

*Matan Torah: What Was Revealed to Moshe at Sinai?**

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Introduction

Matan Torah was a unique and unprecedented event. On Har Sinai, God revealed to Moshe Rabbeinu the entirety of Torah, as Chazal teach (*Yerushalmi Peah* 2:4, *Vayikra Rabbah* 22:1, and *Kobeles Rabbah* 1:2): “The Torah, Mishnah, Talmud, and *aggadah*—even that which a seasoned student (תלמיד ותיק) would later teach in the presence of his teacher—was already stated to Moshe at Sinai.” Similarly, in *Megillah* 19b: “God showed (הראהו) Moshe *dikdukei Torah, dikdukei Sofrim*, and that which the *Sofrim* would originate in the future.”

However, this all-encompassing numinous revelation of the entirety of Torah was transmitted to Moshe in a germinal and non-explicated form. Much like a seed, which despite its small size contains within its seedcoat all the potential needed to become a towering tree laden with fruit, the revelation to Moshe contained within it the kernel from which all future Torah laws and teachings would later evolve.¹ All subsequent

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¹ Mahara (*Gur Aryeh, Shemos* 20:1 מלמד ד"ה) explains that the entirety of Torah was revealed to Moshe in one single utterance. Although Moshe was not able to fully grasp what he heard, this enigmatic divine utterance still revealed, on some level, the entirety of Torah to Moshe. Tosafos Yom Tov (Introduction) notes that *Megillah* 19b, quoted above, does not say that the entire Torah was *transmitted* to Moshe, rather it says that it was *shown* (הראהו) to him. This, he writes, is like “a person who shows something to his friend to see, but he does

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divine revelations of Torah to Moshe, as well as all future Torah scholarship, were part of a divinely-designed explication process of the germinal form of the Torah that had been revealed to Moshe at Har Sinai.

This article does not directly address this all-encompassing germinal revelation to Moshe Rabbeinu of the entire Torah. Moshe also received an explicit revelation of Torah during his multiple ascents of Har Sinai,² and it was this explicit revelation that he was charged to transmit to the Jewish nation. This article addresses this explicit revelation and asks: What elements of the Torah were revealed—in an explicit form—to Moshe on Har Sinai?

Chazal's answer to this question is that God, on Har Sinai, transmitted to Moshe the 613 mitzvos (*Yalkut Shimoni Michab* #556, *Tanchuma Shofetim* #10),

not fully give it to him.” Indeed, Moshe was not commanded, or perhaps even *able*, to further transmit this all-encompassing revelation to the Jewish nation (*Megillas Esther, Shorashim* 1:4).

There was an additional aspect to this all-encompassing revelation to Moshe. Chazal teach that our earthly Torah is a material manifestation of a more elevated, heavenly Torah. This supernal and primordial form of the Torah, in at least one of its emanations, is described by Chazal as being written with “black fire on white fire” (Ramban, Introduction to *Bereishis*). In fact, Radvaz (III:643) suggests that it was this heavenly form of the Torah that the angels had in mind when they protested God's transmission of the Torah to *Bnei Yisrael* (*Shabbos* 88b–89a). God silenced the angels by informing them “that the [heavenly] Torah has an alternative—more material—form, which is manifest through formed words dealing with human matters, such as ritual impurity and purity, the prohibited and the permitted, the exempt and the obligated, and all of [the material Torah's] other laws.” When Moshe ascended Har Sinai, in addition to the revelation of the entire earthly Torah in its germinal form, God also revealed to Moshe a conception of the elevated heavenly form of Torah and its infinite depth. This even included some type of perception of the letters of the Torah (see *Chasam Sofer, Shabbos* 88b [ד"ה ואמר ר' יהושע]). There was even a revelation of this more elevated form of the Torah on the original *Luchos*. For a non-esoteric elaboration on this, see *Moadim U'Zmanim (Shevuos, Siman* 320). Certainly, the nature of that more elevated form of Torah, and Moshe's conception of it, is far beyond the scope of our current work.

² *Matan Torah* was not a single-day event. Moshe ascended Har Sinai on the sixth or seventh of Sivan to receive the Ten Commandments, but he also reascended Har Sinai at later points to receive other mitzvos (*Shemos* 24:12 with *Rashi*). *Rashi* in *Taanis* 21b (ד"ה אל מול) even suggests that the resting of the divine presence on Har Sinai and the giving of mitzvos did not end until the *Mishkan* was inaugurated on the first of Nissan (see later fn. 8).

R. Simlai taught: Six-hundred and thirteen mitzvos were said to Moshe at Sinai, 365 negative commandments correlating to the days of the solar year, and 248 positive commandments correlating to the limbs of a person.

Chazal additionally maintain that on Har Sinai Moshe also received a detailed commentary on the mitzvos. Both the mitzvos and their commentary were transmitted orally to Moshe. It was only years later that the text of the Torah—as we have it today—was committed to writing by Moshe.³

And yet, a careful reading of the Torah suggests that Moshe did not receive *all* the mitzvos on Har Sinai. Instead, it appears that he only received the Ten Commandments,⁴ the laws of idolatry and altars that appear at the end of *Parashas Yisro*, the mitzvos and laws of *Parashas Mishpatim*, and the mitzvos of *Parashas Behar*, such as *shemittah* and *yovel*.⁵

Interestingly, *Makkos* 23b records the same teaching of Chazal quoted above in the name of R. Simlai, but there the word “Sinai” is omitted. *Makkos* simply reads, “Six hundred and thirteen mitzvos were said to

³ Portions of the Torah’s text were revealed to Moshe at early points, and some of these portions were even immediately committed to writing (see *Shemos* 24:7). However, when and how the entire text of the Torah was compiled and recorded as a complete written text is a subject of dispute in *Gittin* 60a. Reish Lakish maintains that the complete text was written as a singular “sealed document” (תורה חתומה ניתנה) at the end of Moshe’s life. See Ramban (Introduction to *Sefer Bereishis*) and *Tosafos* (*Gittin* 60a ד”ה תורה) for an analysis of Reish Lakish’s opinion. However, Rav Banaah maintains that the text of the Torah was written down “scroll by scroll” (תורה מגילה מגילה ניתנה). The simple explanation of R. Banaah’s opinion is that Moshe wrote down the text of the Torah section by section, as he received new passages from God. This process began after *Matan Torah* and was completed at Arvos Moav, at the end of the forty-year desert period. However, see Ramban above for a more literal reading of Rav Banaah’s opinion.

⁴ Rashi (*Shemos* 24:12) cites R. Saadiah Gaon that all 613 mitzvos are contained in the Ten Commandments.

⁵ The beginning of *Parashas Behar* (25:1) states clearly that the laws of the *parashah* were taught at Har Sinai. The Ibn Ezra (see also Rashi) explains that even though these laws appear at the end of *Sefer Vayikra*, they were really given on Har Sinai along with the laws of *Yisro* and *Mishpatim*. Ramban agrees that the mitzvos of *Parashas Behar* were given on Har Sinai, but he argues that it was not during Moshe’s initial ascent of Har Sinai. At that point, God only gave some of the mitzvos to the nation, as Ramban explains at the beginning of *Parashas Terumah* (*Shemos* 25:2). It was only when Moshe Rabbeinu ascended Har Sinai to receive the second *Luchos*, after the sin of the Golden Calf, that he received the mitzvos of *Parashas Behar*.

Moshe (שש מאות ושלוש עשרה מצות נאמרו לו למשה).” There is no mention of Sinai.

Were all 613 mitzvos given to Moshe *at Sinai*? If not, what was given there, and when were the rest of the mitzvos given?

This article will demonstrate that the simple reading of Chazal maintains that all the mitzvos, with an accompanying detailed explanation, were transmitted to Moshe on Har Sinai. However, we will also see that several prominent Rishonim considered the possibility that many of the mitzvos were first transmitted to Moshe at a later time, perhaps even decades after Har Sinai. Lastly, we will see that according to other Rishonim, many of the details of the Torah’s laws were *never* transmitted to Moshe. God omitted these laws and empowered the *chachmei bamesorah* to address the lacunae through rigorous analysis of the Torah’s text using the *middos* of *derashah* that were given to Moshe on Har Sinai.⁶

The 613 Mitzvos

We saw earlier that Chazal teach in the name of the Amora, R. Simlai, that all 613 mitzvos were transmitted to Moshe Rabbeinu at Har Sinai. This view of Chazal is first recorded in the *Sifra*, and quoted by Rashi, at the beginning of *Parashas Behar* (*Vayikra* 25:1). The Torah there records the laws of *shemittah* as they were “stated to Moshe at Har Sinai.” The working premise of the *Sifra* is that all 613 mitzvos, like *shemittah*, were given at Sinai.

“And God spoke to Moshe at Sinai saying” (*Vayikra* 25:1). What is the connection between *shemittah* and Har Sinai? Were not all the mitzvos said at Sinai? The answer is: just as *shemittah*—its general laws and fine points (כללותיה ודקדוקיה) —are from Sinai, so too all the mitzvos—their general laws and fine points (כללותיהם (ודקדוקיהם)—are from Sinai.

⁶ To be clear, the explicit revelation of the mitzvos on Sinai or afterwards (according to those Rishonim that maintain that not all the mitzvos were given at Sinai) are all part of the explication process of the germinal all-encompassing revelation to Moshe. Moreover, the opinion of the Rishonim referenced above (and discussed later in detail) that many laws of the mitzvos were *never* revealed to Moshe is specifically referring to the laws in their explicated and developed form. Nothing was lacking from the original all-encompassing germinal revelation to Moshe. Moreover, the creation of new laws by the *chachmei bamesorah* using the *middos* of *derashah* (discussed later) is also part of the divinely-designed explication process referred to above.

Not only were all the mitzvos first transmitted to Moshe at Sinai, but Chazal also maintain that the mitzvos were transmitted there with an accompanying explanation. The Rishonim learn this from the end of *Parashas Mishpatim*, where the Torah states (*Shemos* 24:12) that after Moshe descended Har Sinai he was summoned again up the mountain to receive the “*Luchos*, the Torah, and the Mitzvah.”⁷ Rambam (Introduction to *Mishneh Torah*, cf. Ramban’s Introduction to *Bereishis*) explains that the “Torah” refers to the 613 mitzvos and the “Mitzvah” refers to the *Peirush* (פירוש), a detailed oral explanation and elaboration of the mitzvos.

It emerges that by the end of the Har Sinai experience,⁸ Moshe had received *all* the mitzvos of the Torah and the *Peirush*. This accompanying *Peirush* is also known as the Oral Law (Rambam, Introduction to *Mishneh Torah*).

It is important to note that during the process of *Matan Torah* both the mitzvos and the accompanying *Peirush* were transmitted to Moshe orally. Only the Ten Commandments, which were also originally transmitted orally to Moshe, were committed to writing on the *Luchos* when Moshe reascended Har Sinai.⁹ Nonetheless, there was still a clear distinc-

⁷ Rashi and Ramban debate if the preceding *pesukim* (24:1–11) refer to Moshe’s initial ascent of Har Sinai originally described in *Parashas Yisro* or if they refer to a second ascent. Yet, both Rashi and Ramban agree that the current *pasuk* (24:12) refers to an additional ascent and not the original one of *Parashas Yisro*.

⁸ Rashi in *Taanis* 21b (ד"ה אל מול) suggests that the Har Sinai experience of *Matan Torah* did not end until the *Mishkan* was inaugurated on the first of Nissan. For approximately ten months, “the *Shechinah* dwelled on the mountain,” and from there “all the mitzvos were revealed with awesome sounds and flames, from the day the Ten Commandments were given until the first of Nissan when the *Mishkan* was erected.” Once the *Mishkan* was completed, the divine presence left Har Sinai and move to the *Mishkan*. At that point, Rashi writes, the Torah was retaught, as per R. Akiva’s opinion that the Torah was first taught at Sinai and then repeated a second time at the Ohel Moed and a third time at Arvos Moav.

⁹ Rambam in the introduction to his *Peirush HaMishnah* writes that both the mitzvos and the *Peirush* were transmitted orally to Moshe: “Know that every mitzvah that God gave to Moshe Rabbeinu, He gave to him with its explanation. God would *say* to him (אומר לו) the mitzvah and then He would *say* to him (אומר לו) its explanation and details.” This also seems to be Rambam’s intent in his introduction to *Mishneh Torah*: “All the mitzvos that were given to Moshe at Sinai were given with an accompanying oral explanation.... Moshe wrote down the entire Written Law before his death...”

tion between what was the “Written Law” (תורה) and would one day be written down, and what was the *Peirush* (מצוה) and would remain oral.

Mitzvos Seemingly Revealed After Har Sinai

After *Matan Torah*, the nation camped at the base of Har Sinai. There they erected the *Ohel Moed* (*Mishkan*).¹⁰ Afterwards, as the nation travelled through the desert, the *Ohel Moed* stood in the center of the camp and served as the venue for Moshe Rabbeinu’s continued communications with God.

The plain understanding of the Torah suggests that many of the mitzvos and their laws were first revealed to Moshe not on Har Sinai, but through the medium of the *Ohel Moed* during the nation’s travels and encampments in the desert. For example, the commandments regarding sacrifices are recorded in the beginning of *Sefer Vayikra* and the text suggests that Moshe first received these mitzvos and laws at the *Ohel Moed* (*Vayikra* 1:1–2), “And He called to Moshe, and God spoke to him *from the Ohel Moed*, saying, ‘Speak to *Bnei Yisrael*, and say to them: ‘When a man from [among] you brings a sacrifice to God...’”

Other verses also seem to state that mitzvos and laws were only revealed after Har Sinai. For example, the very last verse in *Sefer Bamidbar* (36:13) states quite clearly, “These are the mitzvos and laws that God commanded *Bnei Yisrael* through Moshe at Arvos Moav, by the Yarden River at Yericho.” The commentators (Ibn Ezra, Chizkuni, and Malbim) explain that “the mitzvos and laws” in this verse refers to many of the mitzvos and laws that appear in *Parashas Matos* and *Mas’ei*, including the laws of kashering vessels, vows, inheritance, and the punishment for a murderer. The Torah text suggests that these laws were only revealed to Moshe at a later point in the desert.

Additionally, *Sefer Devarim*, which records Moshe’s words to the nation when they stood at Arvos Moav poised to enter the land of Israel after forty years of wandering in the desert, includes many commandments that do not seem to be recorded anywhere earlier in the text of the Torah. This suggests that these commandments were first given to Moshe at Arvos Moav, close to forty years after Moshe descended Har Sinai.

¹⁰ The first *Luchos* were given to Moshe in Sivan, at the beginning of the summer. The second *Luchos* in Tishrei, after the summer. Then the nation began construction of the *Mishkan*, a process that extended over the entire winter and was completed on the first of Nissan.

There are also mitzvos and laws that are recorded in the Torah in association with specific events that occurred after Har Sinai. For example, the prohibition to accept a convert from Ammon or Moav (*Devarim* 23:4) is presented in the Torah as being on account of these nations' unwillingness to help *Bnei Yisrael* when the latter were wandering in the desert. The context and presentation of this law suggest that it was not given to Moshe on Har Sinai.¹¹

Another mitzvah to consider is *Pesach Sheini*. The Torah's account of this mitzvah in *Bamidbar* 9 implies that *Pesach Sheini* was not even conceived as a mitzvah until the second year after the Exodus—when the nation was camped at the base of Har Sinai. At this time, months after Moshe descended Har Sinai, a group of individuals approached Moshe Rabbeinu in frustration, having been forced to miss the *korban pesach* due to ritual impurity. Moshe Rabbeinu turned to God for guidance. In response, God instructed Moshe about the mitzvah of *Pesach Sheini*—counted by Rambam as a distinct mitzvah (*Aseh* #57) from the regular mitzvah of *korban pesach* (*Aseh* #55)—taught to the Jewish nation. The Torah's description of the background to the mitzvah of *Pesach Sheini* certainly suggests that it was not given to Moshe at Har Sinai.

The Torah also records three instances where Moshe Rabbeinu was unaware of how to rule regarding an existent Torah law during the nation's travels in the desert. These laws are: The form of capital punishment for a Shabbos desecrator (the *מקושש*, *Bamidbar* 15:32–36), the appropriate punishment for one who curses God (the *מקלל*, *Vayikra* 24:10–16), and the laws of inheritance for Zelafchad's daughters (*בנות צלפחד*, *Bamidbar* 27:1–5). If Moshe, during the nation's travels in the desert, was unaware how to rule in these cases, seemingly the details of these laws were not given to him at Har Sinai.

Maintaining the Traditional View: All the Mitzvos were Given on Har Sinai

Despite the many aforementioned verses suggesting that mitzvos and laws were first given to Moshe after Har Sinai, the traditional view of

¹¹ Note that the laws of kashering vessels are first recorded after the nation took home the spoils—including non-kosher cooking vessels—from their war with Midyan (*Bamidbar* 31:33). However, in this case it is clear that Moshe had already been given the laws earlier, as the verse explicitly states that it was Eliezer who taught the nation the laws “that God had commanded Moshe.”

Chazal, recorded in the earlier-quoted *Sifra*, remains that *all* 613 mitzvos were given in an explicated form to Moshe at Sinai.¹²

Chazal's approach is supported by the verses that appear at the end of the earlier quoted section in the Torah regarding sacrifices. Although the sacrifices were introduced in the beginning of *Sefer Vayikra* as having been commanded by God at the *Obel Moed*, the end of the Torah's discussion of the sacrifices states quite clearly that these very same laws were first given to Moshe at Har Sinai, "This is the body of law for the burnt offering, for the meal offering... and for the peace offering, *that God commanded Moshe on Har Sinai*" (*Vayikra* 7:37–38).

If it is the case that all the mitzvos were first given at Har Sinai, how are we to explain the fact that many mitzvos and laws appear from the text of the Torah to have first been given in the desert or at Arvos Moav?

Let us consider two approaches to addressing this question. The first is suggested by R. Akiva (*Chagigah* 6a, *Sotah* 37b, *Zevachim* 115b). He maintains that although all the mitzvos were first given at Har Sinai, they were regiven and retaught in the desert and then again at Arvos Moav.¹³

Rabbi Akiva says: The general principles and fine details [of the mitzvos] were said at Sinai, repeated a second time (בשנו) at the *Obel Moed*, and a third time (בשתלשלו) at Arvos Moav.¹⁴

The Malbim states this very point regarding the earlier quoted verse at the end of *Sefer Bamidbar* (36:13): "These are the mitzvos and laws that God commanded *Bnei Yisrael* through Moshe at Arvos Moav..." He writes that even though these mitzvos and laws appear from the text to have first been given and taught at Arvos Moav, according to Chazal they had already been given at Sinai. This means that God chose to record these mitzvos in writing for future generations based on when they

¹² Mahara! (*Gur Aryeh, Shemos* 21:1) explains that since the Torah is complete and perfect (תורת ה' תמימה), it was fitting that when the mitzvos were given at Sinai, they were *all* given, even those that were not immediately applicable.

¹³ This is ostensibly the intent of Rashi in *Berachos* 48b (ד"ה תורה) that Torah was "given (נתנה)" three times: Har Sinai, *Obel Moed*, and Arvos Moav.

¹⁴ The Talmud continues, "R. Yishmael says: The general principles [of the mitzvos] were said at Sinai, and the fine details at the *Obel Moed*." R. Yishmael agrees with R. Akiva that all the mitzvos were first given at Har Sinai. However, he disagrees regarding the details and argues that many of them were first given to Moshe at a later point. Therefore, when mitzvos themselves appear to be given for the first time in the desert or at Arvos Moav, R. Yishmael seemingly agrees with R. Akiva that these are instances of mitzvos being repeated.

were *re-taught* at Arvos Moav.¹⁵ The same explanation would also be necessary to explain the many new mitzvos that seem to first appear in *Sefer Devarim*.

Moreover, according to R. Akiva's approach, those mitzvos that appear in the Torah after Har Sinai and are associated with specific historical events—such as the prohibition against accepting converts from Ammon and Moav—were originally given at Har Sinai without historical context. However, God chose to have them recorded in the text of the Torah in the form that they were presented, which is, *when they were re-taught* in association with a specific historical event.¹⁶

The mitzvah of *Pesach Sheini* can also be explained according to R. Akiva's approach. The *Sefer Marganisa Tava* on Rambam's *Sefer HaMitzvos* (*Shoresh* 1:3) argues that the mitzvah of *Pesach Sheini* was undoubtedly given to Moshe Rabbeinu on Har Sinai. However, it was intended to only take effect once the nation entered and settled the land of Israel.¹⁷ Thus, the Torah's record of Moshe's need to ask God is not because the mitzvah was not initially given on Har Sinai, but rather is a result of Moshe's doubt if the mitzvah could be performed before the land of Israel was entered and settled.¹⁸

¹⁵ Malbim suggests that according to R. Yishmael, this verse is informing the reader that the details of these mitzvos were received now, at Arvos Moav.

¹⁶ Chazal's approach highlights the distinction between when the mitzvos were given and when and how the official text of the Torah was composed and transmitted in its final form to Moshe. Although the mitzvos were all given at Har Sinai, the text of Torah—which is our written source today to the mitzvos—was transmitted at a later point in Moshe's life.

¹⁷ The regular *korban pesach* was also intended to only take effect once the nation entered the land of Israel (see *Shemos* 12:25). However, a one-time exception was made for the first commemoration of the Exodus (see *Bamidbar* 9:1–5 with Rashi and Ramban on 9:1). Accordingly, the *korban pesach* was brought on the first Pesach in the desert, and it was at that time that Moshe questioned if *Pesach Sheini* could also be operative.

¹⁸ According to this suggestion, it is well understood that Moshe responds to the nation and says (9:8), “Wait, and I will hear what God instructs concerning *you* (מה יצוה ה' לכם)” Moshe knew that there was a mitzvah of *Pesach Sheini*, but he wasn't sure if it was for them (“you”). Similarly, Moshe's statement afterwards is also well understood when he says, “Any person who becomes unclean from [contact with] the dead, or is on a distant journey, *whether among you or in future generations*, he shall make a *Pesach* sacrifice for God.” It also explains why the law is also presented for those who were on a distant journey, something that was not the situation at this time. According to the *Marganisa Tava*, the law of *Pesach Sheini* for a ritually impure person or an individual on a distant journey was already revealed to Moshe at Sinai. It was only applied now due to the cir-

Regarding the three instances where Moshe Rabbeinu was unaware of how to rule, the Chazon Ish (*Orach Chaim* 125:4) notes that the actual mitzvos under discussion—Shabbos desecration, cursing God, and inheritance—had already been given at Sinai. He argues that in these three cases, God decided, for reasons not shared with us, to not transmit some of their details to Moshe on Har Sinai (See *Or HaChaim, Bamidbar* 27:5).

A second approach to explain the fact that many mitzvos and laws appear from the text of the Torah to have first been given in the desert or at Arvos Moav is that although *Moshe Rabbeinu* received all the mitzvos of the Torah at Har Sinai, he was not commanded to relay all of them immediately to *Bnei Yisrael*.¹⁹ Hence, in regard to the laws of the sacrifices, it could be that Moshe received the laws at Har Sinai, but God told him to wait and only teach them to the nation at the *Obel Moed*—when they would begin to bring sacrifices. Bolstering this suggestion is the fact that the verse in *Vayikra* introducing the sacrifices (1:2) does not focus on Moshe's receipt of the laws, but rather on his transmission to the nation, "Speak to *Bnei Yisrael*, and say to them (דבר אל בני ישראל ואמרת) (אליהם)." It is fair to surmise that Moshe had received these mitzvos and laws earlier at Har Sinai, but he was only relating them now to the nation, as per God's directive.

This approach also explains the mitzvos mentioned at the end of *Sefer Bamidbar* and all the new mitzvos of *Sefer Devarim*. They had already been given to Moshe at Har Sinai but were only transmitted to the nation—by directive of God—at Arvos Moav.

According to this approach, those mitzvos that appear in the Torah after Har Sinai and are associated with specific historical events, such as the prohibition against accepting converts from Ammon and Moav, were also given to Moshe at Sinai. However, Moshe was commanded to wait to teach them to *Bnei Yisrael* until an event occurred that would necessitate learning these laws.

This alternative approach helps us address the three cases noted earlier in which Moshe was unaware of how to rule. Perhaps these mitzvos had already been taught to Moshe at Sinai, but for whatever reasons,

cumstances of ritually impure people. Hence, when it was formally recorded, it was recorded with its full presentation, which includes those on a distant journey.

¹⁹ Ramban suggests a similar approach about the laws of *shemittah* at the beginning of *Parashas Behar*. They were taught to Moshe at Sinai, but they were not given over to the nation until a later point. See *Chazon Ish (Orach Chaim* 125:3) who also notes this approach as a possible way to account for the mitzvos that appear to be revealed at a point after Har Sinai.

Moshe was not immediately commanded to teach these laws to the nation. Therefore, when confronted with a question about these mitzvos, Moshe turned to God for instruction. Moshe knew the proper ruling in these cases, but he nonetheless turned to God to “clarify” the law because he had never been given permission to share these laws with the nation.²⁰

This approach might also explain *Gittin* 60a–b that eight sections of the Torah were “said (נאמר)” on the day of the inauguration of the *Ohel Moed*, which was after Har Sinai: “Eight sections were said on the day the *Mishkan* was erected. They are: The section of the *Kohanim* (*Vayikra* 21:1–22:26); the section of the *Leviim* (*Vayikra* 8:5–26); the section of the ritually impure (*Vayikra* 13:1–14:57)...” The simple explanation of this passage is that these laws were *first taught* to Moshe on the day of the *Mishkan*’s inauguration. But it could be that Moshe received these eight laws—just like all the laws of the Torah—on Har Sinai. However, he did not teach them to the nation until he was instructed to do so by God on the day the *Mishkan* was erected. R. Elyahu Mizrachi (*Bamidbar* 11:10) writes: “Even though [these eight laws] were already taught to Moshe on Har Sinai, he did not relay them to *Bnei Yisrael* until *Rosh Chodesh* Nissan.”

An Alternative View: Some Mitzvos were Given After Har Sinai

The earlier quoted verses in the Torah suggesting that mitzvos and laws were first given to Moshe after Har Sinai led some leading Rishonim and Acharonim to consider a broader perspective on this issue.

Ramban in a few locations suggests that some mitzvos were first revealed, through the medium of the *Ohel Moed*, after Har Sinai. For example, regarding the sacrifices, Ramban—after noting the traditional view of Chazal—suggests that the mitzvos and laws of sacrifices were first given to Moshe while the nation was camped at the base of Har Sinai, as the verse states (*Vayikra* 1:1), “And God spoke to him *from the Ohel Moed*, saying.” Ramban writes (*Vayikra* 7:38),

Our Sages teach that all the mitzvos were said to Moshe on Har Sinai, the general principles and the fine details... But the simple

²⁰ It appears that this is how *Tosafos Rid* (*Bava Basra* 119b) understood the case regarding the inheritance of the daughter of Zelafchad. Chazon Ish (*Orach Chaim* 125:4) also raises this suggestion as a possibility regarding the cases of the מקושש and the מקלל, but he concludes that he is not convinced that this approach is correct.

reading suggests... that “on Har Sinai”²¹ means at the current location, at the base of Har Sinai, which is the *Obel Moed*... It was not on the mountain itself—the location of the divine glory, the spot where God spoke the Ten Commandments—and it was also not in the desert of Sinai after they had travelled from the mountain.²² Rather it was in the desert of Sinai at the base of the mountain, in close vicinity [of the mountain], at the location of the *Obel Moed*.

Ramban returns to this approach several times in his commentary on the Torah. In *Vayikra* 25:1 Ramban states that many mitzvos in the Torah were first taught at Sinai “or at the *Obel Moed*” in close proximity to the mountain.²³

Again, in his introduction to *Sefer Devarim*, Ramban writes that even though *Sefer Devarim*—which records the events that occurred when *Bnei Yisrael* stood at Arvos Moav after forty years of travel in the desert—includes many mitzvos that do not appear earlier in the Torah, these mitzvos were not first revealed to Moshe at Arvos Moav. They, states Ramban, had already been taught to Moshe on Har Sinai or at the *Obel Moed* in close proximity to the mountain.²⁴

²¹ Ramban is coming to resolve the verse in *Vayikra* 7:38, which states quite clearly that the mitzvos regarding sacrifices were originally given at Har Sinai (אֶשֶׁר צָנְהָה' אֶת מִשְׁחָה בְּהַר סִינַי). Ramban's suggestion is that this later verse does not literally mean *on the mountain* when it says “*BeHar Sinai* (בְּהַר סִינַי).” Rather, it means *at the base of Har Sinai* and refers to the *Obel Moed*. Ramban continues and notes that we find the same literary phenomenon in other places, such as the *korban tamid*: “Similarly, we find that the verse (*Bamidbar* 28:6) states, ‘The daily burnt offering that was brought *on the mountain*,’ but it does not really mean ‘on the mountain,’ for the daily burnt offering only started to be brought at the *Obel Moed*...”

²² Ramban (*Vayikra* 7:38) seems to understand that the *Obel Moed* was originally erected directly adjacent to the base of Har Sinai. Later, when the nation moved into their official desert-encampment formation (*Bamidbar* 1:48–54), the *Obel Moed* was moved away from the mountain's base and into the center of the camp. Ramban here is suggesting that the laws of the sacrifices were revealed to Moshe while the *Obel Moed* was still standing at the mountain's base.

²³ Ramban in *Shemos* 40:2 and in *Vayikra* 7:1 states that all the *parshiyos* in the beginning of *Sefer Vayikra* were revealed to Moshe via the *Obel Moed*. See also Ramban in the beginning of *Sefer Bamidbar* where he states that the narrative of *Bamidbar* and most of *Vayikra* was stated at the *Obel Moed*. It is not clear if he means the formulations of the verses or the transmission of the mitzvos themselves.

²⁴ Ramban here seems to add that the giving of new mitzvos via the *Obel Moed* continued until the events of the spies, after the nation arrived at Kadesh. However, one could also interpret Ramban to mean that the giving of new

It is well known that this *sefer* is a repetition of the Torah. In it, Moshe Rabbeinu clarifies for the generation that is about to enter the land of Israel most of the mitzvos that they will need there... This *sefer* also includes many mitzvos that had not yet been mentioned at all, such as *yibum*, the law of a *motzi shem ra*, divorce, *zomemim* witnesses, and others. These mitzvos had already been stated at Sinai or at the *Ohel Moed* during the first year²⁵ before the event with the spies.²⁶ At Arvos Moav, only the covenant was renewed.

Ramban's opinion that some of the mitzvos were first revealed via the *Ohel Moed*, and not necessarily on Har Sinai, fits in well with his general perspective on the *Ohel Moed*/*Mishkan*. Ramban writes in the beginning of *Parashas Terumah* (*Shemos* 25:2) that the purpose of the *Mishkan* was to perpetuate the experience of Sinai. The *Mishkan*, which comes from the root "to dwell (שכן)," was to be an entity that would allow the divine presence to reside in the physical world—and specifically amongst the Jewish nation—as it did during the awesome revelation at Har Sinai. In this way, the *Mishkan* perpetuated the Har Sinai experience.²⁷ We now understand that this was not only in terms of the revela-

mitzvos was done only at the base of Har Sinai, and that there were no more mitzvos given once the nation left the immediate vicinity of Har Sinai (see fn. 22 above). Moreover, Ramban writes explicitly (*Devarim* 1:6) that both the mountain and its base are referred to as "Sinai," which would be consistent with the many locations that Chazal write that the mitzvos were first given at "Sinai," not "on Har Sinai."

²⁵ This is likely a scribal error, as the *Mishkan* itself was not erected until the second year after the Exodus, and Ramban is seemingly not referring to Moshe's private tent, also called the *Ohel Moed*, mentioned in *Shemos* 33:7 (see Ibn Ezra there). In the commentary of the Tur on the Torah, Ramban is quoted with the words שנה שניה.

²⁶ Ramban suggests that the reason these mitzvos were not recorded in the Torah's text until Arvos Moav, even though they were already revealed at Sinai, is either that their fulfillment is dependent on being in the land of Israel or that they are uncommon situations that never came up during the desert period.

²⁷ Ramban, in his presentation of the purpose of the *Mishkan* (*Shemos* 25:2), stresses the role it played in facilitating the divine presence to dwell among the nation (השראה השכינה). Ramban, however, in presenting the *Mishkan*, stresses the aspect of the *Mishkan* being a place for service of God. In *Sefer HaMitzvos* (Positive, #20) and *Mishneh Torah* (*Beis HaBechirah* 1:1) he writes that the purpose of the *Mishkan* was to be a place for offering sacrifices and congregating for the festivals. In more simple terms, Ramban's main focus on the *Mishkan* is

tion of the divine presence, but also in terms of the revelation of the Torah. The *Mishkan* perpetuated *Matan Torah* and facilitated the continued giving of the mitzvos even after Har Sinai.²⁸

Rabbinic scholars after Ramban went even further. R. Moshe of Trani, Mabit (d. 1580), in his work, *Beis Elokim* (*Shaar HaYesodos* 37), endorses Ramban's view that there are no new mitzvos in *Sefer Devarim* that had not been previously given to Moshe. However, Mabit raises the possibility that even according to Ramban, new mitzvos were given at Arvos Moav. Accordingly, Mabit suggests that the mitzvos and laws that appear at the end of *Sefer Bamidbar*, such as the laws of inheritance as they related to the daughters of Zelafchad, were indeed first given to Moshe at Arvos Moav and not at Sinai or at the *Obel Moed* in close proximity to the mountain.

It is possible that when Ramban wrote that only a new covenant was forged at Arvos Moav, but no new mitzvos [were given there], he only meant it regarding the new mitzvos mentioned in *Mishneh Torah*,²⁹ about which it says in the Torah, "Moshe began explaining," etc. However, those mitzvos that the Torah in *Parshiyos Pinchas, Matos, and Mas'ei* states explicitly were commanded at Arvos Moav were seemingly not taught at an earlier time. Accordingly, the generation of the desert did not engage in the entirety of Torah.³⁰

as a place where God comes toward the nation, while for Rambam it is a place where the nation comes toward God.

²⁸ Perhaps this is also the intent of the Ibn Ezra who writes that "the purpose of the *Mishkan* was to build a resting place.... God would speak there with Moshe, and he would not [need to] ascend the mountain."

²⁹ A passage in Ramban's *Hasagos* on Rambam's *Sefer HaMitzvos* (*Sboresh* 1) seems to support Mabit's approach. Ramban writes there quite clearly that many mitzvos were not necessarily first revealed at Sinai, but rather at a later point in the desert. Ramban states this in defense of the Behag, who counted some rabbinic commandments in his list of 613 mitzvos. Ramban argues that although Chazal state that 613 mitzvos were given *at Sinai*, their intent was to make a general statement, but not to be taken literally, for many mitzvos, says Ramban, were not actually given to Moshe at Sinai. However, note Ramban's *Hasagos* on Rambam's *Sefer HaMitzvos* (Negative Commandment 194), where he seems to express a view that is more similar to that which he states in his *Hakdamah* to *Sefer Devarim*.

³⁰ Mabit adds that it is still possible that the great scholars of the generation of the desert were able, on their own, to gain knowledge of those mitzvos that were not yet commanded. Accordingly, they studied and performed them, just as the *Avos* had done many years earlier.

Radvaz (d. 1573) goes even further. He disagrees (VI:2143) with Ramban and Mabit regarding the new mitzvos of *Sefer Devarim*; he argues that these mitzvos were first given to Moshe at Arvos Moav, at the end of the forty-year desert period.³¹

I was asked to share my opinion regarding when the new mitzvos that appear in *Mishneh Torah* were first commanded... I think that all these new mitzvos were first commanded at Arvos Moav... and if you will ask me why God did not command these mitzvos at Sinai, like all the other mitzvos, I will respond and ask you why you are not asking about Shabbos and *dinim* that were commanded at Marah, or about those that were commanded at the *Obel Moed*—why they were not commanded at Sinai? One who asks such questions is questioning God’s will, which is beyond the ken of mankind... All the new mitzvos that appear in *Mishneh Torah*, God commanded to Moshe at Arvos Moav... as we learn in the *midrash*, “‘You also did not know’ (*Yeshayah* 48:8)—at Sinai; ‘You also did not hear’ (*ibid.*)—at Chorev; ‘You also never opened your ear from then’ (*ibid.*)—at Arvos Moav.” We learn from here that at these three locations mitzvos were commanded [for the first time].³²

It emerges that Ramban, Radvaz, and Mabit all entertained the possibility, based on a close and literal reading of the Torah’s text, that many of the mitzvos were first revealed to Moshe after Har Sinai.

The Details of the Mitzvos

The Talmud (*Chagigah* 6a, *Sotah* 37b, *Zevachim* 115b) records a debate between two prominent Tannaim whether the mitzvos and *Peirush* that Moshe received on Har Sinai contained all the details of the mitzvos. The generally accepted view is that of R. Akiva, who states that indeed the “general principles and the fine details [of the mitzvos] were said at

³¹ This might also be the opinion of Malbim who writes (*Torah Or*, *Devarim* 33:2), “Most of the Torah was given by Hashem at Sinai [which is] Horeb, [but] also much was given during the thirty-eight years [in the desert]. Many laws were added at the time of *Mishneh Torah* [i.e., *Sefer Devarim*] and many laws were given for the first time at the time of the covenant at Arvos Moav.” Similarly, the Rashbam writes (*Sbemos* 12:1, cf. Chizkuni) that “some of the mitzvos were given at Har Sinai, some at the *Obel Moed*, and some at Arvos Moav.” However, it is not immediately clear if the Rashbam is referring to when the mitzvos were given to Moshe or to when Moshe taught them to the nation.

³² Radvaz states that he does not really feel adequate to argue with Ramban, but since there is no practical ramification in halachah, he feels he is justified in suggesting an alternate perspective.

Sinai (כללות ופרטות נאמרו בסיני).” This seems to also be the view of the *Sifra* in *Parashas Behar* quoted earlier that “all the mitzvos—their general laws and fine points (כללותיה ודקדוקיה)—are from Sinai.” However, the Tanna R. Yishmael disagrees. He argues that many details of the mitzvos were only taught to Moshe later, through the medium of the *Obel Moed*.³³

According to both R. Akiva and R. Yishmael, all the actual mitzvos of the Torah were taught at Sinai with some degree of explanation and elaboration.³⁴ The Tannaim only argue regarding the details—were they all given to Moshe at Sinai or were some only given at later point? However, Rambam maintains a different perspective. He writes that many details of the mitzvos were *never* transmitted to Moshe, not on Har Sinai nor at any later point in his life. To properly understand Rambam’s opinion, and how it relates to the above-quoted opinions of the Tannaim, we need to first survey the various components of the Oral Law transmitted to Moshe at Sinai.

The Components of the Oral Law Transmitted to Moshe at Sinai

Rambam, in the introduction to his *Peirush HaMishnah*, outlines multiple components of the Oral Law that were transmitted to Moshe on Har Sinai. The first component is the *Peirush*, an accompanying commentary to the mitzvos. Without the *Peirush* it would be impossible to understand or properly perform the mitzvos of the Torah, for the text of the Torah contains many uninterpreted terms and unexplained concepts. Moreover, many of the mitzvos are presented in the Torah in only the most

³³ Rashi (*Chagigah* 6a and *Sotah* 37b), in explaining the opinion of R. Yishmael, cites the laws of the sacrifices. In this example, Rashi states that according to R. Yishmael the details were filled in at the *Obel Moed* when it was stationed at the base of Har Sinai. Nonetheless, when R. Yishmael refers to the *Obel Moed* he does not likely mean to limit this to when then *Obel Moed* stood at the base of Har Sinai. Rather, he also means that some details were also first revealed at Arvos Moav, through the medium of the *Obel Moed*. See *Chasam Sofer, Megillah* 2b ד"ה אלא 2b and Malbim, *Bamidbar* 36:13.

³⁴ It is possible that these Tannaim are not necessarily saying that *all* the mitzvos were given on Har Sinai. R. Akiva might simply mean that those mitzvos that *were* given on Har Sinai were given with all their details. Nonetheless, the simple reading of these Tannaim is that they do not disagree with the traditional view that all the mitzvos were given at Har Sinai. Note this same ambiguity in Rambam’s introduction to *Mishneh Torah*: “All the mitzvos *that were given* to Moshe at Sinai were given with an accompanying explanation (כל המצוות שניתנו לו למשה מסיני, בפירושו ניתנו).”

general of terms. The *Peirush* elucidates the terse language of the Written Law and fills in many important details of the mitzvos and their laws.³⁵

Rambam (*Peirush HaMishnah*, Introduction, and *Hilchos Mamrim* 1:3) writes unequivocally that there are no disputes in the literature of Chazal regarding the material that was transmitted in the *Peirush*. The interpretations and details of the laws that constitute the *Peirush* were received by Moshe at Sinai and then transmitted faithfully from generation to generation by the *Beis Din HaGadol*.

Rambam refers to the bulk of the *Peirush* as the *Peirushim Mekubalim MiSinai*, the “Received Teachings from Sinai.” These interpretations and details of the law were transmitted to Moshe Rabbeinu as accepted fact, without any explanation or justification. In other words, neither the sources for these teachings, nor the logic behind them, were transmitted to Moshe. However, the *Peirushim Mekubalim MiSinai* can be independently derived through scholarly analysis of the Torah. In fact, many passages in the Talmud are attempts to uncover how the explanations and laws that were transmitted as a received tradition can also be deduced from the text of the Torah. Moreover, many of the disputes in the Talmud are not over the law itself, but rather over the sources of the law. This is because the sources—unlike the laws themselves—were not revealed to Moshe at Sinai.

But not all the interpretations and details of the laws transmitted to Moshe at Sinai can be post-facto derived through logic or analysis of the Torah’s text. Some of the *Peirush* must always remain an accepted fact, forever a pure received tradition. This small group of non-derivable interpretations and details of the law are called the *Halachah LeMoshe MiSinai*, the “Laws of Moshe from Sinai.” This title should not be misinterpreted to suggest that all the other interpretations and details of the law in the *Peirush* were *not* received by Moshe at Sinai. As we have seen, they too were received by Moshe at Sinai. Rather, this special title is reserved for laws that will always only be known due to their transmission

³⁵ For instance, the Torah states that every individual must take on Succos a “*pri etz hadar*.” Although the text of the Torah never identifies this term, God taught Moshe as part of the *Peirush* that this term refers to an *esrog*. The *Peirush* also provides details of the mitzvos and their laws. For example, the Torah records that certain sins are punishable by the death penalty. However, the Torah does not state explicitly the many legal conditions that need to be fulfilled to administer capital punishment, such as the issuance of an explicit warning before the act is committed (התראה), or the testimony of two witnesses who were present when the sin occurred and can withstand a very specific process of cross-examination.

to Moshe at Sinai and can never be post-facto derived using logic or scholarly analysis of the Torah's text.³⁶

All the teachings in the *Peirush*—both the *Peirushim Mekubalim MiSinai* and the *Halachos LeMoshe MiSinai*—are considered to have the status of biblical law (דאורייתא), a similar status to those laws that appear explicitly in the Torah's text. Furthermore, the *Peirush* is absolutely binding. It is not open to debate, and it cannot be negated or altered by later generations. In this vein, Rambam (Introduction to *Peirush HaMishnah* and *Hilchos Mamrim* 1:3) writes unequivocally that there are no disputes in the literature of Chazal regarding the material that was transmitted in the *Peirush*.

Another component of the Oral Law that Moshe Rabbeinu received at Sinai is a collection of exegetical tools for analyzing the Torah. These tools are called the “*middos of derashah* (מידות שהתורה נדרשת בהם),” the “hermeneutic principles” for interpreting the Torah.³⁷ Although there is some discussion about the exact number of *middos of derashah*, Rambam (*Sefer Shorashim, Shoresh 2*) writes that there are thirteen primary *middos of derashah* plus the *derashah* mechanism of *riboi* (ריבוי).³⁸ Some examples of

³⁶ Since these laws are few in number—as most of the *Peirush* is comprised of *Peirushim Mekubalim MiSinai* and can be derived through logic and scholarly analysis—Rambam, in his introduction to his *Peirush HaMishnah*, attempts to list all of the known laws that fall into this small category of *Halachah LeMoshe MiSinai*. It should also be noted that sometimes the term *Halachah LeMoshe MiSinai* is borrowed and used for a rabbinic law that is very well established. See, for example, *Piskei HaRosh Mikvaos* 1 and *Peirush HaRash on Yedayim* 4:1.

³⁷ Rambam writes explicitly in the introduction to his *Peirush HaMishnah* that the *middos of derashah* were given to Moshe at Sinai. He writes, “במדות השלש עשרה בהם הנתונות על הר סיני שהתורה נדרשת בהם.” This is also stated explicitly by Radvaz (IV:232) and the *Sefer HaIkarim* (III:23).

³⁸ The early Tanna Hillel lists seven primary *middos of derashah*. However, the traditional list consists of the thirteen *middos* that were presented by the later Tanna, R. Yishmael. R. Akiva, a contemporary of R. Yishmael, basically agreed with R. Yishmael's list, but replaced the *middah* of כלל ופרט with ריבוי ומיעוט. An additional list of thirty-two *middos* was compiled by R. Eliezer b. R. Yosi HaGelili, but that list mostly pertains to analyzing Aggadah, while the list of seven and thirteen relate more to Halachah. If the *middos* were given at Sinai, how can there be a dispute about their number? R. Shimshon of Chinon, a French Rishon and author of the *Sefer Krisus*, argues that there is no dispute about the actual number of *middos* given at Sinai. He suggests that Hillel was known to generally use seven primary *middos*, but he also knew about, and accepted, the others on R. Yishmael's longer list. The 16th-century rabbinic scholar R. Aaron ibn Chaim, in his work *Korban Aaron*, offers a slightly different approach. He writes that the early Tannaim taught tersely and that R.

the *middos* are: *kal vechomer* (קל והומר), *binyan av* (בנין אב), *kelal u'perat* (כלל ופרט), and *gezeirah shavah* (גזירה שוה).

The giving of the *middos* of *derashah* was vital for the future of Torah study and life. First, the *middos* were used by Chazal academically, as noted earlier, to post-facto derive many laws of the *Peirush* from the text of the Torah. Second, Rambam suggests, the *middos* served a vital role in the continued development of the Oral Law, as we will see shortly.

The Omitted Details of the Mitzvos

Rambam writes (Introduction to *Peirush HaMishnah*) that many non-essential details of the mitzvos were not included in the *Peirush* that was transmitted to Moshe. Additionally, the specifics of how to apply the mitzvos to non-standard situations was also omitted. When a question arose regarding a detail of a mitzvah or a novel application of a mitzvah, and the answer had not been taught to Moshe at Sinai, the Sages of the *Beis Din HaGadol* used the *middos* of *derashah* to analyze the Torah and fill in the missing details. Sometimes they even used their analysis of the Torah to create new laws entirely.³⁹

This was a common occurrence in the years following *Matan Torah*. New situations arose that raised halachic questions that had not been directly addressed by the *Peirush*. The Sages turned to the Torah's text, and utilizing the *middos* of *derashah*, they reached halachically justifiable approaches to the situation or issue they were confronting.

That a body of laws exists that was created by the Sages through the analysis of the Torah's texts is stated clearly by Rambam in his introduc-

Yishmael's thirteen *middos* are all subsumed in Hillel's seven more general *middos*. He compares this to *Makkos* 24a that states that David HaMelech was able to subsume all 613 mitzvos into eleven primary principles, Yeshayah into six, Michah into three, Yeshayah again into two, and Chavakuk into one.

³⁹ Rambam notes that this process was one of rigorous intellectual analysis and did not utilize prophecy. Only the Torah and the *Peirush* were given to Moshe via prophecy. After Moshe's death, future generations never used prophecy, only interpretative analysis, to arrive at Halachah. Rambam explains that the inability to use prophecy as part of the process of developing new laws is learned from the verse in *Devarim* 30:12—"It is not in Heaven (לא בשמים היא)."
This also seems to be the intent of *Temurah* 16a. However, the Ashkenazic Rishonim were not as opposed to the use of prophecy, after the death of Moshe, in determining Halachah. See *Rashi Succah* 44a ד"ה ויסדום, *Tosafos Bava Metz'ia* 59b ד"ה לא , and *Yevamos* 14a ד"ה רבי . For an explanation how the view of the Ashkenazic Rishonim would respond to *Temurah* 16a, see *Mishpat Kohen* #92.

tion to the *Mishneh Torah*. He describes these laws as “novel teachings that emerged every generation, laws not learned through tradition but rather derived using the thirteen *middos* of *derashah*.” Similarly, Rambam very clearly differentiates in his *Mishneh Torah* (*Hilchos Mamrim* 1:3) between those laws that were “transmitted via tradition (מפי השמועה)” and those laws that the Sages “derived based on their own analysis (מפי דעתם)” using the *middos* of *derashah* and that appeared proper in their eyes (ונראה) (בעיניהם שדבר זה כך הוא).⁴⁰

These new laws are another important component of the Oral Law, as Rambam states clearly in the introduction to his *Peirush HaMishnah*,

The first component of the Oral Law is the collection of *Peirushim Mekubalim MiSinai*; these laws are rooted in the text of the Torah and can be deduced using analysis... The second component is the laws that are called *Halachah LeMoshe MiSinai*, these have no source in the text of the Torah... The third component is the collection of laws that were created by the Sages using analytical study.⁴¹

When the Sages of the *Beis Din HaGadol* confronted situations that had not been directly addressed by God at *Matan Torah* and applied the *middos* of *derashah* to determine the proper law, sometimes the relevant rabbinic analysis was clear and undisputable. In such cases, the new rul-

⁴⁰ In the *Kuzari* (3:39), R. Yehudah HaLevi refers to these laws as “laws that come from the place chosen by God (מן המקום אשר יבחר ה’),” a reference to the Sages of the *Beis Din HaGadol* who used the *middos* of *derashah* to create new laws and details of laws.

⁴¹ Rambam writes in his *Sefer HaMitzvos* (*Shoresh* 2) that the “majority of the Torah’s laws are derived using the thirteen *middos* of *derashah* (רוב דיני התורה יצאו) (בשלוש עשרה מידות שהתורה נדרשת בהם).” From Rambam’s context there it is not clear if Rambam is saying that the new laws are the “majority of the Torah’s laws” or if he is also including the *Peirushim Mekubalim MiSinai*, which can post-facto be derived from the Torah using the *middos* of *derashah*, when he refers to the “majority of the Torah’s laws.” However, *Gittin* 60b records a debate: What constitutes the bulk of the Torah—the Written Law or the Oral Law? The *Sefer Be’er Sheva* suggests that this debate primarily revolves around the many new laws and details of laws that were created by Chazal using the *middos* of *derashah*. Are they considered part of the Written Law, since they were derived from the text of the Torah, or are they considered part of the Oral Law, since they are not explicitly written in the Torah? Seemingly, the *Be’er Sheva* assumes that the number of new laws derived by the *middos* of *derashah* is very great. In fact, they are so numerous that their status as either the “Written Law” or “Oral Law” will be the factor that determines which category is the bulk of the Torah.

ing was immediately canonized into the corpus of the Oral Law. Yet sometimes the correct application of the *middos* of *derashab* was not immediately clear. In such cases, the proper application of the *middos*, and the resulting conclusions, became a subject of rabbinic debate. The *Beis Din HaGadol* debated the issue and eventually ruled based on majority vote. The newly created law was then canonized into the corpus of the Oral Law.

Ramban writes (*Hasagos* on *Sefer HaMitzvos*, *Shoresh* 2) that the new laws developed through the *middos* of *derashab* are considered biblical laws (דאורייתא), since they are derived directly from the text of the Torah. That is, the new laws are not mere inventions of the Sages' creativity. Rather the Sages' scholarly analysis, utilizing the *middos* of *derashab*, reveals that these laws are embedded in the text and part of its deeper meaning. However, Rambam's view on the status of these new laws is less straightforward. Although he writes in his *Sefer HaMitzvos* (*Shoresh* 2) that the new laws are "from the Rabbis (דרבנן)," there are strong indications that Rambam agrees that they are biblical in nature.⁴²

Even if these new laws are biblical, they are still significantly distinct from the biblical laws transmitted as part of the *Peirush*. First, the new laws created through the *middos* of *derashab* are debatable. Unlike the teachings of the *Peirush*, which are not up for debate or discussion and must simply be accepted as fact, the laws that emerge from scholarly analysis of the Torah's text can be, and often are, the subject of rabbinic debate. One scholar or academy might arrive at one conclusion through the utilization of one *middah* of *derashab*, while another scholar or academy might arrive at a different conclusion as he applies a different *middah* or applies the same *middah* in a different way. As mentioned earlier, when the *Beis Din HaGadol* functioned, the debates were generally resolved through a formal vote.

⁴² Rambam begins that very passage stating that "the majority of the *Torah's laws* are from the scholarly analysis of the Torah using the thirteen *middos* of *derashab* (רוב דיני התורה יצאו בשלש עשרה מידות שהתורה נדרשת בהם)." Calling these laws "Torah laws (דיני התורה)" certainly suggests that these laws are considered biblical (see previous footnote). Similarly, several of Rambam's commentators (*Megillas Esther* and *Zohar HaRakia*) argue that all Rambam meant when he wrote that the laws derived using the *middos* of *derashab* are "from the Rabbis" is that the Rabbis are the ones who derived these laws from the Torah. Rambam's intent is that although these laws are considered biblical laws, they should still not be counted on the list of 613 mitzvos since they are not explicit in the words of the Torah (מפורש בקרא). See also, *Ohr Sameach* (*Mamrim* 2:1).

Second, the new laws created through the *middos* of *derashah* are not eternally binding. Meaning, a *Beis Din HaGadol* of a future generation can offer a reinterpretation of the Torah's text—by applying the *middos* of *derashah* differently—and thereby change, or even abolish, a created law. This is true even if the later *Beis Din HaGadol* is not greater in number or wisdom than the original one (Rambam, *Mamrim* 2:1).⁴³

Rambam's position that many details of the mitzvos were not formally given to Moshe at Sinai was not universally accepted. The Geonim, for example, operated with a different understanding.⁴⁴ They

⁴³ In hundreds of locations in his *Mishneh Torah*, and to a lesser degree in his *Sefer HaMitzvos*, Rambam describes laws using the mishnaic term, “The teachings of the *Sofrim* (דברי סופרים).” The *Sofrim* were the early Sages and members of the *Beis Din HaGadol*—those entrusted with the mission of preserving and transmitting the Oral Law. But what does Rambam refer to when he uses this term, “The teachings of the *Sofrim* (דברי סופרים)?” One option: Rambam writes in his commentary on the *Mishnah* (*Keilim* 17:12) that “the teachings of the *Sofrim*” is a general term for the Oral Law. It can refer to the teachings of the *Peirush* or even to rabbinic laws. Indeed, Rambam does occasionally use this term when discussing rabbinic laws (see for example, *Chametz U'Matzah* chapters 1, 6, and 7). However, the commentators on Rambam note that he more commonly uses this term for biblical laws that are not explicit in the text of the Torah (מפורש בקרא). These biblical laws are attributed to the *Sofrim* because “without the tradition transmitted to us by the *Sofrim*, we would never have known these teachings” (*Kesef Mishnah*, *Ishus* 1:2). Yet, in his *Sefer HaMitzvos* (*Shoresh* 2), Rambam uses the term “*Divrei Sofrim*” to refer specifically to the new laws derived from the text of the Torah using the *middos* of *derashah*. The *Maggid Mishnah* and *Kesef Mishnah* (*Ishus* 1:2) both suggest that despite the fact that the new laws learned from the *middos* of *derashah* have full biblical status, Rambam still calls them “the teachings of the *Sofrim*” and not “Torah law (דברי תורה)” because the laws needed to be derived via scholarly analysis and were not explicitly written in the Torah. The *Ohr Sameach* (*Mamrim* 2:1) concurs and posits that they are called “the teachings of the *Sofrim*” and not “Torah law” because of the rule quoted above that these new laws are subject to change, and even abolishment, if a reinterpretation is offered by a future *Beis Din HaGadol*, i.e., by later *Sofrim*.

⁴⁴ This view is ascribed in general to the Geonim and appears to be the intent of R. Sherira Gaon in *Iggeres of Rav Sherira Gaon* (ד"ה והכי הוי מילתא). It also appears to be the view of R. Avraham ibn Daud in the introduction to his *Sefer HaKabbalah*. Some have noted that Rashi in one location, *Succah* 31a ד"ה לא מקשינן, states that besides *kal vehomer*, all the other *middos* of *derashah* require a received tradition to interpret the verse with a specific *middah*. This would seemingly mean that except for the logical applications of *kal vehomer*, there were no new laws after Moshe received a tradition of interpretations. However, Rashi in *Kiddushin* 17a ד"ה מיכה implies otherwise. Nonetheless, there are

maintained that all the details of the mitzvos—both essential and non-essential minutiae of the law—were included in the *Peirush* that was transmitted to Moshe at Sinai. It was also transmitted to Moshe at that time how to apply the mitzvos to all non-standard situations. According to the Geonic perspective, the *middos* were only used by Chazal academically, as noted earlier, to post-facto derive the *Peirushim Mekubalim MiSinai* from the text of the Torah. No law or detail was omitted at Sinai, and therefore nothing was left to future generations to originate or derive using the *middos* of *derashah*.

Indeed, Rambam's position appears to be against the statement of Chazal in the *Sifra* in *Parashas Behar*, quoted earlier, that all the details of the mitzvos (כללותיה ופרטותיה ודקדוקיה) were given at Sinai. It also appears to be against the opinions of R. Akiva and R. Yishmael that all the details of the mitzvos were transmitted at some point—whether at Sinai or later at the *Ohel Moed*—to Moshe. Rambam addresses this by offering a novel interpretation of Chazal's uncommon expression: כללותיה ופרטיה. Rambam suggests that this expression does not actually refer to all the mitzvos and their laws. Rather it refers specifically to the *Peirushim Mekubalim MiSinai*, i.e., those teachings of the *Peirush* that can be independently derived using the *middos* of *derashah*, such as “*kelal u'perat* (כלל (ופרט)”—hence the term (כללותיה ופרטותיה).

There are no disputes whatsoever regarding the *Peirushim Mekubalim MiSinai*... for they are all received traditions from Moshe. Regarding them, and things like them, Chazal state: “The entire Torah—*kelalosehab* (כללותיה), *peratosehab* (פרטותיה), and *dikdukehab* (דקדוקיה)—are from Sinai.” Now, despite the fact that the *Peirushim Mekubalim MiSinai* were received as a tradition, and there are no disputes regarding them, we can nonetheless use our received Torah knowledge to derive these interpretations and laws from the Torah's text using various forms of logic and analysis... And this is what is meant when Chazal refer to *kelalosehab* (כללותיה) and *peratosehab* (פרטותיה). They mean those laws that can be [post-facto] derived using *kelal u'perat*, and the other thirteen *middos* of *derashah*.

According to Rambam's novel interpretation, Chazal only meant to say that all the *Peirushim Mekubalim MiSinai* were given with their details

indications in *Rashi* and *Tosafos* that they subscribed to the view of the Geonim. For a more modern presentation that seems to reflect this view, see the *Collected Writings of Rabbi Samson Raphael Hirsch*, Vol. V, starting on page 39.

at Sinai, but they never meant to suggest that *all the details* of *all* the mitzvos were given at Sinai.

It thus emerges, according to Rambam (see also *Sefer HaIkarim* III:23), that even Chazal's opinion is that many details of the mitzvos were not transmitted to Moshe at Sinai. Therefore, many situations had to be addressed by later generations using the *middos* of *derashah* to analyze and arrive at new rulings and laws.

Rambam's approach is well grounded. Firstly, the position that not all the details of the mitzvos were transmitted at Sinai is stated explicitly by a Midrash in *Shemos Rabbah* (41:6).

Did Moshe really learn the entire Torah [at Sinai]? It says regarding the Torah, "Longer than the earth is its measure, and wider than the sea" (*Iyov* 11:9). Could Moshe learn it all in forty days? Rather, God taught Moshe the general principles (כללים).⁴⁵

Besides clearly suggesting that Moshe did not receive the entire Torah, this Midrash also states that in place of the entire Torah, Moshe was taught "general principle." The *Peirush Maharzu* on the Midrash (ד"ה ואיני) suggests that these "general principles" are the *middos* of *derashah*, which empowered Moshe and later generations to address situations that were not explicitly transmitted to him.

Second, the idea that the *middos* of *derashah* can be used to create new laws is attested to by the Torah itself. In *Vayikra* 10:16–20, a question arises about eating the meat of a *korban* after the death of a close relative but before burial, a status known as *aninus* (אנינות). Aaron HaKohen analyzes the Torah using the *middos* of *derashah* and arrives at a conclusion that is ultimately accepted by Moshe Rabbeinu (see *Zevachim* 101a for Aaron's analysis). It seems from the Torah's narrative that this detail of the law of sacrifices had not been transmitted to Moshe at Sinai and came into existence as a "new law" through the scholarly analysis of Aaron.

The Talmud also records several cases of rabbinic analysis creating new laws. For example, *Yerushalmi Yevamos* (8:3, see also *Bavli Yevamos* 76b–77a) states that the law allowing marriage to a female *Moabite* (מואבי)

⁴⁵ *Menachos* 29b teaches that God once gave Moshe Rabbeinu the opportunity to visit R. Akiva's academy. Once there, Moshe was unable to follow the discussion, something that caused him much distress (תשש כוחו). The simple interpretation of this passage suggests that the Torah being taught by R. Akiva was not something that Moshe had been taught by God. However, see Rashi there (ד"ה נתיישבה) for a possible alternate interpretation. See also *Or HaChaim*, *Vayikra* 13:37.

ולא מואביה) was not taught to Moshe but created through analysis of the Torah by the *Beis Din HaGadol*. It also appears from the Mishnah in *Berachos* 12b that there was no known law to mention the Exodus from Egypt every night until Ben Zoma's analysis of the Torah arrived at this conclusion.

Indeed, we find in the Talmud that great rabbinic Sages sometimes responded to a stated law with the expression, "If it is an accepted law, we will accept it; however, if it is a law based on rabbinic analysis, then there is a counter-argument to be made (אם הלכה נקבל ואם לדין יש עליו) (תשובה)." The speaker is seemingly saying that if the law under discussion was received by Moshe at Sinai as part of the *Peirush*, he will blindly accept it. But if it is a law that is being created through rabbinic analysis of the Torah, then he wishes to offer alternative analysis of the issue.

It emerges according to Rambam that even if Moshe Rabbeinu received all the mitzvos on Har Sinai, there were still many details that were purposely omitted by God. These details were not taught to Moshe along with the transmission of the mitzvos at Sinai nor were they taught to him at any later point via the *Obel Moed*. Rather, God chose to never explicitly teach these details to Moshe. That is, Moshe never received, in an explicated form, an all-encompassing corpus that included every detail of every law or that addressed every single situation that would ever arise. It was God's will that these details be omitted from *Matan Torah* so that the leading rabbinic scholars of future generations could uncover, or even "create," new rulings and laws through their study of the Torah using the *middos* of *derashab*. It was God's desire that His nation would take an active role in the continued development of a living Torah.⁴⁶

⁴⁶ This provides an important perspective on *machlokes*. Disputes in Chazal are not necessarily attempts to reconstruct what had originally been taught to Moshe at Sinai. If this were the case, the widespread existence of *machlokes* in the literature of Chazal suggests a severe breakdown in the transmission of Torah over the generations. Indeed, Rambam in his *Introduction to the Mishnah* censures one who suggests such a perspective on the origins of *machlokes* in Chazal. Rather, says Rambam, it is specifically the non-transmitted areas of the law that are the reason for *machlokes*. When rabbinic scholars confronted new situations or details of the law that had not been addressed at Sinai, they turned to the text of the Torah and used the *middos* of *derashab* to address the issue at hand. Differing methods of applying the *middos* of *derashab* led to different conclusions. Accordingly, we find (*Erwin* 13b, *Gittin* 6b), "These and those (i.e., both opinions) are the words of the living God (אלו ואלו דברי אלקים) (חיים)," for both sides in a *machlokes* reflect valid applications of the *middos* of *derashab*.

Conclusion

This article has developed different perspectives on God's transmission of the mitzvos at *Matan Torah*. The most literal reading of Chazal suggests that all the mitzvos with all the details of their laws were given at Har Sinai. However, this article has shown that several rabbinic scholars maintained a more complex understanding of God's transmission of the mitzvos.

We have seen Rishonim and Acharonim who maintain that only some of the mitzvos were given at Har Sinai. Other mitzvos and the details of their laws were revealed at later points, be it at the base of Har Sinai or even at Arvos Moav at the end of the desert period. These scholars see *Matan Torah* not as a singular event, but as a process that extended over a longer period of Moshe Rabbeinu's life.

We have also seen Rishonim that assert that many details of the mitzvos were never transmitted to Moshe. In other words, even if a mitzvah itself was given at Sinai, its details were not always included. These scholars see an element of human involvement in a process of *Matan Torah* that extended beyond Moshe Rabbeinu's lifetime. Indeed, it was by divine design that details of the Torah's law would be creatively deduced through the study of Torah by the leading rabbinic scholars of future generations.⁴⁷ ❧

⁴⁷ The giving of the mitzvos and their details directly to Moshe on Har Sinai, or at later points in his life, via prophecy, and the human deducing of new laws and details of the mitzvos via analysis of the Torah's text using the *middos* of *derashah* are all part of the divinely-designed explication process of the germinal form of the Torah that had been revealed to Moshe at Har Sinai, described in the introduction of this article.