

Torah shel Ba'al Peh (Oral Law) – A Source of Our Salvation

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Dedicated to the sacred memories of my mother, Miriam Tovah bat Aharon Hakohen, father-in-law, Levi ben Yitzhak, sister-in-law, Ruchama Rivka Sondra bat Yechiel, sister, Shulamit bat Menachem, Chaim Mordechai Hakohen ben Natan Yitzchak, Yehonatan Binyamin ben Mordechai Meir Halevi, Shmuel David ben Moshe Halevy, and the refuah shlaimah of Yosef Shmuel ben Miriam, Devorah bat Chana, and Yitzhak Akiva ben Malka, and to the safety of the soldiers of Tzahal in their holy mission to protect the Jewish people.

The final verse of our *parasha* (Torah portion) is also the concluding *pasuk* (verse) of *Sefer Bamidbar*. It states the following: “These are the commandments (*hamitzvot*) and the ordinances (*v’hamishpatim*) that the L-rd commanded the children of Israel through Moses (*b’yad Moshe*) in the Plains of Moab, by the Jordan at Jericho.” (36:10, this and all Bible translations, *The Judaica Press Complete Tanach*) In contrast, *Sefer Vayikra* concludes with the following verse: “These are the commandments (*hamitzvot*) that the L-rd commanded Moses to [tell] the children of Israel on Mount Sinai.” (*Sefer Vayikra* 27:34) Let us briefly review some of the differences that obtain between these two *pasukim*:

1. Location: *Sefer Bamidbar* 36:10 = “the Plains of Moab,” *Sefer Vayikra* 27:34 = “on Mount Sinai.”
2. Content of the verse: *Sefer Bamidbar* 36:10 = “the commandments (*hamitzvot*) and the ordinances (*v’hamishpatim*),” *Sefer Vayikra* 27:34 = “the commandments (*hamitzvot*)”
3. Moshe’s role: *Sefer Bamidbar* 36:10 = “through Moses (*b’yad Moshe*)” *Sefer Vayikra* 27:34 = *B’yad Moshe* is not stated.

Fascinatingly, there is an earlier *pasuk* in *Sefer Vayikra* that parallels the majority of the elements of our two verses that includes some new terms as well: “These are the statutes (*hachukim*), the ordinances (*v’hamishpatim*), and the laws (*v’hatorot*) that the L-rd gave between Himself and the children of Israel on Mount Sinai, by the hand of Moses (*b’yad Moshe*). (26:46) As we can readily see in this third *pasuk*, the location is the same as in our first quotation in *Sefer Vayikra*, namely Mount Sinai. In regards to content, however, we are met with two new terms, namely, “statutes” and “laws.” In addition, Moshe’s role is front and center as it is in *Sefer Bamidbar*, as indicated by the phrase, “*b’yad Moshe*.”

The Netziv (Rabbi Naphtali Tzvi Yehuda Berlin, 1817-1893) in his classic work *Haamek Davar*, utilized *Sefer Vayikra* 26:46 as the source text to analyze the interconnectivity of our three *pasukim*. In the phrase beginning, “the L-rd gave between Himself and the children of Israel on Mount Sinai, by the hand of Moses,” he notes:

... the meaning of “by the hand of Moses” is explained in *Talmud Bavli, Kritot* 13b as referring to “*Gemara*,” which in this instance means the *chidushim* (new ideas and concepts) that Moshe developed based upon his own intellectual acumen – all through the strenuous application of the hermeneutic principles. (This, and all translations, brackets, underlining, and bolding my own)

“By the hand of Moses” becomes the introduction to the Netziv’s explanation of the differences that obtain between the concluding verses of our *parasha* and *Sefer Vayikra*:

We find that at the end of *Sefer Bamidbar* it is written: “These are the commandments (*hamitzvot*) and the ordinances (*v’hamishpatim*) that the L-rd commanded the children of Israel through Moses (*b’yad Moshe*) in the Plains of Moab, by the Jordan at Jericho.” We explained at that time the [essential] difference between that verse and the concluding verse of *Sefer Vayikra* wherein it states: “These are the commandments that the L-rd commanded Moses to [tell] the children of Israel on Mount Sinai,” is that at Mount Sinai the Jews had not yet received the ability to actually create new ideas and concepts (*chidush*) – this was not given until they [the Jews] arrived at the Plains of Moab.

Next, the Netziv suggests that his explanation creates a contradiction of sorts, for if he is correct, *Sefer Vayikra* 26:46 should not contain the expressions, “the statutes (*hachukim*) and the ordinances (*v’hamishpatim*),” since in this context “the statutes” refers to *Midrashot*, and “ordinances” refers to “the laws that are derived from textual analysis according to the hermeneutic principles of explication.” If that is the case, how can the statutes and ordinances be mentioned here, since the Jews had not yet arrived at the Plains of Moab – where the right to engage in such *chidushei Torah* was first granted?

The Netziv’s answer to our seeming contradiction is captivating in its profundity and its application to Jewish survival in the Diaspora:

The truth is, however, that even at Mount Sinai it [the ability to engage in novel Torah analysis] was made known – uniquely in the context of the section of the *tochacha* (rebuke) and the depiction of the Jewish people in exile. In such a context, the essence of the survival of the Jewish people is contingent upon the study of *Torah shel Ba’al Peh* (the Oral Law) and the development of new Torah concepts [and laws] in each generation.

Clearly, for the Netziv, the continued existence of our people hinges upon sophisticated and creative study of *Torah shel Ba’al Peh* - inclusive of *chidushei Torah*.

At this point, the Netziv explained the somewhat mystifying expression, “the L-rd gave between Himself and the children of Israel on Mount Sinai”:

[This means,] that even in the midst of the Covenant of Sinai, Hashem gave a great (literally, “good”) present [to the Jewish people] – namely, statutes and ordinances [derived through the *Torah shel Ba’al Peh*] in order that they should bring about Hashem’s divine Providence (*hashgacha*) [upon our nation].

Hashem’s *hashgacha* is a fundamental aspect of the inextricable relationship that obtains between Him and our people. This unique bond is based upon our desire and willingness:

... to perform the new [statutes and ordinances, literally, *chadashot*] in the same manner as when they were promulgated “by the hand of Moses.” ... It was in the sense that the

Prophet Malachi stated: “Keep in remembrance the teaching of Moses, My servant - the statutes (*chukim*) and ordinances (*mishpatim*) which I commanded him in Horeb [i.e. Mount Sinai] for all Israel.” (3:22)

For the Netziv, *Torah shel Ba'al Peh* and all that it constitutes emerges as a, if not, the fundamental factor in the redemption of our people, since it leads to the enhancement of the unique and powerful relationship that exists between Hashem and our people. Little wonder, then, that the next and final two verses of *Sefer Malachi* speak of Eliyahu heralding the time of the *Mashiach* (Messiah), “Lo, I will send you Elijah the prophet before the coming of the great and awesome day of the L-rd, that he may turn the heart of the fathers back through the children, and the heart of the children back through their fathers ...” (3:23-24)

May we be *zocheh* (merit) to witness the fulfillment of Malachi’s prophecy and the ultimate redemption of the Jewish people through the agency of the *Mashiach* – and the great and awesome hand of Hashem. *V’chane yihi ratzon.*

Shabbat Shalom

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