing the human passions, the straying imagination, which abounds in beautiful shoots on the outside, but in poisonous elements within, to become automatically ever more potent.

It is true that this perception was granted to the prophecy of Moses, of which God is quoted as saying that He revealed it to him "from mouth to mouth" (Num. 12:8), the prophecy of undimmed clarity that discerned simultaneously the claims of general principles as well as of the exacting demands of the particulars. But there never arose another like Moses, as we are told, "There never arose another prophet like Moses whom the Lord knew face to face" (Deut. 14:11).

It was, therefore, necessary to assign the expression of "broad principles" to the prophets, and the "particulars" to the Sages; and, as the Talmud declares, "the sage is more important than the prophet" (Baba Batra 12a). And what prophecy with its impassioned and fiery exhortations could not accomplish in purging the Jewish people of idolatry and in uprooting the basic causes of the most degrading forms of oppression and violence, of murder, sexual perversity and bribery, was accomplished by the sages through the expanded development of the Torah, by raising many disciples, and by the assiduous study of the particular laws and their derivative applications. "The eternal paths lead to Him" (Hab. 3:6) - the term of 'paths', *halikhot*, may also be read as *halakhot*, and the text would then mean that the laws lead to Him" (Niddah 73a).

In the course of time the concern with the work of the sages predominated over the work of the prophets, and the institution of prophecy ceased altogether; after some time, the general principles declined, they were immanent in the particulars, but were not readily apparent. At the end of the present epoch, when the light of prophecy will be to have its revival, as we are promised, "I shall pour out My spirit on all flesh" (Yael 3:1), there will develop a reaction, a pronounced disdain for the particulars. This is alluded to in the Talmudic statement that at the dawn of the Messianic age, "the wisdom of the sages will become unsavory, and those who live on the boundary [that is the sages who define limits in the law] will turn from city to city without finding grace" (Sotah 49b).

This will continue until the radiance of prophecy will re-emerge from its hiding and reveal itself not as an unripe fruit, but as the first fruits full of vitality and life, and prophecy itself will acknowledge the great achievements and effectiveness of the sages, and in righteous humility exclaim: "The sage is more important than the prophet." This transcending of one-sidedness will vindicate the vision of unity expressed by the Psalmist: "Mercy and truth have met, justice and peace have kissed, truth [the law] will rise out of the earth [the Rabbis], and mercy will show itself from heaven [prophecy]; the Lord will also bestow what is good and our earth will bring forth its bounty" (Ps. 85:11). The soul of Moses will then re-appear in the world.

translation from <http://www.alexisrael.org/rav-kook---sage-and-prophet>

13. For over 100 shiurim on the development of the halachic process see <https://rabbimanning.com/index.php/audio-shiurim/halacha/>  
 For a detailed reading list of material on the development of the Oral Law see <https://rabbimanning.com/index.php/links/recommended-reading/>, section 15.  
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