

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY
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ALTERNATIVE METHODS OF TRANSMITTING THE TORAH

The gemara in Gittin (60b) cites a contradiction between two halves of one verse. God tells Moshe: "Transcribe for yourself these matters, for "by the mouth" of these matters I have signed with you a covenant and with Yisra'el" (Shemot 34:27). The first half of the verse suggests a written form of transfer while the latter half evokes a verbal manner of teaching and transmitting Torah. How, then, should Torah be conveyed? Ultimately the gemara recognizes the fundamental difference between two segments of Torah: "she-bikhtav" (written) and "she-be'al peh" (oral); this verse teaches us that the original format of each must be maintained. Hence, the gemara derives two prohibitions:

- 1) Torah she-bikhtav cannot be rendered in the manner of be'al peh
- 2) Torah she-be'al peh must not be written

These prohibitions establish a blatant division between the two parts of Torah; indeed, for close to a millennium these distinctions were maintained. Obviously the landscape was altered irrevocably once Torah she-be'al peh was written (a decree which will be explored later within this article).

The prohibition against writing Torah she-be'al peh is clearly defined. Talmud, which existed as a purely oral tradition, could not be written in any formal or organized fashion. The parallel prohibition relating to "verbalizing" Torah She-bikhtav is less defined. How do we define be'al peh? If a person writes Torah she-bikhtav as text but deviates from certain classic requirements of transcribing Torah, would he or she violate the issur (prohibition)?

Perhaps the clearest expression that even written texts can qualify as be'al peh if certain criteria are not met can be found in the words of Tosafot on Shabbat 115a. The 16th chapter of Shabbat allows works of Scripture (kitvei ha-

kodesh) to be saved from a fire on Shabbat even though extra effort (tircha) is involved. The gemara questions the permissibility of saving texts written in different languages from a fire. As the gemara itself asserts, this issue would depend upon a famous dispute in the mishna on Megilla 8b. The mishna discusses Scriptural texts written in various languages other than Hebrew and cites a dispute between the Rabbanan, who classify these texts as Kitvei Ha-kodesh, and Rabban Shimon ben Gamliel, who excludes foreign language texts from the category of kitvei ha-kodesh.

This fundamental argument about the nature of foreign language Scriptural texts has several applications. For example, the gemara itself recognizes the consequences regarding "tum'at yadayim." See the Rambam in chapter 9 of Hilkhhot Avot Ha-tum'a, who delineates the rabbinical decree that kitvei ha-kodesh confer impurity to teruma. This institution was developed as a manner of assuring that holy texts would be distanced from teruma, the priest's portion of produce, and would not be ruined by hungry rodents. According to the Rabbanan, Scripture written in any language would qualify as kitvei ha-kodesh and cause impurity to teruma; conversely, according to Rabban Shimon ben Gamliel, such texts would not be impure. This debate would assuredly impact upon our question of saving these texts from a fire. Presumably, Rabban Shimon would not allow Shabbat to be violated to save a foreign-language text because these texts do not enjoy the status of kitvei ha-kodesh; the Rabbanan, by contrast, would allow it.

Indeed, the gemara does consider the influence of the argument in Megilla upon our issue. What is startling, however, is the language the gemara employs to describe Rabban Shimon's position: the gemara asserts that Scripture in foreign languages cannot be "read." It is one thing to question their holiness, as well as halakhot, such as tum'a, which are dependent upon that status, but it is quite another to claim a prohibition of reading them. Tosafot *ibid.*, s.v. Lo, in defending this syntax, cite the position of Rav Porat that it is forbidden to render these texts in foreign languages because this violates the principle that Torah she-bikhtav cannot be converted into be'al peh. Even though the Torah is being physically written, since the language is foreign, the standards of Torah she-bikhtav have not been met, and the prohibition applies.

A second example of "incorrectly" written texts which still qualify as 'be'al peh' can be discerned within the gemara Gittin (6b). The gemara invokes the principle of "sirtut" when reproducing Scriptural verses; i.e., if one includes a verse within a personal letter, the writer must draw a straight line (normally by carving an indentation in the parchment) directly above the verse. The concept of sirtut is, again, a familiar one; see the gemara on Menachot 32b which requires sirtut for the mezuzah and sefer Torah, and the gemara on Sotah 17b requiring sirtut for the sotah scroll. Why, however, should verses written out of the context of these items require sirtut? Many have invoked our principle to justify this requirement: when rendering Scriptural texts, the status of Torah she-bikhtav must be preserved not only by creating actual text, but by fulfilling certain standards. Just as--according to certain opinions--only Hebrew fonts are considered Torah she-bikhtav, certain types of contextual elements (such as the line above these verses) are necessary to generate Torah she-bikhtav. The prohibition against writing verses without sirtut stems from the issur to convert Torah she-bikhtav into be'al peh; omitting sirtut is tantamount to not writing at all.

A third example of actual writing which does not qualify technically as bikhtav can be found on Gittin 60a. The gemara forbids reading from, or even composing, a book which contains the haftarot, the passages from the Prophets selected for each Shabbat morning. Since an entire "sefer," i.e., one of the twenty-four volumes of Scripture, was not composed, but rather fragments of several of them, one cannot read from it. Rabbeinu Kreskas explains that such a document is defined as be'al peh and violates the prohibition against converting bikhtav into be'al peh. Indeed the same gemara prohibits writing a "megilla," a few chapters of one of the five books of the Torah for a child to study from ("ein kotevin megilla le-tinok le-hitlameid"). Though the gemara does not clarify the exact nature of the issur, we might speculate that it emerges from our concerns of not changing bikhtav into be'al peh. Not only must the proper font be employed, and not only should the lines surrounding Scriptural text be reproduced, but a certain structural integrity must be maintained. By producing less than an entire sefer, one might strip the product of its status as bikhtav.

AFTERWORD:

Most opinions suggest that the issur of converting Scripture into less-than-bikhtav formats no longer applies. The gemara on Gittin 60a cites the verse in Tehillim (119:126), "Eit la'asot la-Hashem heifeiru Toratekha," to justify the lifting of the prohibition against writing Torah be'al peh; as the generations weakened in their retention of an oral tradition writing was sanctioned. Does the same repeal apply to the complementary issur of converting bikhtav into be'al peh? See Tosafot Bava Kama 3b, s.v. Ki-de-metargeim, who suggest that it does, despite the fact that the gemara never explicitly applies the verse to our issur.

A famous story is recounted that Rav Elchanan Wasserman Hy"d visited Rav Moshe Soloveitchik zt"l (the father of the Rav zt"l) in Warsaw and asked him why the Rambam did not list the prohibition of transcribing Torah she-be'al peh in his Mishneh Torah. (Though the Rambam discusses it in his introduction, he never addresses it within the halakhic code itself.) Rav Moshe did not have an answer and asked his young son to consider the question. The Rav zt"l responded that the prohibition is not a formal one, but rather it demands that Torah be transmitted in a manner which would best facilitate its study. Ideally, an oral transmission should be delivered without texts because people are more vigilant and precise regarding a text which is unwritten. Similarly, the written Torah should be conveyed bikhtav because many derivations stem from textual nuances (extra letters and other textual phenomena). Once, however social situations demand altering the original formats of these tracts (to better facilitate study under current conditions), the original prohibitions no longer apply. The Sages did not have to rescind the biblical issur; rather the issur itself is limited in its scope.

If we accept this version of the prohibition, we clearly have little room to differentiate between the two applications and no ability to suggest that the allowance of "Eit la'asot" applies to one issur and not the other. If these native forms are not sacred per se, but merely the preferred way to study, each would yield to alternate formats were the situation to demand it. As such, most are of the opinion that in our generation, we are allowed to convert Scriptural texts to be'al peh format because this will support our learning.