

III. THE MEANING, PURPOSE, AND IMPORTANCE OF THE ORAL LAW OF JUDAISM

A. The Meaning, Purpose, and Relevance of the Oral Law

In Encyclopedia Judaica, under the article "Oral Law," we read:

ORAL LAW (Heb. תורה שבעל-פה), the authoritative interpretation of the Written Law (Torah, which is the text of the Pentateuch) which was regarded as given to Moses on Sinai, and therefore coexistent with the Written Law. . . . "It is related that a certain man stood before Shammai and said 'Rabbi, How many Torahs have you?' The rabbi replied 'Two--one written and one oral'" . . . The Oral Law depends upon the Written Law, but at the same time, say the rabbis, it is clear that there can be no real existence for the Written Law without the Oral. . . . "the statements in the Written Law are vague" . . . there is a lack of clarity and definition: The law, "he shall surely be put to death" (Ex. 21:12 et al.), does not state whether by stoning, burning, or some other method not mentioned in the Torah. "And ye shall afflict your souls" (Lev. 16:31) does not indicate whether it means by mortification of the body through ascetic practices, by fasting, or in some other manner. The prohibition against doing work on the Sabbath does not specify the nature of work. "And if men strive together and hurt a woman with child so that her fruit depart and yet no harm follow . . . But if any harm follow . . ." (Ex. 21:22-23) does not make it clear whether the "harm" refers to the woman or her embryo. . . . there is no reference to the laws of marriage, while the law of divorce is mentioned only incidentally in connection with the injunction that a man may not remarry his divorced wife after she has remarried and become divorced again (Deut. 24:1-4); the Torah enjoins that one sentenced to be flogged may not have more than the fixed number of lashes inflicted (Deut. 25:1-3), but nowhere does it specify which transgressions involve the punishment of a flogging. From the above it seems clear that it was impossible for life to be regulated solely in accordance with the Written Law . . . the Written Law . . . never exhausted or aimed at exhausting all the details of the laws given. . . . it was a fundamental doctrine of the rabbis that the Torah was given by God for all time, that it would never be exchanged for another Torah and certainly never rescinded, and that it provided for all possible circumstances which might arise at any time in the future. . . . the Oral Law existed not merely from the moment the Written Law was given . . . it may even be maintained that the Oral Law anticipated the Written Law, as the Written Law not only assumes the observance of the Oral Law in the future, but is in effect based on its previous existence. Since the written law relies--by allusion or by its silence--on statutes, customs, and basic laws not explicitly mentioned in it (marriage, divorce, business . . . these statutes are ipso facto converted into a part of the Oral Law. . . . Even dissenting sects outside normative Judaism, as long as they did not abandon Judaism completely, did not maintain the Written Law without an Oral Law: the Sadducees . . . the Judean desert sect . . . the Karaites. . . . The Written Law in fact establishes the authority of the Oral Law by laying down that "if there arise a matter too hard for thee, thou shalt turn unto the judge that shall