

Can We Speak of “Law” in the New Testament in Monolithic Terms?

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ETS NW Regional Meeting

The Issue at Hand

The current debate over the Law in the NT has advanced the discussion along familiar lines. Continuity/Discontinuity continues to set the extremes of the continuum, with scholars placing themselves toward one pole or the other. Evangelical scholars have also renewed the discussion of the Law in the NT, as evidenced by the number of current articles and publications on the subject.¹

Within the ETS, the Dispensational Study Group (which convenes annually at the national meeting) has focused attention on the issue. At the 1993 annual meeting, the topic for the Dispensational Study Group was “The Law and Christ”. Such a topic requires definition of terms at the outset, something which the subsequent dialog proved was lacking. The discussion began on the unspoken assumption that the meaning of “Law” was the written code of Moses, leaving the impression that current trends in scholarship, which have established the multifaceted nature of the 1st Century Judaisms, were either unknown or regarded as unacceptable for the present debate. One would have thought that the work of scholars such as E. P. Sanders, W. D. Davies, and Jacob Neusner (to name only a few) regarding the whole scope of “Law” in the early Judaisms would have given the dialog a much needed breadth. All the more since it seems quite clear the 1st Century debates and divisions among the sects of Jews related not to the presence or lack of “law” but to the application of it to everyday life. These dividing interpretations of the Law were the issue at hand, and existed as oral *halakha*.

¹See, for instance, Thomas R. Schreiner, *The Law and Its Fulfillment: A Pauline Theology of Law* (Baker, 1993); “Paul’s View of the Law in Romans 10:4-5”, *WTJ* 55 (1993), 13-135; David K. Lowery, “Christ, the End of the Law in Romans 10:4”, in *Dispensationalism, Israel and the Church: The Search for Definition*, ed. C. A. Blaising and D. L. Bock (Zondervan, 1992); David A. Dorsey, “The Law of Moses and the Christian: A Compromise” *JETS* 34.3 (Sept, 1991), 321-334; Meredith G. Kline, “Gospel until the Law: Rom 5:13-14 and the Old Covenant” *JETS* 34.4 (Dec, 1991), 433-446; Walter Kaiser, “God’s Promise Plan and His Gracious Law” *JETS* 33.3 (Sept, 1990), 289-302; John S. Feinberg, ed., *Continuity and Discontinuity: Perspectives on the Relationship Between the Old and New Testaments* (Crossway, 1988); Stephen Westerholm, *Israel’s Law and the Church’s Faith* (Eerdmans, 1988); D. P. Fuller, *Gospel and Law: Contrast or Continuum?* (Eerdmans, 1980); R. H. Gundry, “Grace, Works, and Staying Saved in Paul”, in *Biblica* 66 (1985), 1-38; Thomas R. Schreiner, “Is Perfect Obedience to the Law Possible?” *JETS* 27.2 (June, 1984), 151-160; D. J. Moo, “Jesus and the Authority of the Mosaic Law”, *JSNT* 20 (1984); “‘Law,’ ‘Works of the Law,’ and Legalism in Paul”, *WTJ* 45 (1983), 73-100; Brice L. Martin, “Paul on Christ and the Law” *JETS* 26.3 (Sept, 1983), 271-282; Kenneth L. Barker, “False Dichotomies Between the Testaments”, *JETS* 25 (Mar, 1982), 3-16; Mark W. Karlberg, “Legitimate Discontinuities Between the Testaments”, *JETS* 28 (Mar, 1985), 9-20; Greg Chirichigno, “A Theological Investigation of Motivation in Old Testament Law” *JETS* 24.4 (Dec, 1981), 303-314. Obviously, there are a ‘truckload’ more which could be cited. In general, there has been much contributed by the scholarly community, and works such as those by E. P. Sanders (*Paul and Palestinian Judaism* [Fortress, 1977]; *Paul, the Law, and the Jewish People* [Fortress, 1983]); *Jewish Law from Jesus to the Mishnah* (TPI, 1990), Roger Brooks, *The Spirit of the Ten Commandments* (Harper & Row, 1990), Peter J. Tomson, *Paul and the Jewish Law: Halakha in the Letter of the Apostle to the Gentiles* (Fortress / Van Gorcum, 1990), Räisänen (*Paul and the Law* [Fortress, 1986]), F. Thielman, *From Plight to Solution: A Jewish Framework for Understanding Paul’s View of the Law in Galatians and Romans* (NovTSup 61; Leiden: E. J. Brill, 1989), J. D. G. Dunn, *Jesus, Paul, and the Law: Studies in Mark and Galatians* (Louisville: Westminster/John Knox, 1990), and N. T. Wright, *The Climax of the Covenant: Christ and the Law in Pauline Theology* (Edinburgh: T & T Clark, 1991), to cite a few, have had a widespread impact upon the general discussion of the Law in the NT. Note the article “Law” in David N. Freedman, ed. *Anchor Bible Dictionary* 6 vols. (Doubleday, 1992), 4:242-265 in which Samuel Greengus, Rifat Sonsino, and E. P. Sanders contribute.

It was over the validity of this growing oral law that the Pharisees and Sadducees were divided. . . . It was in their attitude toward the law that other sects also differed. And it is over against a background of intense discussion on the relative claims of the written law and the oral, and of the meaning of the latter, that the ministry of Jesus is to be placed.²

To put it another way, questions of *how* to keep the written Law formed the debate between the 1st Century Judaisms, not the question of *whether* to keep it. In the same way, we would expect issues of *halakha* to underlay the disputes between Jesus and His opponents as narrated in the Gospels. If so, one would think that the words of Christ regarding the Law and the subsequent commentary on His words by the Apostles must be located within the dialog encompassing both written and oral Torah. The purpose of this paper is to investigate just such a claim.

“Oral Torah” and Its Relationship to “Written Torah”

The simplest definition of oral law or Torah is “. . . laws which are not found in the Bible.”³ Herr understands oral Torah to be interpretation of the written law, that is, the manner in which the written Torah was to be understood and followed as laid down by the Sages.⁴ Some would take an inclusive view and define oral Torah as the entire body of Rabbinic literature.⁵

Traditionally, the oral Torah, or תּוֹרַה שֶׁבְּעַל פֶּה, has been understood to comprise the Mishnah and subsequent Rabbinic comments and commentaries on the Mishnah (Talmud, and, in some measure, the Midrashim). It is made up of the accepted interpretations and applications of the “Written Torah” produced by the Sages of the Jewish communities through out the history of the nation.

For example, the injunction to wear *tzitzit* (צִיצִית) on the corners of one's garment⁶ gives no instructions at all as to what *tzitzit* are, nor how looking upon them will remind one of the commandments of the Lord. The text does not indicate whether this commandment is for all, regardless of age or sex, nor if it applies to all garments one wears, or only to the outer one. Since, as the Sages reasoned, one loves the Lord with all of one's heart, soul and might by obeying the commandments of the Lord, it is imperative that one know exactly how God intends His commandments to be kept. The Rabbis taught that God gave all the instructions to Moses on Sinai⁷, some written,⁸ and others to be passed on orally from generation to generation.⁹

²W. D. Davies, *Jewish and Pauline Studies* (Fortress, 1984), pp. 16-17. (This material is essentially the same as Davies' article “Law in First-Century Judaism” in *IDB*.)

³E. P. Sanders, *Jewish Law from Jesus to the Mishnah* (Trinity Press International, 1990), p. 99.

⁴M. D. Herr, ‘Oral Law’ in *Enc. Judaica*, 12:1439.

⁵Shmuel Safrai, ‘Oral Tora’, *The Literature of the Sages*, Part 1 (CRINT II.3.1), 1987, pp. 35-119. Note also *Sifre Deut.* 306:25, “Just as rain falls on various trees and gives to each its appropriate flavor in accord with its species, to the vine in accord with its species, to the olive in accord with its species, to the fig in accord with its species, so the words of Torah are whole and one, encompassing Scripture, the Mishnah, Talmud, laws, lore.” (Quoted from Jacob Neusner, *Sifre to Deuteronomy* 2 Vols. [Scholars Press, 1987], 2:311.)

⁶Num. 15:37-41; Deut. 22:12.

⁷Three times in the Mishnah a rule is said to go back to Moses on Mt. Sinai: *m. Peah* 2.6; *m. Eduyot* 8.7; *m. Yadaim* 4:3 (which is parallel to *Tosefta Yadaim* 2.16). For a discussion of these, see Sanders, *Jewish Law From Jesus to the Mishnah*, p. 122. The Talmud also attributes some *halakot* to Moses, see *b. Menahot* 35a; *y. Megillah* 75c (4.9); *b. Shabbat* 108a; 79b. Davies, *Jewish and Pauline Studies*, p. 16, notes that oral laws were attributed to Moses during the period when *halakha* was being formed, and when such laws could not be substantiated by the written record. In such cases, the laws were dubbed “Mosaic rules from Sinai”.

⁸The Sages themselves debated the issue of the writing of the Mishnah. “Saadiyah Gaon, R. Samuel b. Hophni, Rabbenu Nissim, and Maimonides held that each Sage committed the oral Law to writing for himself, as did

Thus, the opening paragraph of *Abot* refers to oral Torah,¹⁰ for it attributes to the Sages the same function of Law-giving ascribed to Moses:

Moses received the Law from Sinai and handed it down to Joshua, and Joshua to the elders, and the elders to the prophets, and the prophets handed it down to the men of the Great Assembly. They said three things: Be deliberate in judgment, raise up many disciples, and make a fence around the Law.¹¹

The Rabbinic literature appears to teach that non-written laws or the traditions of the Sages were accepted and held by the Jewish community as Torah, and that they were held as equal to (or even greater than¹²) the written Torah. First, it is clear that the Rabbis use the term “Torah” for far more than the books of Moses. Verses from the Prophets and the hagiographa are cited in answer to the question “Whence do we prove this from the Torah?” not only in Tannaitic but also in Amoraic dicta,¹³ though the rule was already known that “No inference may be drawn concerning Torah laws from statements in the post-Pentateuchal books of the Bible.”¹⁴ Daniel (9:10-13) speaks of תּוֹרַת מֹשֶׁה: “the Torah of Moses the servant of God” and “His תּוֹרַת, which He set before us by His servants the prophets.”¹⁵ But secondly, the term “Torah” was also used of laws not explicitly found in the Tanach. *M. Sanhedrin* 11.2 states that people went “to the Great Court that was in the Chamber of Hewn Stone, whence *Torah* goes forth to all Israel.” This must be speaking of the *halakhic* decisions handed down by the Sanhedrin. Thus, as the term תּוֹרַת was understood in a broad sense, to encompass not only the Sinai legislation but also the story of Man, the biography of the Patriarches, and the history of the nation of Israel, it is understandable how the term came to be used of the amalgamated teachings of the Sages which formed the accepted *halakha* of the community—indeed, which shaped the community. Urbach has affirmed that in the Rabbinic world up to the destruction of the Temple, “the tradition of the fathers, the enactments, and the decrees became Torah alongside the Written Torah.”¹⁶ And

Rabbi, too, in the case of the Mishnah. However, Rashi and those who followed his view maintained that nothing was written down in earlier times, and even the Mishnah and the Talmud were not committed to writing until the days of the savoraim (Sages who lived between the times of the amoraim and geonim, whose history is best preserved in *Iggeret Sherira Ga'on*, ed. B. M. Lewin, 1921). In the literature of the Sages the prohibition against committing it to writing is explicitly mentioned (*Tanh.*, Va-Yera 5; *ibid.*, Tissa 34; *b. Tem.* 14a-b). Nonetheless, evidence is not lacking that practical halakhic decisions were written down (*y. Git.* 5:3, 46b; *b. Ket.* 49a; *b. BM* 114a; *b. Chul.* 95b; *b. Men.* 70a), *Encyc. Jud.* 12:105.

⁹The redaction of the Mishnah at the hands of Rabbi is also an issue of scholarly inquiry. It seems clear that very early on the Sages agreed that Rabbi had done more than merely compile existing *mishnayot*. See, for instance, the statements of the Talmud that such and such is “an individual opinion”, apparently meaning that it should not have been given the status of an accepted teaching (*b. Suk.* 19b; *b. Chul.* 55b). In *y. Git.* 8:5, a statement is made that “all this chapter is the teaching of R. Meir except that the name of its author has been changed.” Such statements would indicate an early redaction of the teachings of the Sages.

¹⁰“‘Torah’ in *Abot* 1.1 cannot be the written law, since it is never maintained that the Pharisees and Rabbis had a monopoly on that. It is, thus, non-written.” E. P. Sanders, *Jewish Law from Jesus to the Mishnah* (TPI, 1990), 113.

¹¹Philip Blackman, *Mishnayoth* 7 vols. (Judaica Press, 1983), 4:489. Note the comments of Blackman (*Ibid.*) to the effect that “Torah” in the opening line of *Abot* refers to oral, not written Torah. See also the comments of Jacob Neusner, *The Oral Torah* (Harper & Row, 1986), 45-54.

¹²Hillel’s *Prosbol*, a ruling that repayment of debts, and return of land at the *Shemitta* (Sabbatical year) were not necessary, is an example of oral halakha overturning clear, written laws. Cp. Deut 15:2 with *m. Shebi’it* 10.3.

¹³*b. Avoda Zara* 52b; *b. Bekhorot* 50a; *Tanhuma*, Re’e, §13 (in Buber’s edition).

¹⁴Urbach, *The Sages*, p. 287; cp. *Tanhuma*, Naso, §25.

¹⁵cp. 2 Chron 29:25; Ezra 9:0-14. The word תּוֹרַת occurs 13 times in the plural in the Tanach: Gen. 26:5; Ex 16:28; 18:16, 20; Lev 26:46; Isa 24:5; Jer 32:23; Ezek 43:11; 44:5, 24; Psa 105:45; Dan 9:10; Neh. 9:13.

¹⁶*The Sages*, p. 292.

. . . for the Jews of Alexandria, too, the term ‘Torah’ was not a word but an ‘institution’, embodying the covenant between the people and its God, and reflecting a complex of precepts and statutes, customs and traditions linked to the history of the people and the acts of its rulers, kings, and prophets.¹⁷

But to simply say that the oral Torah or traditions were received on equal footing with the written Law may be too simplistic. E. P. Sanders, for instance, has questioned whether the oral traditions of the Sages were actually viewed as equal with the written Torah in the 1st Century. The traditional position is based, according to Sanders, upon a number of presuppositions. The first is that the extant Rabbinic literature accurately reflects the 1st Century situation, and a second is that the *halakha* found in the Mishnah was the work of the Pharisees, who, being in control of the religious thought of the day, forced the acceptance of the traditions as Torah. In other words, Sanders is cautioning us not to assume that the literature of the Pharisees presents a universally accepted norm. The Judaisms of the 1st Century were too diverse for such a conclusion.

To the first presupposition, Sanders reminds us that the first time the term “oral Torah” is actually encountered is in the Bavli, *b. Shabbat* 31a, where a proselyte asks Shammai, “How many *Torot* have you?”, and he answered, “Two: the Written Torah and the Oral Torah.”¹⁸ Both Sanders and Neusner consider this saying as a retrojection of the phrase “oral Torah”. Beyond that, Sanders wonders why, if the *halakhot* were in fact accepted as Torah, they are so seldom referred to by that term. Rather, terms such as “*halakha*” and “tradition(s)” are used.¹⁹ In the eyes of the 1st Century Jewish communities, were the traditions, the words of the scribes, or the *halakhot* given by divine fiat? In Sander’s words, “apparently not”.²⁰ For him, then, the idea that the various Judaisms collectively accepted the oral Torah on equal footing with written Torah is not sustained by the sources.

Someone might respond to Sanders that the various Judaisms considered their traditions as ultimately important (=Torah), for the differing traditions gave rise to the various sects in the first place. To this Sanders argues that there were also *halakhot* which were almost universally accepted, such as the calendar. The written Torah gives no instructions on adjusting the calendar to assure that, for instance, the Fall festivals always occur in the Fall. The Sages enacted the *halakha* which assured this essential, and all but the Essenes accepted it. Sanders uses this to illustrate his point: not all tradition or *halakha* separated the various Judaisms—some were widely agreed upon. Thus, traditions / *halakhot* were received with great authority, but they were not all necessarily viewed as equal in authority with the written Torah (requiring separation from those who did not receive the traditions). In fact, the early Rabbinic literature shows that it was this very issue (i.e., of the relationship of oral and written Torah, and the authority accorded to each) which the Sages attempted to settle in their debates.

Jacob Neusner too has shown that the Rabbinic literature is not unified in its answer to the relationship of oral and written Torah.²¹ Opposing views are presented. He illustrates

¹⁷*The Sages*, p. 289.

¹⁸See also *Sifre Deut.* §351, Jacob Neusner, *Sifre to Deuteronomy: An Analytical Translation*, 2 vols. (Scholars Press, 1987), 2:428.

¹⁹*Jewish Law from Jesus to the Mishnah*, p. 103-4.

²⁰*Ibid.*, 110-114, 129-30. But Sander’s argument, that what is not given by Divine fiat does not constitute Torah on equal footing with Sinai, is itself suspect. It seems quite possible to me that the various Judaisms could easily have accepted the teachings of their recognized leaders as having equal authority with the written Torah, especially when such teaching was clearly based upon the written text.

²¹It is not, in the end, entirely clear where Neusner himself aligns on the question of the oral Torah. Even in his own writings he seems to contradict himself, admitting on the one hand that oral Torah as a concept is a product of later Judaism, while on the other hand claiming that oral Torah began in the 2nd Temple period, or even agreeing with standard Rabbinic thought, that the oral Torah was delivered to Moses on Sinai. Sanders has drawn attention to this inconsistency, see his *Jewish Law From Jesus to the Mishnah* (Trinity Press Intern., 1990), 111-113.

this from *Abot*, contrasted by *Sifra* and the *Yerushalmi*. In *Abot*, the oral Torah is taken as the partner of the written Torah, both of which were given to Moses on Sinai.

The principle contribution of Pirke Avot to the unfolding of the oral Torah is in its opening chapter. There we confront the use of the conception of *Torah* in what would later be a characteristically rabbinic mode. “Torah” stands not solely for the Scriptures, but for revelation. Why does this matter? What is interesting in the chapter at hand is that successive authorities in a chain of tradition beginning at Sinai are said to teach Torah-sayings. But the Torah that they teach does not consist in citations of verses of Scripture, that is, of the written Torah. Hence, by implication, in what follows we see the Torah in a new frame of reference. Now we hear a clear message that from Sinai there was a revelation other than, in addition to, the revelation of the Hebrew Scriptures or the written Torah.²²

This stance of *Abot* is echoed in other Rabbinic sources. R. Joshua b. Levi taught: “Bible, Mishnah, Talmud, and Haggada, even what a senior disciple is due to teach in the presence of his master, was already stated to Moses at Sinai.”²³

In some cases, the oral Torah seems to be elevated above the written. According to R. Johanan, the covenant at Sinai depended upon the oral Torah.²⁴ R. Simeon b. Laqish said:

There are many verses that deserve to be burnt [appear to the reader to be unnecessary or superfluous], yet they are basic parts of the Torah.²⁵

This saying means that there are verses in the Tanach which appear to serve no purpose whatsoever, and are therefore unnecessary, but the Sages are able to show that they are essential elements of the Torah, and that important concepts derive from them. Only with the insights of the Sages in oral Torah is one able to appreciate what otherwise appears as superfluous in the written Torah. Thus, in the end, one cannot understand or apply the written Torah without the oral. R. Samuel b. Nahman, a leading Amora'im in Israel in the middle of the third century, taught:

Oral [בפה *be-fe*, literally ‘by mouth’] laws have been proclaimed, and written laws have been proclaimed and we cannot tell which of these is more precious; but since it is written, “For in accordance with [על פי *’al pi*, literally ‘by the mouth of’] these words I have made a covenant with thee and with Israel”, we may infer that the oral precepts are more precious.²⁶

R. Judah bar Shalom, one of the last of the Palestinian Amora'im, agrees that the covenant is based upon oral Torah, but argues from a different angle. He stated:

When the Holy One, blessed be He, said to Moses “Write down!”, Moses asked for the Mishnah to be in writing. But because the Holy One, blessed be He, foresaw that the Gentiles would translate the Torah and read it in Greek, and thereupon they would declare “We are Israel”, and so far the scales would be even, so the Holy One, blessed be He, said to the nations: “You aver that you

²²*The Oral Torah*, 46. It should be noted that Neusner considers *Abot* to be a later addition to the Mishnah, and thus representing a somewhat evolved position, see his *Torah. From Scroll Scroll to Symbol in Formative Judaism* (1985), 6, 32.

²³y. *Pe’ a* 2.6; cf. b. *Megilla* 19b and the statement of R. Johanan.

²⁴b. *Gittin* 60b; b. *Shevuot* 39a.

²⁵b. *Hullin* 60b.

²⁶y. *Pe’ a* 2.4. Quoted from Urbach, *The Sages*, p. 305.

are My children? I cannot tell; only they who possess My arcana [מסתורין, hidden things, secrets] are My children.” Which are these?—the Mishnah.²⁷

In fact, the later Rabbinic literature affirmed the shift of the prophetic office from the prophets to the Sages. The 3rd Century Rabbi Avdimi of Haifa declared: “Since the destruction of the Temple, prophecy was taken away from the Prophets and given to the Sages.”²⁸ This attributed to the teaching of the Sages the same divine imprimatur as “thus saith the Lord” in the mouths of the prophets. The Rabbis of the fourth century took this view yet a step further—the words of the Sages are to be accepted without reservation. This is taught in a story attributed to R. Tanhum b. R. Hiyya:

To what are a Prophet and Elder comparable? To a king who sent two of his agents to a province. Concerning one he wrote: If he does not show you my seal and my signet, do not believe him! Concerning the other he wrote: Although he does not show you my seal and my signet, believe him! Thus, too, it is written of the Prophet: “and gives thee a sign or a wonder” (Deut. 13:2); but here (it is stated): “according to the instructions which they give thee” (Deut 17:11).²⁹

In the end, the Rabbis attach supreme authority to the oral traditions, teaching that even the Almighty Himself is bound by them. God sits and occupies Himself with the section of the Red Heifer, and He cites a *halakha* in the name of R. Eliezer, despite the astonishment of Moses, who cries:

Sovereign of the universe, Thou dost hold in Thy power the creatures of heaven and earth, yet Thou dost sit and cite a Halakah in the name of a human being!³⁰

This obvious hyperbole made the message of the Sages clear : the one Torah given to Moses, the servant of God, on Mt. Sinai, was comprised of both written and oral laws, and both are necessarily equal as they function together to form the divine Torah. Attributed to R. Akiba is the saying: “Just as they debate *Halakah* on earth, so they debate *Halakah* in Heaven.”³¹

The *Sifra* and *Yerushalami* take the opposite approach. The *Sifra* dates to the same period as the Mishnah (200 C.E.), though it quotes authorities which lived before that time. The *Yerushalami* was completed by 400 C.E. In these two works it becomes apparent that the view of oral Torah contained in *Abot*, that the Mishnah was equal to and autonomous of the written Torah, proved too radical for some.

. . . But there is ample evidence, once again implicit in what happens to the Mishnah in the Talmud of the Land of Israel, to allow a reliable description of how the Talmud of the Land of Israel's founders viewed the Mishnah. That view may be stated very simply. The Mishnah rarely cites verses of Scripture in support of its propositions. The Talmud of the Land of Israel routinely adduces Scriptural bases for the Mishnah's laws. . . . Accordingly, the Talmud of the Land of Israel, subordinate as it is to the Mishnah, regards the Mishnah as subordinate to, and contingent upon, Scripture. That is why, in the Talmud of the Land of Israel's view, Mishnah requires the support of prooftexts of Scripture: *that fact can mean only that, by itself, the Mishnah exercises no*

²⁷*Tanhuma*, Ki Tissa, §34; Wa-yera, §5.

²⁸*b. Bava Batra* 12a.

²⁹*Midrash Aggada*, Re'e, §9; cp. *Gen. Rabba* lxxxii, 5 and *Tosafot Sanhedrin* 89a.

³⁰*Pesiqta de-R. Kahana*, Para, ed. Mandelbaum, p. 73, quoted from Urbach, *The Sages*, p. 307. Note also *b. Gittin* 6b; *b. Bava Metzia* 86a.

³¹*Tanhuma*, Exodus 18.

*autonomous authority and enjoys no independent standing or norm-setting status.*³²

The same may be said of *Sifra*.

The author of *Sifra* will present, sometimes verbatim, the law of the Mishnah. He will then ask whether this law is (merely) a matter of logic, or whether we must refer to Scripture (the verse of Leviticus before us) to provide the basis for the law. He will always demonstrate that logic by itself is insufficient and that proof in Scripture, the written Torah, is required.³³

We see, therefore, that within the Rabbinic sources there is a divergence of opinion regarding the relationship of oral to written Torah. Some held oral Torah as equal to or even more important than the written Scriptures, while others saw it dependent upon and subordinate to the Mosaic text. I think it only follows that there were also those who found themselves somewhere between these two extremes.

We may also note that the tendency to give oral Torah equal footing with written Torah appears to grow in the period of the Mishnah and Talmud. While it seems clear that at least some of the 1st Century Sages gave divine authority to the oral traditions, it was by no means a settled issue, and only in subsequent centuries did the oral Torah receive wide acceptance as having been given to Moses on Sinai. Furthermore, it is a matter of debate how much of the Mishnah and Talmud accurately reflect 1st Century reality. Is the saying attributed to Shammai accurate? Did he and others use the term “Torah” to refer to the oral laws? The data do not firmly settle the issue, but we may at least say that such a possibility exists. And, if the Mishnah does give us some valid representation of 1st Century thought, I would say that the balance tips toward the position that at least some of the oral traditions were accepted as having equal authority with the written Law.

The Oral Torah in 1st Century Community Life

Having considered the manner in which the Sages debated the relationship of oral and written Torah, let us move on to consider the view of the general community. Sanders writes:

Did anyone think that halakha was divine and as binding as the biblical law? I think not, and the evidence for this will be given below. Here, however, we need to note a distinction. . . . in terms of what people did, it was *at least* as binding as the written law.³⁴

Praxis often points to reality. The Prayerbook teaches that favor with God is a matter of His mercy, and cannot be earned, yet the average member of the more liberal synagogue today believes that good works and sin are balanced in the divine scales, and that particularly during the days of awe, one needs to work to balance these scales.³⁵ What the Rabbi teaches, and what the congregation practices, are not always the same. And some things never change. Apparently the general populace of the 1st Century Jewish communities lived as though their oral traditions were, in fact, Torah, and that to disregard

³²Jacob Neusner, *Scriptures of the Oral Torah*, (Harper & Row, 1987), 98. His emphasis.

³³Neusner, *The Oral Torah*, 67.

³⁴*Jewish Law From Jesus to Mishnah*, p. 104.

³⁵Note, for instance, the *Ribono shel Olam* prayer of the daily Shacharit Service *Metsudah Siddur* (Metsuda, 1990), p. 25, which clearly states that one's standing before God is purely based upon His mercy, and not upon one's own righteous works.

or transgress them was to be unholy. It was on this basis that one sect could condemn the practice of other sects, and classify them as defiled, unclean, or even as outside of Israel.³⁶

In fact, it is everywhere clear that the 1st Century Jewish communities did accept the *halakhic* rulings as Torah, and therefore as personally binding. Even though Neusner has exclaimed “as if the masses kept the purity laws!”³⁷ as if he knows they did not, Sanders has submitted the evidence that they did.³⁸ The evidence shows that the people were careful to

keep liquids (wine and oil) pure and to handle second tithes in purity (biblical requirements), and they exceeded the biblical law by keeping some impurities away from the priests' food.³⁹

The wide distribution of *mikva'ot* wherever archaeologists have explored substantial remains of the late Second Temple period argues for the observance of the purity laws among the masses, and one could well assume that the laws of oral Torah (which required the *mikva* in cases additional to the written Torah) were also observed. Sanders makes this conclusion: “. . . a lot of Palestinian Jews accepted more purity rules than the Bible requires”⁴⁰

The Qumran community also gives witness to the fact that *halakhic* issues were held in high regard. Though one might argue that the Qumran society is a special case, it still remains clear that a wider circle of “observant” Jews existed outside of the Pharisees. The *Rule of the Community*, which begins

For the man of understanding that he may instruct the saints to live according to the rule of the Community: to seek God with all their heart and all their soul and do what is good and right before Him⁴¹

goes on to describe all manner of laws not found in the Biblical text—all of which are presumably gathered under the heading of “what is good and right before Him”. Even the Qumran calendar, which was substantially different than the Pharisaic counterpart, was believed to have been Divinely revealed.⁴²

Similarly, the *Temple Scroll* is written in first person (God addressing Moses) and incorporates thoroughly rewritten sections from the written Torah, “yet the author was undoubtedly convinced that he was writing divine Torah as revealed to him through tradition and divine inspiration.”⁴³ In other words, extra-biblical *halakha* not only was required by the Qumran community, it was considered God's law.

Philo also gives evidence in his writings of the masses taking upon themselves the *halakhic* rulings of the Sages, noting the widespread use of basins and baths for ritual purification among the general public.⁴⁴

The Gospels present a similar picture: the common people lived not only by the guidelines of written Torah, but also according to the traditions of the Sages. In fact, a good deal of Jesus' teaching is taken up with the very issue of the traditions and their

³⁶Cf. *m.Parah* 3.7; *m.Niddah* 4.2; *m.Yadayim* 4.6,7,8.

³⁷Jacob Neusner, *Reading and Believing: Ancient Judaism and Contemporary Gullibility* (Atlanta, 1986), p. 54.

³⁸*Judaism: Practice and Belief 63 BCE-66 CE* (Trinity Press International, 1992), pp. 229-30.

³⁹*Ibid.*, p. 229.

⁴⁰*Ibid.*

⁴¹A. Dupont-Sommer, *The Essene Writings from Qumran* (New York, 1961), pp. 72-3.

⁴²*Ibid.*, p. 73, n. 2.

⁴³Devorah Dimant, “Qumran Sectarian Literature” in *Jewish Writings of the Second Temple Period, (Compendia Rerum Iudaicarum ad Novum Testamentum)*, Michael E. Stone, ed. (Fortress, 1984), p. 529.

⁴⁴Sanders, *Judaism: Practice & Belief*, p. 230.

relationship to the written Torah. His words regarding the seat of Moses, and the *halakha* of the Pharisees in Matthew 23 is a case in point. Incredibly, He instructs His disciples to do and observe “all that they tell you”, but warns them not to follow their example, because they “say and do not do”. This “seat of Moses” was the designation for the recognized Sage in the synagogue,⁴⁵ and symbolized the succession of Sages emanating from Mt. Sinai. Its use by Jesus clearly suggests the recognition of oral Torah and its place in the lives of His disciples.⁴⁶ Below are other examples of the presence of oral Torah in the Gospels and Acts.

Examples of or Allusions to Oral Torah in the Gospels and Acts

- Matt. 9:14, 15 The argument of Jesus, in which He defends the manner in which His disciples fast, is based upon a recognized *halakha* that it is improper to fast in the presence of a bridegroom. This is not found in the written Torah. Cp. *b. Sukka* 25b; *t. Ber.* 2.10.
- Matt. 10:24 A saying of the Sages, perhaps proverbial
- Matt. 12:5 The teaching or *halakha* which states that the priests break the Sabbath but are innocent is not found in the written Torah. Cp. *b. Shabbat* 132b. For other instances where the Sabbath may be profaned, cp. *m. Ned.* 3.11 (circumcision); *m. Pesah* 6.1-2; *t. Pesah* 4.13 (Passover sacrifices).
- Matt. 15:1 Pharisees are inquiring about the disciples of Jesus: why do they transgress the traditions of the elders by not washing their hands according to *halakha* before eating? Jesus rebukes them, citing also their use of *korban* to “hide” their wealth from aging parents who needed their support. In both cases, it is clear that the Pharisees consider the *halakha*, based on oral Torah, as binding. Cf. *m. Hag.* 2.5; *b. Sabb.* 13b-14a; *y. Sabb.* 1.3d; *b. Yoma* 87a.
- Matt. 15:36 There is nothing in the written Torah about giving thanks *before* eating. Saying the *berakah* before eating is part of the oral Torah.
- Matt. 22:40 Jesus quotes the Shema and Lev. 19:18, stating that upon these two precepts *hang* (κρεματα)⁴⁷ the Law and Prophets. The terminology

⁴⁵See the comments of *Ex. Rabbah* 43:4, “They made for him [Moses] a *katedra* like that of the advocates, in which one sits and yet seems to be standing.” Note also *Pesikta diRav Kahana* 1:7, and the comments of the editors at that place. [William G. Braude and Israel J. Kapstein, *Pesikta diRav Kahana* (Philadelphia: JPS, 1975), p. 17. A third-century C.E. “chair of Moses” from Korazin is on display at the Israel Museum in Jerusalem, and an article and description may be found in *BAR* 13:5 (1987), pp. 32-35. Similar chairs have been found in Hamot, Tiberias and Delos according to Stern, *Jewish New Testament Commentary* (Maryland, 1992), p. 67.

⁴⁶I do not mean to imply that Jesus was giving approval to the whole of Rabbinic teaching, nor (obviously) to the later Rabbinic compilations and extensions. What I am saying is that Jesus, by the use of this term, appears to recognize the authority which existed in the teaching of the Sages, and to instruct His followers to submit to this authority.

⁴⁷Κρεματα usually translates תלה in the Tanach, the meaning of which is “to hang”. The NASB “depends upon” as a translation is a dynamic equivalence or extension and is not supported lexicographically.

of the Law and Prophets *hanging* from something is derived from oral Torah, cp. *m. Hagiga* 1.8; *b. Ber.* 63a.

- Matt. 23:16, 17 The Pharisees found a way to deny certain oaths (those sworn by the temple) and to allow others (those sworn by the gold of the temple), cf. *M. Nedarim* 1.3, 4;⁴⁸ cp. also *b.Tem.* 32a-33b. Jesus argues that the Temple actually sanctifies the gold. This is not found in written Torah.
- Matt. 23:23 The matter of tithing very small amounts of produce from volunteer seedlings is not taken up in the written Torah, but is part of the oral Torah, cp. *m. Maasrot* 1.1; *b. Yoma* 83b; *b.Nidah* 5a; *b. Rosh HaShanah* 12a; *b.Shabbat* 68a.
- Matt. 24:20 The whole issue of travel on the Sabbath is defined in oral Torah, not written Torah. There are no *specific* prohibitions in the written Torah restricting travel on the Sabbath. [The prohibition of Ex. 16:29 cannot mean that one is restricted to stay within his dwelling (the Hebrew has *מִמְקוֹמוֹ* [מִמְקוֹמוֹ], not *בֵּיתוֹ*). Yet the written Torah does not define the dimensions of one's "place". It was the oral Torah that developed, for instance, a "Sabbath-day's journey".] cf. *b. Erubin* 4.5; Acts 1:12. Jer. 17:19-22 prohibits the carrying of loads out of one's house, but this is clearly defined as "work".
- Matt. 26:20 Reclining is the position of eating at the Pesach meal, but is not prescribed in the written Torah. Cf. *m. Pesachim* 10:1. Reclining is an *halakhic* requirement before one can eat the Passover.
- Matt. 27:6 The written Torah prohibits the wages of a temple prostitute to come into the Temple treasury (Deut. 23:19). Of interest is *b. Aboda Zera* 17a where Jacob, a disciple of Jesus of Nazareth, is said to have had an interaction with R. Eliezer over a saying of Jesus based on Deut. 23:19. The oral Torah expanded this to include any money obtained for unlawful hire (cf. *b.Temurah.* 29b).
- Lk. 6:9 Cp. *m.Shabbat* 22.5. The issues of healing (see the parallel in Matt. 12:10) on the Sabbath are part of the oral Torah, to which Jesus no doubt refers.
- Lk. 11:44 The written Torah declares that a person is unclean from a corpse if he touches it or is in the same room with it (Nu. 19:11-15). The Pharisees extended the communication of impurity to any object overshadowed by a corpse (or part of a corpse) or any object whose shadow contacts a corpse or tomb (*m.Oholot* 16.1,2). The oral Torah further elaborates the means by which impurity is transmitted from a corpse to an object. It appears that Jesus accepted at least some of this oral Torah as grounds for His illustration of the Pharisees as concealed tombs that rendered those who overshadowed them unclean.

⁴⁸See the comments of Lightfoot, *A Commentary on the New Testament from the Talmud and Hebraica* 4 vols. (Baker, 1979), 2.297 (quotes *Korban Netmel*).

- Jn. 7:51 The written Torah suggests that a matter of law be carefully examined, but does not specifically say that the accused must be given the right to speak (cp. Ex 23:1; Deut. 1:16; 17:4). Oral Torah, however, required that the accused be given the opportunity to speak for himself (*Ex. Rabbah* 23.1)
- Ac. 18:13 Paul is accused of teaching the Jewish community to worship contrary to the law, but by his own testimony he did not teach contrary to the written Torah (Ac 21:24; 22:3). He is accused of bringing Greeks into the Temple (Ac 21:28), and the issue in Ac 18:13ff consists of issues relating to “words and names and your own law” (v. 15). This must be oral Torah, not written.
- Ac. 21:21 The phrase “walk according to the customs” (τοῖς ἐθεσιν περιπατεῖν) is the equivalent of *halakha*—life regulated by issues of oral Torah.
- Ac. 23:3 What law was violated when Paul was struck? The idea that a person was innocent until proven guilty is a function of oral Torah, not written Torah.
- Ac. 25:8 The threefold designation, “law of the Jews, or against the Temple or against Caesar” seems to define the three most powerful arms of law: Pharisees (law of the Jews), Sadducees (against the Temple) and Rome (against Caesar). Each of these are referred to by the term “Law” in this instance.

Ephesians 2:14-15 — An Application of the Study

The Issue

The NASB translates Ephesians 2:14-15:

For He Himself is our peace, who made both *groups into one*, and broke down the barrier of the dividing wall, by abolishing in His flesh the enmity, *which is the Law of commandments contained* in ordinances, that in Himself He might make the two into one new man, *thus* establishing peace.

The other modern translations give the same perspective:

For He himself is our peace, who has made the two one and has destroyed the barrier, the dividing wall of hostility, by abolishing in his flesh the law with its commandments and regulations. His purpose was to create in himself one new man out of the two, thus making peace, [NIV]

For he is our peace; in his flesh he has made both groups into one and has broken down the dividing wall, that is, the hostility between us. He has abolished the law with its commandments and ordinances, that he might create in himself one new humanity in place of the two, thus making peace, [NRSV]

For he is himself our peace. Gentiles and Jews, he has made the two one, and in his own body of flesh and blood has broken down the barrier of enmity which separated them; for he annulled the law with its rules and regulations, so as to create out of the two a single new humanity in himself, thereby making peace. [REB]

For he himself is our shalom—he has made us both one and has broken down the *m'chitzah* which divided us by destroying in his own body the enmity occasioned by the *Torah*, with its commands set forth in the form of ordinances. He did this in order to create in union with himself from the two groups a single new humanity and thus make *shalom*, [Jewish New Testament]

For it is he who is the maker of peace between us, he who has made us both one, tearing down as he did the barrier formed by the dividing wall which separated us, and wiping out in his own mortal nature that which wrought hostility, the law with its commandments—consisting as the did in precise enactments—so that he might recreate in himself the two, as one new man, thus making peace, [Cassurer, *God's New Covenant: A NT Translation*]

Taken at face value, this text is a pointed assertion by the apostle Paul that Christ abolished the Mosaic Law by His sacrificial death, and that the Law was the instrument of hostility which erected a dividing wall between Jew and Gentile.⁴⁹ The difficulty with such a

⁴⁹This is almost universal with the commentators, and even the lexicographers. Eadie, Westcott, Hendrickson, Meyer, Abbot, all interpret the passage to mean that either some or all of the Mosaic Law is abolished by the cross of Christ, and that some or all of the Mosaic Law created enmity between Jew and non-Jew. BAG follows the commentators in adopting the meaning “Mosaic Law” for the term *δογμα*, p. 200. Stern (*Jewish New Testament Commentary* (JNTP, 1992), pp. 585-588) labors attempting to explain how Christ could abolish the *Torah* (his translation in the *Jewish New Testament*) and at the same time not abolish it! He concludes that the commandments were re-prioritized, allowing Jewish and Gentile believers to put their unity as a priority over other matters of Law, but gives no real indication exactly how this would be done. In the end, he suggests that “Yeshua abolished not the *Torah* in its entirety, but the *takkanot* (rabbinic ordinances) relating to the

reading is twofold: first, it contradicts the clear teaching of Jesus Himself that He did not abolish⁵⁰ the written Law,⁵¹ and secondly, the written Torah never demanded a wall between Jew and Gentile.⁵²

The Context of Ephesians 2:14-15

In the second chapter of Ephesians the Apostle is arguing one of the central tenants of his theology, namely, the oneness of Jew and Gentile as united in Christ. That the Gentiles should be blessed within the scope of the Abrahamic promise was never questioned. What had been left a mystery was the exact manner in which the blessing would come upon the nations, and this was revealed to the Apostles and to Paul.⁵³ The method of blessing the Gentiles is emphasized by the *συν* prefixes of 2:19 and 3:6, *συμπολιται*, *συγκληρονομα*, *συσσωμα*, *συμμετοχα* (fellow-citizens, fellow-heirs, fellow-members, fellow-partakers)—they would be blessed, not in a separate community, nor through proselytizing, but by being grafted into the ancient community of God—the two would be wedded into one⁵⁴ and thus mutually share the blessings of God.

This teaching of the ingrafting of the Gentiles⁵⁵ was perhaps the most difficult Apostolic doctrine for the Jewish believers to accept. For centuries the Jewish nation had borne her distinction from the nations⁵⁶ and welcomed proselytes who not only embraced the God of Abraham, Isaac, and Jacob, but who also took upon themselves the yoke of the kingdom, transforming their everyday lives in accordance with Israelite *halakha*. The new apostolic teaching changed this. Gentile believers were to be accepted as full citizens within the believing community without undergoing the ritual of a proselyte.⁵⁷

Clearly, this issue brought division within the 1st Century church. Some apparently felt that a non-Jew had less privileges within the community than a Jew⁵⁸, some considered salvation impossible apart from becoming a proselyte⁵⁹, and still others refused to

separation of Jews and Gentiles spiritually.” (p. 588). D. R. DeLacey, “The Sabbath/Sunday Question and the Law in the Pauline Corpus” in D. A. Carson, ed., *From Sabbath to Lord's Day: A Biblical, Historical and Theological Investigation* (Zondervan, 1982), 173-4, writes, “The law that was destroyed was precisely the law viewed from the perspective of the covenant between God and the people that was to be exclusively His people. This must have included the ritual element (including, of course, the Sabbath law), but in Paul's view it went much further than that.”

⁵⁰The word for “abolish” in Eph. 2:15 is *καταργησας* (<*καταργεω*). The word for “abolish” in Matt. 5:17 is *καταλυσαι* (<*καταλυω*). The different meanings of each is discussed below.

⁵¹Matt. 5:17-20.

⁵²Contrary to D. R. DeLacey, *Op. cit.*, p. 173, 191 n. 96. DeLacey claims that the “ritual law” constituted a barrier between Jew and non-Jew, and that even the “resident alien” (בר הושב), who was expected to keep the ritual law was nonetheless never considered part of Israel. But he does not define what he means by being “part of Israel”, nor does he give any data as to how the so-called “ritual law” created a barrier between the native born Jew and the resident alien.

Sanders (*Paul and Palestinian Judaism* (Fortress, 1977), pp. 206-12) gives good evidence that there were, even in the 1st Century C.E., different opinions about the salvific state of Gentiles. Cp. also Sander's comments in *Judaism: Practice & Belief 63BCE-66CE* (Trinity Press International, 1992), pp. 233-235. The data would indicate that the Rabbis did not consider the written Torah sufficiently clear on what their attitude should be toward Gentiles to warrant an end of the debate. Ultimately, under the stress of persecution, the Rabbis took an increasingly harsh stance toward outsiders.

⁵³Eph. 3:4-6.

⁵⁴The “two will become one” language harkens back to Gen 2:24. In fact, marriage in the 1st Century Judaism was considered to constitute a “new birth”, where both individuals were accredited a new beginning, their former sins being remitted, cp. *y.Bikkurim* III,3,65c-65d; C. G. Montefiore and H. Loewe, *A Rabbinic Anthology* (Schocken, 1974), p. 210.

⁵⁵Rom. 11:11ff.

⁵⁶Ex. 19:5, 6; Num. 23:9; Deut. 32:9ff; Amos 3:2.

⁵⁷Acts 15:28, 29; Gal. 5:1-6.

⁵⁸Eph. 2:11; Gal. 2:11ff.

⁵⁹Acts 15:1.

fellowship in fulness with the non-Jews of the church.⁶⁰ For Paul, each of these perspectives was ultimately a “different gospel”, since union with Christ was the sole basis of entrance and privilege within the family of God, and this union was a matter of grace, not of the works of the Law. All members had the same salvific position before the Father, because all members were in Christ. Any activity or *halakha* which taught something different than this was “anathema”.⁶¹

The text before us centers upon this unification of Jew and Gentile in Christ, but does so from the perspective of the cross. It is the sacrificial death of Christ which has established the means of unity, for it was by His death that the enmity between Jew and Gentile was destroyed.⁶² Thus, for Paul it is clear that the cross not only made atonement for sin, but it also established the basis for blessing the Gentiles⁶³ by removing all the obstacles to unity with the chosen people. But it did this, not by raising the Gentiles to the level of the Jews, for both Jew and Gentile, apart from union with Christ, are excluded from the blessing of God.⁶⁴ Therefore, placement in the kingdom is a matter of God's grace and leaves no room for anyone to boast, even the Jew.⁶⁵ Furthermore, the external labels given by the established, religious leaders are of no real consequence, for God is more interested in the heart than in one's pedigree.⁶⁶ And God accepts into His family those whose sins have been forgiven by the death of Christ.⁶⁷

The Text

The Greek text offers a number of exegetical options. The diagram below suggests the manner in which I feel the text is best understood.

⁶⁰2 Co. 11:3-4, 13-15, cp. v. 22.

⁶¹Gal .1:6-9.

⁶²Eph 2:16.

⁶³cp. Gal 3:8-14.

⁶⁴Eph. 2:3-5.

⁶⁵Eph. 2:6-8

⁶⁶Eph. 2:11-12.

⁶⁷Eph. 2:13.

γαρ

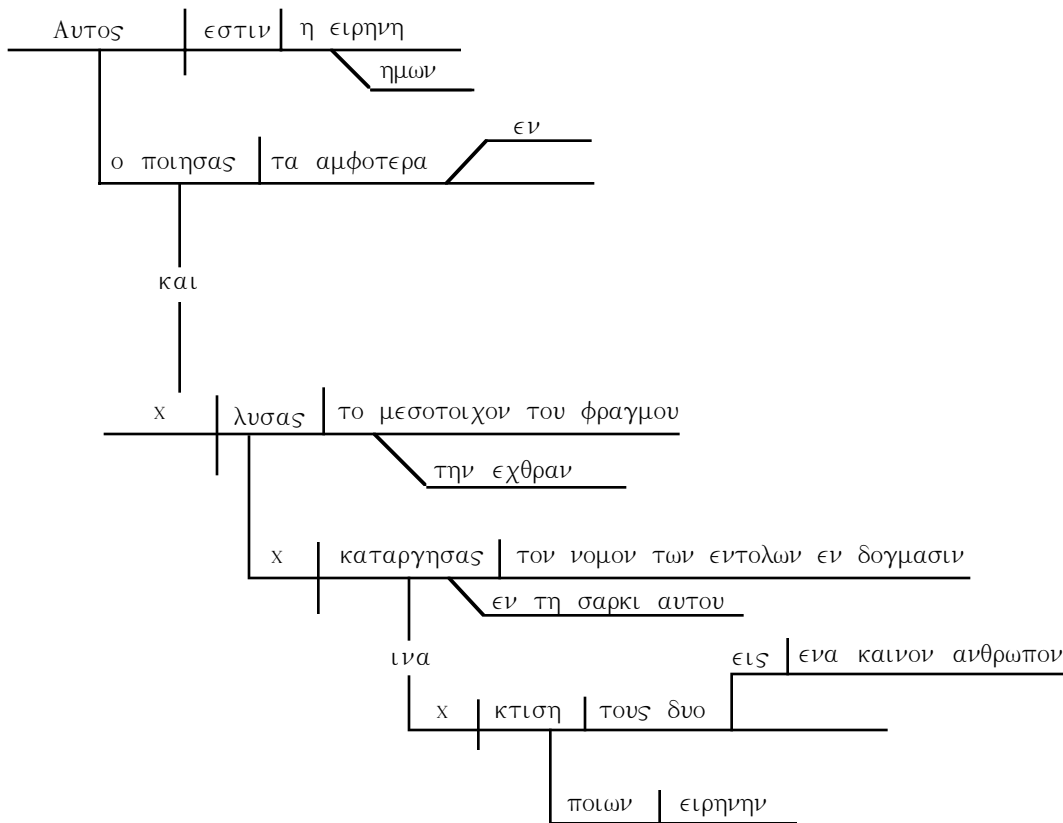


Fig. 1

Figure 1 above indicates the following exegetical decisions:

1. την εχθραν is taken as a further description of το μεσοτοιχον του φραγμου and attaches to the verb λυσας rather than to the following verb (καταργησας). In this I follow the NIV, marginal reading of NASB, NRSV, and REB. The distance between την εχθραν and καταργησας is great enough to make it suspect as an object of the verb.⁶⁸
2. The opening statement, describing Jesus as η ειρηνη ημων and ο ποιησας τα αμφοτερα εν is expanded by the last 3 clauses. The και joins the first two clauses and the last 3 epexegetically. The participles (λυσας, καταργησας) are taken as modal, so that λυσας describes the means by which the two were made one, and καταργησας describes the manner in which the λυσας was accomplished.
3. The verb καταργησας has, therefore, as its single object τον νομον των εντολων εν δογμασιν.
4. The phrase εν τη σαρκι αυτου is adverbial, describing either the sphere in which the καταργεω took place, or the means by which it was accomplished.

⁶⁸Lincoln (*Ephesians in Word Biblical Commentary* (Word, 1990), p. 124) argues against this on the grounds that to have objects on both sides of a participle is awkward. But the whole sentence is awkward, and if την εχθραν is taken as epexegetical, it is not functioning as an object, but as a modifier of the entire phrase το μεσοτοιχον του φραγμου. Eadie, *Ephesians* (T & T Clark, 1883), p. 173, gives the standard arguments for the view I put forth here.

5. The participle *ποιων* flows from the verb *κτιση*, that is, the making of peace is the result of creating the two into one new man, and functions stylistically to bring forward the opening statement of making the two into one. Verse 16 then carries this idea forward with the addition of *εν ενι σωματι*.

What was “the barrier of the dividing wall”?

The verb *λυω* can mean “to loose”, “untie”, “set free”, “break up”, “destroy”, “bring to an end”, “abolish”, or “do away with”.⁶⁹ It is used of demolition of buildings, as in the famous saying of Jesus regarding the Temple (John 2:19) or of the destruction of the ship Paul was on (Acts 27:41). *BAG* list our text under the heading “break up”, “destroy”, “tear down”. Ephesians 2:16 further defines the use of *λυω* by adding *αποκτεινας την εχθραν εν αυτω*, “having put to death the enmity in (by) him (it).” Contextually, the abolishing action is viewed as final—as a death. Thus, the barrier is done away with forever.⁷⁰

Καταργεω, on the other hand, usually means “to render void,” “make ineffective, powerless,” “abolish,” “wipe out,” or “set aside”, and is used in the context of rendering laws or edicts of no more effect.⁷¹ It may have been in the mind of the Apostle that while the enmity was destroyed (*λυω*), the “law of commandments contained in ordinances” was simply rendered ineffective, though still existing.

The object of the verb *λυω*, as noted above, is *το μεσοτοιχον του φραγμου*, “the dividing wall of the barrier”. But what is this dividing wall? *μεσοτοιχος* is a *hapax* and does not appear in the Lxx, so further definition must be sought outside of the biblical text. The word has been found in two inscriptions in the sense of “partition” or “barrier”.⁷²

The genitive *του φραγμου* is appositional: “the barrier consisting of the fence”. *φραγμος* is found 3 other times in the New Testament, all with the sense of “fence”.⁷³ The Lxx uses the term with this same meaning. Note Sirach 36:25, “Where there is no hedge, a vineyard is plundered; where there is no wife, a man wanders about in misery.”

Some commentators have assumed the barrier spoken of in our text is the wall which separated the Gentile and Jewish courts in the Temple.⁷⁴ It is true that Josephus uses the phrase *ο μεσος τοιχος* to describe the inner wall of the Temple⁷⁵, but the balustrade preventing Gentiles and unclean-Israelites from proceeding into the court of the Jews was never so designated, nor is it labeled *φραγμος* by any ancient writer. Furthermore, in the inscription engraved on the balustrade, the wall is referred to by a different term:

No foreigner is to enter within the forecourt and the balustrade (*δρυφακτου*) around the sanctuary. Whoever is caught will have himself to blame for his subsequent death.⁷⁶

⁶⁹*BAG*, p. 484-5.

⁷⁰The compound form (*καταλυω*) is used in Matthew 5:17, “Do not think I am come to abolish (*καταλυσαι*) the Law or the Prophets; I did not come to abolish (*καταλυσαι*) but to fulfill.” The compound form is probably intensive or perfective, in the sense of “utterly destroy”, see Johannes P. Louw and Eugene A. Nida, *Greek-English Lexicon of the New Testament* (UBS, 1988), 1.234 who show that *λυω* and *καταλυω* fall into close semantic ranges.

⁷¹*BAG*, p. 418.

⁷²Carl Schneider, “*μεσοτοιχον*” in *TDNT*, 4.625.

⁷³Mt. 21:33; Mk. 12:1; Lk. 14:23.

⁷⁴Stern, *Op. cit.*, pp. 583-5; F. F. Bruce, *Ephesians* in *NICNT* (Eerdmans, 1957), p. 61

⁷⁵Bruce, *Op. cit.*, p. 61, n. 23.

⁷⁶Quoted from E. P. Sanders, *Judaism: Practice & Belief 63BCE—66CE* (Trinity Press International, 1992), p. 61. The inscription along with the history of its recovery has been published in Deissmann, *Light from the Ancient East* (Baker, 1978 reprint), p. 80, where Deissmann has *τρυφακτου* rather than *δρυφακτου*. Liddel and Scott list only *δρυφακτου*, noting that *δρυφακτος* is an erroneous form. See also Peretz Segal, “The Penalty of the

If Paul had intended his readers to understand the retaining wall of the Temple which separated Gentile from Jew to be the object of Christ's destruction, he would have used the common Greek term, something he doubtlessly had seen time and time again. Josephus calls the separating wall in the Temple court δρυφακτος λιθινος, "fence of stone", employing the same term used in the inscription, and describes the wall as three cubits high (1.5 meters; 4.5 feet) with gates.⁷⁷ Philo also calls the wall δρυφακτος⁷⁸ not μεσοτοιχος or φραγμος, the words of our text. The Mishnah and Bavli refer to the balustrade by the term סוּרְגָּ⁷⁹, "lattice-work fence". As Barth writes:

If only in Eph 2:14 one of the technical names of the temple wall, *dryphakto lithinos* or *soreq*, had been used! Then it would be certain that the balustrade or the higher wall was meant. But Paul uses a Greek formulation (*mesotoichon tou phragmou*) which suggests that his imagery may be taken from someplace else.⁸⁰

Moreover, the aorist participle λυσας (as well as the context) would require that the destruction had already taken place. But if Pauline authorship of Ephesians is maintained, this is impossible. It seems unlikely that Paul would teach the present reality of peace between Jew and Gentile on the basis of Christ's having abolished the separating wall in the Temple if, in fact, it was still standing!

Important for our study is the fact that the verb περιφρασσειν, "to fence about" (cognate to the noun φραγμος), is found in the *Epistle of Aristeeas* to refer to the oral Torah as the fence around the Law which effects separation between Jew and non-Jew.

‘our lawgiver . . . fenced us about [περιφρασσειν] with impenetrable palisades and with walls of iron to the end that we should mingle in no way with any of the other nations, remaining pure in body and in spirit’ (139) and ‘so that we should be polluted by none nor be infected with perversions by associating with worthless persons, he has fenced us about [περιφρασσειν] on all sides with prescribed purifications in matters of food and drink and touch and hearing and sight’ (142)⁸¹

The Rabbinic injunction regarding a fence around the Law is common, as in *Abot*:

. . . They said three things: Be deliberate in judgment, raise up many disciples, and make a fence [פֶּתִי, פְּתִי in the Prayerbook] round the Law.⁸²

R. Akiba said, Jestng and levity habituate [a man] to lewdness. [The] Tradition is a fence to the Law; tithes are a fence to riches; vows are a fence to abstinence; a fence to wisdom is silence.⁸³

Furthermore, the Qumran covenantors referred to Rabbinic interpreters of the Law by the term "builders of the wall" (בְּנֵי הַחֵיִץ).⁸⁴ As far as they were concerned, God had

Warning Inscription from the Temple of Jerusalem", *IEJ* 39, 1989, pp. 79-84.

⁷⁷*Ant.* xv.417; cf. *War* 5.193f; 6.124-6. The Bavli notes that these gates were closed up, cf. *b.Yoma* 16a.

⁷⁸*leg. ad Gaium* 31.

⁷⁹*m.Middot* 2.3; *b.Yoma* 16a. סוּרְגָּ does not occur in the Tanach.

⁸⁰Markus Barth, *Ephesians 1-3 in the Anchor Bible*, vol. 34 (Doubleday, 1974), p. 284.

⁸¹English translation from Lincoln, *Op. cit.*, p. 141. The Greek text is available in H. B. Swete, *The Old Testament in Greek* (KTAV, 1968), pp. 551-606. The lines translated above are found on p. 575.

⁸²*m.Avot* 1.1 Cf. also *b.Chullin* 110a; *b.Yebamot* 20a.

⁸³*m.Avot* 13.3

⁸⁴CD iv.19; viii.12, 18.

turned His anger toward these “builders”: “. . . But because of His hatred for the builders of the wall His anger is kindled.”⁸⁵

What I am suggesting is simply that the dividing wall which was abolished by Christ was none other than those Rabbinic laws which had enforced a separation between Jew and Gentile in opposition to the written Torah. In fact, the Tanach gives very clear instructions against erecting barriers to separate Israel from the nations. The foreigner who desired to worship the God of Abraham, Isaac, and Jacob was to be welcomed into the community and treated with the same respect as was given the native born (Ex. 22:21; 23:9; Lev. 19:33, 34; 25:35; Deut. 26:12). They were to be given full participation in matters of Torah and Torah-life (Sabbath, Ex. 23:12, cp. Is. 56:3ff; Gleanings, Lev. 19:10; Justice, Ex. 12:49; Lev. 24:22; Festivals, Deut. 16:11, 14; Worship and Prayer in the Temple, 1 Ki. 8:41-43, cp. 2 Chron. 6:32,33). And the prophets pronounce judgment upon any who would neglect their God-given responsibilities to the “stranger”, on the same grounds as neglect of orphans and widows (Ps. 94:6; Is. 56:3ff; Jer. 22:3; Zech. 7:10).

The extant Rabbinic literature is not consistent on the matter of relations between Jew and non-Jew. Clearly, it was an issue of debate in the 1st Century.⁸⁶ The practical outworking of the Rabbinic laws of purity, however, raised a strong wall of separation between the observant Jew and the non-Jew. With the emphasis put upon purity by the Rabbis, separation from those things which rendered a person unclean was inevitable.

According to oral Torah mere contact with non-Jews could render a person unclean,⁸⁷ as well as contact with the residence of a non-Jew⁸⁸ or with land outside the Land of Israel.⁸⁹ Contact with any object used for idolatrous worship was added to the list of what might render a person unclean.⁹⁰ Clearly, the oral Torah of the 1st Century functioned to separate Jew and Gentile in a dramatic way.

“The law of commandments in ordinances”

The Ephesian text before us helps define the dividing wall with the appositional phrase *τοῦ νόμου τῶν ἐντολῶν ἐν δογμασίν*, “the law of commandments in ordinances.” Did Paul use this phrase (rather than the simple *ο νόμος*) to denote those Rabbinic laws which had, in fact, separated Jew and non-Jew?

The first thing to note is that the term *δογμα* is never used in the Lxx of any of the commandments, judgments, statutes, or laws of which, e.g., according to Genesis 26:5, the total written Law consists. In the Lxx *δογμα* normally designates the edicts of a king or court.⁹¹ Some have concluded that the use of the word in 3 Maccabees 1:3 refers to the “Law of Moses”,⁹² but an investigation of the text in no way substantiates this claim. The line in question is:

⁸⁵CD viii.18

⁸⁶Much can be found in the Rabbinic literature to show an open heart to the non-Jew, see Montefiore & Loewe, *Anthology*, pp. 556-565. But there is clearly a tension. Some statements seem very open and warm to non-Jews, while others logically preclude any contact with them. The conclusion of most scholars is that the issue was not fully formulated among the Sages, though in practice, especially in Jerusalem and the Temple, avoiding contact with non-Jews became the most practical method of maintaining ritual purity.

⁸⁷*m.Pes.* 8:8; *m.Shek.* 8:1; *T.Yom HaKipp.* 4:20; Josephus, *Ant.* xviii,90; Acts 10:28

⁸⁸*m.Oholot* 18.7, 9; John 18:28.

⁸⁹*b.Shabbat* 14b; *y.Shabbat* I, 3c; *T.Parah* 3:10.

⁹⁰*m.Shabbat* 9:1; *m.Abodah Zarah* 3:6; *y.Pesach.* II.36c.

⁹¹Est. 4:8; 9:1; Dan. 6:12. The Hebrew words translated by *δογμα* in the Lxx are *דָּבָר*, *חֹק*, *שֵׁם*, *שִׁבְעָה*.

⁹²Kittel “*δογμα*” in *TDNT*, 2.231; H. H. Esser, “Command, Order” in Colin Brown, ed., *The New International Dictionary of New Testament Theology* 3 vols. (Zondervan, 1975), 1.330; *BAG*, p. 200.

But Dositheus, known as the son of Drimylus, a Jew by birth who later changed his religion and apostatized from the ancestral traditions (υστερον δε μεταβαλων τα νομιμα και των πατριων δογματων απηλλοτριωμενος)⁹³

The phrase των πατριων δογματων is best understood not to refer to the Mosaic Law but to the “traditions of the fathers,” the *halakha* of the community. Had the written Scriptures been intended the phrase ο πατρωος νομος, “the ancestral Law”, found only a few verses later (1:23) would have been used.⁹⁴ It hardly seems warranted, then, for the Greek lexicons to list “Mosaic Law” as a meaning for the term δογμα on the basis of this single Lxx passage.⁹⁵

The noun δογμα is found five times in the New Testament. In Luke 2:1 and Acts 17:7 it is used of Caesar's decrees, while in Acts 16:4 it refers to the Apostolic decree formulated at the Jerusalem council. The other use of the word, besides our Ephesians text, is in a sister-text, Colossians 2:14. Here, as in Ephesians, the decrees (τοις δογμασιν) are viewed as hostile (καθ' ημων) and are removed through Christ's death on the cross. Particularly significant for our study is the fact that Paul goes on in the Colossian text, on the basis of the removal of this debt consisting of “decrees”, to admonish his readers not to let others judge them in regard to “food or drink or in respect to a festival or a new moon or a Sabbath day” (v. 16). These were the very items which occasioned the attention of the Rabbis in their “building fences”, and which had created the separation between Jew and non-Jew! Apparently, the abolishing of these decrees ought to have rendered the Colossian believers free from submitting to man-made fences such as “do not handle, do not taste, do not touch” (v. 20).⁹⁶

A study of the word δογμα in the Lxx and New Testament confirms that the term was used of man-made laws, and not of the God-given Law of Sinai. We may therefore conclude the Paul adds it to his description of νομος in order to identify the abolished law as the legal fence of the Rabbis.

Summary and Conclusion

In the opening section of the paper I attempted to show that in the 1st Century there existed oral Law along side of the written Scriptures, and that in the mind of some (and maybe most), some of these oral Laws were accepted as divinely enacted and therefore binding. For the 1st Century Judaisms, then, the concept of “Law” was much broader in scope than the written, Mosaic legislation.

I then took this fact and applied it to a quick reading of the Gospels and Acts, looking for occurrences where the presence of “Law” was obvious, but a parallel in the Mosaic Law was lacking. I noted a number of these as examples of the manner in which the oral Law was part of the life of 1st Century Judaisms.

Finally, I applied this interpretive possibility to Ephesians 2:14-15, reasoning that when the Apostles spoke of “law”, they may have had oral Law in mind. This helped overcome the tension that a surface reading of the text raises, namely, that Paul appears to say Christ abolished the Law, when He clearly taught that He did not come for such a purpose (Matt. 5:17-20). I came to the conclusion that the wall which divided Jew and non-Jew spoken of

⁹³English translation is from Bruce Metzger, ed., *The Apocrypha of the Old Testament* (Oxford, 1977), p. 295.

⁹⁴Note other, parallel phrases in the Lxx: οι πατριoi νομοι, (2 Macc 6:1), νομος υψιστου, (Sir. 42:2; 44:20).

⁹⁵The same may be said of the word δογμα in Josephus (*War*, 2, 42; *Ap.*, 1, 42) and Philo (*Leg. All.*, 1, 54f; *Spec. Leg.*, 1, 269; *Gig.* 52). The contexts in which the word is used may easily be understood as speaking of the accepted, “lawful *halakha*.” In those places where the written Scriptures are clearly in the mind of the writer, the word νομος is inevitably employed, see Gutbrod, “νομος” in *TDNT* 4.1052. Both Josephus and Philo use the articular ο νομος to denote the “Pentateuch”.

⁹⁶The verbal form of the word is used in Col. 2:20, δογματιζομαι. It is only used here in the NT.

by Paul as being abolished was the fence created around the Law by the Rabbis. This conclusion was supported by a number of data: (1) The Qumranians spoke of the Sages as “builders of the wall”, and *The Epistle of Aristeas* presents the oral Torah as the barrier separating Jew and non-Jew; (2) it is unlikely the balustrade of the Temple is meant, since it is referred to by other terms than the one used by Paul, and this dividing partition was still standing when Paul wrote Ephesians, (3) the term *δογμα* was used in the 1st Century to denote man-made laws and decrees, (4) early literature contained the idea that the fences constructed by the Rabbis for the protection of the people actually separated them from the non-Jewish people, (5) the sister-text in Colossians includes admonitions of a *halakhic* nature in the immediate context of abolishing the “decrees” (τοῖς *δογμασιν*), the same term used in Ephesians. Thus, it appears that in Ephesians 2:14-15, the term *νομος* is best understood as denoting oral laws created by the Sages.

On the basis of the data presented in this paper, I would suggest that we must broaden our understanding of the term “law” in the New Testament to include not only the written Law (Mosaic legislation) but also the oral Torah which was being finalized during the very time the Apostolic scriptures were being written and collected. By this I do not mean that each use of the term must necessarily incorporate a sense of oral Torah, only that this possibility exists.