

עזר האמונה החדש

The New Aid for Faith

PDF - AN EXPLANATION OF THE ORAL LAW
UNEDITED

By

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AN EXPLANATION OF THE ORAL LAW

PREFACE:

This paper is a revision and extension of a paper I had written in the early 1990's in answer to an attack on one of the most fundamental beliefs of Historical Judaism: The Oral Law.¹ While I have found discussions of the Oral Law in many sources and taking many different approaches, no source brings the information in a clear and understandable manner, in one place, with supporting material from the Tenach. I have added new material based on comments by those who have read its original form, further research I have made on the subject, and from the many discussions I have had on the subject with Jews and missionaries.

When writing this paper the intended readers are Jews, both those who have been deceived by missionaries into opposition to something they do not understand fully, and those Jews who are just curious about this subject. It assumes one has a basic belief in the validity of the Tenach, and nothing more.² The original paper has been given to many people, and has had a great deal of success and I hope that this expansion will be as effective. I have also changed much of the wording that was 'polemical' in nature to make it easier to read for a more general audience.

There are two sources that I have used which have aided immensely to this work, and allowed me to bring this work; in the form I have it now. The first are the books of Rabbi Avigdor Miller Z'L. In many of his works he touches on themes that are key to what I have tried to explain here. His ability to explain Judaism in simple language transcends those differences of outlook that are found in Orthodox Judaism. Many of his points have been used here, but more importantly the method of approaching the subject that he teaches, has been invaluable. Secondly, while I have used all the major commentaries on the Tenach to gain a full understanding, that of the Ralbag (Rabbi Levi ben Gershon) has been of significant value. His approach to the text, looking to understand the underlying themes and lessons in it for us today, has taught me how one should learn Tenach.

¹ This paper, which is unpublished as far as I know, was by Mr. Marvin Morrison, and I will reference it directly or indirectly in this book at times.

² I have decided not to deal with the issues raised by secular scholars in this work, as it would take away from the flow of the ideas I wish to present. However let me make a few remarks. The primary 'theory' of Biblical Criticism is the 'Documentary Hypothesis.' This theory (which is assumed to be fact by many) essentially says that the text of the Torah was compiled over time and redacted to the present form at a late period from different works. (There are four primary ones: J, E, P, D, but I have seen many additions/sub divisions.) The problem with this methodology is that it is not portable to other works of literature. Let me give some examples:

1. J and E are distinguished by the different name for G-d that they use. However if we apply the same criteria to the works of J. R. R. Tolkein, we have a problem. In *The Hobbit* he calls a type of creature 'goblin' while in his other works they are called 'orcs'. Obviously they had different authors.
2. Minor differences in details are ascribed to different authors. If we look at the Sherlock Holmes works by Arthur Conan Doyle, we find that Dr. Watson had a military wound, which appears in a different place in two of his works. An obvious proof that he did not write them all.
3. I would challenge any supporter of the DH to come up with a methodology that can distinguish the multiple authors of the Torah, and at the same time be valid to separate the authors of any work KNOWN to have two authors.
4. The same challenge for the work edited by Tolkein's son, of his father's material called the *Silmarillion*.
5. Apply the principles behind the DH and by examining Tolkein's works, prove it is only by one author.

The point is clear and simple. It is a theory that has its conclusion, and the facts are manipulated to support it.

I have tried my best to insure that this work is free from errors, but I am only human, and should the reader find something that appears to be an error, I would appreciate being informed. I have attempted to present the material truthfully, and faithful to the teachings of Judaism, at times expanding on their views and giving my understanding of where they get these ideas. What mistakes may be in this work are not those of the Rabbinic sources, but mine alone. It is my sincere hope that the reader of this paper will find at least one new insight, or idea, that will help them to become closer to HaShem.

INTRODUCTION:

"The Torah that Moshe commanded us is an inheritance for the Congregation of Jacob. (Deut. 33:4)"

"You should only be strong and courageous, to observe to do according to all the law, which Moshe commanded you, turn not from it to the right hand or to the left hand that you may be successful in all your ways. (Joshua 1:7)"

"According to the Torah that they shall teach you, and the judgment they shall tell you, shall you do, you shall not turn aside from what they shall teach you either to the right hand or the left hand. (Deut. 17:11)"

"A Persian once came to Shmuel and asked him, 'Teach me Torah.'

Shmuel showed him an alef and said, 'This is an alef.'

The Persian asked, 'Who says that it's an alef?'

Shmuel showed him a bais and said, 'This is a bais.'

The Persian questioned, 'Who said it's a bais?'

Shmuel then pulled his ear very hard.

The Persian cried, 'My ear, my ear!!'

Shmuel then asked him, 'Who says it's your ear?'

'Why everyone knows that it's my ear.'

Said Shmuel to him, 'It is the same here, everyone knows that this is an alef and everyone knows that this is a bais.'

On hearing this the Persian agreed to accept his words." ¹

It sometimes happens that a fact known and accepted for hundreds of years is called into question. When this occurs we are forced to examine why it was accepted in the past, and why it is still valid. "I have not written this work to teach men what they don't already know, but to remind them of what is already known to them from before."² Those words apply here as much as they did when Rabbi Moshe Chaim Luzzato wrote them in the introduction to his work 'The Path of the Just'.

Rabbi Yehuda HaLevi,³ defending the validity of the oral tradition against the attacks of the Karaites offered a proof that is very simple, but conclusive. He asked: In what form was our Torah given, with or without vowels? It was obviously given without vowels, or any marks to show the end of sentences. And yet the Masoretic version, the orally transmitted traditional version is that which is accepted as the valid text. Both the Karaites in and Christians accept this oral tradition as being authentic and the original one received by Moshe and the prophets. Anyone who would doubt this need only look at Isaiah 63:9. In this verse the Mesorah tells us that there is a word that is written one way, but that the tradition says must be read another way. Both the Jewish and Christian translators agree to the translation based on the traditional reading: "In their afflictions He was

¹ Ecclesiastes Rabbah (Heb.) (Jerusalem: Wagshall), Midrash on Ecclesiastes 7:8

² Rabbi Moshe Chaim Luzzatto, Mesilas Yeshurim (Heb.) (Jerusalem: Eshkol, 1978) p. 3

³ Rabbi Yehuda HaLevi, Sefer Kuzari (Heb.) (Israel: Hadron) Book III 30-35

afflicted." But that is not what is written! If you translated the words as written they would read "In their afflictions that were not afflictions." All translators, both Jewish and Christian, rely on the oral tradition and affirm that the Jews have the true tradition from Moshe and the prophets, and that it was never lost! This is the infallible text that all rely on.

Regarding the guardians of the oral tradition, Josephus bears witness to their truth. He tells us that "the Pharisees have delivered to the people a great many observances by succession from their fathers, which are not written in the law of Moshe"⁴ and they "interpret the laws more accurately."⁵ It is therefore a very serious mistake to think that the Pharisees, the forerunners of the Rabbis, were only one of the sects that developed late in second temple period, comparable to other sects of that era.

Josephus tells us that there were three main groups in his time. The Essenes numbered "about four thousand men".⁶ The Sadducees were "a few, yet by those still of the greatest dignity; but they are able to do almost nothing (in religious matters) of themselves; for when they become magistrates... they addict themselves to the notions of the Pharisees, because the multitude would not otherwise bear them."⁷ However "the Pharisees have the multitude on their side."⁸ The Pharisees not only gave us the text of the Tanach, but the universally held traditions surrounding it.

The Pharisees *were* the majority of the Jewish people and represented the Jewish religion in the Second Temple period and they were indisputably the forbearers of the Rabbis of the Talmud who carried on their traditions. This can be clearly seen from how Josephus refers to Rabbi Shimon ben Gamliel, who prominently appears in the Talmud and the Mishnah, (the great grandson of Hillel and the great grandfather of Rebbi, the compiler of the Mishnah) as "of a very noble family, of the sect of the Pharisees."⁹ He was a colleague of Rabbi Yochanan ben Zakkai, who for a time succeeded him, and his son was Rabban Gamliel who was the leader in Yavneh after Rabbi Yochanan (Rabbi Yochanan died shortly after the destruction of the temple).

Even more telling than what Josephus states regarding the Oral Law is that the Christian Bible itself confirms the position and authority of the Pharisees when Matthew quotes Jesus as saying "The teachers of the law and the Pharisees sit in Moses' seat. So you must *obey them and do everything they tell you*."¹⁰ The Pharisees held to both a Written Law as well as an Oral Law. Jesus himself is clearly stating that the information that the Pharisees are transmitting came directly from Moses. Paul on three different occasions¹¹ makes the point that he was from a Pharisee background. Two thousand years ago the Jewish people accepted as valid and originating from Moshe the orally transmitted text and the orally transmitted traditions!

⁴ Josephus, The Antiquities of the Jews Book XIII 10.6

⁵ Josephus, Wars of the Jews Book I 5.2

⁶ Josephus, Antiquities Book XVIII 1.5

⁷ Ibid.

⁸ Ibid. Book XIII 10.6

⁹ Josephus, Life of Flavius Josephus 38

¹⁰ Matthew 23:2-3 (NIV version)

¹¹ Acts 23:6, 26:5, Philippians 3:5. We see the same thing today. Jewish missionaries 'brag' and say they come from an Orthodox background, recognizing them as the representatives of the strictest adherence to Jewish tradition. You don't see any bragging that they came from a Humanist Jewish background.

In view of the above points, I would pose one simple question to those who accept the validity of the Tanach but who deny the validity of the oral tradition. What authority confirms their Bible text to be the true word of G-d? Where do they get the books, and the wordings? If during the period of time from the Exodus from Egypt through the First Temple, the Jewish people were so wicked that they had lost all knowledge of G-d's laws, as some have claimed; and if because of their idolatry they lost all oral traditions from Moshe, from where do we have the text of our Scripture? If the dismal picture of the ancient Jewish people painted by those who attack the oral traditions was, in fact, true, can we really claim to possess the true text of the words of the prophets?

According to them, in the time of Josiah¹², shortly before the destruction of the First Temple, there existed only one single Sefer Torah, and no one who knew the oral traditions from Moshe. Everything from the past was cut off during the time of Menashah! Only this one Torah existed! Where were the books of the prophets, like Isaiah? The histories of our people like Joshua and Judges? We must conclude that these too were lost or forgotten! Even this Torah scroll would be unreadable, since without the tradition telling which vowels belong where, and when the reading of the text changes from the written text we are lost! We might as well all become pagans (G-d forbid), because we could never defend ourselves and our Torah against charges of forgery and deception! The truth is that the Torah is true, our oral tradition from Moshe is true, and their claims are baseless. In the coming pages this will be clarified further.

The primary purpose of this paper is to rebut the claims that there is *no* support for the Oral Law to be found in the Tanach. Even though I will deal with other related issues, once it has been demonstrated that the Oral Law is discussed in the Tanach, this becomes merely an academic exercise.

I have divided this paper into four parts:

1. In the first part, the Oral Tradition, we will see the necessity of an Oral Law from Hashem. We will see that the Torah confirms it. We will see that there are examples in the Tenach corresponding to what we call today the 'Oral Law.'
2. The second part, the Judicial Tradition, deals with another aspect of the Oral Law: the judicial authority that the rabbinical/judicial leaders of each generation have exercised until the present day. We will bring the source in the Torah and show examples from the Tanach.
3. The third part, the Prophetic Tradition, will deal with what the prophets tell us about the spiritual level of the Jewish people in the first temple period, and contrast that to the picture portrayed by those detractors.
4. The fourth part, the Historical Tradition, we will deal with historical development in the second temple period and respond to a number of historical objects raised by the detractors of the oral law.

¹² This is discussed more in depth in the section 'Prophetic Tradition'.

I. ORAL TRADITION:

"Moshe received the Torah on Mount Sinai and gave it over to Joshua...."¹

"These are the statutes, and ordinances and the Torahs, which Hashem gave, between him and the children of Israel on Mount Sinai by the hand of Moshe. (Lev. 26:46)"

"You came upon Mount Sinai and spoke to them from heaven, and gave them upright ordinances, Torahs of truth, good statutes and commandments. (Nech. 9:13)"

*"A man once came and asked Hillel, 'How many Torahs do you have?'
He answered, 'Two, one a written Torah and the other an oral Torah.'
The man responded, 'The written one I believe but the oral one I don't believe. Convert me on the condition that you teach me only the written Torah.'
Hillel accepted him. The first day they started to learn, Hillel taught him, 'Alef, bais, gimel, dalet'. The next day he taught him the Hebrew alphabet in the reverse order.
The man asked him, 'Yesterday you taught me a different way?'
He answered him, 'If on the alef bais you rely on me, you should also rely on me for the Oral Law.'"²*

In Isaiah 55:8 we read"

"My thoughts are not your thoughts, and my ways are not your ways."

This can very appropriately be applied to the Oral Law. The Oral Law is the most misunderstood belief of Historical Judaism. It is very easy to accept a written text (even with the problems mentioned above in the Introduction), but an orally transmitted legal system that explains the written one is hard to understand. For this reason I will divide this section into two parts. The first will show why according to the Torah there *must* be an Oral Law in addition to the written one. The Torah assumes an Oral Law that is as ancient as the written one. The second will cite examples from the Tanach³ to substantiate the integrity of this tradition.

To understand why there must be an Oral Law, we must examine the nature of Hashem as it has been revealed to us in the Tanach:

"The Rock, His work is perfect. All his ways are just. A G-d of faithfulness and without iniquity, Just and upright is He." (Deut 32:3-4)

Hashem is a G-d who is the perfect example of a being who is just and deals justly with people.

"That be far from Thee to do after this manner, to slay the righteous with the wicked, that so the righteous should be as the wicked; that be far from Thee; shall not the judge of all the earth do justly?" (Genesis 18:25)

It is not possible to imagine that He would command something that people could not understand, or could not fulfill. He does not desire that people should sin or fail to do what He commands.

"Have I any pleasure that the wicked should die?' says the Lord, Hashem." (Ezekiel 18:23)

¹ Mishnah Avos 1.1

² Babylonian Talmud Shabbos 31a

³ In the Historical Tradition, I will bring examples from Josephus that will further support this principle.

This is a concept that is taught throughout the Tanach, and is one of the primary theological teachings of the Tenach. In short, Hashem wants us to do His will and does not try to trick us into violating His will. It is then our choice. With this point in mind we can better understand the relationship between two other verses.

"Behold, I set before you this day a blessing and a curse. The blessing, if you will listen to the commandments of Hashem your G-d, which I command you this day. And the curse, if you will not listen to the commandments of Hashem your G-d..." (Deut. 11:27)

"For this commandment that I command you this day, it is not too hard for you, nor is it far off. It is not in heaven, that you should say, 'Who shall go up for us to heaven, and bring it to us and make us hear it?' It is not over the ocean.... But this thing is very close to you in your mouth and your heart to do it." (Deut 30:11-14)

When Hashem gave the commandments to the Jewish people, he did this so that the Nation of Israel should live and not die. The Torah was given to them in a way that it could be fulfilled, without having to go to heaven to learn it. Those who received the Torah knew clearly what was required of them. There were no doubts. Hashem did not tell them a little and leave out a little, so that they should stumble and work in vain. His works are just. The prophet Isaiah summed this up:

"I (Hashem) have not spoken in secret, in a place of the land of darkness. I did not say to the seed of Jacob 'seek me in vain.' I, Hashem, speak righteousness, I declare things that are upright." (Isaiah 45:19)

However, when we look at the commandments in the Torah we have a problem. We just do not know what Hashem wants! The Written Law is at times impossible to comprehend. Not because of a difficulty in language, but because of a general lack of explanation that exists for almost all of the commandments. Let's examine some of the commandments.

Shabbos is probably the most important Jewish observance, but how are we to observe it?

"Remember the Sabbath day to keep it holy. Six days shall you labor and do all your work, but the seventh day is a Sabbath to Hashem your G-d, in it you shall not do any manner of work...." (Ex. 20:8-10)

"You shall keep the Sabbath for it is holy to you, everyone that profanes it shall surely be put to death, for whoever does any work therein, that soul shall be cut off from among his people. Six days shall work be done, but on the seventh day is a Sabbath of solemn rest, holy to Hashem. Whoever does any work in the Sabbath day; he shall surely be put to death. And the children of Israel shall keep the Sabbath, to observe the Sabbath throughout their generations, for a perpetual covenant. It is a sign between Me and the children of Israel forever...." (Ex. 31:14-17)

What type of resting does the Torah mean? Should we rest in bed the whole day? Sit in an easy chair? What is the 'work' that we are supposed to refrain from. Is it work as defined by Physics- any exertion of energy? Or is it only hard work, like moving heavy objects? Is it what anyone wants it to be? Is it, everyone 'doing what is right in his eyes'? Is it possible that Hashem would give a command that required us to put a person to death for violating; when the definition for violating the command depends on each person's definition of 'work'? If this

would be the case, anyone brought before the Jewish court for violating Shabbos could claim that his definition of `work' is different from the court's. Indeed, the man in Numbers 15:32-36⁴ who was put to death for gathering sticks on Shabbos could have easily claimed that the act of gathering sticks is not `work' by his definition and thereby avoided his untimely death. The Torah, as we read it, does not give us a standard. Clearly, the people in the desert had to know what Hashem expected of them. The Shabbos is `forever' and for `all generations'. It was not commanded for them alone but for all generations! We must follow the same laws as them.

There are two other verses that reveal information about Shabbos.

"See Hashem has given the Shabbos...everyman should remain in his place, no man may go out of his place on the seventh day." (Ex. 16:29)

Does this mean I must remain in my house for the entire Shabbos without venturing out?⁵

"You shall not make a fire in all your habitations on the Shabbos day." (Ex 35:3)

Does that mean we should sit in darkness and eat cold food?⁶ Isaiah says, *"And call the Sabbath a delight."* (Is. 58:13) What delight is there in sitting in a dark cold house? Because of the vagueness of the commandments with regards to Shabbos, and the severity of the punishment for its violation, it is clear that there must be an oral explanation that accompanies these verses and explains them. There is no other way for us to be certain about how to fulfill the will of G-d. To say otherwise is to assail G-d's justice.

Let's look at what the Written Torah says about Rosh Hashana:

"And in the seventh month, on the first day of the month, you shall have a holy convocation, you shall do no manner of work, it is a day of blowing for you." (Num. 29:1)

Which seventh month? July? What type of work? We already had that problem above with Shabbos. What kind of blowing? (The Hebrew does not mention a horn or Shofar at all) What do we blow? Would our car horns do? We are left without any idea to the answer to these questions.

Yom Kippur:

"It is a Sabbath of solemn rest for you, and you shall afflict your souls, it is a statute forever." (Lev. 16:31)

In Leviticus 23:29 it states:

"For whatsoever soul it be that shall not be afflicted in that same day, he shall be cut off from his people."

This is a very severe punishment. But what kind of affliction are we supposed to have? Maybe we should all stand on our heads for a few hours? Whip each other with whips? Maybe listening to the Rabbi's

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32 And while the children of Israel were in the wilderness, they found a man gathering sticks upon the sabbath day.

33 And they that found him gathering sticks brought him unto Moses and Aaron, and unto all the congregation.

34 And they put him in ward, because it had not been declared what should be done to him.

35 And the LORD said unto Moses: 'The man shall surely be put to death; all the congregation shall stone him with stones without the camp.'

36 And all the congregation brought him without the camp, and stoned him with stones, and he died, as the LORD commanded Moses.

⁵ We will see verses from the Tenach that indicate this is not what it means.

⁶ This is what the Karaites held

sermon fulfils this? Is that what Hashem wants? Can it really be that for HaShem it really doesn't make a difference? Remember this is a command *'forever'* with a very severe punishment.

Succos:

"And you shall take to you on the first day the fruit of a goodly tree, branches of palm trees, and boughs of thick trees, and willow of the brook, and you shall rejoice before Hashem your G-d seven days. And you shall keep it a feast to Hashem seven days in the year, it is a statute forever in your generations, you shall keep it in the seventh month. You shall dwell in booths seven days, all the home-born in Israel shall dwell in booths, that your generations may know that I made the children of Israel dwell in booths when I brought them out of the land of Egypt." (Lev. 23:40-43)

Without the Oral Law, how would we understand this passage? What is a goodly tree? Is it talking about apples, oranges, figs, or maybe bananas? What are boughs of a thick tree? Let's say we take an apple, a branch of a palm tree, the thickest bough of the thickest tree we can find (this shows how very religious we are) and a willow (the whole tree or just a little of it?). What do we do? You can barely hold all this stuff in your hands. And *this* we have to keep forever? Do you get the feeling that something is missing here? And then for seven days what kind of booth do I need? Do we sit in a telephone booth, or a tollbooth?

"And you shall bind them for a sign upon your hand, and they shall be for frontlets between your eyes. And you shall write them on the doorposts of your house and upon your gates." (Deut. 6:8-9)

What does that mean? This puzzling text leaves me with no idea of what I'm supposed to do. Do we literally bind something to our hand? What does it mean?

"Speak to the children of Israel and tell them they shall make throughout their generations fringes on the corners of their garments, and that they put with the fringe of each corner a thread of blue." (Num. 15:38-39)

What is this verse telling us we are supposed to do for all generations?

Remember what we learned about this verse:

"For this commandment that I command you this day, it is not too hard for you, nor is it far off. It is not in heaven, that you should say, 'Who shall go up for us to heaven, and bring it to us and make us hear it?' It is not over the ocean.... But this thing is very close to you in your mouth and your heart to do it." (Deut 30:11-14)

Can it be possible that Hashem only gave the written instructions, with no oral explanations? Are those commands that appear in the Torah that we have seen above easy to understand and follow? Is it possible to say that Hashem has conspired to make it impossible to fulfill His will? Remember what Isaiah says:

"I (Hashem) have not spoken in secret, in a place of the land of darkness. I did not say to the seed of Jacob 'seek me in vain.' I, Hashem, speak righteousness, I declare things that are upright." (Isaiah 45:19)

He did not give us commandments that are impossible to fulfill. These commandments can be fulfilled only with oral explanations, just as they must have had in the desert for those people to understand what Hashem wanted. Remember, all those commandments say that they are *'forever'* and for *'all your generations'*. We must perform

them in the same manner as they were commanded to do in the desert! Therefore, the explanations had to be handed down to the next generations! We are not allowed to change these explanations as it says,

*"All this thing that I command you, that shall you observe to do, **you shall not add to it or subtract from it.**" (Deut. 13:1 (12:32))*

We must follow everything, and we cannot change it! What they were told to do, we must follow! The explanations of Shabbos, the holidays, and the various mitzvah observances, both the written and oral, must be followed. This also includes death penalties for violations.

Now that we have seen that there *must* be an Oral Law together with the Written Law, let's look at some examples from the Tanach showing that they followed the same law as we follow now.

Regarding Shabbos, we have seen that the Written Torah does not clearly tell us what 'work' means, and how we are to rest. The Oral Law, however, is clear that there are 39 categories of forbidden labor on the Shabbos. Each of these has many subcategories, all of which were taught to Moshe on Mount Sinai, and are related to the types of work that were done while building the Tabernacle in the desert.

One of these categories is the prohibition of writing. This is a forbidden 'work', although we might not have thought of it as 'work'. One of the forbidden activities associated with this category, in the Oral law, is the prohibition of engaging in business, i.e. buying and selling on Shabbos. The reason for this is that the person engaged in business might come to write down information related to a business deal, which would be prohibited. The Torah does not explicitly nor by implication mention anything about this.

In Nehemiah 10:30-32 it says:

*"They joined to their brothers, their nobles, and entered into a curse and into an oath, to walk in G-d's law, **which was given by Moshe** the servant of G-d and to observe and do all the commandments of Hashem our Lord and His ordinances and His statutes, (a) and that we would not give our daughters unto the peoples of the land, nor take their daughters for our sons, (b) and if the peoples of the land bring ware or any food on the Shabbos to sell, that we must not buy them on the Shabbos, or on a holy day, (c) and that we would forgo the seventh year, and the exaction of every debt."*

Here Nehemiah is saying that they agreed to follow the Torah *as given to Moshe*, and then he gives three of the commandments that appear to have been important enough for special mention. First, (a), is a quote from Deut. 7:3 almost word for word: *"neither shall you make marriages with them, your daughter you shall not give to his son, and his daughter you shall not take for your son."*⁷ (c), is from Deut. 15:2: *"And this is the manner of the release, every creditor shall release that which he has lent to his neighbor and his brother...."* But (b), is a prohibition, which is only explicitly stated in the Oral Law. This is the prohibition of buying and selling on Shabbos. Unlike (a) and (c) this language does not appear anywhere in the written Torah! Where does it say that one cannot buy food needed to eat on the Shabbos and pay at a later date? What work would be involved in going into a store and buying on credit some food and paying for it after Shabbos? But the Oral Law, that this verse confirms was given to Moshe, says that it is forbidden. Here is an example where the Tanach says openly that an Oral Law was commanded from Hashem to Moshe!

⁷ Although in Torah it applies to the 7 Canaanite nations, while in Nehemiah it applies to all gentiles, which is a Rabbinic extension.

There are other examples where the prophets rebuke the Jewish people for a violation of the Oral Law. For instance, the Oral Law tells us that one of the 39 categories of prohibited *work* on the seventh day is the prohibition of carrying on Shabbos. It is forbidden to carry any object four cubits in a public place or from one domain to another. For example, carrying an object from outside of a walled city into a walled city is prohibited because they are different domains. In Jeremiah 18:21-22 we read:

"Thus said Hashem, 'Take heed for the sake of your souls, and bear no burden on the Shabbos, nor bring it in by the gates of Jerusalem, nor carry out a burden from your houses on the Shabbos, nor do any work, but make holy the Shabbos as I commanded your fathers.'"

The warning here is very much like what appears in Exodus 31:14-16

"You shall keep the Sabbath for it is holy to you, everyone that profanes it shall surely be put to death, for whoever does any work therein, that soul shall be cut off from among his people. Six days shall work be done, but on the seventh day is a Sabbath of solemn rest, holy to Hashem.

Whoever does any work in the Sabbath day, he shall surely be put to death."

Where is the command in the Written Torah to refrain from carrying on Shabbos that Jeremiah claims was commanded to our fathers? It is **only** explicit in the Oral Law! This verse, too, shows clearly that an Oral Law was commanded to Moshe on Mount Sinai!

Let us now examine Nehemiah 13:15-17:

"In those days I saw in Judah (a) some treading winepresses on the Shabbos, and (b) bringing in heaps of corn and (c) lading asses therewith, as also wine, grapes and figs and all manner of burdens, (b) which they brought into Jerusalem on the Shabbos, and (d) I forewarned them in the day they sold the food. There were dwelling men of Tyre also, who brought in fish and all manner of ware and (e) sold on the Shabbos to the children of Judah and Jerusalem. Then I contended with the nobles of Judah, and said unto them, 'What evil thing is this that you do, and profane the Shabbos?'"

In what way has the Shabbos been profaned? Not one of the actions mentioned in these verses is explicitly proscribed anywhere in the written Torah given to Moshe on Mount Sinai! However, two of these prohibitions have been mentioned already: (e) buying and selling on Shabbos, and (b) carrying from one domain to the other on Shabbos. The others are easy to find.

One of the prohibitions from the 39 forbids threshing. This involves the separation of the grain that we want from the husks that we do not want. One of its subcategories is 'squeezing' which involves removing a liquid (juice) that we want, from the fruit that we do not want. In the Oral Law from Moshe we learn that squeezing grapes in a press (a) is forbidden because of this category!

There is another forbidden category, called 'cutting' (or harvesting). This involves the cutting of grain or fruit from a tree etc. Since the general custom is to cut a branch from a tree to make animals move faster, there is a prohibited activity associated with this category (c) that prohibits any use of animals on Shabbos, because you could come to cut a branch from a tree to use in striking the animal.

We see clearly four prohibitions that are only mentioned in the Oral Laws. All are considered equal, and the Tanach explicitly states two of them were given to Moshe from Hashem. Finally there is an interesting problem here not directly related to Shabbos. The Written Law makes it clear that the punishment for violating the

Shabbos is death by stoning. Those people who had violated the laws of Shabbos should have been punished with death! The Oral Law tells us, however, that they must be warned before they can be punished, so we have (d) where Nehemiah is warning them so that they could later be punished. We see in this passage 5 clear examples of the Oral Law in action!

In Ezra 10:3 we find:

*"Now therefore let us make a covenant with our G-d, to put away all the (foreign) women **and those born from them**, according to the council of our Lord, and of those who tremble at the commandment of our G-d, and **let it be done according to the Torah.**"*

It is easy to understand why the foreign wives should be sent away. As gentile women, they were married in violation of the law and had no place amongst the Jewish people. But what were the sins of the children? Wouldn't they be Jewish, and required to be brought up to follow the Torah? They were sent away because they were not Jewish either! They would not be sent away otherwise! Ezra is teaching us that Jewish descent comes from the mother, and this is *'according to the Torah!'*. But we also know this only through the Oral Law from Moshe!

From what we have developed thus far, there should be no doubt about the existence of an Oral Law, and that it was given to Moshe at Sinai. It was then passed on from generation to generation until we have received it today: a clear, biblically confirmed tradition that goes back to Sinai. In the next section we will explore, the five parts of the oral tradition as Maimonides has outlined them, and show that they are Biblical in nature.

II. JUDICIAL TRADITION:

"If there should arise a matter too hard for you to judge, whether between blood and blood, or law and law, or stroke and stroke, matters of controversy within your gates, then you shall arise and go to the place which Hashem your G-d shall chose. And you shall come to the priests the Levites, and the judge that shall be in those days, and you should inquire, and they shall declare to you the sentence of judgment. (Deut. 17:89)"

"It was taught that in that day Rabbi Eliezer brought every answer he could imagine to prove that he was right and they would not concur with him.

He told them, 'If the law is as I say then let this carob tree prove it, the carob tree should move 100 cubits.'

They answered that no proof could be brought from a carob tree...

He told them, 'If the law is as I say let it be proved from heaven.' There came a heavenly voice that proclaimed, 'Why do you contend with Rabbi Eliezer, the law is as he says in all cases.'

Rabbi Joshua stood on his feet and said. 'It is not in heaven.' (Deut. 30:12) What does he mean by 'it is not in heaven'? Rabbi Jeremiah said 'The Torah has already been given on Mount Sinai, we don't listen to heavenly voices because it was already written on Mount Sinai in the Torah.'"¹

Do not follow the majority to do evil, and do not give witness in a cause to turn away (from justice), after the majority you should incline. (Ex. 23:2)"

"There came two witnesses and said, 'We saw the moon in the proper time and the next night we did not see it.

'Rabban Gamliel (Head of the court at Yavneh) accepted their testimony.

Rabbi Dosa Ben Harkenos said, 'They were false witnesses'...

Rabbi Joshua said, 'I agree to your position' (Rabbi Dosa).

Rabban Gamliel sent to him (Rabbi Joshua), 'I decree on you that you should come to me with your staff, and your money on the day that is Yom Kippur according to your calculation!'

He went to Rabbi Akiva depressed, and he (Rabbi Akiva) told him, 'What Rabban Gamliel says is valid....'

He went to Dosa ben Harkenos. And he (Rabbi Dosa) said to him, 'If we were to judge after Rabban Gamliel we would have to judge after all the courts from Moshe until now...'

He took his staff and his money, and went to Yavneh to Rabban Gamliel on the day that he calculated was Yom Kippur.

Rabban Gamliel stood up and kissed him on the head, and said to him, 'Greetings to you my teacher and student. You are my teacher in wisdom, and my student in that you followed my ruling.'"²

1 Babylonian Talmud Bava Metzia 59b

2 Mishnah Rosh Hashanah 5.8-9

Having established that there must be an Oral Law we can turn to a more in depth discussion of some aspects of the Oral Law. Maimonides, in the introduction to his commentary on the Mishnah, discusses the categories of the Oral Law. He gives 5 categories.³ The first two are related to the previous section:

1. Received explanations given by Moshe, which also have an indication in the verses.
2. Halacha L'Moshe Mi'Sinai.

A large part of the Talmud is taken up in the arguments whose point is to classify laws according to which of the two above categories they belong, as Maimonides states:

"When you find the Rabbis of the Talmud analyzing and disputing with one another in analytical debate, and bringing proofs for one of these explanations or similar ones, (e.g. when faced with the suggestion that when the verse says, 'the fruit of the "hadar" glorious tree,' it might mean that we should use the pomegranate, or the quince, or some other fruit besides the esrog, and one Sage produces a Scriptural proof by stating that the phrase, 'the fruit of the glorious tree' indicates that the fruit must be of a tree whose bark tastes the same as its fruit (the esrog); and another says it indicates the fruit which dwells (from the word Ha'Dar-the dweller) on trees throughout the year (also the esrog); while still another says, 'the fruit which dwells by all bodies of water' (hadar being related to the word for water-again the esrog) these scriptures are brought not because the Rabbis were unsure of the matter until these indications were found - we see that undoubtedly, since Joshua till now, the esrog was indeed taken with the lulav every year with no debate. Rather, these scriptures were later brought only as a result of their search for the precise indication planted in the verse for the already well-known explanation."⁴

We will see from Josephus⁵ that the esrog (citron) was used long before this discussion in the Talmud took place and that Hashem commanded it to Moshe. The whole point of the discussion is to see what proof allows us to remove esrog from the list of unprovables. In fact, Maimonides is left with only 30, all of which are related to measurements for which there is no method of derivation from the Torah.⁶

The next three categories relate directly to the present section. They deal with the judicial authority entrusted to the Judges and Rabbis.

1. The authority to make decisions using analytical methods when there is a question as to what the law is, when it has not been previously decided.
2. The laws the prophets and sages declared as a fence around the Torah.
3. Laws initiated based on either established practices of the people, or established legal institutions.

In this section we will first discuss the Biblical authority for these laws and then show how they were put into practice during the Biblical period.

Judicial authority is established in two places in the Torah, once with regard to Moshe and the period in the desert, and one for the future generations.

"And it came to pass on the morrow, that Moshe sat to judge the people, and the people stood about Moshe from the morning unto the evening. And when Moshe's father-in-law saw all that he did to the people, he said, 'What is this that you do to the people? Why do you sit alone, and

³ Zvi Lampel, (trans.) Maimonides' Introduction to the Talmud, (New York, N.Y. : Judaica Press, 1987), p. 88-90

⁴ Ibid. p. 83

⁵ In the section the Historical Tradition.

⁶ Ibid. p. 85-87

all the people stand about you from morning until evening?' And Moshe said to his father-in-law, 'Because the people come to me to inquire of G-d, when they have a matter, it comes unto me and I judge between man and his neighbor, and I make them know the statutes of G-d and His laws.' And Moshe's father-in-law said unto him, 'The thing that you do is not good. You will surely wear away both you and this people that is with you, you are not able to perform it yourself alone. Listen now to my voice, I will give you counsel, and G-d be with you, you be for the people before G-d and you bring their causes unto G-d. And you shall teach them the statutes and the laws, and shall show them the way wherein they must walk and the work that they must do. Moreover you should provide out of all the people able men, such as fear G-d, men of truth, hating unjust gain, and place such over them, to be rulers of thousands, rulers of hundreds, rulers of fifties, and rulers of tens. And let them judge the people at all seasons and it shall be that every great matter they shall bring unto you, but every small matter they shall judge themselves, so shall they make it easier for you and bear the burden with you.' (Ex. 18:13-22)"

This is the establishment of a judicial system for the time of Moshe's life in the desert. This is expanded for the future in the following:

"If there arise a matter too hard for you in judgment, between blood and blood, between law and law, and between stroke and stroke, even matters of controversy within your gates, then shall you arise and go up to the place which Hashem, your G-d, shall choose. And you shall come to the priests the Levites, and the judge that shall be in those days and you shall inquire, and they shall declare to you the sentence of judgment. And you shall do according to the sentence that they shall declare to you from the place that Hashem shall choose, and you shall observe to do according to all that they shall teach you. According to the Torah that they shall teach you and according to the judgment that they shall tell you, you shall do, you shall not turn aside from the sentence that they shall declare to you, to the right hand or the left hand. And the man that does presumptuously in not listening to the priest that stands to minister there before Hashem your G-d, or unto the judge, even that man shall die, and you shall exterminate the evil from Israel. (Deut. 17:8-12)"

These verses empower the judges to make new decisions, and *on their own authority*, to deal with any new problem.

We are now in a position to examine examples of these three categories outlined by Maimonides, which relate to the judicial tradition from Mount Sinai. First is the authority to make decisions in cases of doubt. We see this explicitly four times in the Torah: Lev. 24:10-23, Num. 9:1-14, 15:32-36, 27:1-11, where Moshe is approached to decide a legal decision, and he asks Hashem what to do in these cases.⁷ We see from Ex. 18:19, that Moshe was to inquire of Hashem when there was a difficult decision, unlike the later generations who in Deut. 17 are not given that option, but must decide by themselves without Hashem.

Sometimes we see these four places mentioned (there are no others), where Moshe went to Hashem and asked advice on a legal decision in a different context. Some have claimed that these actually PROVE that the whole Torah was not given on Mount Sinai as the Rabbis claim.⁸ The truth is that this is really not a contradiction of

⁷ We will discuss these in depth a little later in this paper.

⁸ There are various views of what it means that the Torah was given on Mount Sinai. We are following here the view of Rashi who states that everything was given including the details. However there are other views among the Rabbis for which this is not even a question. One states that all the 40 years of the period in the desert is considered receiving on Mount Sinai, and that on Mount Sinai only the main laws

the claim that all the Torah was given to Moshe on Mount Sinai. Yisro had advised and Hashem had agreed that Moshe should set up a system of jurisprudence in the desert, which would require Moshe to ask of Hashem if the questions were too difficult. There is no real contradiction when this system is exercised. This was its purpose. What needs to be done is review each case and show why Moshe was required to ask Hashem what the law was in that case.

First Lev 24:10-12

"And the son of an Israelite woman, whose father was an Egyptian, went out among the children of Israel, and the son of the Israelite woman and a man of Israel strove together in the camp. And the son of the Israelite woman blasphemed the Name and cursed and they brought him to Moshe. And his mother's name was Shelomith the daughter of Dibri of the tribe Dan. And they put him in ward that it might be declared to them at the mouth of Hashem."

The question is why didn't Moshe know that he should be killed? Was not everything supposed to have been taught to him on Mount Sinai, and moreover, it says explicitly in the written Torah (Ex. 22:27)

"G-d you should not curse"?

The punishment should be at least as much as one who curses his parents:

"He that curses his father or his mother, shall be surely put to death. (Ex. 21:17)"

Moshe should have been able to reason by himself what to do.

It is well known that the stories in the Torah are not always in chronological order. An example of this is, in Exodus chapter 19 we see the preparation to receive the Torah, and chapter 20 is the 10 Commandments. After that we have a number of laws that were given on Mount Sinai, and then we have chapter 24 which relates events from before the giving of the 10 Commandments!

This phenomenon occurs quite often and we see the same thing here. This story with the man who cursed Hashem goes until the end of chapter 24, but chapter 25 starts *"And Hashem said to Moshe on Mount Sinai..."* This story occurred *before* Moshe ascended Mount Sinai.⁹ In which case, he had not as yet received these laws. We can see from these verses they did not know yet if he had done anything that would be a violation! It says, *"That it might be declared to them at the mouth of Hashem."* They had not yet received the command telling them that to curse G-d or one's parents was prohibited. They understood logically that he was doing something that was wrong, and as a result of this action they received this command *before* the formal giving of the Torah on Mount Sinai. They then followed this command.

The second incident is Numbers 9:1-11. As we shall see in Section III, this was the only Passover that was held in the desert, and the first one ever held. In Egypt they had a Passover, but it was special in its laws and was not in celebration of an event. It was the event itself. This was the first time they celebrated the Passover as an event in remembrance of the Exodus. It was also special in that when there was a command to keep the Passover in Leviticus 23:10, it says explicitly that it applies to when they will enter the land.¹⁰ When Hashem commanded to hold this Passover, was it to be like those of all generations where they would keep the Second Passover for those who were unclean or unable to hold it (as we see from 2 Chron. 30:1-3), or would it be like the first Passover in Egypt, which had special laws and no second Passover? We have an historically unique event and no

were given with the details given over the 40 years. Another view is that the principles were given on Mount Sinai, but not the specifics.

⁹ See Rashi.

¹⁰ See the Ramban.

way of knowing what to do in this one instance. This was the question, and it required Moshe to get a fuller explanation of what Hashem had meant by His command of the Passover for the second year.

The third incident is Numbers 15:32-34:

"And while the children of Israel were in the wilderness, they found a man gathering sticks upon the Shabbos. And they that found him gathering sticks brought him unto Moshe and Aaron and unto all the congregation. And they put him in a ward, because it had not been declared what should be done to him."

From this story we see a few things. First, they knew that he did something that violated the laws of Shabbos; the only doubt was as to how he was to be punished. This brings a very important question: what did he do? He was just carrying a few sticks? But as we learned in section I, only the Oral Law forbids carrying on Shabbos! Here we see that in the Torah, a person is punished (with death) for violating a law known only through the Oral Law. The question now is, if they understood that he was in violation of the Shabbos, why did they not know what was his punishment? The death penalty for violations of the Shabbos was well known.¹¹ What made this case unusual? We see from the story very clearly that his actions were done in a very public way and with a haughty attitude. It was not done in a private area, but Moshe, Aaron and the whole congregation were aware of what had occurred, and sent for him to be brought to them. (If not, why was he not just brought to Moshe to be judged as in the other cases?). This shows that he was doing more than just simply violating the Shabbos; he was making a statement by his actions that he was in total rebellion against the Torah and Moshe. This was similar to idol worship, which indicates a total rejection of G-d. This was not much different than what occurs in the next chapter with Korach, who also acted that way. This being the case, there is a real question of how he should be punished. Should he be punished like an idolater¹², or in a special way as was Korach, or should he be punished as an ordinary Shabbos violator? This is what was meant by, *"it had not been declared what should be done to him."*

The last is Numbers 27:1-11 where we have the question of daughters inheriting when there are no sons. The truth is that under normal circumstances this would be a very easy decision. We are, however, not dealing with normal circumstances. In Num. 26:55-56, Hashem made a *special command* regarding how the land should be divided amongst the 12 tribes. This occurred just before these woman appeared before Moshe, and this was the reason why they came to him.¹³ The problem is: if Moshe says that the daughters can divide the inheritance, then should these women marry men of another tribe, there is a very serious problem. The law is that the husband or male children of these women would inherit the land, ultimately causing the estate of one tribe to pass into the hands of another, totally defeating the purpose of the division of the land. However, from the other side there is the law of inheritance. So when they complained and said they wanted an inheritance, as the law required, there came into conflict two of Hashem's commands: The law of inheritance and the command to divide the land amongst the 12 tribes. This required an appeal to a Supreme Court, and Moshe asked the Supreme judge what to do. One part of Hashem's answer is given here. He is told to allow them to divide the inheritance. Later in

¹¹ There is a second reason from the words of the Rabbis. They state that this occurred on the second Shabbos after the Exodus, which was before the Torah was given telling us the punishment.

¹² See Sifsei Chachomom.

¹³ The Rabbis give two reasons. 1. That Moshe actually had to go back to HaShem for this, because he had bragged that they should bring the difficult cases to him. A second reason is that this was done to bring merit to these women.

Numbers 36:1-12 it is recorded that these women must marry someone from their fathers tribe so that the inheritance would not leave their tribe!¹⁴

It was not just to Moshe that this authority was given and exercised. We see this authority to judge continued throughout the time of the First Temple.

"And Jephthah judged Israel six years..."

And after him Ibzan of Beth-lehem judged Israel...And he judged seven years...

And after him Elon the Zebulunite judged Israel and he judged Israel ten years...

And after him Abdon the son of Hillel the Pirathonite judged Israel...and he judged Israel eight years. (Judges 12:7-14)"

This judging is the exercise of judicial authority as Josephus states "Hereupon Gideon would have laid down the government, but was over-persuaded to take it, which he enjoyed forty years, and distributed justice to them, as the people came to him in their differences, and what he determined was esteemed valid by all."¹⁵

"And Samuel judged Israel all the days of his life. And he went from year to year in circuit to Beth-el and Gilgal and Mizpah, and he judged Israel in all those places. And his return was to Ramah for there was his house, and there he judged Israel, and he built there an altar to Hashem. (1 Samuel 7:15-17)"

"And all Israel heard of the judgment which the king had judged, and they feared the king for they saw that the wisdom of G-d was in him, to do justice. (1 King's 3:28)"

There are many more examples: Judges 3:10, 4:4, 10:2,3,15,20 16:31; 1 Samuel 4:18, 7:6; 1 Kings 3:9, 7:7; 2 Kings 15:5; Ruth 1:4; Ezra 7:25. This authority is Biblical and continued from generation to generation down through the time of the second temple and afterwards.

The question is what is the extent of this authority? From the Rabbinic understanding of Deuteronomy 17 it would appear to be very extensive. This leads to the question, if one reads the Torah and comes to a different conclusion, then whom should one follow, the Rabbis or what one believes is the simple meaning of the verse? Logically, we understand that a legal system where an individual can opt out cannot have consistency and justice. As we discussed in the first section, how can we have judicial punishments where there is not a clear understanding of what is required. The same is true in the case where there is no clear authority. But from the other side, the Torah is divine law. This is qualitatively different. Secular law belongs in courts, but divine law, is G-d's law, and where do we see that men have the authority to make their own decisions that effect what is divine law. If they cannot then we all have the obligation to act according to how we understand G-d's will. It would seem that they are authorized to 'discover' G-d's will, and nothing more. This would seem the case, even though it might lead to some problems in cases when a persons reading of the Torah law was different then the 'authorized' judges. Let's consider a particular case, and see if it fits this 'theory'. For this to be true the laws of the Torah need to be objective things, and not subjective ones subject to human decision.

The Torah in Leviticus tells us about certain types of physical plagues that effect men, clothes and houses.

¹⁴ See Rashi were we see that this was a special concern at that time.

¹⁵ Josephus, Antiquities Book V 6.7

“And the LORD spoke unto Moses and unto Aaron, saying: When ye are come into the land of Canaan, which I give to you for a possession, and I put the plague of leprosy in a house of the land of your possession;” (Lev 14:33-34)

Here we see that a house is infected with this plague. So let’s test out theory on this passage. Already in the next verse there is a problem. We said that in divine law, if a person perceived that the law was a certain way he would be required to follow that. Now we see that the owner goes to a priest, which in and of itself is not a problem. But look what he says to the priest:

“Then he that owneth the house shall come and tell the priest, saying: ‘There seemeth to me to be as it were a plague in the house.’” (Lev 14:33-35)

He should have said that there is a plague in my house, why the equivocation here?¹⁶ The verse seems to be hinting that it is not so certain, even though his going to the priest seems to indicate that he does know what there is. If we are dealing with something objective, then either it is or it is not. But the situation is more complex. We see a few verses later that anyone who enters this house becomes ritually unclean. If there is a plague, then those things that were in the house before this man goes to the priest should be unclear also.

“And the priest shall command that they empty the house, before the priest go in to see the plague, that all that is in the house be not made unclean; and afterward the priest shall go in to see the house.” Lev. 14:36

How can the priest tell the man to empty the house? We understood until now that the priest or judge was only able to declare what was objectively divine law. Whether the house is clean or not should not depend on the words of the priest. If he finds it unclean then according to our line of reasoning above, anything in the house at any time this plague was there should be unclean. But it is not. The priest says to clear out all that is in the house. Until the priest declares it unclean, there is no uncleanliness. It is not, as we would have thought, that objectively there is a plague and because of that the items become unclean. It is not that there is a discovery of the divine facts, but there is a divine methodology that is to be followed. The priest is consulted, the judges are asked and THEY decide what is the law, and THAT is the law. The house is not unclean because there is a plague, it is unclean because a priest has seen it and declares it, and until he says it is unclean, it and all that is in it is clean. Amazingly it is his word that matters, MORE than what appeared to be the facts to the owner of the house.

We can take this one step further. When an individual sins unintentionally that person is required to bring a sacrifice.¹⁷ Part of that is the ceremony of laying one’s hand on the sacrifice.¹⁸ Now according to what we have assumed, that the individual is responsible for his sin and not the judges, then the case should be that if he has listened to the judges and not followed his own understanding, that he should be liable. That means that if through error, or willfully, the judges make a mistake and the people follow it, each person needs to atone for his own sin, and bring his own sacrifice.

“And when ye shall err, and not observe all these commandments, which the LORD hath spoken unto Moses, even all that the LORD hath commanded you by the hand of Moses, from the day that the LORD gave commandment, and onward throughout your generations; then it shall be, if it be done in error by the eyes of the congregation.... And if one person sin through error....” (Lev 15:22-24,27)

¹⁶ In the Hebrew it says “k’negah” like a plague instead of “negah”, which would be a more definitive statement.

¹⁷ If it was the type of sin that required a sacrifice. This is not the place to go through all the conditions when and where a sacrifice was required for an individual.

¹⁸ Lev. 4:29.

Here we see that G-d differentiates between the 'eyes of the congregation' i.e. the leaders and individuals. We see this even clearer in another passage:

"And the LORD spoke unto Moses, saying: Speak unto the children of Israel, saying: If any one shall sin through error, in any of the things which the LORD hath commanded not to be done, and shall do any one of them: if the anointed priest shall sin so as to bring guilt on the people...."

"And if the whole congregation of Israel shall err, the thing being hidden from the eyes of the assembly, and do any of the things which the LORD hath commanded not to be done, and are guilty: when the sin wherein they have sinned is known, then the assembly shall offer a young bullock for a sin-offering, and bring it before the tent of meeting. And the elders of the congregation shall lay their hands upon the head of the bullock before the LORD; and the bullock shall be killed before the LORD." (Lev. 4:1-3,13-15)

Here again we see this differentiation and significantly the sin offering requires the laying of hands by the elders, who were the ones they listened to, ONLY. It is their offering.¹⁹ It is the judges who need to bring the sacrifice if they err, and the people follow them. Considering the 'authority' that they have, as we saw in the issue of the priest and the plague, it only makes sense that they are responsible.

The next category of the judicial tradition of the Oral Law is that of new decrees declared by the Rabbinic authorities under the authority of the Torah. There are numerous examples of decrees being declared in the Tanach in an earlier generation, and its being followed afterwards:

*"And they set the priests in their divisions, and the Levites in their courses, for the service of G-d, which is at Jerusalem, as it is **written in the book of Moshe**. (Ezra 6:18)"*

This verse claims that these divisions are from the Torah, yet we do not find them there! What is meant by 'it is written in the book of Moshe'. The authority to make these orders is found in the book of Moshe (Deut. 17).

Who first instituted the divisions among the priests and Levites?

"And he (Solomon) appointed, according to the ordinance of David his father, the courses of the priests to their service, and the Levites to their charges, to praise and to minister before the priests, as the duty of every day required, the doorkeepers also their courses at each gate, for so had David the man of G-d commanded. (2 Chron. 8:14)"

David authorized these divisions under the judicial authority that he had from the Torah, and for this reason the verse refers to them as 'written in the book of Moshe.' This was followed from the time of the beginning of the First Temple, and was re-instituted at the beginning of the second temple:

*"And they kept the service of their G-d and the service of the purification, and so did the singers and the porters, **according to the commandment of David and of Solomon his son**. (Neh. 12:45)"*

We find the actual command from David in the following verses:

"And David divided them into courses according to the sons of Levi. (1 Chron. 23:6)"

¹⁹ This can also be seen clearly from the order in the Torah of the sin sacrifice in chapter 4. The priest is first, then the judges, then the ruler and then, finally individuals.

"And David with Zadok of the sons of Eleazar and Ahimelech of the sons of Ithamar, divided them according to their ordering in their service. (1 Chron. 24:3)"

"Moreover David and the captains of the host separated for the service certain of the sons of Asaph and of Heman and of Jeduthun, who should prophesy with harps, with psalters, and with cymbals. (1 Chron. 25:1)"

We see clearly that the Tenach considers a decree issued under the authority of the sages as `written in the book of Moshe'! This shows that G-d declares rabbinic decrees of equal authority to laws written in the Torah!

There are other examples of legal enactments by authorized sages that were accepted as law by later generations:

*"Then said David, `You shall not do so, my brethren, with that which Hashem has given us, who has preserved us, and delivered the troop that came against us into our hand. And who will listen to you in this matter? For as is the share of him that goes down to the battle, so shall be the share of him that remains by the baggage, they shall share alike.' And it was so from that day forward, that **he made it a statute and an ordinance for Israel till this day.** (1 Sam. 30:25)"*

There are four major fast-days that the Jewish people meticulously keep. They are part of the oral tradition of the Jewish people. Why then does the holy prophet Zechariah, in the name of Hashem, discuss these four major fast-days (and tell us that in the messianic age they will become holidays) if they are nowhere commanded to be kept in the scriptures?

"Thus said Hashem of hosts, `The fast of the fourth month (17 of Tamuz), and the fast of the fifth month (9 of Av), and the fast of the seventh month (the fast of Gedaliah), and the fast of the tenth month (10 of Teves) shall be to the house of Judah joy and gladness, and cheerful seasons. (Zech. 8:19)"

Nowhere in the written Torah is there a mention of these fasts - they were decrees of the prophets because of the destruction of the first temple.

There is an orally known decree that the Jewish people always pray towards Jerusalem. We see that Daniel did this:

"Now when Daniel knew that the writing was signed, he went into his house; and his windows being open in his chamber toward Jerusalem, and he kneeled upon his knees three time a day, and prayed, and gave thanks before his G-d as he did aforetime. (Daniel 6:11)"

Here we see Daniel doing two things, first praying three times a day, as was his custom from long before then, and as is stated in the Oral Law. He also is praying toward Jerusalem, following the command that Solomon had given.

As we read:

"May your eyes be open toward this house night and day, even toward the place whereof You have said My name shall be there, to hear the prayer which your servant shall pray toward this place. And listen to the supplication of your servant, and of your people Israel, when they pray toward this place, yes, hear You in heaven Your dwelling place and when you hear, forgive. (1 Kings 8:29-30)"

We are also presented with a serious problem by what we find in Daniel 1:8-12:

"Daniel purposed in his heart that he would not defile himself with the king's food, nor the wine which he drank, therefore he requested of the chief of the officers that he might not defile himself. And G-d granted Daniel mercy in the sight of the chief of the officers...try your servants, I beseech you, ten days; and let them give us pulse (lit. raw seeds) to eat and water to drink."

We see clearly that Daniel was saying that he could not eat the king's food because it would defile him, but he would eat raw seeds. The wine he could also not drink, only water. Why would Daniel refuse to eat cooked foods from the king's table that are not from the categories of forbidden animals? Furthermore, what's wrong with the king's wine? Why would it defile him? This would imply some type of prohibition existed with regard to the food. The written Torah doesn't mention any such restrictions! However there two laws that were discussed by our sages. The first is a prohibition of eating food cooked by a non-Jew, and the second is that of drinking wine touched by a non-Jew. Daniel would have become defiled by the king's food and wine by partaking of them, so he followed the oral law by restricting himself to pulse and water.

Finally we see that even in the chronologically last book of the Tenach we find that they were still continuing to make decrees (as continues to this day). *"Also we made ordinances for us.... (Neh. 10:33)"* This shows that throughout the Biblical times, from the earliest to the latest periods, judicial decrees were continually being made, all based on the authority given in Deut. 17!

The third category, of customs being made law by decree, can be seen from various customs that appear in the Tenach, that have become part of the religious law even though no command from G-d is recorded. I will mention only two examples:

1. The laws of mourning. In Gen. 23:2 we see that Abraham, made a eulogy for his wife Sarah. From Gen. 50:3 and Deut 34:8 we find a 30-day mourning period. Jer. 16:17 mentions the meal of consolation that is made for the mourners.
2. Next there are also a number of marriage customs from the Torah that are followed to this day. In Gen 24:57 we see that a prospective bride must give her permission to be married, Gen. 29:28 mentions the week after the wedding which is a time of celebration for the bride and groom until this day.

To conclude this section, we have seen that the five categories of Maimonides are all based on Torah and practices that were present from the earliest Biblical times until the present time. There is an eternal Oral Law that explains the details of the Written Law and was given to Moshe by Hashem. This included the authority to make new decisions and decrees in the future, which we have seen in practice in many places in the Tenach.

III. PROPHETIC TRADITION:

"No one has seen iniquity in Jacob, nor has seen perverseness in Israel. (Num. 23:21)"

"For Hashem said, 'You were sold for naught and you will be redeemed without money' (Is 52:3)."

"One day Rabbi Abraham Galanti came before his Rabbi, the Ari. His Rabbi told him, 'I see a trace of the sin of stealing on you.'

Rabbi Galanti went home and started to fast hoping that it should be revealed to him what he had done. He was the owner of a factory and so he went there and gathered all the workers before him. He laid a pile of money on a table and asked, 'If there is anyone who I may have by mistake not paid please come take the money.'

No one came forward.

He again asked, 'Perhaps someone feels that I should have given him something and I didn't, please come and take.'

At that, one woman came forward and took two pennies.

After that Rabbi Galanti ran back to his Rabbi and begged him to see if the sin remained.

The Ari told him, it was gone, and he added, 'Do you know what your sin was? This woman worked harder than the others and deserved to receive more money. In heaven this was considered as a sin for you.'"¹

"The Rabbi of Ropshitz met the Rebbi of Lublin on his way back from Tashlich (a custom based on the verse in Micah 7:19 'And you should cast all their sins into the depths of the sea'). The Rebbi of Lublin asked him, 'Where are you going?'

He answered, 'I am going to collect the Rebbi's sins.'"²

One of the strangest elements that so often characterizes the Jewish Scriptures, and confuses the missionaries, is that her prophets had almost nothing complimentary to say about the Jewish People. Indeed, the Scriptures are replete with examples of prophetic criticism of Israel. What is even more peculiar is that virtually all the wicked people in Tanach, when describing the Jewish People, did so with the most complimentary superlatives. For example, when Korah described the Jewish people, he says:

"... All the congregation are holy, every one of them, and Hashem is among them." (Numbers 16:3)

Korah is saying that *all* of the Jewish People are holy, even though we have seen many instances of their failings. We see that Moshe doesn't disagree with him on that. Even the wicked Haman was witness to the fact that the Jewish People kept the laws of Hashem when he complained about Israel saying:

"There is a peculiar people spread out abroad and dispersed amongst the peoples, all the provinces of your kingdom, and their laws are different from every people..." (Esther 3:8)

The wicked prophet Balaam, who is no less complimentary, declares:

¹ G. MaTov, Tales of Tzaddikim (Brooklyn, New York: Mesorah, 1988) Based on Vol. 3 page 227

² Well known Hasidic story

"How can I curse whom G-d has not cursed...? Behold I am bidden to bless, And when He has blessed, I cannot call back. None has beheld iniquity in Jacob, Neither has one seen perverseness in Israel, Hashem his G-d is with him.... For there is no enchantment with Jacob, Neither is there any divination with Israel. (Num. 23:8,20-23)"

This is not Balaam's opinion! Hashem told him to say this. In Numbers 23:5 it clearly states:

"Hashem put a word in Balaam's mouth, and said: Return unto Balak and thus thou shalt speak..."

Here Hashem, placing the words in Balaam's mouth, says that after 40 years in the desert, the Jewish People were without iniquity, and blessed by Hashem. King David, on the other hand, says in Psalms 78:8:

"Ye stubborn and rebellious generation, ye generation that set not their heart right, and who's spirit was not steadfast with G-d."

What is the explanation for this apparent contradiction?

The simple explanation for this apparent irony is that the prophets had only one concern on their minds: to improve the Jewish People. Nothing else. Therefore, every chance they had to criticize Israel was embraced by these men of God. They had no interest in telling the seed of Abraham what they were doing right. For simply stroking the Jewish people would in no way improve them. We see the importance of this exhortation from the many verses in Proverbs on this subject. Here are a few examples:

Proverbs 3:11:

"My son, despise not the chastening of the LORD, neither spurn thou His correction;"

Proverbs 12:1:

"Whoso loveth knowledge loveth correction; but he that is brutish hateth reproof."

Proverbs 15:32:

"He that refuseth correction despiseth his own soul; but he that hearkeneth to reproof getteth understanding."

On the other hand, the wicked had no motive to criticize. They couldn't care less whether the Jewish people were righteous or not, and therefore they tell it the way it really was.

Let's examine some of the ways Tanach emphasizes the shortcomings of the Jewish people in order to encourage them to attain greater spiritual heights.

The first way is that it castigates all the people because of the sins of a few.

"And Moshe said, 'Eat that (manna) today, for today is Shabbos to Hashem, on it there will be none.' And it came to pass on the seventh day that there went out some of the people to gather and they found none. And Hashem said unto Moshe, 'How long will you (plural) refuse to keep My commandments and My laws?' (Ex. 16:25-28)"

What happened here? A few people went out to look into the fields to see if the manna had fallen, and Hashem says that they were *all* wicked and were refusing to keep His commandments. No commandments were even violated, they were just curious to see if what Moshe said was fulfilled!

We see that even one person causes Hashem to react in this manner.

*"But the children of Israel committed a trespass concerning the devoted things, **for Achan**, the son of Carmi, the son of Zabdi, the son of Zerah, of the tribe of Judah, took of the devoted thing, and the anger of Hashem was kindled against the children of Israel." (Josh. 7:1)"*

What's going on here? One person has sinned and Hashem is angry with all of Israel! Look what it says a few verses later:

*"Israel has sinned, yes, they have even transgressed My covenant...Therefore the children of Israel cannot stand before their enemies, because **they have become accursed...** There is a curse in the midst of you." (Josh. 7:11-13)"*

These are very hard words. It is hard to find such words even from the worst Jew-haters. One Jew does something, and such a reaction? Doesn't this tell us something about how Tenach speaks about the Jewish people?

Regarding the 'horrible' sin of Moshe and Aaron that caused them to lose the reward of entering the land of Israel, it says:

"And HaShem said to Moshe, 'Take the rod and assemble the congregation, you and Aaron your brother and speak you unto the rock before their eyes, that it give forth its water, and you shall bring forth to them water out of the rock, so you shall give the congregation and their cattle to drink.' And Moshe took the rod from before Hashem, as He commanded him. And Moshe and Aaron gathered the assembly together before the rock, and he turned to them... And Moshe lifted up his hand and smote the rock with his rod twice... And Hashem said unto Moshe and Aaron, 'Because you believed not in Me, to sanctify Me in the eyes of the children of Israel. (Num. 20:7-12)"

What did Moshe do? He hit the rock and water came out. Hashem had said to speak to the rock, but he hit it, that's all. It is even harder to understand this because in Ex. 17:6 Hashem had told Moshe *to hit* the rock! And yet Hashem says that Moshe did not believe in him.

Even unintentional actions by an individual can be considered severe enough to make the whole people subject to punishment.

"And the men of Israel were distressed that day, but Saul adjured the people saying, 'Cursed be the man that eats any food until it be evening and I be avenged on mine enemies... But Jonathan heard not when his father charged the people with the oath... And Saul asked council of G-d, 'Shall I go down after the Philistines? Will you deliver them into the hand of Israel?'. But He answered him not that day. (1 Sam. 14:24,27,37)"

Here we see Jonathan ate honey because he did not know that his father had made an oath. And even though it was done without knowledge, Hashem did not answer Saul when he called on him. All the people suffered for the actions of only one Jew, even when that one person did something unintentional!

Even if they performed Hashem's commandments, but did not do them with the proper thoughts or intentions, they are castigated.

*"And Hashem said, 'Forasmuch as this people draw near, and with their mouth and with their lips do honor Me, But have removed **their heart far from Me**, And their fear of Me is a **commandment of men learned by rote.**' (Isaiah 29:13)"*

The Jewish people were trying hard to draw near to Hashem, and they did fear him, but not properly, it missed something, and so they are berated.

Even when it comes to dealing with someone who was truly a sinner, the picture the Tanach shows us is completely different than the detractors of the Jewish people want to say. They claim that if someone sinned that meant that he was not only a sinner but he knew and cared nothing about the Torah or about the commandments

as well. He was no different than the gentiles around him, and followed their laws 100% and ignored the laws of Hashem 100%. This is, however, very far from the truth. Let us examine one story that the Tanach gives us about a person who was probably one of the wickedest kings that Israel ever saw.

"And Achav the son of Omri did that which was evil in the sight of Hashem above all that were before him. (1 Kings 16:30)"

This man was certainly, according to this verse, the worst sinner in all the years before him. More than anyone in the time of the Judges, or any King before him. More than the people who lived in the time of the peoples sojourn in the desert. Worse than Korach, the spies and the worshippers of the golden calf!

But how evil was he? Did he spend his time violating all the laws of the Torah? Before examining his actions we need to remember that he was a monarch with unlimited power, and no one to answer to except G-d, which being an idol worshiper we would think that He did not matter.

"And Achav said to Naboth, 'Give me your vineyard that I may have it for a garden of herbs, because it is near unto my house and I will give you a better vineyard than it or if it seem good to you I will give you the worth of it in money' And Naboth said to Achav, 'Hashem forbid it me, that I should give the inheritance of my fathers to you.' And Achav came into his house sullen and displeased because of the word which Naboth...And he laid him down upon his bed and turned away his face and would eat no bread." (1 Kings 21:2-4)

What was Achav's problem? Naboth had real Chutzpa. Achav offered him money or a better field and he refused that offer. In our times we would call that 'making an offer you can't refuse' (at least if you value your life.) Achav wanted that land, but he didn't kill him? Why not? Because he, like all the Jews in Israel, were aware of, and in general followed the Torah laws. Either Naboth would sell it to him or give it to him, or he could not get it. He had no choice. After being turned down, he didn't send his guards to kill him like a gentile king would do, because the Torah forbids it. The only choice for Achav was for him to sulk in his bed.

"But Jezebel his wife came to him, and said to him, 'Why is your spirit so sullen that you eat no bread?' And he said to her, 'Because I spoke to Naboth the Jezreelite and said to him, Give me your vineyard for it and he answered I will not give you my vineyard.' And Jezebel his wife said to him, 'Don't you now govern the kingdom of Israel? arise and eat bread, and let your heart be merry, I will give you the vineyard of Naboth the Jezreelite.' (5-7)"

So his gentile wife - who clearly was much more evil than Achav - comes to him and tells him, 'no problem', I'll get it. What did she mean she would get it? Would she tell the guards to go out and kill Naboth? That would be in line with what she had seen in the household of her gentile father. No, she couldn't do that even as Achav couldn't!

"So she wrote letters in Achav's name, and sealed them with his seal, and sent the letters to the elders and to the nobles that were in his city, and that dwelt with Naboth. And she wrote in the letters, saying 'Proclaim a fast and set Naboth at the head of the people, and set two men, base fellows, before him, and let them bear witness against him, saying: You did curse G-d and the king. And then carry him out, and stone him, that he dies. (8-10)"

She hired two witnesses, just as is required by Deut. 17:6, to testify against him. She was wicked, but since she knew the Torah law, and understood that she would have to give the appearance of working within its parameters, she had no choice! After the trial what happened?

"Then they carried him out of the city and stoned him with stones, that he died." (13)

He was executed outside the city as it says in Lev. 24:14:

"Bring forth him that has cursed outside of the camp...."

Jezebel always had to give the outward appearance of following Torah Law.

To show that the Jewish people couldn't have kept an oral tradition, it is sometimes claimed that we can see three commandments that they were negligent about and this proves the case. They are circumcision and the celebration of the festival of Passover and Succos. Let us now see how truthful this claim is.

Circumcision is one of our most precious commandments. It was commanded to our father Abraham, and has been kept until this day by the Jewish people. But, we do not see that the Tenach spends much time discussing its fulfillment. In fact the only time that it is mentioned, after the Exodus when the Israelites entered the land, would appear to be in a negative way.

"At that time Hashem said to Joshua, 'Make knives of flint, and circumcise again the children of Israel the second time.' And Joshua made knives of flint, and circumcised the children of Israel at Gibeath-ha-araloth (mount of foreskins). And this is the cause why Joshua did circumcise, all the people that came forth out of Egypt, that were males, even all the men of war, died in the wilderness by the way, after they came forth out of Egypt. For all the people that came out were circumcised, but all the people that were born in the wilderness by the way as they came forth out of Egypt had not been circumcised. For the children of Israel walked forty years in the wilderness, till all the nation, even the men of war that came out of Egypt were consumed, because they harkened not unto the voice of Hashem, to whom Hashem swore that He would not let them see the land which Hashem swore to their fathers that He would give, a land flowing with milk and honey. And He raised up their children in their stead, them did Joshua circumcise, for they were uncircumcised, because they had not been circumcised by the way. And it came to pass, when all the nation were circumcised, every one of them, that they abode in their places in the camp till they were whole. (Joshua 5:2-8)"

If we examine this passage, there is not the least hint that the Jewish people sinned in not circumcising themselves in the desert. The reason is quite simple. If we examine the Torah we find only one place where someone is criticized for not circumcising a child. That is Ex. 4:24-26. While Moshe was on his way to Egypt to take the Jewish people out, he stopped in at guesthouse that was not too far from Egypt, and neglected to circumcise his son. It appears that this stopping and putting off the circumcision was the cause of his punishment. But here, they waited forty years, and Hashem did nothing, and said nothing!

What is the real reason why the Jewish people were not criticized for not circumcising their sons during the 40 years in the desert? It must be realized that circumcising a child is not like clipping your nails. It is surgery; and the person who endures this operation must have time to fully heal after the circumcision. This takes a number of days as we see from the story in Genesis 34 where the people of Shechem circumcised themselves and in verse 25 we see that on the third day they were still in so much pain that only two sons of Jacob were able to slaughter every male in the city. The situation is the same when a baby is circumcised, in that for the first few days the child requires special care. Now, if we look at Ex. 40:36-38, we see that the Jewish people could never know when it would be the time that they would have to travel farther on their journey in the desert. Hashem would decide when to go and when not. In Joshua 5:8 we see that they had to wait a period of time to be healed, but in the desert they could not have known when they would travel again, so they could not, on their own initiative, circumcise the children because of the mortal danger it would pose. And, in fact, we see that in Joshua 5:2 Hashem had to tell Joshua that now was the time to start circumcising again, because they would be able to stay long enough to become healed. But from this day on, they always circumcised their children, even though it is

no longer mentioned in the Tenach. Where do we see this? From the manner in which the Tenach consistently refers to non-Jews.

*"You have given this great deliverance by the hand of Your servant, and now shall I die for thirst, and fall in the hands of **the uncircumcised**? (Judges 15:18)"*

If Samson was also uncircumcised how could he say that? It is clear that he was circumcised.

*"And Jonathan said to the young man that bore his armor, 'Let us go over to the garrison of **these uncircumcised**, it may be that Hashem will work for us...'" (1 Sam. 14:6)"*

If Jonathan was uncircumcised could he say that? But he like all Jews were always circumcised. And all non-Jews were called the uncircumcised ones!! There are many other examples: Jud. 14:3; 1 Sam. 17:26, 31:4; 2 Sam. 1:20; and 1 Chron. 10:4.

There is a rule that should be kept in mind when learning Tenach: the performance of a commandment is related only when there is something interesting to tell unrelated to the commandment itself. Here we see that Joshua was being told that the years of wandering were over, and the sign was that they could begin to circumcise the children after forty years of not being able to. The Tenach does not have to tell us that they circumcised their children, anymore than it has to tell us that they ate, slept, and breathed.

"And the children of Israel encamped in Gilgal and they kept the Passover on the fourteenth day of the month at even in the plains of Jericho. (Joshua 5:10)"

Here we see that the Passover was kept when they arrived in the land of Israel. Why do we hear this story? Because except for the Passover held in the second year (Num. 9:1-5), they did not keep it because they couldn't keep it. In Ex. 12:48 it says clearly, *"let all his males be **circumcised and then** let him come near and keep it (the Passover)."* Since we have seen above that they could not circumcise in the desert, Hashem did not require them to hold the Passover except this one time. When they circumcised themselves, *then* they started to hold it! In 2 Kings 23:22 it says:

"For their was not kept such a Passover from the days of the Judges that judged Israel nor all the days of the kings of Israel, nor the kings of Judah."

(This is also related in more detail in 2 Chron. 35) Does this mean that the Passover was never held again after Joshua? No!! When Solomon had dedicated the new temple we find:

*"Offering according to the commandment of Moshe on the Shabbos, and on the new moons, and on the appointed seasons, three times a year, **even in the feast of unleavened bread...** (2 Chron 8:13)"*

This verse is just telling us about the new temple, but it adds that *all the sacrifices, even the Passover sacrifice* was brought! Again we find,

"And Hezekiah sent to all Israel and Judah, and wrote letters also to Ephraim and Manasseh, that they should come to the house of Hashem at Jerusalem, to keep the Passover to Hashem, the G-d of Israel. (2 Chron 30:1)"

Here we see the Passover of Hezekiah, which was the first one in many years in which people from both Israel and Judah came together in Jerusalem. Until then, Judah came to Jerusalem, and Israel didn't, but kept it in Gilgal or Beth-El in the kingdom of Israel (see Amos 4:4). This is why this story is mentioned, but between Solomon and Hezekiah the Passover was always held! The same is true with regard to the Passover in the time of Josiah. What made this Passover in the time of Josiah important enough to be mentioned in the Tanach was that it was a time of national renewal after the wicked kings from earlier, and this caused a great deal of excitement among the people.

Similarly, with regards to Succos, read Neh. 8:17:

"And all the congregation of them that were come back out of the captivity made booths and dwelt in booths for since the days of Joshua the son of Nun till that day the children of Israel had not done so, and there was great gladness."

It is claimed by detractors of Judaism based on this verse "that the Children of Israel had not even properly observed Succot almost 1,000 years!!" Were there really no Succos celebrations from the time of Joshua until then? All the righteous kings, David, Hezekiah, Josiah never held Succos? In fact we find that shortly before this Succos it was celebrated in the time when Ezra returned to the Land of Israel. From Neh. 2:1 we see that Nehemiah came to the land of Israel after the twentieth year of Darius. But from Ezra 1:1 we see that Ezra came during the first year of Cyrus, many years earlier. And in Ezra 3:4 we see, "*And they kept the feast of tabernacles.*"³ So only a few years earlier there had already been held the first Succos in the land of Israel since the destruction. We see even earlier (2 Chron 8:13) where Solomon held the feast of tabernacles. It was always held, just now there was a special celebration since the Temple was being built at that time.

We can now examine one period of time where the detractors of the Jewish people have completely missed the mark. That is the 40-year period of the time in the desert. From what they say, we might think that it was 40 years of evil rebellion, and certainly from what we see in Tenach it might appear to some to be that way. As we have pointed out at the beginning of this section, judgment given by prophetic criticism is not the same as the objective and divine prophecy of Balaam. This was the generation described by Hashem, using Balaam's mouth, as "*having no iniquities.*"

Let's explore **ALL** those sins that occurred in the first two years, until the rebellion of Korah.

1. In Ex. 5:19-21 we see that some of the Jewish people complained to Moshe that things did not get better after he came. The truth is that they were quite justified. He promised to do something, and he had so far failed. They had a right to challenge him to prove that he was going to do what he claimed! Maybe he was a false prophet?
2. By the Red Sea, Ex. 14, we see that the Jewish people were afraid of the Egyptians. They had nowhere to go but into the water. It seems that for Hashem, if you see yourself surrounded on all sides, with the choice of either going into the water and drowning, or going to the Egyptians and getting killed, you are not justified in being afraid and complaining. That's quite a high standard of conduct to have to maintain.
3. Next we have three examples of complaining because there was no more water or food, Ex. 15:22-24, 16:2-3, and 17:1-3. It is hard to understand what other type of reaction could be expected of fathers and mothers, given that they had no food or water, and having to watch their poor little children starving for bread and drink. But these lapses of faith are considered serious sins for those people.

Actually after examining these events and if we consider it carefully we see that rather than showing something negative about these people, it tells us of their high spiritual level. They had no problem with abandoning Egypt and running into the desert where no food or drink would be found. How many of us would be able to have the faith to act in that way? Yet when they did fail to stay on that high level, and they acted as any normal person would, this was ascribed to them as a serious sin!

Then there were a few sins that were committed by only a few people:

³ See also Norman Geisler's book "When Critics Ask", Page 218, where he openly states that a Feast of Tabernacles was indeed celebrated in the time of Ezra.

1. Ex. 16:20 a few people left over the manna;
2. Ex. 16:27 a few people went out to see if there was any manna that fell on Shabbos.

All these seven events occurred because they were curious or they were afraid for some reason or other. Is there any generation with faith on such a level that could withstand such tests?

Next we have the golden calf. The detractors make two false claims regarding this incident. First, they imply that *all* of the Jewish people were heathen idolaters. However, this opinion can only be supported by one who only watched the movie. A careful reading of the Book would reveal that *only 3,000 people* were pointed out as the perpetrators of the sin and were therefore punished (Ex. 32:28). The second crucial mistake is to so quickly question the words of the sages. They claim "Tradition says that Aaron was just stalling for time, but the Scriptures clearly show his guilty participation in the whole episode." The fact is that there does not appear anywhere in Tanach any punishment for Aaron associated with the sin of the Golden Calf. Aaron was not only not punished, he was not even rebuked from Hashem and then Aaron was rewarded! The rights of the first-born were removed from the first-born and bestowed upon Aaron and all of his descendants for all generations!! This is a strange reaction from Hashem to someone who was `a guilty participant'!!! (It should be mentioned that the reason Aaron was prevented from entering the land of Israel was totally unrelated to the sin of the Golden Calf. Numbers 20:7-12)

Next we have Lev. 24:10-23 where someone cursed Hashem, and Num. 15:32 where someone violated the Shabbos. Here we have two sins involving one person each, and in each case all the Jewish people rose up in order to bring these individuals to punishment.

Now we get to Num 11. G-d sent fire and burned some of the people on the outskirts of the camp for complaining. We see also in verse 4 that the mixed multitudes instigated a protest because of the food they had been eating in the desert.

Then we come to the incident of the spies. Here, ten good speakers convinced the Jewish people that the time was not right to go to the land. The people had a lapse of faith for a short time and were punished. (They immediately realized their error and wanted to go to the land, but it was too late.)

Quite interestingly we see that Hashem says in Num 14:22 that the Jewish people had tested Him only 10 times. I have related every single incident that has occurred until this time. We see that up to this point there were only two events that could be really called serious, the golden calf which involved around 3,000 people, and the spies where ten men caused a temporary lapse of faith in the Jewish people. It should also be noted that many of these events occurred even before the Torah was given, so that their effect on the Jewish People and their learning of the Written and Oral Torah would have been nil. Except for a possible interruption of a few hours due to the various complaints, the majority of the Jewish People had ample free time to learn and review what Moshe taught. We have already seen in Section I ample evidence that there were Oral Laws, and there is nothing that we have seen that would indicate a possibility that there was an interruption in its transition. I must admit that I find this thesis incomprehensible. They would have us believe that the idolater Jezebel would be knowledgeable about biblical jurisprudence while at the same time people in the desert who saw Moshe face to face would not know whether to take an esrog or a watermelon on Succos.

There is one more event in the first two years, and that is Num. 16 where Korah and 250 men with him rebelled against *Moshe*. That's it. Then 38 years later we find the first sin performed, Num. 20:1 and again 21:4-5 when they again complained about food and water.

Finally, the last event was Num. 25:1-9 where the daughters of Moab seduced some men, and brought them to serve idols. We see clearly who was at fault, "Behold these caused the children of Israel through the council of Balaam, to revolt as to break faith with Hashem. (Num. 31:16)" Who is blamed, not Israel, but those women who followed the council of Balaam and caused some of Israel to sin. That's the whole record of the desert. All except three sins occurred in the first two years. Then 37 years passed with no sins. There were a few serious sins, but in general they kept Shabbos, and all the other laws. There is not one single word of criticism with regards to observance of the commandments in the desert. Not in the Torah and not in the Tenach. If one would count the number of days and hours from the forty years that they were in rebellion, they would number a week at most. Not really a bad job, I doubt that there has been better. This shows a very high spiritual level!

Let's now look at the time of the Judges. During this period of around 400 years, you can count on your fingers the amount of times that there are reports of idol worship. And as we have seen, Achav was called the most evil king, and yet the laws of the Torah were the laws of the land. Circumcision, the holidays, and Shabbos were held. They were also constantly calling on Hashem for aid. For example: Judges 2:4-5, 4:3, 6:6, 10:10, 20:23, and 21:2. Besides that there are particular commandments that we see mentioned, and I will bring just a few.

In the Written Law we read:

"And you shall eat and be satisfied, and bless Hashem your G-d for the good land which He has given you. (Deut. 8:10)"

Here it says openly that after eating we bless Hashem, but nothing in the Written Law says anything about before. However in the Oral Law there is a blessing before eating (The whole sixth chapter of Tractate Brachos explains these laws.)

"For the people will not eat until he come, because he does bless the sacrifice, and afterwards they eat that are bidden. (1 Sam. 9:13)"

Here we see that they followed the Oral Law in the times of the judges.

"And the priest answered David, and said, 'There is no common bread, if only the young men have kept themselves from women.' (1 Sam. 21:5)"

Here we see that they are following the laws of ritual cleanliness as it says in Lev. 22:4:

"What man soever of the seed of Aaron is a leper, or hath an issue, he shall not eat of the holy things, until he be clean."

"And Saul had put away those that divined by a ghost or a familiar spirit out of the land. (1 Sam. 28:3)"

This is what it says in Lev. 20:27:

"A man or a woman that divines by a ghost or a familiar spirit, shall surely be put to death."

Let's now look at some of the commandments that were performed during the times of the First Temple. We see that they observed both the Shabbos and Rosh Chodesh (New Moon):

"Why will you go to him today? It is neither new moon nor Shabbos. (2 Kings 4:23)";

"I will also cause all her mirth to cease, her feasts, her new moons, and her Shabbos. (Hoshea 2:13)";

"Saying, 'When will the new moon be gone, that we may sell grain? And the Shabbos, that we may set out corn?' (Amos 8:5)"

Even when the prophets castigated Israel it was not for a total lack of observance (here is mentioned the Oral Law forbidding business i.e. 'setting out corn'). Both Hoshea and Amos were in the so-called wicked kingdom of Israel and not Judah, so even there they observed Shabbos with the Oral Laws!

In Lev. 13:46 it says,

"All the days wherein the plague is in him he shall be unclean, he is unclean, he shall dwell alone, without the camp shall be his dwelling."

Here is a command to keep lepers outside of the area where people live. This was not the general custom in that area as we see from 2 Kings 5:1-5, where we see Naaman lived together with his wife and family and servants.

But, we see in 2 Kings 7:3:

"Now there were four leprous men at the entrance of the gate." Kept outside of where people live.

Finally Deut. 24:16:

"The fathers shall not be put to death for the children, neither shall the children be put to death for the fathers, every man shall be put to death for his own sin."

Here we see that it is forbidden to punish someone who did not commit a crime.

"But the children of the murderers he put not to death according to that which is written in the book of the law of Moshe as Hashem commanded saying, 'The fathers shall not be put to death for the children nor the children be put to death for the fathers, but every man shall be put to death for his own sin.' (2 Kings 14:6)"

To summarize: the primary line of argument these detractors have used is as follows: Since

- a. We see that there is no mention of an Oral Law in the Tenach, and
- b. The Jewish people were so wicked that they couldn't even keep the Written Laws, and
- c. There were times when the Written Law was forgotten therefore there can be no Oral Law from Moshe and it was just invented after the destruction of the Second Temple.

We have seen that his suppositions are not correct. There are many instances of observing the Oral Law as was pointed out in this and the previous sections, from the beginning to the end of Biblical times. We have seen that the opinion that they were so 'wicked' is an exaggeration. Finally we have seen continuity with regard to Oral Laws and decrees that shows clearly that they were never forgotten, and the written ones were not forgotten as well, even if there were some who did not observe them. There is, in fact, a fallacy in this argument because there is no relationship between someone serving idols and not following other Torah laws, as we see clearly from King Achav, and many other instances where people were serving idols, and following Torah Laws! What I will do in this section is first review those points from his paper that have already been answered, and then I will deal with the items left over.

There is another claim that is made to show that there is no Oral Law: The claim is that Josiah had only seen a Torah scroll in the eighteenth year of his reign, when they did the refurbishing of the Temple. However, if we crosscheck with the version in 2 Chronicles, we see the full picture. Josiah turned his heart to serve Hashem

when he was in the eighth year of his reign (2 Chron 34:3). At that time he knew enough to know that he had to start ridding the area of idols. Among the prophets he had to teach him were Hilkiah, and Jeremiah (from the thirteenth year of his reign - Jeremiah 1:2). To say that those prophets did not know that there was a Torah, and that they did not tell Josiah the laws insults our intelligence! We have even seen that Jeremiah, who lived during this period, castigated people for not following oral laws (Section I). It is obvious that if Jeremiah is castigating them, he must have therefore shown the Jewish People, Josiah included, what they were supposed to do.

We need only compare Jeremiah's situation to our time. In our generation, which is among the worst, there still exists a large number of people who are very knowledgeable of the Oral Law even though, sad to say, the majority are not. That does not mean that it does not exist, has been forgotten, or that it has disappeared. G-d forbid!

It is impossible to understand this story in the manner that they would like us to. Let us look at the story of Josiah and understand what really happened. We must realize that Josiah was a truly righteous king, such as had not been seen in Judah since Hezekiah. We see that even before the incident of the Torah scroll the pure character of Josiah as the verse in 2 Kings 22:2 says

"...and he did that which was right in the eyes of Hashem, and walked in all the ways of David his father, and turned not aside to the right or to the left."

If Josiah was doing all that was right in the eyes of Hashem, and therefore keeping all of Hashem's commandments, how could anyone claim that Josiah did not know what was in the Torah? Clearly he must have known exactly what was contained within Hashem's Torah in order for him to have "walked in it" as David his father did (I Kings 9:4, 11:38).

Furthermore, because Josiah was truly a G-d fearing man, any sign from Hashem would have a great effect on him. Since Chronicles adds a little to the story that will aid in understanding, let us follow that version.

"Hilkiah the priest found the book of the Law of Hashem given by Moshe (the Hebrew implies written by Moshe). (2 Chron 34:14)"

He did not find just any Torah. This was a special one.

"And it came to pass, when Moshe had made an end of writing the words of this law in a book, until they were finished, that Moshe commanded the Levites that bore the ark of the covenant of Hashem saying, 'Take this book of the law and put it by the side of the ark of the covenant of Hashem your G-d that it may be a witness against you'. (Deut. 31:24-26)"

Now we see what happened. This special Torah, which was kept next to the ark (which rested in the Temple) was found. After all the years of the wicked kings, they had thought it was probably lost or destroyed. But no, it was found! This caused a great stir. What Moshe said was being fulfilled, they had found this Torah, and it was opened to some place which showed how Hashem would be angry with them if they didn't follow Hashem but instead worshipped idols.

"And it came to pass, when the king had heard the words of the law that he rent his clothes. (2 Chron 34:19)"

He must have heard something pretty strong. So these words, from the Torah scroll of Moshe that was to be a witness against them, was the cause of the whole incident.

To conclude our discussion in this section there is an incident related in the Tenach which exemplifies the greatness of the Jewish people of that time:

"And his daughter-in-law, Phinehas' wife, was with child, near to be delivered, and when she heard the tidings that the ark of G-d was taken, and that her father-in-law and her husband were dead, she bowed herself and brought forth, for her pains came suddenly upon her. And about the time of her death the women that stood by her said to her, 'Fear not, for you have brought forth a son.' But she answered not, neither did she regard it. And she named the child Ichabod (There is no glory) saying: 'The glory is departed from Israel', because the ark of G-d was taken and because her father-in-law and her husband. And she said, 'The glory is departed from Israel, for the ark of G-d is taken.' (1 Sam. 4:19-22)"

This story is the most amazing proof how high their spirituality really was. We see a woman, she is dying as she is giving birth. You can only imagine the pain and fear she must have. She hears that her husband and father-in-law are dead. Who would be a father to this poor child? No father, no mother, no grandfather a child all alone! What would any normal woman feel at this time? But this supreme example of Jewish excellence, she only has in mind that the ark of G-d has been taken. She cannot forget that. They are the last words on her lips as she parts from this world. She even names her son after this tragic event, the capture of the ark. This is truly a graphic commentary on that great time of spiritual giants!

The fact as we have seen is that even though there were times that some people sinned by idolatry or with other sins, the general picture is of a nation that fulfilled the laws of the Torah, both the judicial and ritual. And this is what prophecy tells us. The Jewish people are a holy people and a righteous people!

*"How can I curse whom G-d has not cursed?... Behold I am bidden to bless, And when **He has blessed**, I cannot call back. None has beheld iniquity in Jacob, Neither has one seen perverseness in Israel, **Hashem his G-d is with him....** For there is no enchantment with Jacob, Neither is there any divination with Israel. (Num. 23:8,20-23)"*

Here we see the gentile prophet Balaam relating the words of Hashem, how He feels about the Jewish people. They are holy, and sinless (this is at the end of the forty years, of supposed constant angering of Hashem!) Is. 52:3,5:

*"For thus said Hashem, 'You were sold for nothing, And you shall be redeemed without money.'
'Now therefore what do I here' said Hashem. 'Seeing that my people is taken away for nothing?'
'They that rule over them do howl,' said Hashem, 'And My name continually all the day is blasphemed.'"*

Hashem considers the few sins of the Jewish people 'nothing' and His name is blasphemed because those who 'rule over them howl.' Is. 40:2:

"Bid Jerusalem take heart and proclaim to her, that her time of service is accomplished, that her guilt is paid off, that she has received of Hashem's hand double for her sins."

The punishments that the Jewish people suffer are not in proportion to her sins. Zech. 1:14-15:

"Thus said Hashem of hosts, 'I am jealous for Jerusalem and for Zion with a great jealousy and I am very sore displeased with the nations that are at ease, for I was but a little displeased, and they helped for evil,'"

Hashem is only a little displeased with his people! He does not hate them, he is very displeased with the nations who do evil to His people.

This is the *true* message of the prophets, Hashem has a love for Israel that is eternal. They are not a wicked sinful people whom he hates. As we see above, they are his beloved people, who have only a little angered him:

"Since thou art precious in My sight and honorable and I have loved you. (Is. 43:4)"

Is this what Hashem would say to a sinful people? Or this:

"For this is as the waters of Noah to me, for I have sworn that the waters of Noah should no more go over the earth, so have I sworn that I would not be wroth with you, nor rebuke you. For the mountains may depart, and the hills be removed, but my kindness shall not depart from you, neither shall My covenant of peace be removed, said Hashem that has compassion on you. (Is. 54:9-10)"

"Go, and cry in the ears of Jerusalem saying, Thus said Hashem, 'I remember for you the affection of your youth, the love of your espousals, how you went after Me in the wilderness, in a land that was not sown. Israel is Hashem's hallowed portion, His first fruits of the increase, all that devour him shall be held guilty, evil shall come upon them,' said Hashem. (Jer. 2:2-3)"

This was said to the 'wicked generation' that was to go into exile. Hashem loves His people, period! If you do any evil to them, you will suffer for it!

"Thus said Hashem who gives the sun for a light by day, and the ordinances of the moon and of the stars for a light by night, who stirs up the sea, that the waves roar, Hashem of hosts is His name, 'If these ordinances depart from before Me,' said Hashem, 'Then the seed of Israel also shall cease from being a nation before Me forever.' Thus said Hashem, 'If heaven above can be measured, and the foundations of the earth searched out beneath, then will I also cast off all the seed of Israel for all that they have done,' said Hashem. (Jer. 31:35-37)"

Israel is his people forever!

*"Therefore thus said the Lord Hashem, 'I have lifted My hand; surely the nations that are round about you they shall bear their shame. But you, mountains of Israel, you shall shoot forth your branches and yield fruit **for My people Israel**, for they are at hand to come. For behold I am for you and I will turn to you and you will be tilled and sown, and I will multiply men upon you, **all the house of Israel, even all of it**, and the cities shall be inhabited, and the waste places shall be built, and I will multiply upon you man and beast and they shall increase and be fruitful, and I will cause you to be inhabited after your former estate, and will do better unto you than at your beginnings, and you shall know that I am Hashem. Yes I will cause men to walk upon you, **even My people Israel**, and they shall possess you, and you shall be their inheritance, and you shall no more henceforth bereave them of children. (Ez. 36:7-12)"*

His reward is for His people Israel, all of them! His love for His people has no bounds.

"'I have loved you', says Hashem. Yet you say, 'Wherein have You loved us?' 'Was not Esau Jacob's brother?', says Hashem. 'Yet I loved Jacob.' (Mal. 1:2)"

"For thus says Hashem of hosts who sent me after glory unto the nations which plundered you, 'Surely he that touches you touches the apple of his eye. (Zech. 2:12)"

We do not even understand why He has chosen to love Israel so much. But, the fact is, as we have seen the prophets testify, there is an everlasting love that Hashem has for his people. Their sins bother Him less than the punishments that they have received, and He has sworn that He shall not forget them, and will reward them.

The prophet says (Amos 3:2)

"You only have I known from all the families of the world, therefore I will visit upon you the cause of your iniquities."

The suffering of the Jewish people is really a proof of Hashem's love for us! Hashem adores the Jewish people as a father his own son. And he treats them as if they were His children.

"And you shall consider in your heart, that, as a man chastens his son, so Hashem, your G-d chastens you. (Deut. 8:5)"

All the punishments, and the exile are not from hatred, but as a father chastens a son. What does it mean a father chastens a son. A father does not strike his son to cause him pain, but so that he improve his ways. It hurts the father much more to hit his son than it hurts the son to be hit! Because of this G-d sends His prophets to instruct His children to do what is best for them.

"Yet He sent prophets to them, to bring them back unto Hashem, and they admonished them. (2 Chron. 24:19)"

"Yet Hashem forewarned Israel and Judah by the hand of every prophet and of every seer, saying, `Turn you from your evil ways and keep My commandments.... (2 Kings 17:13)"

"Howbeit I sent unto you all My servants the prophets, sending them often saying, `Do not do this abominable thing that I hate. (Jer. 44:4)"

"The former prophets proclaimed saying, `Thus says Hashem of hosts, return you now from your evil ways and from your evil doings. (Zech. 1:4)"

Time and time again, Hashem sent prophets to instruct His children return from those few sins they had done, just as a father does to his son.

The greatest message that our Father sent by his prophets was,

"Behold the days come, says Hashem that I will perform that good word which I have spoken concerning the house of Israel and the house of Judah. In those days and at that time, will I cause a shoot of righteousness to grow up unto David, and he shall execute justice and righteousness in the land. In those days shall Judah be saved, And Jerusalem shall dwell safely, and this is the name whereby she shall be called `Hashem is our righteousness' For thus says Hashem, there shall not be cut off unto David a man to sit upon the throne of the house of Israel, neither shall there be cut off unto the priests the Levites a man before me to offer burnt-offerings and to burn meal-offerings and to do sacrifices continually. And the word of Hashem came unto Jeremiah saying, `Thus says Hashem, If you can break My covenant with the day and my covenant with the night, so that there should not be day and night in their season, then may also My covenant be broken with David My servant, that he should not have a son to reign upon his throne, and with the Levites the priests, My ministers. As the host of heaven cannot be numbered, neither the sand of the sea measured, so will I multiply the seed of David My servant, and the Levites that minister to Me.' And the word of Hashem came to Jeremiah saying, `Consider you not what this people have spoken saying, The two families which Hashem did chose, He has cast them off, and they despise My people that they should be no more a nation before them. Thus says Hashem, If my covenant be not with day and night if I have not appointed the ordinances of heaven and earth, then will I also cast away the seed of Jacob, and of David My servant, so that I will not take of his seed to be rulers over the seed of Abraham, Isaac and Jacob, for I will cause their captivity to return, and will have compassion on them.' (Jer. 33:14-26)"

After that there is nothing to say. The prophets were sent, and all of the Tenach was given us, to let us know three things:

1. We should improve ourselves, repent and return to our Father.
2. He loves us no matter what we may have sinned. All those sins are really of little value compared to the great love he has for the Jewish people. The sins are not related because they represent the norm, because they are not. They are related to cause the people to strive to come closer to Hashem.

3. Hashem will never forget us and the ultimate reward is waiting for us in the future when the kingdom will be returned to the house of David forever!

King David summarizes everything we have learnt in this section when he proclaims

"Who is like unto you, O Israel, a unique nation amongst the world!"

IV. HISTORICAL TRADITION:

"Withhold not good from them to whom it is due, when it is in the power of your hand to do it. (Proverbs 3:27)"

"Rebbi said, 'Don't look at the flask, but what is in it.'"¹

"There was a poor man who lived in Israel. Seeing his poverty he decided to go to the south of the land and hire himself out as a worker for three years. After the three years ended he went to his master to get his wages.

The master told him, 'I have no money.'

He told him, 'You may pay me with fruit.'

The master told him, 'I have no fruit.'

'You can sell a field and pay me from that.'

'I have no fields.'

'You can give me animals.'

'I have no animals.'

'You can give me quilts and pillows.'

'I have none.'

The man returned to his home very depressed having worked three years and not having received his wages. A short time later, the man was looking out his window and saw a caravan coming with his old master. The man ran out to him.

His old master told him, 'Let me unpack these animals, all of this is yours.' He then gave him a purse of money and said, 'Here are your wages.' His old master asked him, 'When I said I didn't have money what did you think?'

'I thought you must have had a very good business deal and all your money was tied up in that.'

'When I said I didn't have fruit what did you think?'

'I thought that you might not have given the tithe for them.'

'When I said that I couldn't sell my fields what did you think?'

'I thought that you had rented your fields and couldn't sell them.'

'When I said I didn't have animals?'

'I thought that you might have rented them out.'

'When I said that I didn't have pillows?'

'I thought that you might have vowed them to the Bais Ha Mikdash.'

His master answered, 'You are exactly right. Everything you said is true.'"²

What about the period from the destruction of the First Temple to the destruction of the Second Temple? After what we have seen in the previous sections we see that there was an Oral Law that was followed, and the Tenach records it down to the time that the Jewish people started to return to the land of Israel (as we saw in Ezra and Nehemiah.) We now have a different way of viewing the situation.

¹ Mishnah Avos 4.20

² Babylonian Talmud Shabbos 127b

Instead of looking to the Apocrypha as examples of the formation of something that would not bloom until many years later, we can see it in its true light, as a bridge between the times of Ezra (4th Century BCE) and the time of Josephus where we will see clearly that he wrote about many of the Oral Laws and ascribed them to Moshe. (From that time on it is quite easy to reconstruct until the present day, since as we have seen, the last Pharisees mentioned by Josephus, were in fact mentioned also in the Mishnah, and Talmud. From there we have the clear development of the Yeshivas in the land of Israel and in Babylonia. The Babylonian Yeshivahs existed until at least the year 1,000, when the main centers started to move to Europe, and North Africa, and from there the tradition comes directly to us. This tradition has been written down in many works and I will not duplicate it here.)

One remark should be made about the Apocrypha. They are not considered as holy works by the Jewish sages, and I do not bring them as authoritative works. As Josephus says, "everyone is not permitted of his accord to be a writer, nor is there any disagreement in what is written, they being only prophets that have written the original and earliest accounts of things as they learned them of G-d himself by inspiration, and others have written what has happened in their own times, and that in a very distinct manner also. For we have not an innumerable multitude of books among us, disagreeing from and contradicting one another [as the Greeks have] but only twenty-two."³ What the Apocrypha does tell us is historical information about the time when they were written and of the period just before that. If they mention something as being a law, we can assume that at least in that time it was the law and that it can be assumed that it was so for a period of time previous. I will be using quotes from the books of Ben Sira, Tobit, Judith and the history of Susanna, all dated in the 2nd Century BCE. As might be expected we find many elements of the Oral Law in them.

It is especially fascinating that Josh McDowell (in his book *Evidence that Demands a Verdict*, page 34) clearly states that "*Tobit is a short novel, strongly Pharisaic in tone...It is clearly unscriptural in its statement that almsgiving atones for sins.*" It is understandable why McDowell would say this considering that nowhere in the Five Books of Moses does the Torah articulate that charity atones for sins. The Oral Law, however, transmits that very message, and the prophets echo precisely what the Oral Law states.

"Wherefore O king, let my council be acceptable unto you, and break off your sins by almsgiving, and your iniquities by showing mercy to the poor. (Daniel 4:24)"

We see here clearly stated the oral tradition that charity brings forgiveness of sins! It was known in Daniel's time, and even earlier in the time of King Solomon. As we see in Proverbs 10:2:

"Treasures of wickedness profit nothing, but charity delivers from death."

And 11:4:

"Riches do not profit in the day of wrath, but charity delivers from death."

Ben Sira is the most highly accepted from all of the books of the apocrypha. This volume is a moralistic work, and so legal matters do not occur in it. However it is interesting to note that many of the character traits that we find in the Tractate Avos are also found there, like modesty and fear of Hashem. (It would be the work of another paper just to compare the two). We do find, however, one important point that we have just now cited from the book of Daniel and the Proverbs of Solomon. This is the Oral Law that charity can bring atonement for sins. Ben Sira states (3:30)

"Water will quench a flaming fire, and alms makes an atonement for sins."

This is a restatement of the principle found in Daniel chapter 4.

³ Josephus, *Contra Apion* Book I 7-8

The book of Tobit is a story that is supposed to have taken place during the First Temple times (as I mentioned it is usually dated in the 2nd Century BCE and I see no need to dispute this). 1:10-12:

"Those that were of my kindred did eat of the bread of the Gentiles. But I kept myself from eating, because I remembered G-d with all my heart."

Here we see the familiar Kosher laws that we saw with Daniel. 11:9 "for alms does deliver from death and shall purge away all sin." This is what we have seen from Daniel and Ben Sira. 11:19 *"and Tobias' wedding was kept seven days with great joy."* This is a reference to the seven days of celebration that we mentioned in section II. We also see references to the burying of dead bodies that are left unattended (called a Mes Mitzva by the Rabbis), in 1:16-18, and 2:7-8.

The next book we will examine is the book of Judith. In his book the author mentions 10:5

"Then she gave her maid a bottle of wine, and a cruise of oil, and filled a bag with parched corn and lumps of figs, and with fine bread."

Then in 12:2

"And Judith said, I will not eat thereof, lest there be offence, but provision shall be made for me of the things that I have brought."

Here again we see clearly that the Kosher Laws, as exemplified by Daniel, which were Oral Laws, continued to be observed.

Finally the book of Susanna 62 *"and according to the law of Moshe they did unto them in such sort as they maliciously intended to do to their neighbor, and they put them to death."* This follows the laws of false witnesses, that they are punished only when the innocent person's punishment had not as yet occurred, as in Josephus and the Oral Law. From these 2nd Century BCE works we see that there are the elements of the Oral Law as we have shown previously, both from the Tenach and Josephus. (We shall shortly see what the Dead Sea Scrolls have to tell us in this area.)

Regarding the Essenes the claim is that their `revelation' has no relation to that of the Pharisees⁴. This could not be farther from the truth! Josephus says about them, "the third sect, who *pretends* to a severer discipline, and called Essenes."⁵ Who do they act more severe than? "The Pharisees are those who are *esteemed most skilful in the exact explication of their laws.*"⁶

If we examine their legal traditions, we find considerable agreement with the Pharisaic legal tradition, except in those cases where they have acted more severe. They place "bread and wine before the Priest for it is he who shall bless the first-fruits of bread and wine and shall be the first to extend his hand over the bread."⁷ Josephus adds, "it is unlawful for any one to taste food before grace is said."⁸ Here we see that they made a blessing before eating. We have seen that this is something that is not in the Torah, but is a part of the Oral Law.

⁴ It is not my intention here to make the claim that the Dead Sea Scrolls and Pharisaic Judaism were the same. That is not true. I am only pointing out that there are many similarities, especially with regards to showing that an oral law existed.

⁵ Josephus, Wars Book II 8.2

⁶ Ibid. 8.14

⁷ Geza Vermes, The Dead Sea Scrolls (England: Penguin, 1987) p.102

⁸ Josephus, op. cit. 8.5

Lets look at how they observe Shabbos:⁹ (and I have numbered the laws and will make a comment on each of them.)

"Concerning the Shabbos to observe it according to its law.

1. No man shall work on the sixth day from the moment when the sun's orb is distant by its own fullness from the gate wherein it sinks; for this is what He said, 'Observe the Shabbos to keep it holy' Deut 5:12 (This is the same as the Oral Law of Tosephos Shabbos, which means the amount of time that must be added to the Shabbos in the beginning before night actually comes.)
2. No man shall speak any vain or idle word on Shabbos. (This is an extension of the Oral Law that forbids speaking about personal business on Shabbos.)
3. He shall make no loan to his companion. He shall make no decision in matters of money and gain. (This is the same as the Oral Law we have seen that forbids business on Shabbos.)
4. He shall say nothing about work or labor to be done on the morrow. (Speaking about business)
5. No man shall walk abroad to do business on the Shabbos. He shall not walk more than one thousand cubits beyond his town. (This is an extra stringency of the Essenes related to the Oral Law of Tachum Shabbos, which forbids going more than 2,000 cubits from his town. We will see later that in general they also held to this position.)
6. No man shall eat on the Shabbos except that which is already prepared. (This is a clear restatement of the laws prohibiting cooking on Shabbos. However Josephus adds the following stringency "they will not remove any vessel out of its place."¹⁰)
7. He shall eat nothing lying in the fields He shall not drink except in the camp. If he is on a journey and goes down to bathe, he shall drink where he stands, but he shall not draw water into a vessel. (These are related to the prohibition of carrying.)
8. He shall send out no stranger (gentile) on his business. (This is the law that forbids asking a non-Jew to do anything that a Jew is not allowed to do.)
9. No man shall wear soiled garments, or garments brought to the store, unless they have been washed with water or rubbed with incense. (This appears to be a restriction so that one shouldn't violate the Oral Law of washing.)
10. No man shall willingly mingle with others on the Shabbos (I am unsure of the reason, it could be because there are many restrictions related to speaking, and this would be a fence to keep them from violating them.)
11. No man shall walk more than two thousand cubits after a beast to pasture it outside his town. (This is the law of Tachum Shabbos)
12. He shall not raise his hand to strike it with his fist. If it is stubborn he shall not take it out of his house. (This is the Oral Law that forbids touching animals)
13. No man shall take anything out of the house or bring anything in. And if he is in a booth, let him neither take anything out nor bring anything in. (This is the law forbidding carrying)
14. He shall not open a sealed vessel on the Shabbos. (This is a sub-category of 'tearing down')
15. No man shall carry perfumes on himself whilst going and coming on the Shabbos. (A sub-category of washing)
16. He shall lift neither sand nor dust in his dwelling. (This is the prohibition of Muktzta, which forbids the handling of objects that can't be used on Shabbos.)
17. No man minding a child shall carry it whilst going and coming on the Shabbos. (Carrying on Shabbos.)

⁹ Geza Vermes op. cit. p.95

¹⁰ Ibid. 8.9

18. No man shall chide his manservant or maidservant or laborer on the Shabbos. (?)
19. No man shall assist a beast to give birth on the Shabbos. And if it should fall into a cistern or pit, he shall not lift it out on the Shabbos. (Prohibition to handle animals.)
20. No man shall spend the Shabbos in a place near to Gentiles on Shabbos. (?)
21. No man shall profane the Shabbos for the sake of riches or gain on the Shabbos. But should any man fall into water or fire, let him be pulled out with the aid of a ladder or rope or some such utensil. (This shows clearly that Shabbos can be violated only for the saving of a life, as the Oral Law proscribes.)"

This quite clearly proves the point. The halachic sources of the Essenes show conclusively that they are based on non-Biblical issues, which are prohibitions of the Oral Law, or stringencies that relate directly to a specific Oral Law. This would indicate that the Essenes draw their legal tradition from the same sources as the Pharisaic Oral Law. The only ones who do not is that small group of aristocrats called the Sadducees who like the Karaites after them denied all oral traditions.

I would now like to turn my attention to the question of Josephus. The claim is made that Josephus never mentions any Oral Law that comes from Moshe. In reality, however, *there could be nothing further from the truth!* Josephus continually cites laws known only through the Oral Law, and ascribes Moshe as their author. When describing the giving of the Torah, Josephus says that Moshe "*appointed such laws and afterwards informed them in what manner they should act in all cases.*"¹¹ Could there be a clearer pronouncement of the Rabbinic understanding of a Written Law accompanied by an oral Torah, all from Sinai? Let's examine just a few of the Oral Laws that Josephus ascribes to Moshe.

First, we had a problem about which months were meant in the verses commanding the holidays, and also, which month is the first month. Josephus declares that they are lunar months and the first is Nisan¹² just as the Oral Law maintains. Regarding Succos and the four species he says, "*that we should then carry in our hands a branch of myrtle, and willow, and a bough of the palm tree, with the addition of the pomecitron.*"¹³ His description is completely consistent with the Oral Law and with normative Jewish practice today, almost 2,000 years later!

In Deut. 25:3 we read:

"Forty stripes he may give him, he shall not exceed, lest, if he should exceed and beat him above these with many stripes then thy brother should be dishonored before thine eyes."

This verse seems quite clear. The person to be punished is to be given 40 strips, but no more. However, the Oral Law says differently. We find in the Mishnah, "How many stripes do you give him? Forty minus one."¹⁴ This would appear to be a contradiction; the written verse says forty, and the Oral Law thirty-nine. What does Josephus say Moshe taught about this? "*Let him be punished by receiving forty stripes save one.*"¹⁵ Josephus is telling us that Moshe taught the very same language the rabbis used in the Mishnah!

Regarding the marriage laws for a priest we find in the Torah, Lev. 21:7:

¹¹ Josephus, Antiquities Book III 5.6

¹² Ibid. 10.2,3,4,5

¹³ Ibid. 10.4

¹⁴ Mishnah Makkos 3.10

¹⁵ Josephus, op. cit. Book IV 8.21

"They shall not take a harlot, or one profaned, neither shall they take a woman put away from her husband, for he is holy unto his G-d."

The Oral Law adds two other categories: a slave¹⁶ and a woman who had been held a captive.¹⁷ Josephus says that Moshe *"also forbade them (the priests) to marry a slave or a captive."*¹⁸

In Deut. 19:17 we find:

"And the two men, between whom there is a controversy, shall stand before Hashem, before the priest, and the judges..."

Here we see the law that requires two witnesses to come before a judge. The Oral Law makes it clear that it means men and not women. *"The oath of witnesses is given to men and not women."*¹⁹ According to Josephus, Moshe commanded, *"let not the testimony of women be admitted."*²⁰

The Torah tells us that false witnesses should be punished for their sin:

"Then you shall do unto him as he had intended to do unto his brother." (Deut. 19:19)

The Oral Law explains that if the verdict against their victim has been carried out by the court (i.e. if the person they testified falsely against has already been executed) the false witnesses aren't punished. The Sadducees held that the false witnesses were punished even if the verdict against their victim had been carried out (i.e. he was already executed by the court). The Rabbis said to them (the Sadducees) *"Doesn't the Torah say, 'You should do to him as he wanted to do to his brother'"?* (Deut. 19:19) This would seem to imply that they are only punished for their intent, and not for what their testimony actually accomplishes. (The Sadducees asked) *"If so, why does the Torah say a 'life for a life'"?* (The Rabbis answered) *"You would think that they are punished from the time that they have first witnessed, (before conviction) therefore, the verse says 'a life for a life,' they are not killed until the case is finished (and the judged person is considered as dead already)."*²¹ To which Josephus again brings from Moshe *"But if anyone be believed to have borne false witness, let him, when he is convicted, suffer all the very same punishments which he against whom he bore witness was to have suffered."*²²

The law of divorce is stated in Deut. 24:1:

"If she find no favor in his eyes, because he has found some unseemly thing in her, that he write for her a bill of divorce."

It would appear that there must be something substantial to justify his giving a divorce. But, in the Oral Law we find, *"The house of Hillel says 'Even if she burns his food as it says "if he finds in her an unseemly thing", Rabbi Akiva says, 'Even if he finds someone prettier than her, as it says "If she finds no favor in his eyes"'"*²³ Josephus brings that, *"he that desires to be divorced from his wife for any cause whatsoever."*²⁴

¹⁶ Mishnah Kiddushin 4.1

¹⁷ Mishnah Kesubas 2.5

¹⁸ Josephus, op. cit. Book III 12.2

¹⁹ Mishnah Shevuous 4.1

²⁰ Josephus, op. cit. Book IV 8.15

²¹ Mishnah Makkos 1.6

²² Josephus, op. cit.

²³ Mishnah Gittin 9.10

²⁴ Josephus, op. cit. 8.23

There are many more examples, whether it be saying the Shema twice a day,²⁵ or having a Mezuzah on your door,²⁶ or in the wearing of Tephilin.²⁷ It is not just in the area of law that what Josephus cites as Mosaic corresponds to our oral traditions. He informs us that Moshe "*represented G-d as un-begotten, and immutable, through all eternity, superior to all mortal conceptions in pulchritude (beauty), and, though known to us by his power yet unknown to us as to His essence.*"²⁸ It is clear that Josephus was well aware of an ancient Oral Law that was passed down from Moshe, and corresponds to our present Oral Law.

We next approach a subject that must be dealt with in some length. The following claim is made: "There is also a strong contemporary example of the lack of the oral Torah myth prior to the first century. It is the Beta Israel community of Falasha Jews from Ethiopia. Having been completely isolated from the rest of the Jewish people, including those in neighboring Yemen and Egypt, for about 2,400 years, they consequently have no knowledge of the rabbinical dual Torah myth." To support this mention is made of the rabbinic authorities that hold that the Falasha are in fact Jewish and descend from the tribe of Dan. So there are two opinions claimed as fact:

1. The Falasha are descended from Jews of the tribe of Dan from the First Temple period.
2. They have an uninterrupted tradition of Jewish observance that does not include the rabbinic Oral Law. They continue to observe the same religious practices that they observed during the time of the First Temple. (I must admit to an inability to understand the logic that accepts the Falasha as having a 2,400 year old tradition, spanning the period from the First Temple until the present, but, denied the possibility of the rabbis having a 900 year-old tradition from the time of the Babylonian exile until the Mesorah was put into writing.)

We really have two questions that must be addressed: are they Jews? and if so what is the source of their religion? We must look at the facts, as the Falashas themselves claim.

The opinions that hold the Falashas are from the tribe of Dan base this information on the book of one Eldad HaDani, who claimed to be from the tribe of Dan and gave a description of the life of that tribe in the land Cush. The problem is that, "as one recent survey has shown, his halachot (religious laws) display only the most casual resemblance to those of the Beta Israel."²⁹ The problem is even greater when we consider that the "claims of an Israelite presence in Cush receive no support from the substantial archeological work undertaken in the region."³⁰ Simply put, the Falasha do not appear to be the people mentioned in the works of Eldad. What's even more problematic is that there is no archeological evidence to support Eldad's claim of a Jewish presence in Ethiopia, even though substantial archeological work has been done in this area!

This is not to be construed as a denunciation of the Radbaz or of Ovadia Yosef. Rabbi Yosef's opinion was based on the decision made by the Radbaz who's decision was made over 200 years ago. The Radbaz was not aware of the information that I have brought. What people also fail to mention was that Rabbi Yosef required that the Falashas undergo a circumcision ceremony just like converts to Judaism must undergo. (It is not unusual in cases where legal decisions are based on an understanding of facts that if at a latter time new information is

²⁵ Ibid. 8.13

²⁶ Ibid.

²⁷ Ibid.

²⁸ Josephus, Contra Apion, II 17

²⁹ Steven Kaplan, The Beta Israel (Falasha) in Ethiopia (New York and London: New York University Press, 1992) p.44

³⁰ Ibid. p.21

brought to bare the decision was later revised. We indeed see in Jewish law that if a Jewish court rendered a decision based upon the information of witnesses, if new witness come along and introduce new information the court is compelled to revise its previous decision.)

But what do the Falashas themselves say? In 1830 an Anglican missionary came to them and reported, "They do not know of what tribe they are; nor have they any adequate idea as to the period when their ancestors settled in Abyssinia. Some say that it was with Menelic, the son of Solomon; others believe that they settled in Abyssinia after the destruction of Jerusalem by the Romans."³¹ But twenty years later the most learned Beta Israel monk and High Priest Abba Yeshaq was reported as saying "Nous sommes venus avec Salaman....Nous sommes venus apres Jeremie le prophete. Nous ne comptons pas l'annee de l'arrivee de Min Ylik. Nous vinmes sous Solomon."³² (We came from Solomon....We came after the prophet Jeremiah. We don't have a calculation of the years from our arrival at Min Ylik (?). We come from Solomon.) "Many later authors, including twentieth-century ethnologist and linguist have stated unequivocally that this version was reported to them by their Beta Israel informants."³³ Here we see that the Falashas themselves are not certain of their history. In 1830 it was uncertain, 20 years later this idea seemed to crystallize around the name of Solomon. (It should be remembered that the late Christian Emperor of Ethiopia Haile Sellasie was known as the 'Lion of Judah,' claiming decent from King Solomon.)

What the truth is about their history is not important at this time. It does, however, make the claims of their practicing an 'ancient Judaism' problematic. What is important is where do they get their religious practices? Let us first end the fantasy of 2,400 years of Judaism. "The first carriers of Judaism reached Ethiopia between the rise of the Aksumite kingdom at the beginning of the Common Era and conversion to Christianity of King Ezana in the fourth century."³⁴ However, "none of the contemporary sources offers unequivocal testimony for a Jewish presence in the kingdom."³⁵ The claim of a 2,400-year tradition of religious observance in Ethiopia is fantasy. There exists no evidence to state conclusively that there was a Jewish religious presence during the Aksumite Kingdom; and before that there was none at all.

When examining the religious history of Ethiopia the main question that must be addressed and answered is: what is the difference between Ethiopian Christianity and Ethiopian Judaism. This is not as ridiculous a statement as it may seem. "No church anywhere in the world has remained as faithful to the letter and spirit of the Old Testament as the Ethiopian Orthodox Church. Numerous biblical customs have survived in the practice of Ethiopian Christians. Thus, for example, male children are *circumcised* on the eighth-day after birth. The *Saturday Sabbath* long held sway in Ethiopia...Traditional Ethiopian *dietary laws* conform closely to those of the Old Testament."³⁶ Jewishness seems to be an integral part of the Ethiopian culture. When we examine their culture we find many interesting facts about this Jewishness of the Ethiopian culture. The German scholar August Dillmann states "That many of Ethiopian Christianity's biblical characteristics were not introduced in the Aksumite period, but only in the reign of the fifteenth century reforming King Zar'a Ya'eqob. (We will see this name later.) Ethiopian Christianity is in his opinion merely one more example, albeit an extreme one, of the

³¹ Ibid. p.23

³² Ibid. p.24

³³ Ibid.

³⁴ Ibid. p.19

³⁵ Ibid. p.17

³⁶ Ibid.

common Christian practice of adopting biblical names, customs, symbols and even genealogies. (French scholar Maxime) Rodinson argues that Ethiopian culture has been shaped far more by the imitation of the Old Testament than by direct Jewish influences."³⁷ We see that the Ethiopian Christians had a Jewish-like religion. What is significant is that many of these practices were first introduced during the fifteenth century.

But what about the Jews of Ethiopia? Where are the sources of their religious practices? From what we have seen it is not the 2,400-year-old tradition. It would appear better to ask: Was there ever a real Jewish religion in Ethiopia? "Nothing in the written sources can be interpreted as reliable evidence for the survival of a distinct well-defined Jewish community in Ethiopia for the period from the seventh to the fourteenth century."³⁸ "The few hagiographic sources on this period (1137-1270) all probably composed decades or even centuries after the fact make no mention of Jews or Judaism in Ethiopia, and the remaining sources both internal and external offer only the barest of hints on the subject."³⁹ Again, contrary to the thesis the facts show that there was no Jewish religion in existence in Ethiopia before the fourteenth century!

If the religion did not come from a direct tradition where did it come from? The history of the Falasha religion proves the statement 'truth is stranger than fiction'. In 1332 Amda Seyon the Ethiopian king sent soldiers to the area where the Falasha lived because "originally these people were Christians but now they denied Christ like the Jews who crucified him."⁴⁰ Emperor Zar'a Ya'eqob (1434-68) again did battle with people "who became Jews, abandoning their Christianity"⁴¹ This must be repeated. In the fourteenth and fifteenth century the Falasha were considered Christian heretics who adopted a Jewish type religion! This may seem circumstantial, however we must take into account the traditions of the Beta Israel themselves. "According to the Beta Israel tradition, the major catalyst for these changes was the arrival in the midst of a charismatic holy man known as Abba Sabra. Although generally believed to have been a Christian, Abba Sabra is said to have clashed with the reigning monarch and to have sought refuge in the isolated regions inhabited by the Beta Israel. Rather than converting the Beta Israel to Christianity, he eventually joined them, bringing with him the Christian institution of monasticism. Aided by his students and disciples, most notably Sagga Amlek (who supposedly was a son of Emperor Zar'a Ya'eqob), he irreversibly altered the basis of Beta Israel religious life. In fact, *almost every major feature of Beta Israel religion* as known today is attributed to the monastic heroes of this period."⁴² So here we have the major source of the Beta Israel religion, a 15th Century renegade monk from a Judaized Christian Church! "According to Beta Israel tradition, virtually every major element of their religious system originated as part of the 'monastic revolution' of the fifteenth century...The monks were major innovators, gradually defining and articulating a religious system."⁴³

This answers the question about the sources of their religious customs. What of their religious texts? We would assume that they had a Torah that was either the Hebrew or was translated from the original Hebrew into their language when the people stopped using the Hebrew language. "Almost without exception the literature of the Beta Israel neither originated within their community nor reached them directly through Jewish channels. Rather

³⁷ Ibid. p.18

³⁸ Ibid. p.55

³⁹ Ibid. p.48

⁴⁰ Ibid. p.55-56

⁴¹ Ibid. p.59

⁴² Ibid. p.69

⁴³ Ibid. p.72

the majority of Ethiopian `Jewish' texts reached the Beta Israel through the mediation of Ethiopian Christians... Te'ezaza Sanbat (The commandments of the Sabbath)... The first section... is dependant on an Arabic (Christian?) source. The next section is a skillfully edited and censored version of a Christian homily on the Sabbath (Dersaba Sanbat)... Followed by a list of laws and commandments for the Sabbath that draws heavily on the book of Jubilees, particularly chapter 50. According to Beta Israel tradition, Te'ezaza Sanbat is one of a number of texts and other innovations that can be attributed to the 15th century monk Abba Sabra... With one or two exceptions, the Beta Israel appear to have chosen works whose Christian versions already displayed a clear biblical Jewish tone. The `Sabbath' became the `Jewish or First Sabbath,' Egzi'abher (G-d) was substituted for Jesus, the sign of the cross became simply a sign... Four works, the gadlet (Testaments) of Abraham, Isaac and Jacob and the Homily of Abraham and Sarah in Egypt, appear to have come to the Beta Israel as a single group. Not only do they appear together in almost all Beta Israel versions discovered to date, but a fourteenth or fifteenth century Christian manuscript preserved the same arrangement... At least seven of the approximately twenty Beta Israel texts were translated from Arabic sources. Since translation from Arabic to Ge'ez did not begin in earnest until the early fourteenth century, none of these works can predate this period. Indeed, several authors have suggested that most of these texts came to the Beta Israel in the fourteenth or fifteenth century... One of them Nagara Muse dates from the eighteenth century...the Beta Israel were never familiar with Hebrew."⁴⁴ "Nagara Muse purports to be a record of a conversation between G-d and Moses on Mt. Sinai. In response to a series of inquiries G-d outlines the rewards that result from certain types of good deeds and the punishments meted out for specific sins. This is then followed by a second more philosophical set of questions concerning the nature of G-d. The text is of Syriac origin and the Ge'ez versions, both that of the Ethiopian church and the Beta Israel, are derived from the Arabic source, As is usual, the Beta Israel text is an adapted and censored version of the Christian... The translation is explicitly stated to have taken place in the 1750's."⁴⁵

The evidence is clear, the religious practices and texts are all taken from their Ethiopian Christian neighbors, and is only slightly different in form. It is not surprising that we find that the Beta Israel and the Ethiopian Christians mixed together much of their holidays and customs. There was a "decree by an important Ethiopian official concerning the observance of the monthly celebrations in honor of the Archangel Michael. Troubled that the Beta Israel were observing the holiday at the same time (and together with?) their Christian neighbors, he required them to move their celebration from the eighteenth day of the solar month to the same day of the lunar month...Samuel Gobat asked a Beta Israel `Rabbi' to show him his books: his copy of Psalms was found to include Weddasse Maryam (The Praises of Mary), `which the Christians have added to them, with all the repetitions of "In the name of the Father, and of the Son and of the Holy Ghost."... Abba Yeshaq, the most learned of Beta Israel monks, included in his list of Beta Israel works, Fekkare Iyasus (The Teachings of Jesus) a work whose Christian provenance and contents are undeniable. Thus in practice the two religious systems overlapped not only with regard to shared biblical elements, but also to a much lesser extent with some shared Christian themes. Nor did the two groups differ significantly in language, dress, or physical appearance."⁴⁶ With all the evidence, it is impossible to claim that the Falashas have a 2,400-year `Jewish' religious tradition. It may be difficult to say that they have a 400-year `Jewish' tradition.

⁴⁴ Ibid. p.73-76

⁴⁵ Ibid. p.104

⁴⁶ Ibid. p.110-111

To add another point, "prior to the second half of the nineteenth century the Beta Israel did not commonly refer to themselves as Jews."⁴⁷ The conclusion to this has been stated by Kay Kaufman Shelemey who used a "multi-disciplinary approach combining both oral and written sources and a detailed comparison with the liturgical materials from the Ethiopian Orthodox Church, she was able to demonstrate that the Beta Israel's religious system far from deriving from an archaic Jewish source is, in the main, an outgrowth of the Christian Ethiopian tradition. She dated it, moreover, no earlier than the fourteenth or fifteenth century and traced its origins to contact in that period with Ethiopian Christian monks."⁴⁸ To imagine that we are dealing with another tradition of Judaism is pure fiction. The facts are quite clear that even if they are Jewish, (which remains a doubt), their religion has not developed in a vacuum for 2,400 years. It has developed as an offshoot of the Ethiopian Orthodox Church, from whom they have received their traditions, holy books, and even some of their greatest leaders!

⁴⁷ Ibid. p.10

⁴⁸ Ibid. p.5

CONCLUSION:

"The end of the matter, all having been heard, fear G-d and keep his commandments, for this is the whole man. (Ecclesiastes 12:13)"

"A very learned man who had heard of the rabbi of Berditchev – one of those who boasted of being enlightened – looked him up in order to debate with him as he was in the habit of doing with others, and refuting his old fashioned proofs for the truth of his faith. When he entered the zaddik's room, he saw him walking up and down, a book in his hand, immersed in ecstatic thought. The rabbi took no notice of his visitor. After a time, however, he stopped, gave him a brief glance and said; 'But perhaps it is true after all!'

"In vain did the learned man try to rally his self-confidence. His knees shook, for the zaddik was terrible to behold and his simple words were terrible to hear. But now Rabbi Levi Yitzchok turned to him and calmly addressed him: 'My son, the great Torah scholars with whom you debated, wasted their words on you. What you left them you only laughed at what they had said. They could not set G-d and his kingdom on the table before you, and I cannot do this either. But, my son, only think! Perhaps it is true. Perhaps it is true after all!'"¹

"Rabbi Yisroel Salanter traveled often and when he was on a certain road he always stopped at the same inn. On one of his visits he noticed that there was a piece of salami that did not appear to be kosher. Thinking that the owner didn't realize it, he asked him, 'Are you sure that this is kosher?'

The man answered, 'I know that it is not, of late I have not been so careful about that.' Rabbi Salanter was shocked to see this man who was always so religious, would eat such a thing. He asked him, 'What made you change?'

The man answered that a 'visiter' came and gave him proofs that there was no Creator, G-d forbid. 'What kind of proofs did he give you?'

'He took a slice of this salami, held it up and said to me, "If I eat this unkosher meat and I am struck dead, that would prove that there is a G-d Who sees and punishes. But if I eat it and nothing happens to me, it is proof that there is no G-d and you may do what you please." He then took a bite and nothing happened to him. Since then I too have been eating non-kosher meat.'

Rabbi Salanter was struck dumb. The man's daughter then came in waving an official document in her hand. 'Look Father!' she cried proudly. 'I just got a certificate for excellency for my musical talents.'

Her father praised her.

After a few minutes Rabbi Salanter said to her, 'I see your award, but I don't really believe that you play that well. I would like to hear you play.'

She answered, 'I have already proved my ability, and for that I have received this award. I don't have to prove it to everyone who asks me to.'

Rabbi Salanter turned to the Father and said, 'This is your answer! HaShem has redeemed us from Egyptian slavery, and performed many miracles for us like splitting the Red Sea. He gave

¹ Martin Buber, Tales of the Hasidim, Volume 1 page 228.

the manna in the desert and so on. Aren't these miracles enough proof that He created the world and watches over it? Why does He have to prove Himself to every charlatan that comes along, like that salami eater.' The man realized his error and threw out the non-kosher meat."²

I would like to review all the main points that I have previously made. First: It is a fact that the Scriptures in the original were not handed down with punctuation. There exists an oral tradition of both punctuation and emendations (where the written text must be read in a different way). This oral tradition is accepted by both Christians (Is. 63:9) and Jews as being true. However we see that it is claimed that in the time of Josiah, they rediscovered the Written Law and no oral traditions from before then could be assumed. Therefore, if he is correct, then the oral traditions regarding the Torah, and even the book of Isaiah (which predates Josiah) cannot be valid. But we see that both Christians and Jews accept the validity of the oral tradition that allows for a different reading of Isaiah from what was written in Isaiah! It is not possible to deny the oral traditions and accept the authenticity of the text of the Scriptures. One might reply that the Oral Laws are one thing and the oral traditions another. But this leaves out the fact that Josephus clearly states, the Pharisees (who are the early Rabbis of the Talmud), were the ones who transferred the traditions from the previous generations for both the Oral Law and the Masoretic text. As Hillel put it, if you believe me about one (the oral tradition of the Written Law) you have to believe me about the other (the Oral Law). They are historically inseparable. The assumption of falsehood with regard to one leads to the necessity of the other being false.

In the first section dealing with the Oral Law I made the following point: We know that Hashem is not a trickster. He does not deceive people into sinning. In the desert the Jewish people were given commandments to keep forever and for all generations, and they were not able to change them. And certainly they could not do whatever they wanted. However the Written Law is incomplete. We saw many examples that showed it was impossible to follow the written commands by themselves without an oral explanation. If there is no eternal Oral Law then this contradicts what Isaiah says:

"I (Hashem) have not spoken in secret, in a place of the land of darkness. I did not say to the seed of Jacob 'seek me in vain.' I, Hashem, speak righteousness, I declare things that are upright." (Isaiah 45:19)

Without the oral explanations we would be seeking Hashem in vain. And the following verse would also not be true!

"For this commandment that I command you this day, it is not too hard for you, nor is it far off. It is not in heaven, that you should say, 'Who shall go up for us to heaven, and bring it to us and make us hear it?' It is not over the ocean.... But this thing is very close to you in your mouth and your heart to do it." (Deut 30:11-14)

It would not only be hard but impossible to do it! The only conclusion is that there is an Oral Law.

Then we examined many verses from the Tenach that show clearly that there are Oral Laws that conform to our present Oral Law. Josephus' writings were quoted confirming that in the first century this Oral Law was already known as being ancient, and in fact, he ascribes many of the known Oral Laws to Moshe. This brings this oral tradition up to the time of the Mishnah and Talmud.

In the second section we discussed the categories of the Oral Law as expounded by Maimonides. Examples of the first two were in the first section. We gave a full explanation of the meaning of Halacha L'Moshe Mi'Sinai.

² G. MaTov, op. cit. Based on Vol. 2 page 105

We then discussed the other three categories. We quoted the two verses that established the judicial authority, and we brought examples for each of them. We showed where throughout the Biblical times there were judicial processes performed in accord with the instructions of Hashem. Then we gave examples of decrees that were decreed and observed during the Biblical period.

The third section showed that the uninitiated might misunderstand the true picture of the Jewish people because of prophetic criticism in the Tanach. It is clear that the sins of the Jewish people are emphasized, whereas and the performance of the commandments is virtually ignored. We reviewed the years in the desert and showed many examples of Torah observance throughout the time period of the Tenach. All this was to reveal the secret of the Tenach and the prophets, which involved three ideas.

1. Hashem's eternal love of the Jewish people,
2. The prophets were sent to bring the Jewish people close to HaShem.
3. A future reward that awaits the Jewish people.

In the fourth section we dealt with the historical issues and showed the continuity between the destruction of the first temple and the destruction of the second temple.. We also discussed at length the history of the religion of the Beta Israel where it was shown to be of a late origin and not from the time of the First Temple 2,400 years ago.

We have shown in this paper that to deny that there is an Oral Law that goes back to Moshe is not valid. We saw it, and traced it through the time of the First Temple. We saw it continue when the Jewish people returned to Israel with Ezra and Nehemiah after the short exile of 70 years. We saw that there was evidence from at least the 2nd century BCE that it continued uninterrupted. Josephus took us past the destruction and to the middle age of the Rabbis of the Mishnah. And from there to the present is part of a clearly recorded history and tradition that leaves no room for doubt. To state it in a few short words, those of use who stand here now, and continue the traditions of our ancestors represent the latest link from a chain that goes all the way back to Moshe and our ancestors in the desert of Sinai.

The question was posed: "Would Israel fail in its G-d given distinct mission, would the universe cease to function, would the angels of G-d recoil in moral outrage if on Sukkot a Jew, had gathered instead an armful of branches from his apple tree and danced with thanksgiving and utter abandon in his backyard?"³ The answer to the question is yes! As believers in an eternal G-d-given Tanach, we both, unlike the Reform and Conservative theologians, reject the notion that any part of the Tanach can (G-d forbid) become irrelevant at any time! The Torah commands us to take the four species, and, as Josephus confirms, Moshe taught that this meant the lulav and esrog. This is relevant to each of us in our day.

I will admit that according to the logic of man it does not make a difference whether I take the branches of a willow (as Hashem commanded) or those of an apple tree. My personal spirituality and the pure intentions of my heart should be enough. But this is only the thoughts of men, the way of men, and the law of men, not of Hashem!! Since Hashem, the eternal G-d, commanded that we take these things forever, then it *does* make a difference. An eternal command from the eternal G-d is of eternal importance!

³ Morrison page 26.

To someone who's only desire is to serve Hashem and fulfill His will, it does not matter what Hashem commands of him, even if other people laugh at him. Hashem's commands must be followed. Consider this, if your king would command you specifically to do something and you would say, "It doesn't matter what he said, he didn't mean that I should do that, only that I should have proper feelings. My heart should rejoice in his service and be right with him." Would the king say that you are a `loyal subject?' Certainly not! Who is the better citizen, the man who stops for a red light because the law requires it, even though there are no policemen around, or the one who doesn't stop because there is no policeman to see it? Laws require obedience.

If you are going to say that the performance of Hashem's commands in a careful and exacting manner is "stifling rigidity" you ridicule those who's only interest is to fulfill Hashem's command, as He desires. Can you say that and really claim to have an interest in the will of Hashem? We must reject those theories based on the logic of men and follow steadfastly the command of the eternal King of Kings, the One Who created us all and all that we see. The One to whom we shall all have to answer to for our actions in a very short time.

To conclude this paper, I would like to voice the hope of all the children of Hashem, His people, that just as we see fulfilled what the prophet said, "'Behold the days come,' says the Lord, Hashem. `That I will send famine in the land, not a famine of bread, nor thirst for water, but of hearing the words of Hashem.' (Amos 8:11)", so may we see fulfilled the words of the prophet, "For the earth shall be full of the knowledge of Hashem, as the waters cover the sea. (Isaiah 11:9)"