YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**"My Children have Defeated Me"**

**Fundamental questions in the study of the Oral Law**

**Rav Amnon Bazak**

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Dedicated in memory of Rabbi Jack Sable z”l and   
Ambassador Yehuda Avner z”l,   
by Debbie and David Sable

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Dedicated in memory of my recently departed father,   
Dr. Lloyd Bayme - ד״ר אליעזר ביים   
- Michael Bayme

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**Shiur #01:**

**Introduction to Fundamental questions in the study of the Oral Law**

The Oral Law has accompanied the Jewish people throughout our existence. Even before the Written Law was given at Sinai, the Patriarchs lived in accordance with a system of laws and regulations. This system expanded over the years, in relation to the Written Law, and never for a moment ceased to develop and relate to changing reality and the challenges of the later generations. At its core are the wondrous works of *Chazal* – the Midrashei Halakha, the Mishna, the Baraitot, and the two Talmuds – the content and meaning of which have occupied Torah students for the last two thousand years.

Students of the Oral Law across the generations have generally focused on the contents of the books themselves. Relatively few studies have been devoted to the fundamental questions that underlie the Oral Law and determine the different paths that it takes. These questions include: Which elements of the Oral Law were handed down by tradition, and which came into being through the human understanding of the Torah sages? What is the relationship between the plain meaning of the biblical text and the Midrashei Halakha? Is the Oral Law fixed and absolute, or is it perhaps subject to change in accordance with changing reality? If, indeed, the Halakha is liable to change, in what ways can these changes be made? What is the relationship between the simple meaning of the Mishna and the interpretation given to it in the Gemara? Are there different layers in the Babylonian Talmud, and if so, what does this mean for those studying it? And so on.

In recent generations these questions have preoccupied more and more people engaged in Torah study, both in yeshivot and in academia, among those halakhic observant and those who are not. The complexity of the situation has led at times to two extreme responses: either withdrawal behind simplistic answers that often do not sit well with students, or a critical attitude toward the literature of the Oral Law that leads to disrespect and an erosion of commitment.

In the face of these phenomena, it is evident that it is necessary to discuss the fundamental questions regarding the Oral Law from the perspective of the Beit Midrash. This means an in-depth study of the issues based on the solid foundations that the Oral Law has successfully established, accompanied by a willingness to open up to new directions of thought developed primarily in the world of academic research. In certain Batei Midrash we do, in fact, find a welcome blossoming of interest in these questions, which has already led to a growing body of books and articles that combine depth and seriousness, openness and commitment, as is the way of the Torah.

Recently, I was privileged to publish a book, [*To This Very Day*](https://korenpub.com/products/to-this-very-day-fundamental-questions-in-bible-study), which deals with fundamental questions in the study of the Bible. There I presented an approach, which I received from my teachers in Yeshivat Har Etzion and Herzog College, that advocates confronting complex questions with a willingness to acknowledge issues that require sharpening and clarifying principles of faith and religious thought. In the introduction to that book, I emphasized the dual importance of dealing with these fundamental questions: refining one's conceptual worldview, on the one hand, and "knowing what to answer," on the other. I also pointed there to the fact that many graduates of religious schools are exposed at some point in their lives to the questions that arise from academic biblical research; and, lacking prior familiarity with them, they suffer significant and unnecessary spiritual damage in this encounter. The countless responses that I received highlighted the importance of confronting these questions from a Torah standpoint and greatly encouraged me to pursue a parallel project regarding the Oral Law.

There is twofold importance to our current endeavor. First and foremost, an in-depth understanding of the ways of the Oral Law is essential for shaping the worldview of every Torah student. Second, here too there is certainly a need of "knowing what to answer": Simplistic beliefs often presented at different stages of religious education are liable to shatter when they encounter different approaches, and give rise to an attitude of alienation and disdain toward the Oral Law. Harsh statements describing the Torah world as irrelevant, and even as dark and primitive, are frequently sounded in the public arena, and the answer to such allegations, both inward and outward, is not always sufficiently precise. Therefore, there is a clear need for a broad and complex approach that deals in depth with the fundamental questions.

It goes without saying that there exist a variety of opinions with regard to each of the substantive issues discussed in this series. In general, I followed the direction that I found most persuasive and made no attempt to present the various positions in equal manner. The direction I followed is based on opinions and proofs proposed by the authorities across the generations, and apart from a few points, I have put forward no innovations of my own. The Ramban has already written:

Every student of the Talmud knows that regarding controversies among the commentators there is no conclusive evidence, and in most cases, there are no absolute objections, for in this science there are no clear demonstrations, as there are in algebra and geometry. We will, however, put all of our strength in every dispute to reject one opinion with decisive rationales, and raise objections to it from the passages, and assign preference to the other opinion, based on the passages and the agreement of proper reason. And that is the furthest extent of our ability. (Introduction to *Milchamot HaShem*)

Of course, my words do not preclude other approaches, and in the manner of the Beit Midrash, we say: "Both these and those are the words of the living God." I would be happy to receive any substantive response to what will be presented below.

This series is based on a course that I was privileged to deliver for about twenty-five years in Yeshivat Har Etzion, Herzog College and the Beit Midrash for Women in Migdal Oz, entitled "Introduction to the Oral Law." From these classes as well, I learned how important these issues are to Torah students, both men and women, and the extent to which understanding them is important for their continued studies.

I have entitled the series, "My Children Have Defeated Me," because these words, from the famous story of the oven of Akhnai, best express one of the main topics that runs throughout the series: the responsibility that God gave the Torah teachers of every generation not only to teach Torah, but also to create from it, to develop it and to expand it. In the concluding installment of this series I will note that some have expounded the words "defeated Me [*nitzchuni*]" in the sense of "eternity" [*netzach*]: the transfer of responsibility for the Torah to the people of Israel is the secret behind the eternity of the Oral Law.

In conclusion, several technical comments. First, in the series I mention many Torah authorities from across the generations, some well-known, others less. I tried to add in the notes very short biographies of those authorities whom I feared were not sufficiently familiar to the general public, but I did not adopt a uniform system in the matter. Regarding some, I sufficed with minimal biographical details, while regarding others, I was more expansive – all depending on what I thought most beneficial for the reader.

The bibliographical references divide into two categories. Regarding citations from classical Torah literature, I generally cite the sources in the conventional manner, without noting the precise publication details, unless there is a special reason to do so. As for the academic literature, and usually for contemporary Halakhic literature as well, I include the conventional bibliographical references.

Last, here is a list of the scientific editions of the fundamental works that I have used. The citations from the books on this list are from these editions; therefore, I do not note the bibliographical details in the installments that follow:

*Mekhilta de-Rabbi Yishmael*, ed. Horowitz-Rabin, Jerusalem 5730.

*Mekhilta de-Rabbi Shimon bar Yochai*, ed. Epstein-Melamed, Jersualem 5715.

*Torat Kohanim*, ed. Weiss, Vienna 5622.

*Sifrei Bemidbar*, ed. Horowitz, Jerusalem 5726.

*Sifrei Devarim*, ed. Finkelstein, New York 5729.

*Tosefta:*

Until tractate *Bava Batra*, ed. Lieberman, New York 5615-5748.

From tractate *Makot*, ed. Zuckermandel, Jerusalem 5735.

*Iggeret Rav Sherira Gaon*, ed. Levin, Jerusalem 5736; translation, ed. Metzger, Jerusalem 5758.

*Hakdamot ha-Rambam la-Mishna*, ed. Shilat, Jerusalem 5756.

*Mishna* *im Peirush ha-Rambam*, ed. Kafih, Jeruslem.

*Sefer ha-Mitzvot le-Rambam*, ed. Frankel, Bnai Brak 5755.

(Translated by David Strauss)