

Literary Composition and Oral Performance in Early Midrashim

Steven D. Fraade

Three converging factors make the early Rabbinic *midrashim* (scriptural commentaries) an appropriate place to begin an examination of the complex interplay of oral and textual registers of tradition and its transmission, so much the focus of recent study of other traditional cultures and so much the character of Rabbinic culture from antiquity to the present. First of all, recent scholarship of Rabbinic midrash has tended to vacillate between viewing it as the product of popular oral transmission and sophisticated literary composition. Second, it is in our earliest (so-called "halakhic" or "Tannaitic") midrashic collections that we find the first Rabbinic expressions of what will subsequently be more fully enunciated: the idea of a twofold revelation of Torah at Sinai and a twofold repertoire of its continuous performance and study: written and oral. Lastly, midrashic commentary, by its very structure and rhetoric, provides a glimpse of how Written and Oral Torahs are dialogically combined in a single performative, didactic medium. I shall address each of these in turn, with greatest attention to the second.

Oral/Early/Popular or Literary/Late/Elite?

A previous generation of scholars of Rabbinic midrash tended to emphasize the oral and popular aspects of midrashic creativity and its transmission. In contrast to the Rabbinic legal writings, whose domain was thought to be the more formal, scholarly academy, midrash (by which was usually meant aggadic, or nonlegal, midrash) was thought to inhabit the more public and popular domain of the synagogue, where either non-Rabbinic preachers and teachers expressed folk-traditional understandings of scriptural narratives and laws, or Rabbinic sages orally communicated their

wisdom in popularly accessible and responsive ways. Even if our extant texts represent the formalized end-products of Rabbinic study, according to this view their literary exteriors could be peeled away to reveal the more original and popular settings in which they were generated as live sermons. The fact that such exegeses exist in a variety of versions across the extant textual collections was considered evidence of the *oral* process of transmission by which these exegetical traditions were long broadcast before eventually settling into their later textual structures.¹

The current generation of midrashic scholars has tended to emphasize, instead, that the formalized, literary structures and strategies of midrashic literature are not peripheral but central to defining the creative energies and rhetorical effects of midrashic exegesis as, first and foremost, an intramural Rabbinic enterprise of some literary sophistication. Such formal rhetorical structures as the Rabbinic *mashal* (parable), *petihta* (proem), and the midrashic sermon should not, and perhaps cannot, be so easily stripped in search of underlying popular, oral layers of exegetical tradition. Rather, they need to be appreciated in their extant textual forms as unitary compositions of literary artistry and imagination, to which the models of contemporary literary criticism can be profitably applied. The varied forms that such exegetical creations take across Rabbinic documents reflect, therefore, not the vagaries of oral transmission, but the way successive Rabbinic "authors" or "editors" skillfully reshaped received traditions to different literary rhetorical effects.²

Although I have simplified these two scholarly approaches in order, heuristically, to contrast them as thesis and antithesis, they share a common assumption of a linear progression from oral to textual as primary modes of Rabbinic cultural creativity and transmission, whichever one they privilege. This is an assumption that had been, until recently, fairly common in the study of traditional cultures: that oral transmission precedes the advent of literacy, which in turn supplants orality as the primary mode of cultural transmission.³ In the case of Rabbinic literature, it is an assumption that is

¹ See, e.g., Heinemann 1974 with Sperber 1976. For further examples, especially the influential articles by Rendé Bloch, see Fraade 1983:250, n. 13; 252-53, n. 16.

² See, e.g., Neusner 1994; Sarason 1981; Stern 1991, 1996; Fraenkel 1991; Heinemann 1971. My own earlier work (Fraade 1983, including 251, n. 14, for further bibliography) evidences something of this approach.

³ Here, and in what follows, the terms "orality" and "textuality" simply denote the privileging, respectively, of oral or textual (written) modes of cultural transmission in a given social or historical context.

also predicated on a longstanding Rabbinic misreading: that the early Rabbis (and the Pharisees before them) exercised an absolute ban on the writing of Oral Torah, which was only later weakened by the necessity to preserve in written form what had previously been left to memory alone.⁴

The incoherence of both of these assumptions has been called into question, almost simultaneously, by scholars of traditional cultures in general and by scholars of Rabbinic literature in particular. Among the former, it is now widely recognized that literary composition and oral performance dynamically *interface* with one another. Like chicken and egg, it is impossible, according to this view, to determine the primacy of one over the other: texts are composed so as to be socially (that is, orally) enacted, with the enactments in turn suffusing the process of their literary textualization, and so on. Thus the performative orality of a text lies as much before its literary face as behind it.⁵ Similarly, among scholars of Rabbinic literature, the previously regnant assumption of the precedence and primacy of orality over textuality has yielded to a more dynamic understanding of their interrelation, in part because it is now understood that there was no unanimous or uniform early Rabbinic ban on the writing of Oral Torah, but rather on performatively enacting the Oral Torah from a text, as the Written Torah from memory.⁶ Thus, as I have elsewhere

⁴ The presumption of such a ban was standard fare in older introductions to Rabbinic literature (see below, n. 6). For a recent restatement, note the following in an introduction to Jewish Law: "The literary sources of Jewish Law during this [Tannaitic] period are referred to as the Oral Law, since the act of writing down the law was originally forbidden. As a result the laws were taught and repeated orally until this period" (Segal 1996:114). The designation "Oral Law" for the Hebrew *torah shebe 'al peh* ("Oral Torah") is misleading, since the latter includes both law (*halakha*) and narrative (*aggadah*).

⁵ The following have influenced my thinking in this regard: Foley 1995; Finnegan 1988; Gentili 1988; Goody 1987; Ong 1982; Svenbro 1988; Thomas 1992. For a useful review of several of these, see Murray 1989. Similarly, New Testament studies have been undergoing a shift from an older model that sharply differentiated between the earlier (more authentic) oral and the later literary layers of the New Testament. See the special issue of *Seneca: Orality and Textuality in Early Christian Literature* (1994), as well as Achtemeier 1990; Kelber 1983.

⁶ For an excellent summary, with additional bibliography, see Stemberger 1996:31-44. Note in particular Stemberger's treatment (32-34) of BT Tem. 14b (partial parallel in BT Git 60b) and PT Meg. 4:1, 74d. See also Elon 1994:224 (with n. 160); Fraade 1991:19-20, 188-89, n. 69; Jafce 1997; Nach 1997; Rosenthal 1982:96; Shinar 1981; Sperber 1976; Swartz 1996:34-40. It should be noted that in early Rabbinic sources only the Babylonian Talmud, and not Palestinian Rabbinic sources, gives expression to the idea that the actual writing of *halakhot* (laws) was disallowed. This latter view is taught, in the

argued for Rabbinic Targum, while texts circulated and were countenanced, at least for private use, they were barred from the public performance of the *melurgeman* (synagogue translator/explainer).⁷ Similarly, as Saul Lieberman has demonstrated, the Mishnah was to be enacted from memory, even as written Mishnaic notes (at a minimum) could be used in private study.⁸ While our evidence for the existence and acceptance of written texts of midrash is somewhat later, we have no reason to suspect that they would have been treated very differently.⁹ What emerges, then, is a more "circulatory" understanding of the interrelation of Rabbinic texts and their oral performative enactments: an orality that is grounded in a textuality that remains orally fluid.¹⁰

name of the "school of R. Ishmael" (but without Tannaitic parallel), in BT Tem. 14b. Compare in this respect BT Gi. 60a, b and BT Tem. 14a with partial parallels in PT Meg. 4.1, 74d; PT Peah 2.6, 17a. Note Elman's argument (1999) that there appear to be less literacy and use of written legal sources among the Babylonian *Amora'im* than among the Palestinian *Amora'im*. However, Nach (1997) argues for an earlier penetration of written Rabbinic texts in Babylonia than in Palestine.

⁷ See Fraade 1992:256-57. On T Shabb. 16:1 as requiring the rescue of scrolls of the Targum on the Sabbath, see Friedman 1993. In a number of Palestinian Rabbinic sources, the distinction between the performance of Oral and Written Torals in their respective modes is specifically exemplified through the oral performance of Targum: PT Meg. 4.1, 74d; Pesiq. R. 5 (ed. Friedmann, 14a-b); Tanh. Vayyera' 5; Tanh. Vayyera' 6 (ed. Buber, 44a); Tanh. Ki Tissa' 34. Cf. b. Meg. 32a.

⁸ See Lieberman 1962:87-88. For the existence among the Rabbinic sages of private scrolls or notebooks of laws, see discussion and sources cited in Stemberger 1996:36-37; Jaffee 1997; Elman 1999. On the likelihood of a more formal written edition of the Mishnah by the end of Talmudic times, see Nach 1997:507, n. 112. For the use of the Talmudic terms *sifra*?, *sifre*, and *sifre deve rav* ("the book," "the books," and "the books of the teacher") for written collections of Rabbinic exegeses, see Fraade 1983:297; Nach 1997:505. For the relation of the Tosefta to written sources, see Elman 1994.

⁹ Note the frequent mention of possession of "books of aggadah" by third-century teachers in Palestine and fourth-century teachers in Babylonia. For sources, see Stemberger 1996:34, to which can be added BT Gi. 60a and BT B. Bat. 52a. Nach 1997 argues that the *Sifra*, the early Rabbinic legal commentary to the Book of Leviticus, was the first Rabbinic collection committed to writing, and that, in general, the writing of legal midrash preceded that of "laws" (*halakhot*), which is to say, the Mishnah.

¹⁰ This is not to suggest that oral transmission is necessarily fluid whereas written transmission is fixed. Rather, Rabbinic tradition, in being transmitted simultaneously through both channels, acquires aspects of both—fixed and fluid, timeless and timely. For the "circulatory" metaphor, see Fraade 1991:19.

Early Midrashic Expressions of a Twofold, Written/Oral Revelation and their Historical Significance

Our earliest midrashic collections (middle to late third century CE) express the idea that the originary revelation of Torah at Mt. Sinai already comprised two parts, consigned to two distinct channels of communication: written and oral.¹¹ Although the designations of *torah shebikhav* (Torah by writing) and *torah shebe'al peth* (Torah by mouth) have not yet become standard, other designations—especially the more performative distinction between *mitqra*? (that which is read/recited) and *misnah* (that which is taught/repeated)—denote much the same idea. I shall limit myself to three familiar examples, each from a different early midrashic source:

1. Commenting on Moses' farewell summation "Torah" (Deut. 32) to the Israelites, the Sifre, our earliest Rabbinic commentary to the Book of Deuteronomy, observes:

"May my discourse come down as rain" (Deut. 32:2): Just as rain falls on trees and infuses each type with its distinctive flavor—the grapevine with its flavor, the olive tree with its flavor, the fig tree with its flavor—so too words of Torah are all one, but they comprise *mitqra*? and *misnah*: [the latter including] *midrash* (exegesis), *halakhot* (laws), and *aggadot* (narratives).

This curriculum of *oral* study is furthermore said to define the distinctive teaching of the Rabbinic disciple by which he may be recognized:

¹¹ Neusner 1979 has argued that the Rabbinic doctrine of the twofold Torah does not come into serious play until the time of the Babylonian Talmud as an anti-Karaite polemic. However, he underestimates its presence, even if less formulaically fixed, in our earliest midrashic sources. Elsewhere (1985:105) he gives a perfunctory and incomplete listing of occurrences of this doctrine in our earliest midrashic collections. Neusner is correct, as I will emphasize below, in differentiating between a distinctive Rabbinic doctrine of Oral Torah and the ubiquitous role of oral tradition more broadly. He is also correct that the idea of a twofold revelation becomes more terminologically fixed (*torah shebikhav* and *torah shebe'al peth*) and conceptually developed in later Rabbinic sources. See also Jaffee 1992.

So too you cannot know a disciple of the sages until he orally teaches (*yishneh*): *mishnah, halakhoi, and 'aggadoi*.¹²

2. Commenting on Lev. 26:46, and attending to the plural form *torot* ("teachings"), the Sifra, our earliest Rabbinic commentary to the Book of Leviticus, states:

This teaches that two Torahs [two being the minimal plural] were given to Israel, one written (*bikhtan*) and one oral (*be'al peh*).¹³

Although Rabbi Akiba asks whether only two, and not many more, Torahs were given to Israel, the commentary concludes by stating:

The Torah and laws (*halakhoi*), and fine points (*diqduqim*), and explications (*perushim*) were [all] given via Moses from Sinai.¹⁴

¹² Sifre Deut. 306 (ed. Finkelstein, 339), interpreting Deut. 32:2, on which see Fraade 1991:96-99 and 244, n. 111 for other examples of this curriculum. Elsewhere, Sifre Deut. 351 (ed. Finkelstein, 408), interpreting Deut. 33:10, unambiguously states that "two Torahs were given to Israel, one oral and one written." For discussion, see Fraade 1991: 87-89.

¹³ An almost identical formulation is found in Sifre Deut. 351, for which see the previous note.

¹⁴ Sifra Bejuggotay *periq* 8:12 (ed. Weiss, 112c). Although Weiss's edition has "its laws, its fine points, and its explications," presumably referring to the laws and interpretations that derived from each scriptural verse, the better witnesses (e.g., MS Vatican 31) have the text as I have presented it. The meaning, however, is most likely the same. Compare T *Qidd.* 5:21 (ed. Lieberman, 4:299), with variants, as well as *Sifre* 313 (ed. Finkelstein, 355): "He instructed him" (Deut. 32:10); with the ten commandments. This teaches that when each divine utterance went forth from the mouth of the Holy One, blessed be He, Israel would observe it and would know how much midrash it contained, how many rules it contained, how many *a fortiori* arguments it contained, how many arguments by verbal analogy it contained." For text and discussion, see Fraade 1991:60-62. These characterizations of revelation most likely reflect a method of Rabbinic study whereby scriptural verses were studied together with the interpretations, laws, and narrative traditions said to derive from or to be associated with them. See *Yabot R. Nar.* A 14, B 12, B 28 (ed. Schechter, 57, 29, 58); BT *Suk.* 28a; BT *B. Bat.* 134a; *Sop.* 16:6 (ed. Higger, 289). Note also the use of *al ha-seder* ("in proper sequence") with the claim that God revealed to Moses Scripture together with *mishnah, talmud, and 'aggadah*: Tanh. Ki Tissa? 17 (ed. Buber, 45b); Exod. Rab. 47:1. This most likely means that these types of Rabbinic teaching were revealed according to the Biblical order.

3. Commenting on Exod. 35:1 ("And he [Moses] said to them, These are the things that the Lord has commanded you to do [regarding the Sabbath?]), the Mekilta, our earliest Rabbinic commentary to the Book of Exodus, states:

Rabbi [Judah the Patriarch] says: "This [formulation] includes the thirty-nine chief classes of labor [prohibited on the Sabbath] that Moses communicated to them orally (*al peh*)."¹⁵

Thus, Moses communicated to the Israelites not just the legal principles of Sabbath observance as inscribed in the Written Torah, but an oral complement that included more detailed structures and strictures of observance. The thirty-nine classes of labor, first stated nonscripturally in the Mishnah (M *Shabb.* 7:2), are here said to have been orally communicated to Israel by Moses (and presumably to him by God). The midrashic commentary discloses this oral revelation from within the written words of Scripture.¹⁶

While from the hindsight of later Rabbinic tradition, these passages, with their enunciations of a twofold Torah revelation and study repertoire, might not seem particularly noteworthy,¹⁷ when viewed against the backdrop of pre-Rabbinic varieties of Judaism, they are indeed remarkable. Although several antecedents to Rabbinic Judaism express the idea of a twofold revelation, not one differentiates between written and oral components. Thus, according to 4 *Ezra* (14:5-6, 26, 45-48), God revealed through ~~Moses~~ ~~at Sinai~~ two sets of books, an esoteric set of twenty-four to all of Israel, the "worthy and the unworthy," and an esoteric set of seventy to the "wise" alone. A similarly twofold, exoteric-esoteric revelation is suggested by the book of Jubilees, itself constituting an esoteric, written

¹⁵ Mekilta de-Rabbi Ishmael Shabbeta 2 (ed. Lauterbach, 3:206).

¹⁶ The Mekilta presumably locates the origins of the well-known thirty-nine categories of labor in the scriptural use of the verb "to say" for Moses' communication with the people. Later versions of this tradition base it on the numerical equivalent of the phrase "these are the things" (*zeleh ha-devarim*) as 39. The word *zeleh* equals 36 by the method of *gematria* and *devarim* equals two (the minimal plural), with the addition of the definite article (*ha-*) adding one. See BT *Shabb.* 70a, 97b, with Rashi's commentary in both places. For a slightly different reckoning, see PT *Shabb.* 7:2, 9b.

¹⁷ For broader surveys of the idea of Written and Oral Torah in Rabbinic and subsequent Judaism, see Urbach 1979:286-315; Elon 1994:190-227; Schäfer 1978; Safrai 1987. I am told Yaakov Sussmann will have a comprehensive study of the topic in the forthcoming memorial volume to E. E. Urbach (*Melqere Talmud* 3).

revelation said to have been transcribed from heavenly tablets via angels to Moses (1:26ff.), as a supplement to the "first book of law" (6:22).¹⁸ Philo, employing allegorical interpretation, finds within the text of the Torah a twofold revelation of physical and spiritual levels, but never suggests that one was transmitted any less textually than the other.¹⁹ Similarly, Christianity eventually develops a twofold Scripture of "Old" and "New" Testaments, but without any distinction between them as to their textual mode of transmission. In many ways closer to the Rabbinic division is the Qumran study diet of the Mosaic Torah and the sect's laws (*mišva'ot*)—the manifest (*nigleh*) and the hidden (*nistar*)—but nowhere is it suggested that the latter, as disclosed to the community alone, were any less written (on scrolls) than the former.²⁰

More difficult to assess is Josephus' attribution to the Pharisees of "certain regulations handed down by former generations and not recorded in the Laws of Moses" and the Sadducees' rejection of the authority of those nonscriptural laws as being merely the "tradition of the forefathers" (ἡ

¹⁸ See further Fraade 1993:66, n. 68. For the centrality of writing to the esoteric revelation of Jubilees, see Najman 1996.

¹⁹ Philo's "unwritten law" (ἀγραφοὺς νόμους) of the pre-Mosaic patriarchs is unrelated to the Rabbinic conception of Oral Torah, as correctly argued by Urbach 1979:291-92. Similarly, the Roman distinction between *ius scriptum* and *ius non scriptum* is unrelated; see Elion 1994:191.

²⁰ For details, see Fraade 1993:57 with n. 34, as well as Fraade 1998. Not only do the Dead Sea Scrolls identically cite what, from a later canonical view, could be distinguished as Scripture and Pseudepigrapha (Jubilees in CD 16.3; Test. of Levi in CD 4.15), but in at least one case (QMMT B38, on which see Qimron and Strugnell 1994:141) a sectarian law is probably referred to with the passive participle *katav* (it is written), usually reserved for scriptural citations or paraphrases. Assuming that Josephus' Essenes bear some relation to the Qumran community, we may note that in describing the Essenes he says that they not only displayed an "extraordinary interest in the writings of the ancients" (War 2.136), but that new members swore "to preserve carefully the books of the sect (2.142)." Note Baumgarten's conclusion (1977:18): "In sum, the Qumran literature provides concrete and abundant examples of written halakhic texts from the pre-Rabbinic period. It moreover lacks any trace of the distinction between Written Law and Oral Law which is characteristic of Rabbinic sources and which serves as the basis of the contrasting forms of transmission." However, there appear to be orthographic differences that distinguish the biblical from non-biblical and sectarian from non-sectarian scrolls at Qumran; see Tov 1986. On the attitude of the Sadducees to the status and writing of extra-biblical laws, the scholion to Megillat Ta'anit for 4 Tammuz, referring to a "book of decrees," is of too uncertain provenance to be of any historical value for pre-Rabbinic times; cf. Halivni 1986:38-41.

παράδοσις τῶν πατέρων).²¹ All we can establish for certain is that the Pharisees attributed divine authority to ancestral laws not written in the Torah, but not necessarily (although possibly) that they preserved or transmitted these laws orally,²² and even less that they claimed an ultimate Sinaitic origin for them.²³

I stress this contrast between our earliest Rabbinic midrashic sources and their closest antecedents so as to set their assertions of the distinction between written Scripture and oral Rabbinic teaching in sharper relief, since it has been somewhat common for scholars to "naturalize," and hence perhaps apologetically to deradicalize, this central Rabbinic fiction (by which term I intend no disrespect or denial of truth). Thus, it is often explained that the Written Torah, by its very nature and from its very beginning, must have demanded an oral accompaniment to fill its gaps and clarify its meanings. For example, we find in a recent survey of Rabbinic law:

One may conclude from even a cursory examination that Biblical commandments and laws were accompanied by many explanations and detailed rules—given orally or preexisting in practice—which supplement and give meaning to what is written in the Torah. . . . If no Oral Law existed to explain and give content to these legal institutions, it would have been impossible in practice to carry out the provisions that are stated in the Scriptural passage.²⁴

Similarly, it is claimed in a recent study of postbiblical narrative elaborations of biblical texts that since many of these traditions were widely shared among the varieties of postbiblical Judaism, they must constitute an

²¹ Ant. 13.297. Cf. Ant. 17.41; 18.12. Cf. Matt. 15:1-12 (=Mark 7:1-13), where Jesus accuses the Pharisees of following the merely human "tradition of the elders" (ἡ παράδοσις τῶν προφῆτων) in opposition to the commandments of God.

²² It is unclear from Josephus whether the Sadducees rejected Pharisaic law because it was not written in Scripture or because it was unwritten. See Baumgarten 1977:18-19.

²³ See Neusner 1979, 1985. I intentionally do not include here later Rabbinic stories that attribute the doctrine of Written and Oral Torahs to Hillel and Shammai: Avot der. Natan A15 (ed. Schechter, 13a); BT *Shabb.* 31a. In those stories, unlike the midrashic passages quoted above, a gentle, or prospective convert, is asked to accept this doctrine on faith rather than by scriptural proof.

²⁴ Elion 1994:200-01. "Oral Law" here is a misleading rendering of "Oral Torah." See n. 4 above.

"Oral Torah" of sorts, pre-existent to the formalization of that term in Rabbinic literature, and described as follows:

A corpus of methodological assumptions, as well as a good many specific interpretations, came to be shared even by the warring groups whose names and works we know from the end of this period. And it is this common inheritance—communicated orally, as suggested, perhaps through the instruction of children and/or the public reading and translation or exposition of Scripture—that is responsible for the common assumptions, and much common material, that we have seen to characterize the written sources that have survived from those early times.²⁵

Whether viewed from the perspective of law or narrative, these claims for a postbiblical, yet pre-Rabbinic, Oral Torah beg our question in two regards. First of all, why assume that extrabiblical elucidations and expansions, as we know them only from written sources, were primarily oral in their mode of circulation, whether within or between groups? Certainly, the wealth of such materials now known from the Dead Sea Scrolls is only the tip of a much larger parabiblical *textual* iceberg. And second, even if we were to assume that such traditions of biblical elaboration did in fact circulate mainly by oral means, why is it only in our early Rabbinic midrashic sources that they are first *denoted by their orality*? Biblical Israelite and postbiblical Jewish cultures were undoubtedly suffused with oral traditions that accompanied written scriptures and parabiblical texts of many sorts, as is common in all traditional cultures. But to confuse such oral *tradition* with the Rabbinic fiction of Oral Torah is not only to produce terminological dilution, but to blur a critical ideological and performative distinction between the Rabbinic culture of Torah study and its antecedents.²⁶

Thus, what is new in early Rabbinic teaching, already in our earliest midrashic collections, is neither the idea of a twofold revelation nor the presence of a ubiquitous and more broadly shared oral *tradition*, but rather the explicit elevation of orality to the ontological level of Oral *Torah* as a central element in the practice and ideology of the Rabbinic sage. Of course, this development is easier to describe than to explain. But before

providing some hints as to the latter, I would like to highlight several related features of early midrashic literature.

Elsewhere I have discussed at length the early midrashic "re-presentation of revelation" (1991:ch. 2). Striking in those Rabbinic accounts of what transpired at Sinai, of what constituted *matan torah* (the "giving of the Torah"), is not the giving or receiving of the iconic scroll or continuous written text of the Torah, but the hearing (and seeing) by the Israelites of each of God's utterances (of the ten commandments) *prior* to its textual inscription (in stone). Thus, already at Sinai, we witness what Martin Jaffee terms the Rabbinic pedagogical "privileging of voice over page" (1997:528). Many images are employed to this end, but they share a sense of immediacy and intimacy (and also danger), as each divine utterance (*dibbur*) dynamically engages each Israelite's eyes, or ears, or mouth prior to its textual inscription. Thus, according to the Mekilta:

"And all the people saw the thunderings and the lightning" (Exod. 20:15): the thundering of thunders upon thunders and the lightning of lightning upon lightning. But how many thunderings were there and how many lightningings were there? It is simply this: They were *heard* by each person according to his capacity, as it is said: "The voice of the Lord [was heard according to] the strength [of each person]" (Ps. 29:4). Rabbi [Judah the Patriarch] says: This is to proclaim the excellence of the Israelites. For when they all stood before Mt. Sinai to receive the Torah they interpreted the divine utterance as soon as they *heard* it. For it is said: "He compassed it, he understood it, and he kept it as the apple of his eye" (Deut. 32:10), meaning: As soon as the utterance came forth [from God's mouth] they interpreted it.²⁷

Thus, the Israelites are depicted not primarily as interpretive *readers* of a sacred written text, but as interpretive *auditors* of divine utterances. Oral interpretation is mythically conceived as being in origin coincidental with oral divine revelation and *prior* to revelatory inscription. It is clear,

²⁷ Mekilta de-Rabbi Ishmael Bahodesh 9 (ed. Lauterbach, 2:266-67). For a more visual image, see Sifre Deut. 313 (ed. Finkelstein, 355), cited above, n. 14. Sifre Deut. 335 (ed. Finkelstein, 385) admonishes directing one's heart, eyes, and ears to the words of Torah, for text and discussion, see Fraade 1991:119-20. For other accounts of how each divine utterance (command) engaged each Israelite prior to its physical inscription, see Sifre Deut. 344 (ed. Finkelstein, 401); Mekilta Bahodesh 2, 9 (ed. Lauterbach, 2:202, 269-70); Cant. Rab. 1:2, where, according to one view, an angel delivers each divine utterance and its exegetical potentiality to each Israelite, who upon accepting the utterance receives it through an angelic kiss to the mouth. According to another view, this oral revelation of the divine word and its exegetical potentiality is unmediated.

²⁵ Kugel 1990:267. Kugel twice refers to this shared corpus of tradition as "Oral Torah," in both cases enclosing the phrase in quotation marks, thereby acknowledging, I assume, that this is not quite the same as the Rabbinic doctrine of the Oral Torah.

²⁶ A similar point is made by Baumgarten 1977 and Neusner 1979.

however, that this representation is not simply of a singular past event, but of a paradigmatic and ongoing experience, whether projected back onto Sinai from present Rabbinic practice or forward from Sinai into the present. As the Sifre comments to Deut. 32:11:

"[Y]ou shall keep and you shall perform all the laws and rules! that I have set before you *this day*" (Deut. 32:11): Let them be as dear to you today as if you had received them today from Mt. Sinai; let them be as well-rehearsed in your *mouths* as if you had *heard* them today.²⁸

The continuous experience of revelation is one of hearing, internalization through repetition, and rearticulation, all the hallmarks of oral teaching, even when grounded, as in this passage, in a scriptural text. This is how, we are told elsewhere, the Oral Torah was originally taught by God to Moses, by Moses to Aaron and his sons, and eventually to the whole people, and, by implication, how it is taught through the chain of masters and disciples to the present day and beyond.²⁹

Note how the Sifre interprets the seemingly prosaic Deut. 6:7, "Impress [these teachings] upon your sons" (*vestimantanam levanehta*), playing on the verb's connection to the word for tooth (*shen*) and taking "sons" to denote "disciples":

They should be so well honed within your *mouth* that when someone inquires of you concerning a teaching (*davar*) you will not hesitate (or, stutter) but will tell it to him immediately. Similarly, it says, "Say to wisdom, 'You are my sister,' and call understanding a kinswoman" (Prov. 7:4), and it says, "Bind them on your fingers; write them on the tablet of your heart" (Prov. 7:3).³⁰

²⁸ Sifre Deut. 58 (ed. Finkelstein, 124). For this use of "this day," as denoting the perpetual present of the latter-day students of Torah, see Fraade 1991:256, n. 196.

²⁹ See BT *Eruv*. 54b, in a *barayta*?, where I take *mishnah* to refer not simply to the Mishnah of R. Judah the Patriarch, as it is often understood, but to *mishnah* as the orally taught Torah more generally, as contrasted to *miqra*? (Scripture) in the preceding text of the Talmud. As the talmudic text continues, this is to be a model for the oral teaching of master to disciple in general. On the Rabbinic myth and practice of oral revelation, see further Fishbane 1997.

³⁰ Sifre Deut. 34 (ed. Finkelstein, 60). For "sons" as "disciples," see the commentary's continuation (ed. Finkelstein, 61): "Disciples are in every [scriptural] place called 'sons.'" For the emphasis on memorization with regard to study and discipleship, see Fraade 1991:ch. 3, as well as 273, n. 92; Swartz 1996:33-43.

Thus, to become a Rabbinic master is to master the words of Torah, scriptural and oral, internalizing both in one's mouth and heart through the labors of repetition and recitation that eventually produce an intimate and seemingly effortless proficiency in those now-embodied utterances.

The performative study of the Oral Torah, intertwined as it is with the ritual recitation of the Written Torah, is a reenactment and extension of the original revelation at Sinai. Just as that revelation is midrashically re-presented as an oral and aural encounter with the divine utterance prior to its textual inscription, so too its reenactment is a reversion of the written text of Scripture to a more intimate, interactive, and interpretive engagement with the polyphony of "words of Torah." To live Torah as a revealed tradition is not so much to read it, as to return it repeatedly to the plenitude of its orality of reception (*mishnah*), even while safeguarding its iconic text as Scripture (*miqra*?). Torah as written text is received, embodied, and transmitted within the circles of Rabbinic mastery and discipleship, through the master's modeling and the disciple's emulation of oral study as a living practice.³¹

The Performative Actualization of the "Myth" of the Oral Torah

In conclusion, I wish to emphasize that such oral discursive modeling is performed by our early Rabbinic texts of oral teaching (*mishnah*), including the midrashim themselves. They structure a dialectical relation between written (Scriptural) and oral (Rabbinic) words of Torah—formally differentiating between them while hermeneutically linking them. These Rabbinic texts, as we have seen, lift orality not only to the level of *ideology* in the idea of Oral Torah, but also to the level of *rhetoric* in their textual practices of Oral Torah as they dynamically engage their own readers/students. Those textual practices are suffused with the dialogical language of orality: "from whence do you say?" (*minmayin 'atah 'omer*).

³¹ For a fuller explication of the ideological and social relationship between orality and discipleship, see Jaffee 1997, 1998; Fraade 1991:ch. 3. I have argued elsewhere (Fraade 1993) for the parallels between Qumran and Rabbinic studying communities, with the important difference (among others) that the Qumran community appears to have drawn no distinction between the Torah of Moses and their own laws in terms of their modes of performance and transmission. It might be a correlate to this difference that we find nothing resembling the master-disciple relationship at Qumran. Neophytes joined the community as a whole and advanced through its ranks, studying its texts and practicing its rules under the instruction of its priestly and levitical teachers, but with no indication of *individual* master-disciple relations or circles.

"you say (reason) . . ." (*atah 'omer*), "if you should say (reason) . . ." (*im amarita*), "I hear it to mean" (*shome'a 'ani*), and so forth.³² However, given Rabbinic literature's "conceit" of orality, the oral elements of its rhetoric are signposts not so much of an oral stage that lies *behind* their extant textualities (cf. Jaffee 1994) as of the oral stage that lies *before* them, the stage upon which their Rabbinic scripts remain to be played, however improvisationally, by future casts of sages and their disciples, who will in turn recast those learned scripts of Oral Torah for subsequent cycles of oral-textual performance.

Yale University

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³² Similar rhetorical language of orality could be easily supplied from the other branches of the Rabbinic Oral Torah.

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