

Jewish Contemporary Ethics Part 18: The Written and Oral Torah 10

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The previous article discussed the nature of Talmudic disagreements (*machloket*) and noted that each side of a Talmudic debate expresses a legitimate Torah perspective, even though

only one side will ultimately be canonised into practical Jewish Law. This idea was immortalised in the Talmud with the phrase “*eilu v’eilu divrei Elokim Chaim*” – “these and these are the words of the Living God” (Eruvin 13b).

The process by which Jewish law is crystallised from a plurality of opinions is complex. We have previously noted the dual role of God and Torah scholars in discerning Jewish law. While the Torah’s laws are immutable, God wants great Torah minds to become partners in this process. Following the revelation at Sinai and the subsequent years in which Moshe expounded the law to the people in the desert, to what extent was God willing to intervene in aiding the Jewish people to determine the correct path?

Following the passing of Moshe, the people had to adjust to the absence of that unique leader. When they asked Yehoshua (Joshua) to clarify certain laws, he responded that after Revelation and the passing of Moshe, God’s wish was for human courts to decide matters of Jewish law by majority rule (Shemot 23:2), not by revelation. The prophet Shmuel taught the people that no prophet can introduce new mitzvot, since no prophet is as great as Moshe and so post-Sinaitic prophecy cannot be used to access God’s opinion on these matters.

Similarly, the Talmudic sage Rabbi Eliezer sought to bring a variety of miraculous proofs to assert his opinion against opposing sages in a particular debate, including a voice from Heaven declaring him correct. The other sages

responded to him that after the revelation at Mount Sinai, even God Himself cannot contradict the words of the sages in determining such questions (Talmud Bava Metzia 59b). While no human sage can rescind Torah law, the practical application of that law is down to leading Torah scholars.

To summarise, both the Written and Oral law originated with the revelation at Mount Sinai, although the deeper aspect of Torah as God’s Divine wisdom existed from the beginning of time. God chose mortal Torah scholars as His partners in the practical application of Jewish law for which He gave a set of rules to determine each case. While this caused *machloket* (rabbinic controversy), the system of determining practical Jewish law has a structure with which to resolve such disputes, relying on majority rule or halachic conventions in cases of doubt.

This human input and innovation is all within a tight system of principles aimed at deriving Jewish law from the Written and Oral Torah. What happens when the principles of Divine law are at odds with our own convictions and sense of right and wrong? The next part of this series will explore whether God’s ethical partnership with mankind extends as far as to allow for a concept of Jewish ethics outside of the rubric of Jewish law.

