

## THE TEXTUAL SOURCE FOR THE 39 MELACHOT OF SHABBAT

### Abstract

The forms of work forbidden on Shabbat and whether there is even a fixed number of them is disputed in the Tannaic period. Today, Judaism follows the opinion Rabbi Akiva and his students that the number is 39. But from where did Rabbi Akiva and students derive the number 39 as set in stone? In this essay, Rabbi Yoel Bin Nun Ph.D. first clarifies the inexplicable mechanics of the Talmud's main suggestion for the number 39, i.e., counting the appearance of the term *melacha* in the Torah. He then offers his most novel suggestion, that he has re-discovered the original midrash (exegesis) that has been lost to the Jewish people for more than 1700 years.<sup>1</sup>

### Introduction

#### *39 Melachot – A Number set in Stone*

Rabbinic literature takes it as a given that there are 39 forms of *melacha* (work) prohibited on Shabbat. The number 39—forty minus one in the Mishna's parlance—appears set in stone. This is clear from even a cursory glance at all of the Rabbinic passages dealing with the forms of *melacha* forbidden on Shabbat, whether in the Mishna, the *midrashei halacha*, and the two Talmudim.<sup>2</sup> In many cases, the Rabbis force any accepted form of *melacha* into the rubric of 39 *melachot*. To keep the list to the proper number, they include some and exclude others, they cover more than one type of work under a single name<sup>3</sup> or in one

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<sup>1</sup> The piece originally appeared in Hebrew on my website, <http://www.ybn.co.il/mamrim/m1.htm>. It has been translated and adapted by Rabbi Dr. Zev Farber with my permission for publication on the Project TABS website, TheTorah.com, <http://thetorah.com/the-textual-source-39-melachot-shabbat/>.

<sup>2</sup> See Mishna *Shabbat* ch. 7, *Mechilta de-Rabbi Yishmael*, “*Ki Tissa*” and “*Vayakhel*,” b. *Shabbat* 73-75, and j. *Shabbat* 7:2.

<sup>3</sup> See for example b. *Shabbat* 96b where carrying includes putting one's hand outside while holding something (הושטה), as well as throwing (זריקה).

overarching category,<sup>4</sup> or they separate similar forms into different categories.<sup>5</sup> In the end, the sum always ends up equaling the preexisting correct number, 39.

A passage in the Jerusalem Talmud (*Shabbat* 7:2) takes this to the next level. Rabbi Yochanan and R. Shimon ben Lakish spend three and a half years, according to this passage, studying the Mishna about the 39 *melachot*, and they end up deriving 39 subcategories (*toladot*) for each one of the 39 categories of *melacha*. Whenever they were able to associate a subcategory of *melacha* with one of the categories they did so; whenever they couldn't, they would place it under the category of "striking with a hammer" (the rabbinic term for completing work, which functions as a catch-all in *halacha*).

*Caveat: Are there really only 39 Forms of Melacha?*

Forty minus one was a number set in stone according to Rabbi Akiva and his students. According to Rabbi Eliezer, however, there does not seem to have been much significance to this number. Rabbi Eliezer believed that if a person were to violate a subcategory of a *melacha* as well as the main *melacha* of that same category, he or she would be doubly culpable. (To clarify, this is not the case according to the standard *av/toladah* system, where a person is not culpable for multiple violations of the same category of *melacha*.) Hence, in his view, there were scores of *melachot* that a person could violate; there was no fixed number.<sup>6</sup> It is quite possible that the position of Rabbi Eliezer reflects the ancient form of the *halacha*.<sup>7</sup> In any case, our Mishna follows the approach of Rabbi Akiva, who designated amounts, definitions, and numbers as integral parts of the *halacha* in many different areas, including this one.

## Part 1 – Traditional Solutions

From where did Rabbi Akiva and his school derive the number 39 as set in stone? The Talmud offers many different answers to these questions, some of them strange and difficult to make sense of.

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<sup>4</sup> As is done with building (בונה), chipping (מסתת) and drilling (קודח).

<sup>5</sup> As is done with separating (בורר), winnowing (זורר), and sifting (מרקד).

<sup>6</sup> See: m. *Keritot* 3:10 and b. *Bava Kama* 2a.

<sup>7</sup> See: R. Yitzchak Gilat, *R. Eliezer ben Hyrcanus: A Scholar Outcast* (Bar-Ilan studies in Near Eastern languages and culture; Bar Ilan University Press, 1984).

### *Counting the Appearances of the Term Melacha*

R. Shimon b' Rabbi Yossi ben Lakunya (b. *Shabbat* 49b) suggests that the number 39 can be derived from the number of times the various forms of the word “*melacha*” (מלאכה/מלאכתו/מלאכת) appear in the Torah.

This sounds like a good suggestion, until you actually count the appearances of this term. Abraham Heller, the son of the famous R. Yom Tov Lipman Heller (1578-1654), did just that, using a concordance, and questioned his father about this (see *Tosafot Yom Tov* on m. *Shabbat* 7:2).<sup>8</sup> In fact, this problem was noted more than a millennium ago but Rabbeinu Hananel. In his commentary on this passage, R. Hananel ben Hushiel (990-1053) already pointed out—and in his footsteps, Ra’avan, Ramban, and Rashba—this word appears 61 times in the Torah, not 39!<sup>9</sup> (The number is actually 63, using these three terms. If we include מלאכתך, which appears twice in the Ten Commandments, we get 65.) Considering this, how are we to understand the continuation of this Talmudic passage:

Rabbah bar bar Chana said in the name of R. Yohanan: “They didn’t move from their places until someone brought in a Torah scroll and they counted the instances.”

Is it possible that they actually counted but didn’t realize that the correct number was 63 and not 39?! Could they have been that far off? Did they only count some of them? If so, which ones and why?

R. Hananel answered this question in his own way, by suggesting reasons to count some and not others and subtracting the extras. The approach feels very ad hoc, and is difficult to accept as the origin for a midrash. Other commentaries offered similar answers to this question. Each further answer, as nice and interesting as it may be, only strengthens the question: How did we get a set number about whose origin we have no idea, and whose exact breakdown (i.e. deciding which 39 forms of *melacha* are **the** 39) can be determined in a myriad of ways?

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<sup>8</sup> אך שאל אותי שעמד למנין כאשר עי' בספר הקונקורדנסיוס בשרש "ל-א-כ" ומצאם יותר הרבה.

<sup>9</sup> רבינו חננאל: "וא"ר יונתן בן אלעזר כנגד מלאכת ומלאכה שבתורה והן ס"א. כשתוציא ג' מלאכות הכתובין בויכולו השמים וד' שכתוב בהן ועשית ויעשה ותעשה ולרגל המלאכה וי"ג שכתב כל מלאכת עבודה הרי כ"א נשארו מ' ובכללם ששת ימים וכו' לא תעשה מלאכה."

### *The Talmud's Uncertainty about which Words to Count*

Furthermore, the Talmudic passage expresses ambivalence about two examples in particular. The first verse describes Joseph (Gen. 39:11), “he came home to do his business (מלאכתו).” The Talmud is unsure whether to translate that literally as “his job” or figuratively as “fulfill his needs” (i.e. a liaison with Potiphar’s wife.) The second verse describes the building of the Tabernacle (Exod. 36:7), “and their materials (מלאכה) was sufficient for all the work (מלאכה) they needed to do, and then some.” The first instance of the word refers to the materials they gathered, the materials with which they did the work.

After discussing the question, the Talmud decides that it is unsure which of the two usages counts as one of the 39. Now there are quite a number of uses of the word *melacha* in the Torah, which are *not* counted in the list of 39 for whatever reason, but which would have been much more reasonable to consider counting than either of these two examples. Why were these two chosen to be included in the count of the 39? Furthermore, if the Talmud decides to explain why one of these doesn’t count, what about explaining all the others that it doesn’t count?

### *Making Sense of the Tradition of Counting Melacha*

In my opinion, the notion that there are 39 types of labor has a simple origin, once one understands the logic of the original midrashic derivation.<sup>10</sup> The meaning becomes clear after reading through the Talmudic passage carefully and in its entirety, and by taking into consideration possible textual corruptions.

Rabbi Shaul Baruchi, a colleague of mine, pointed out to me that in some manuscripts the text offers only two forms of the word *melacha*, “מלאכה” (in absolute state) and “מלאכת” (in the construct state), unlike the printed editions which list a third form, “מלאכתו” (the noun with the 3<sup>rd</sup> masculine singular possessive suffix.)<sup>11</sup>

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<sup>10</sup> See the comment of R. Menachem Kasher ( *Torah Sheleima, Parashat Vayeshev* and the supplements to *Parashat Pekudei*).

<sup>11</sup> The version now found in the printed edition also seems to be the one used by R. Hananel, which explains his question.

Taking this manuscript variant as our starting point, there are 58 occurrences of these two forms. If we limit our count when the term appears without any prefixes (i.e. without ה, ב, מ, ה, ל, ה), we get 43. That number is still too high, although if we count the verses in which the terms occur more than once as a single occurrence, there are 39 such verses. Could this be the solution? Unfortunately, it appears not.

The problem is that this textual variant doesn't work well with the rest of the Talmudic passage in which it appears. The reason is that the debate referenced above about the two verses, one of which the Sages thought should not be counted. One of those two "questionable" verses is Genesis 39:11, which states "he (Joseph) came home to do his business (מלאכתו)." If the original *derasha* did not include this form of the word, why would the Rabbis even bring it up as a possibility? Thus, it seems clear that the manuscript variant cited above, which lacks the form "his business" (מלאכתו), is an error.

### *Investigating further*

Nevertheless, the variant inspires me to offer a novel suggestion. As pointed out above, if we count every form of the word *melacha* as it appears in the Torah we get the number 65, so this is a dead end. But perhaps the original midrash only counted two forms of the word, but not the two in that variant. What do we get if we count only the forms מלאכה and מלאכתו but ignore "מלאכת"? (This makes sense, since this last form generally appears in the context of Yom Tov and not Shabbat anyway.) The number we get is 40!

Since the number of *melachot* on Shabbat is 39 and not 40, the next part of the Talmudic passage works well. The rabbis were ambivalent about counting two of the examples and ended up counting only one of them, yielding the number 39. Considering how well this works out, I believe that the original version of this midrash made use of only these two forms (מלאכה and מלאכתו) and that the printed version as well as the manuscript version are both errors. (Errors like these are hardly surprising, since the meaning of the midrash was probably lost relatively early.)

This reconstruction offers a consistent and understandable way to reach the number 40/39 by counting the term *melacha*, and works well with the Talmudic passage. All previous reconstructions—which count three (or even four?) forms, yielding too many instances, and

then subtract instances for subjective reasons until the desired number is reached—are unconvincing and should be seen as midrash to the midrash.

Although I am convinced that this reconstruction of the *derasha* is accurate, there are still some problems with the *derasha* itself. First, the midrash ends up counting occurrences of the first two forms, even when the usage has nothing to do with Shabbat or the Tabernacle, but ends up ignoring instances of the third form, even when it occurs in the context of Shabbat or the Tabernacle. Second, it seems more than a little coincidental that there is ambivalence about the fortieth instance. Both of these problems suggest that this *darshan* may have been working with a preconceived number, and then fit his *derasha* to match it. If this is correct, then we still need to be looking for where this number came from and how the number 39 became set in stone.

#### *An Alternative Approach: Using Gematriot*

The Jerusalem Talmud contains a pair of *derashot* that derive the number 39 from *gematria*. The first is the suggestion of R. Chanina of Sepphoris (j. *Shabbat* 7:2). He bases the *derasha* upon the *gematria* (numerical value) of the phrase (Exod. 35:1), “these are the things (אלה הדברים).” “Things” is plural, so that equals 2. “The things,” with the addition of the definite article, equals 3. The word “these (אלה)” has a numerical value of 36 (*alef* = 1, *lamed* = 30, *hey* = 5). 36 from “אלה” + 3 from “הדברים” = 39 *melachot*.<sup>12</sup>

I can’t help but ask, does the use of the phrase “these are the things” at the opening of the Sinai Revelation account (Exod. 19:6) or in the opening of Deuteronomy (1:1) mean that there are 39 things there as well? That is what the *gematria* should imply! Rather it seems clear that the *baraita* begins with the number and finds the *gematria*.

An even more forced interpretation than the above is that of the Rabbis of Caesaria that comes as a response to R. Chanina of Sepphoris. They say that there is no need to use the extra 3 from “the things.” Instead, they say that the word אלה itself can be given a *gematria*

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<sup>12</sup> In Rashi’s understanding, this view appears in the Babylonian Talmud as well, once in the name of R. Nathan (*Shabbat* 70a) and once in the name of Rabbi [Yehudah HaNasi] (*Shabbat* 97b). See Rashi in both places, where he explains the *Bavli*’s more cryptic description along the lines of R. Chanina’s more explicit one in the *Yerushalmi*. These versions of the midrash will be discussed in Part 2 from a different angle.

of 39 since, following the Galilean pronunciation, the *hey* can be considered a *chet*. (In the Galilee, during the Talmudic period, all the gutturals were pronounced in the same manner.) Since the *gematria* of *chet* is 8, the missing 3 is made up and the number 39 reached. The Talmud then states that, “Rabbis don’t avoid treating *hey* like *chet* in *derashot*.”

*Derashot* like these undermine any confidence in deriving the origin of the 39 forms of *melacha* of Shabbat.

## Part 2 – Reconstructing the Original Midrash

### *Understanding the Midrashic Derivation from the Tabernacle*

A few years ago I decided to count the items of service (עבודת) that appear in the detailed list at the beginning of *Vayakhel* (35:10-20) and the parallel list at the end of *Pekudei* (40:33-43). Doing so, I found a clear and unequivocal source for the 39 forms of *melacha* on Shabbat in the 39 forms of Tabernacle service (I will list these further on). It appears to me that this was R. Chanina bar Chama’s point when he said that the 39 forms of *melacha* are corollaries to the 39 items of Tabernacle service (b. *Shabbat* 49b). Furthermore, this also appears to be the clear intention of Rabbi’s statement, as it appears in the *Mechilta of R. Ishmael* (*Vayakhel*)”

“These are the things” – Rabbi [Yehudah haNasi] says: “This comes to include 39 forms of *melacha*, about which Moses informed them by word of mouth.”

The meaning of this is as follows: The list of 39 items of service in the Tabernacle is introduced by the phrase “this is the thing *God commanded*” (35:4) and concludes with the phrase “and every person wise of heart shall come and do that which *God commanded*” (35:10). A similar phrase introduces the reference to Shabbat at the beginning of the chapter, “these are the things that God commanded to do...” (35:1), “anyone who does *melacha* on [Shabbat] shall be executed” (35:2). Rabbi [Yehudah haNasi] is saying that this similar phrasing in introductory comments hints to a corollary (oral) list, which would explain what exactly the Israelites were forbidden to do on Shabbat. This unwritten list deals with the forms of *melacha* on Shabbat, regarding which the Torah says

In other words, just as Moses listed 39 specific items of Tabernacle service for the Israelites, he listed 39 parallel forms of *melacha* that are forbidden on Shabbat. The former Moses recording in the Torah, while the latter he reported on orally.<sup>13</sup>

I would further suggest that this analysis stands behind the positions of Rabbi [Yehudah haNasi] and Rabbi Nathan in the Babylonian Talmud.

Rabbi Nathan says: “Do not burn fires in any of your dwellings on the day of Shabbat’ – what does this teach? Because it says: ‘Moses called together the entire group of the Children of Israel and said to them: “These are the things... For six days you may labor...” ‘things’ ‘the things’ ‘these are the things’ – these are the 39 forms of *melacha* which were taught to Moses at Sinai” (b. *Shabbat* 70a).

Rabbi [Yehudah haNasi] says: “‘things’ ‘the things’ ‘these are the things’ – these are the 39 forms of *melacha*” (b. *Shabbat* 97b).

Unlike the interpretation in the Jerusalem Talmud, Rabbi [Yehudah haNasi] and Rabbi Nathan do not say anything about a *gematria*. The phrasing “things” “the things” “these are the things” need not be interpreted as referring to a *gematria*. It makes more sense to understand Rabbi [Yehudah haNasi] to be saying the same thing he said in the *Mechilta*, that “these are the things” comes to include 39 forms of *melacha*, “about which Moses informed them by word of mouth.” The phrasing in the Babylonian Talmud, is analogous in form: “‘things’ ‘the things’ ‘these are the things’ – these are the 39 forms of *melacha* that were told to Moses at Sinai.”

The interpretation of the Babylonian Talmud (see Rashi for example) as being built upon *gematria* is really an overly sophisticated suggestion based on reading the positions in the

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<sup>13</sup> This argument (i.e. that of R. Chanina bar Chama and Rabbi [Yehudah haNasi]) hinges upon the parallel between “this is the thing” and “these are the things.” To what “things” does the latter phrase refer? The verse seems to introduce Shabbat, with a reference to forbidden forms of labor, but what “these things” are remains unclear. The hint comes from verse 3, which states, “Do not burn fires in any of your dwellings on the day of Shabbat.” Since we are looking for a list of “these things”, this verse should not be understood as an example of labor, or some sort of special rule. (Despite the fact that the *Mechilta* offers five different *derashot* with this theme.) Rather, the verse is either the beginning or the end of the list of “these things,” the rest of which was delivered orally.



*Bavli* in line with that of R. Chanina of Sepphoris and the Rabbis of Caesaria in the *Yerushalmi*. Careful reading of the passage in the *Yerushalmi* shows that R. Yossi ben Chanina, one of the other sages in the passage, does not use *gematria*.

R. Yossi ben Chanina said: “The Torah does not say here ‘this is the thing’ [though this is the phrase used in 35:4] but rather ‘these are the things’ – ‘thing’ ‘things’ ‘the things,’ from here we learn there are categories (*avot*) and sub-categories (*toladot*).

This is what he means: There is a parallel between the 39 forms of service in the list following the words “this is the thing” in the command to build the Tabernacle, and there are 39 categories of forbidden labor on Shabbat, according to the *derasha* of Rabbi [Yehudah haNasi]. Taking these two assumptions as his point of departure, he believes we should make further deduction from the fact that the Torah used a singular phrase in one instance (“this is the thing”) and a plural phrase in the other (“these are the things”) that on Shabbat there are many more forms of labor than just 39. Thus, the 39 are just the categories (*avot*), under which there are many subcategories (*toladot*).

### *The Tabernacle and its Furnishings*

Here are the two lists of Tabernacle items that were created as they appear in the Torah. Note that although the lists are similar and have the same number of components, their order is quite different and some of the individual components differ as well.

#### *Vayakhel* (35:11-19)<sup>14</sup>

1. The Tabernacle
2. its tents
3. and its coverings
4. its clasps
5. and its planks
6. its bars
7. its posts
8. and its sockets
9. the ark

#### *Pekudei* (29:33-41)

They brought the Tabernacle to Moses  
with the tent  
and all its furnishings  
its clasps  
its planks  
its bars  
its posts  
and its sockets  
the covering of tanned ram skins

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<sup>14</sup> All translation of biblical verses follow the NJPS translation with some adaptations.

10. and its poles  
 11. the cover  
 12. and the curtain for the screen  
 13. the table  
 14. and its poles  
 15. and all its utensils  
 16. and the bread of display  
 17. the lampstand for lighting  
 18. its furnishings  
 19. and its lamps  
 20. and the oil for lighting  
 21. the altar of incense  
 22. and its poles  
 23. the anointing oil  
 24. and the aromatic incense  
 25. and the entrance screen for the entrance  
     of the Tabernacle  
 26. the altar of burnt offering  
 27. and its copper grating  
 28. its poles  
 29. and all its furnishings  
 30. the laver  
 31. and its stand  
 32. the hangings of the enclosure  
 33. its posts  
 34. and its sockets  
 35. and the screen for the gate  
     of the enclosure  
 36. the pegs for the Tabernacle  
 37. the pegs for the enclosure  
 38. and their cords  
  
 39. the service vestments for officiating

the covering of *tachash* skins  
 and the curtain for the screen  
 the Ark of the Pact  
 and its poles  
 and the cover  
 the table  
 and all its utensils  
 and the bread of display  
 the pure lampstand  
 its lamps—lamps in due order  
 and all its fittings  
 and the oil for lighting  
 the altar of gold  
 the oil for anointing  
 the aromatic incense  
 and the screen for the entrance  
     of the Tent  
 the copper altar  
 with its copper grating  
 its poles  
 and all its utensils  
 the laver  
 and its stand  
 the hangings of the enclosure  
 its posts  
 and its sockets  
 the screen for the gate  
     of the enclosure  
 its cords  
 and its pegs  
 all the furnishings  
     for the service of the Tabernacle,  
     the Tent of Meeting  
 the service vestments for officiating

in the sanctuary

[which are:]

the sacral vestments

of Aaron the priest

and the vestments of his sons

for priestly service

in the sanctuary

the sacral vestments

of Aaron the priest

and the vestments of his sons

for priestly service

Both lists end with “the service vestments for officiating in the sanctuary” as number 39. This is not a coincidence since this is the only component that divides itself explicitly into two subcategories, “the sacral vestments of Aaron the priest,” and “the vestments of his sons for priestly service.”<sup>15</sup>

The two lists differ in three details: the list in *Pekudei* adds three things but subtracts three things as well. The *Pekudei* list adds two catchalls: (3) “all its furnishings” towards the

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<sup>15</sup> This is the simple way to understand the verses, and the way Onkeles seems to translate it. Nevertheless, there is some controversy as to the meaning of the term “service vestments.” Rashi, R. Avraham ibn Ezra, and Rashbam all explained this term as the cloths with which they would cover the Tabernacle and its furnishings when preparing to move. This is a difficult interpretation to accept on the *peshat* level, since the covering cloths are not used “for officiating in the sanctuary.” Moreover, there is no mention anywhere in all of Exodus of these cloths. They are first mentioned in Numbers chapter 4, as part of the description of the move.

According to this alternative interpretation, the sacral vestments referenced afterwards, those of Aaron and those of his sons, would constitute two more items, bringing the count to 41. (Perhaps it could be lowered to 40 if we were to argue that the first one, “the Tabernacle,” is really just a general category, not anything specific. I note, however, that reading the passage according to Ramban (and others)—that the word “Tabernacle” refers to the linen cloths (Exod. 26:1) and “the tent” to the goat-hair cloths (Exod. 26:7)—makes reading “Tabernacle” as a general category unworkable.)

It may even be possible to connect this reading of the verse with the position of Rabbi Yehudah in counting the forms of *melacha*. R. Yehudah adds into the list of cloth-making *melachot* “closing up the web (שובט)” and “beating of the woof (מדקדק).” He may have been inspired by counting the vestments reference as three instead of one (i.e. 41 *melachot*)! I would even go so far as to suggest the possibility that the alternative reading of the sacral vestments as the cloths for covering the furnishings, may have been one of the reasons that some of the Talmudic sages rejected the position of Rabbi, his two students Rabbi Chanina bar Chama and R. Yossi bar Chanina, and Rabbi Nathan, and preferred to derive the number 39 from a different source.

Finally, R. Shaul Baruchi reminded me that Ramban (Exod. 31:10) understands the sacred vestments as clothing for the high priests, which leaves the last phrase about clothing for Aaron’s sons, as number 40. For more on this, see Yosef Ofer and Jonathan Jacobs, *Nahmanides’ Torah Commentary Addenda, Written in the Land of Israel* (Magnes, 2013) p. 349, n. 34 [Hebrew].

beginning, and (38) “all the furnishings for the service of the Tabernacle, the Tent of Meeting” towards the end. In addition, it splits “all its coverings,” number 3 in the *Vayakhel* list, into two types of covers, “the covering of tanned ram skins” (9) and “the covering of *tachash* skins” (10).<sup>16</sup>

On the other side, there are three missing entries. The phrase “its poles” is missing from the description of the table (*Vayakhel* 14) and the golden altar (*Vayakhel* 22). In both cases, the poles are made of the same material as the objects they carry. Additionally, *Pekudei* appears to group all the pegs in one item (*Pekudei* 37) as opposed to two (*Vayakhel* 36 & 37).

The absence of these three items appears gratuitous, if not entirely random. This strengthens the perception that the number 39 is deliberate and not accidental. In other words, even as *Pekudei* rewrites the list of Tabernacle items to include a more specific reference to the three relevant materials, it has no choice but to skip over three other items in order to keep the final number of items the same as it was in *Vayakhel*, exactly 39!<sup>17</sup>

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<sup>16</sup> It appears that the *Pekudei* version has a tendency to list materials. The altar of incense (*Vayakhel* 21) is described as the golden altar (*Pekudei* 22); the altar of burnt offering (*Vayakhel* 26) is described as the copper altar (*Pekudei* 26).

<sup>17</sup> The Sages’ understanding of the verses in *Pekudei* that follow upon the list of Tabernacle items (Exod. 40:42-43) provides further evidence for this reconstruction.

<sup>42</sup> Just as the LORD had commanded Moses, so the Israelites had done all the work. <sup>43</sup> And when Moses saw that they had done all the tasks—as the LORD had commanded, so they had done—Moses blessed them.

ככל אשר צוה ה' את משה, כן עשו בני ישראל, את כל העבודה. וירא משה את כל המלאכה, והנה עשו אותה, כאשר צוה ה' כן עשו, ויברך אותם משה.

In the context of the midrash reconstructed above, these verses can be understood as saying the following:

“Just as the LORD had commanded Moses [regarding Shabbat and the Tabernacle] so the Israelites had done [in the Tabernacle] all the work. And when Moses saw that they had done all the tasks [that they were commanded regarding Shabbat and the Tabernacle] so they had done [with the Tabernacle] as the LORD had commanded—Moses blessed them.”

The phrase that appears repeatedly in these *parashiyot*, from the beginning of *Vayakhel* until the end of *Pekudei*, is “that the LORD commanded.” It further appears in the command about Shabbat in 35:1, “these are the things that the LORD commanded to do,” as well as in the command to donate materials for the building of the Tabernacle (35:4), “This is the thing that the LORD commanded.” It appears in this context again, as part of the detailed command to build the Tabernacle (35:10), “And let all among you who are skilled come and make all that the LORD has commanded.” Immediately after this verse comes the list of 39 items that need to be built.

### *Summary*

The two detailed lists that appear at the beginning and end of the account of building the Tabernacle inspired the choice of 39 as a number set in stone for the prohibited forms of *melacha* on Shabbat. Virtually all treatments of Shabbat law force themselves into this rubric. This, in my opinion, is the meaning of Rabbi [Yehudah haNasi]’s statement, quoted in the *Mechilta*, as well as the statement of R. Chanina bar Chama in the Babylonian Talmud (*Shabbat* 49b):

When the Mishna sites 40 *melachot* minus one—to what does this correspond? R. Chanina bar Chama said to them: “It corresponds to the items of service [built for] the Tabernacle.”

As I argued above, I believe that this is also how we should understand the words of R. Yossi b’ R. Chanina in the Jerusalem Talmud (*Shabbat* 7:2), as well as the positions of Rabbi [Yehudah HaNasi] (*Shabbat* 97b) and Rabbi Nathan (*Shabbat* 70a) in the Babylonian Talmud.

### *How the Original Midrash was Lost*

In light of the Torah’s adherence to the number 39 in the lists of Tabernacle items, that this was the referent of the original midrash now seems almost obvious. How is it, then, that all of the commentaries on the Talmud, Rishonim and Acharonim alike [for the past 1700 years!], missed this when trying to interpret the Sages?

I believe that the error happened in stages. I imagine that the first step was that some Sages added *gematria* to the original midrash. In other words, the suggestion that “these are the

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At the end of *Pekudei*, the phrase appears again twice, immediately before and immediately after the list of 39 Tabernacle items. The first appearance of the phrase refers to how perfectly the Israelites carried out the command; the second is the introduction to Moses’ blessing the people because of their great work. There are some other parallels as well. In virtually every instance that this phrase appears, the term “to make/do” (ה-ש-ע) appears as well, in the Shabbat verses as well as the Tabernacle verses.<sup>17</sup> In Moses’ review of the Israelite’s hard work in building the Tabernacle, he uses the term “all the *melacha*” (40:43), which is reminiscent of the command about Shabbat in the Decalogue (Exod. 20:10).

things” had a *gematria* of 39 began as a supplementary midrash. Over time, the meaning of the original midrash was forgotten and the *gematria* became the main midrash. In Mishna *Avot* 3:18, the Sages suggest that *gematriot* are like a seasoning for wisdom. In this case, the main dish was lost and only the seasoning remained.<sup>18</sup>

Many *midrashim* as originally formulated have been lost. In many cases, we are left with the seasoning, an echo of the original point, or an overly creative interpretation or embellishment that eventually became the main point. This is a normal part of the way human memory works. People sometimes remember small details about their loved ones that may have had no real significance to the person’s life. Thus there should be no surprise that midrashim like the one I reconstructed above have been lost. On the contrary, we should be very happy that enough hints remain so that the original version may be reconstructed. In this case, it is amazing, even admirable, how stubbornly the various later midrashim stuck to the ironclad number of 39, even when the original midrashic hook from which this number was derived had been lost.

### *Addendum*

After I wrote this, I discussed it with a number of scholars and *roshei yeshivot*, none of whom remembered ever hearing this suggestion before. I then presented the idea in a *shiur kelali* (general assembly) at the yeshiva (Ein Tzurim), and a colleague of mine, Rabbi Shaul Baruchi, showed me that the idea had already been anticipated by R. Menachem Mendel Kasher, who found it in the *Midrash HaGadol* of David bar Amram al-Adani (14<sup>th</sup> century

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<sup>18</sup> When they explained why the oral Torah was written down, the Sages referenced the verse (Psa. 119:126), “There is a time to act for God, they violated Your Torah.” (See, for example b. *Gittin* 60a (=b. *Temurah* 14b), where it describes Resh Lakish and R. Yohanan studying *aggadah* from a book on Shabbat.) The Talmud describes a fear, going back to the sages of Yavneh, that the Torah would be forgotten (b. *Shabbat* 138b). Rav expresses this fear as well. This fear explains how a prohibition of writing down oral Torah could have been overturned. Rabbi Shimon bar Yochai pushes back against this fear, declaring, “God forbid the Torah should be forgotten!” He goes on to explain that the Torah will continue, but it will be impossible to find “clear *halacha* and clear *mishna* in one place.” This idea explains, in my opinion, the reasoning behind Rabbi’s decision to compose the Mishna (in the generation between that of R. Shimon bar Yochai and Rav.) He created a work that could stand strong against the tide of forgetfulness. It is a collection of multiple interpretations of Torah and *halacha*, but in one work. Nevertheless, as we see from the example of the origin of the 39 *melachot*, the fear of forgetting Torah is not baseless.

Yemen).<sup>19</sup> (Although the work is late, it is an exceedingly important collection of midrash that preserves some very early midrashim that survive nowhere else.)

In truth, *Midrash HaGadol* does bring the list of 39 Tabernacle items, exactly as I did above, although only citing the list from *Vayakhel*. Afterwards, he brings two possible interpretations of the sacred vestments:

These are the priestly vestments. There are those who say that these are the seven cloths that are spread out... when the items are carried.

The first interpretation follows that of Onkeles, and works with the number 39, the second is that of Rashi and the other commentaries.

Having said all this, the *Midrash HaGadol* adds the following:

These 39 commands [to create these items for the Tabernacle in Exod. 35:11-19] correlate with the 39 categories of labor forbidden on Shabbat. From where do we know that the Israelites were commanded to create these 39 items? The commands were stated earlier (in the *parashiyot* of *Terumah* and *Tetzaveh*):

1. The Tabernacle – as it says (26:10): “As for the Tabernacle, make it of ten strips of cloth.”
2. its tents – as it says (26:7): “You shall them make cloths of goats’ hair for a tent over the Tabernacle.”
3. and its coverings – as it says (26:14): “And make for the Tent a covering.”
4. its clasps – as it says (26:6, 11): “And make fifty gold clasps,” and “Make fifty copper clasps.”
5. and its planks – as it says (26:15): “You shal make the planks for the Tabernacle of acacia wood.”
6. its bars – as it says (26:26): “You shall make bars of acacia wood.”
7. its posts – as it says (26:32, 37): “Hang it upon four posts of acacia wood,” and “Make five posts of acacia wood for the screen.”

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<sup>19</sup> See: *Torah Sheleima* vol. 23, Supplements to *Parashat Pekudei*, pp. 118-119.

8. and its sockets – as it says (26:19): “Make forty silver sockets.”
9. the ark – as it says (25:10): “They shall make an ark of acacia wood.”
10. and its poles – as it says (25:13): “Make poles of acacia wood.”
11. the cover – as it says (25:17): “You shall make a cover of pure gold.”
12. and the curtain for the screen – as it says (26:31): “You shall make a curtain.”
13. the table – as it says (25:23): “You shall make a table.”
14. and its poles – as it says (25:28): “Make the poles of acacia wood.”
15. and all its utensils – as it says (25:29, 37:16): “Make its bowls...” and “He made the utensils...”
16. and the bread of display – as it says (25:30): “And on the table you shall set the bread of display.”
17. the lampstand for lighting – as it says (25:31): “You shall make a lampstand of pure gold.”
18. its furnishings – as it says (25:39): “It shall be made with all these furnishings.”
19. and its lamps – as it says (25:37-38): “Make its seven lampstands... and its tongs and fire pans of pure gold.”
20. and the oil for lighting – as it says (27:20): “You shall further instruct the Israelites to bring you clear oil of beaten olives for lighting.”
21. the altar of incense – as it says (30:1): “You shall make an altar for burning incense.”
22. and its poles – as it says (30:5): “Make the poles of acacia wood.”
23. the anointing oil – as it says (30:25): “Make of this a sacred anointing oil.”
24. and the aromatic incense – as it says (30:35): “Make them into incense.”
25. and the entrance screen for the entrance of the Tabernacle – as it says (26:36): “You shall make a screen for the entrance of the tent.
26. the altar of burnt offering – as it says (27:1): “You shall make the altar of acacia wood.”
27. and its copper grating – as it says (27:4): “Make for it a grating of meshwork in copper.”
28. its poles – as it says (27:6): “And make poles for the altar.”
29. and all its furnishings – as it says (27:3): “make all its utensils of copper.”
30. the laver – as it says (30:18): “Make a laver of copper.”
31. and its stand – as it says (30:18): “Make [a laver of copper and] a stand of copper.”



32. the hangings of the enclosure – as it says (27:9): “You shall make the enclosure of the Tabernacle.”
33. its posts – as it says (27:10, 16): “with its twenty posts,” and “for the gate of the enclosure, a screen... with their four posts.”
34. and its sockets – as it says (27:10, [16]): “and their twenty sockets,” [and “with their four sockets.”]
35. and the screen for the gate of the enclosure – as it says (27:16): “for the gate of the enclosure, a screen.”
36. the pegs for the Tabernacle – as it says (27:19): “as well as all its pegs”
37. the pegs for the enclosure – as it says (27:19): “and all the pegs of the court.”
38. and their cords – as it says (27: 19): “and all the utensils of the Tabernacle for all its service.”<sup>20</sup>
39. the service vestments for officiating in the sanctuary – as it says (28:2): “Make sacral vestments.”

Moses heard these 39 commandments from the mouth of the Holy One, and Moses then relayed these commandments to the Israelites. He did not add nor did he subtract. When God describes Moses, God says (Num. 12:7): “In all my house he is the most loyal,” for he did not add or subtract anything when overseeing the building of the Tabernacle. (End quote.)

It is certainly true that the *Midrash HaGadol* source makes virtually the same point I do. Nevertheless, there are some differences worth noting.

What is new in the *Midrash HaGadol*, that I had not suggested, is that it is possible to draw a direct comparison between the thirty nine service items and the earlier commands to make (ע-ש-ה) them. On the other hand, the *Midrash HaGadol* does not deal with the parallel list in *Pekudei*. This list is critical for reconstructing the midrash. The fact that this second list, while changing some of the details, maintains the number 39, demonstrates that already in the Torah this number had significance and was set in stone.

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<sup>20</sup> In this particular case, the proof-text is imperfect. As there is no reference to the cords in section of the Torah where the command to build the Tabernacle is found, the *Midrash HaGadol* made recourse to a general catchall verse as his proof-text here.

Moreover, although R. Kasher offers this reading as an interpretation of R. Chanina bar Chama, he does not connect this midrash with the views of Rabbi [Yehudah haNasi] (in the *Mechilta* and the *Bavli*), Rabbi Nathan, and R. Yossi ben Chanina—a connection that, to me, seems very likely.

For these reasons, R. Kasher misses the startling conclusion: The lists of 39 Tabernacle service items are the original inspiration for the midrashic derivation of the 39 *melachot* on Shabbat. The Torah's adherence to the number 39 in both lists establishes the number 39 as set in stone.

Rabbi Dr. Yoel bin Nun is one of the founders of Yeshivat Har Etzion and the chief impetus for the renewed interest in the in depth study of Tanach in Religious Zionist circles. Bin Nun received his rabbinic training at Yeshiva Merkaz HaRav under the tutelage of R. Tzvi Yehudah Kook. He received his Ph.D. from Hebrew University. He defended his dissertation, “Double Source of Human Inspiration and Authority in the Philosophy of Rav A. I. H. Kook” [Hebrew] in 2008. Bin Nun was a paratrooper in the Israeli army, and was part of the brigade that took control of the Old City of Jerusalem in 1967. In 1986, he established Michlelet Yaakov Herzog for training Jewish Studies teachers, especially in Bible instruction. Between 2000-2006 he served as the Rosh Ha-Yeshiva of Yeshivat HaKibbutz HaDati in Ein Tzurim. Bin Nun is the author of a number of books, plus numerous articles and op-eds. Currently, together with R. Shaul Baruchi, he is heading up a new project called Mikraut, a detailed online commentary on the Torah utilizing traditional and academic resources. A first installment, covering only [\*Parashat Yitro\*](#), can be found on his website, [www.ybn.co.il](http://www.ybn.co.il).