

THE INVISIBLE HEART

by Shlomo Katz

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Mishpatim

At the end of this week's parashah, the story of Matan Torah/The Giving of the Torah continues. There we read Bnei Yisrael's famous statement, "Na'aseh ve'nishmah"/"We will do and we will hear."

R' Yaakov Ettlinger z"l (19th century; author of Aruch La'ner and mentor of R' Samson Raphael Hirsch z"l) observes that twice before in the Torah (Shmot 19:8 and 24:3) Bnei Yisrael responded, "All that Hashem spoke na'aseh/we will do." Why the third time did they add, "ve'nishmah"/"and we will hear"? What does it mean to "hear" the Torah after "doing" it?

The midrash relates that Bnei Yisrael asked of Hashem (Shir Hashirim 8:6), "Place me like a seal on Your heart."

Hashem responded (see ibid.), "The heart is sometimes seen and sometimes not seen. I will place you as a seal on My hand, which is always visible."

R' Ettlinger explains: Bnei Yisrael asked Hashem to promise that He would accept their service of Him if they devote their thoughts to Him. Hashem responded, "I will do better than that. 'The heart is sometimes seen and sometimes not seen.' Sometimes you will understand My mitzvot and devote your hearts to Me, and other times you will not understand. I promise to accept your service when you perform deeds for Me, whether you understand them or not."

Doing the mitzvot before "hearing" them means doing them without understanding their reasons. (Obviously they did not mean they would do the mitzvot before hearing about them, for how can that be?) This is the meaning of the halachah that one lays the hand tefilin before the head tefilin, i.e., we bind ourselves to Hashem with our hands (deeds) before our head (mind) is with Him.

The first time (19:8) Bnei Yisrael said, "na'aseh," was before they had heard a single mitzvah. In that verse, they merely expressed their desire to receive the Torah. The second time (24:3) was after they had heard the mitzvot, and then they expressed their intention to keep the mitzvot. Only thereafter was it appropriate to add, "ve'nishmah" - we also will attempt to delve into the mitzvot and understand them. (Minchat Ani: Parashat Yitro)

"One man out of a thousand I found, and I did not find a woman among them" (Kohelet 7:28) - This is as it is written, "He shall pay five cattle for the ox." (Shmot 21:37)

The Vilna Gaon explains: The verse from Kohelet alludes to the sin of the Golden Calf, in which not one woman participated. As for the men, one out of 1,000 participated, i.e., a total of 600 men.

Why then did 3,000 people die? (See Shmot 32:28). Because Bnei Yisrael had to pay "five for the ox," i.e., five people for every person who participated in the sin of the calf (or young ox). [The Vilna Gaon goes on to explain in a kabbalistic vein.]

(Kol Eliyahu)

Torah She'be'al Peh/The Oral Law

In the 19th century, several great works were written whose purpose was to defend the Oral Law (the Mishnah, Gemara, and Midrash) from new movements. These movements denied the Divine origin of that Law and claimed that the Sages' interpretations of the Torah were sometimes far-fetched. Although their purpose was the same, these works took different approaches.]

Beginning with this week's parashah, the focus of the Torah changes from history to law. Regarding the manner in which the legal section of the Torah is introduced, R' Samson Raphael Hirsch z"l writes in his Torah commentary as follows:

"To the unprejudiced mind, nothing can show so strikingly the truth of the traditional oral-law as the first two paragraphs with which this 'Mosaic Lawgiving' starts. The civil and criminal laws of the Nation are to be given, the fundamental basis and the ordinances of justice and humaneness are to be laid down, which are to govern the relationship and behavior of man to his fellow man. The first matter to be dealt with, quite naturally, is the rights of man, but incredibly, it starts with the sentences: 'When a man sells another man', and 'When a man sells his daughter'! How unthinkable if actually this 'written word' of the 'book of Law of the Jewish Nation' should really be the one and only source of the Jewish conception of 'Rights'. What a mass of laws and jurisprudence must have already been said and fixed, considered, laid down and explained before the Book of Law could reach these laws, or even speak of them, which, after all, are only quite exceptional cases . . .

"But it is quite a different matter if the written word, the 'Book,' is not the real source of the Jewish conception of Rights, if the source instead is the Oral Law, which was entrusted to the living word to which this 'Book' is only to be an aid to memory and reference, when doubts arise, if, as indeed is stated in the 'Book' itself, the total and complete Law had been given over to the people in its complete form, and had been impressed upon them, and explained to them and lived by them for a full forty years, before Moshe, just before his death, was to hand them this written book. Then, we can well understand that it is just the exceptional cases which principally come to be described, so that just from them, the normal general principles of justice and humanity may be more strikingly realized . . .

"The Written Law is to the Oral Law in the relation of short notes on a full and extensive lecture on any scientific subject. For the student who has heard the whole lecture, short notes are quite sufficient to bring back afresh to his mind at any time the whole subject of the lecture. For him, an added mark of interrogation, or exclamation, a dot, the underlining of a word etc. is often quite sufficient to recall to his mind a whole series of thoughts, a remark etc. For those who had not heard the lecture from the Master, such notes would be completely

useless . . ."

Whereas R' Hirsch appears to see the Written Torah, not as the source of the Oral Law, but as a set of mnemonic devices to remember the Oral Law, his contemporary, R' Meir Leibush Malbim z"l disagrees. In the introduction to his Torah commentary (published at the beginning of Vayikra, the first volume he published), R' Malbim writes:

"All the words of the Oral Torah necessarily follow from, and are embedded in, the simple meaning of the verses and the depth of the language used [by each verse]. The drush/exegesis is nothing but the pshat/simple meaning, founded upon the rules of the language. Wherever Chazal made any derashah, it is because they saw something strange, contrary to the rules of [grammar or syntax]."

R' Malbim goes on to list 613 rules by which all derashot of Chazal can be understood. For example:

"Some verbs can be used only with certain nouns - for instance, 'Legs walk' and 'Eyes see' [but legs do not see and eyes do not walk]. Therefore, when such a verb is used, it is not necessary to mention the subject; if the Torah does mention the subject, it comes to teach something. For example, when the Torah says (in reference to an oath), 'to pronounce with his lips,' it teaches that only an oath that is spoken is an oath, but not an oath which is only thought of." (Rule #13)

R' Malbim also taught (as did others) that there are no synonyms in Hebrew. Words which appear to be synonyms must be distinguished from each other. For example:

"There is a difference between 'speaking ito' and 'speaking imo.' [In English, both mean 'with him.'] The first phrase means that the person who started the conversation also carries it on, while the second phrase means that [one person started the conversation, but] the other person replies and takes the lead." (Rule #340)

R' Shmuel ben Eli z"l
died 1195

R' Eli Halevi, R' Shmuel's father and a descendant of the prophet Shmuel, was one of the early deans of the "Gaon Yaakov" academy in Baghdad. This yeshiva was an attempt to revive the ancient

academies of Sura and Pumpedita, where the sages of the gemara had studied. In 1164, R' Shmuel became the rosh yeshiva there.

Under R' Shmuel, the yeshiva flourished. At times, two thousand students attended his lectures. In all of Iraq, Syria and Persia, no dayan/rabbinical judge was appointed without the permission of R' Shmuel, and his rulings were accepted in Eretz Yisrael also.

In one matter R' Shmuel's opinion was not accepted by his followers. In 1190, R' Shmuel moved to abolish the office of the Reish Galuta/Exilarch, the political head of Babylonian Jewry. R' Shmuel held that because the rabbis should be supreme in Torah matters and the Persian king was supreme in secular matters, maintaining the Reish Galuta was an unnecessary drain on communal finances. For its part, the general population refused to reject this last vestige of the Davidic dynasty, from which the Reish Galuta was descended. (This Reish Galuta had been appointed by Rambam, who later regretted becoming involved in the politics of a distant community.)

R' Shmuel is also known as a disputant of his contemporary, Rambam, on both halachic and hashkafic/"Jewish thought" issues. He was opposed to Rambam's Moreh Nevuchim/Guide to the Perplexed and Rambam's "Letter to Yemen" (which deals with certain aspects of techiyat ha'metim/resurrection of the dead). R' Shmuel's halachic opinions are quoted by contemporary and recent poskim such as R' Ovadiah Yosef and R' Avraham Yitzchak Hakohen Kook, as well as by ancient and medieval poskim. (Sources: The Artscroll Rishonim, p. 78; Iggeret Ha'Rambam Le'Rav Yosef, pp. 130-133; She'eilot U'teshuvot Ha'Rid, No. 22; She'eilot U'teshuvot Maharam Al'Shakar No. 117; She'eilot U'teshuvot Mahari Ben Lev Vol. III, No. 73; She'eilot U'teshuvot Orach Mishpat No. 56; She'eilot U'teshuvot Yabia Omer, Vol. VI, Even Ha'ezer No. 14)

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