

FIVE UNIQUE BOOKS

by Rabbi Yitzchak Etshalom

לע"נ אמי מורתי מרים בת יצחק ורבקה הכ"מ יד ושם לשלשה מאחינו היקרים, גיל-עד, נפתלי ואייל ז"ל וה' ירחם על עמו ועל ארצו ונראה בנחמת ציון וירושלים

ANALYZING THE CENSUS

Sefer Bamidbar begins with God's command to Mosheh that he take a census of the B'nei Yisra'el, tribe by tribe.

Within the context of this census - and several other related sections in Bamidbar - a few questions come to the fore:

* 1) Why is Levi excluded from the regular counting? Although the Torah states that the Levi'im were not to be reckoned among the B'nei Yisra'el (Bamidbar 1:49), no reason is immediately given. Pursuant to the organization of the "camps" (Ch. 2), the Torah describes the special sanctity of the Levi'im - but this is immediately followed by a separate census of the Levi'im! We would assume that keeping the Levite census separate (if they were going to be counted in any event) was because the "main" census was geared towards military preparedness - and the Levi'im were not going to go into battle. This explanation brings its own difficulties, as we will see below.

* 2) Why is Re'uven counted first? We would assume that it is because of the pre-eminent position of the firstborn (Re'uven). This would explain why Re'uven is identified as B'khor Yisra'el (the firstborn of Yisra'el - 1:20); however, if the census is oriented towards military readiness (see the previous question) - why is Re'uven, subsequent to being counted first - relegated to the second "camp"(2:3)? In other words, if the goal of the census is to prepare for war (explaining the exclusion of the Levi'im), why is the tribe that will lead us into war (Yehudah) not counted first? Indeed, why is Re'uven identified as B'khor Yisra'el - what does that have to do with the 46,500 descendants of the Ya'akov's firstborn?

* 3) In the same vein, the identification of Ephraim and Menasheh seems a bit inconsistent throughout the Sefer. In our census, both tribes are grouped as B'nei Yoseph, with Ephraim mentioned first (compare 1:10 with 1:32-35; see also 13:8,11 and 26:28). Later on in Bamidbar, Menasheh is mentioned first (of the two) and once (13:11) identified as the sole Ben Yoseph! Why the inconsistency here - and why the concern with mentioning Yoseph? If we are reckoning the descendants of the children of Ya'akov, why mention Ephraim and Menasheh independently? On the

other hand, if we are concerned with a census of the tribes, why mention Yoseph? After all, didn't Ya'akov promise him that his two sons, Ephraim and Menasheh, would be considered "equal" to Re'uven and Shim'on (B'resheet 48:5)?

II

THE LARGER QUESTIONS

Once we step back from the "detail" questions about the census, focussing on the style of presentation, we are faced with some larger questions about the beginning of Bamidbar:

* 4) Why does the Torah detail the census - and repeat the count (compare 1:20-43, 46; 2:1-32)? Indeed, a second complete census is taken at the end of the forty years (ch. 26) which, again, we are given in detail.

* 5) This leads us to an even larger question: We are accustomed to deriving significant amounts of Halakhah from extra phrases, words and even letters. On the other hand, there are some sections of the Torah which not only go into great detail - but which are repeated - sometimes many times. Perhaps the most glaring example of this phenomenon is in Parashat Naso (justifying the joint heading of this shiur!): Chapter 7 is a description of the dedication of the altar. The prince of Yehudah, Nachshon b. Aminadav, brings an offering which is detailed most explicitly (7:12-17). Next, we read about the second day's offering - brought by Yissachar's prince (N'tan'el b. Tzu'ar) - which is identical to the one brought the day before. Instead of saying "on the second day, the offering was brought by N'tanel b. Tzu'ar, prince of the tribe of Yissachar - and he brought the same offering", the Torah repeats the detail of the offering. This goes on for each of the twelve days of dedication - approximately 55 seemingly superfluous verses in the Torah!

This phenomenon is not limited to Sefer Bamidbar. A well-known comment of Hazal comes to justify the repetition of Eliezer's story in B'resheet 24 - "the [idle] talk of the servants of the Patriarch's homes is more beloved [before God] than the Torah of their children" - explaining why, on the one hand, we derive Halakhot from extra letters, yet the narrative of Eliezer is repeated in detail. (B'resheet Rabbah 60:8)

Two other examples will serve to highlight the problem: The Torah not only details the structure and makeup of the Mishkan (Sh'mot 25-30), it repeats those details when describing what the B'nei Yisra'el did to properly complete the job (Sh'mot 35-40). In a slightly different vein, the Mitzvah to desist from M'lakhah on Shabbat shows up in numerous places in the Torah, even though many of them do not directly give us new instruction relating to the observance of Shabbat. What are we to make of this?

III

THE META-QUESTIONS

These "larger" questions lead us to reassess our understanding of Torah in a most fundamental way.

* 6) First of all, as we are all aware, the Torah (meaning the Five Books - i.e. the Written Torah) is part of the T'nakh (Bible). Yet, it would seem that this "grouping" is a bit hard to decipher. Torah does not seem to share much with Nevi'im (Prophets) and K'tuvim (Scriptures). Whereas we generally perceive the Torah as an essentially Halakhic document (note Rashi's first comment on the Torah - that it should have begun with the first Mitzvah in Sh'mot 12), the other parts of T'nakh are almost anything but legalistic. "Nakh" (Prophets and Scriptures) are replete with history, moralizing, prophecy, wisdom literature, poetry, dirges, prayers, proverbs, satire and more. Although there are a few occasions where Halakhah is associated with the text of Nakh (e.g. Yeshayah 58, Yirmiyah 17, Hagai 2, Esther 9), these exceptions prove the rule - that Nevi'im and K'tuvim are not Halakhically-oriented texts. What then do we make of the grouping of Torah with Nakh?

One possible response is that the association of Torah with Nakh is purely "source-directed", i.e. that they represent the complete books which contain the revealed word of God - but that thematically they are not of one type. There is a Midrash in Sh'mot Rabbah which seems to point us elsewhere. In commenting on the verse vaYiten el Mosheh k'Khaloto, the Midrash plays on the word k'Khaloto (lit. "when He was finished") to compare the Torah to a Kallah (bride): "Just as a bride is adorned with 24 ornaments (evidently the custom during the times of the Gemara), similarly, a scholar must adorn himself with the 24 books [of T'nakh] (The 24 books includes all 3 sections - 5 of Torah, 8 of Nevi'im and 11 of K'tuvim)". (Sh'mot Rabbah 41:5)

* 7) At the beginning of Mishnah Avot ("Perek"), we are taught that "Mosheh received the Torah at Sinai and transmitted it to Yehoshua'..." which seems to contradict the teaching in the Torah (D'varim 4:44) that "Mosheh placed the Torah before the B'nei Yisra'el"; i.e. did Mosheh present the Torah to everyone or just to his closest student? Which leads us to the basic question...

* 8) What is Torah shebiKhtav (the written Torah)? When we look at the Five Books, what are we seeing? If we are looking at a purely Halakhic work, which provides the fundamental structure of our legal system, what are we to make of the many chapters of non-Halakhic information - and how do we understand the repetitive and detailed descriptions of some Halakhic institutions - whereas others are barely mentioned - to be found in allusions, extra phrases etc.?

It is prudent for us to examine this, not only to help us resolve our earlier questions - but also to gain a fresh understanding in the nature of Torah and, therefore, the event of Mattan Torah which is the focus of the upcoming holiday of Shavu'ot.

IV

MIDRASH AND MISHNAH

Within the study of Halakhah, there are essentially two formats of presentation - Midrash and Mishnah. I am not referring to specific works; rather types of presentation. Indeed, there are some Mishnayot - e.g. Bikkurim 1:2 - which are Midrashic in style. The term "Mishnah" refers to any presentation which is apodictic - in which the law is presented without reference to the source, be it textual or reasoned, for that law. "Midrash", on the other hand, is textually-based teachings, in which the specific law is presented with its Scriptural basis and the method of derivation.

There is a debate among scholars of the Halakhic process as to the chronology of the development of these two modes - did "Mishnah" come before "Midrash" or vice-versa?

If we accept the antecedence of "Midrash", that may mean that Halakhot were actually derived from the text via the various rules of exegesis (e.g. R. Yishma'el's 13 rules of interpretation). That means that the written Torah is the foundation of Halakhah and the source for finding new Halakhic teachings. There are quite a number of Talmudic sources which support this position (see Albek's Mavo laMishnah pp. 42-43).

The other position, that which posits that Midrash Halakhah was a later development in the evolution of Halakhic teaching, assumes a different posture with regards to the source of Halakhah. In this scenario, Halakhah was originally an oral transmission, divorced from the text (thus explaining the opening line in Mishnah Avot, as above). In later times, for reasons of education or polemics, a "bridge" was formed between text and Halakhah. There are, again, many sources in the Talmud which support this position - such as the use of Asmakhta (a scriptural association which comes to support a preexistent law).

(For a complete treatment of this issue, see Elon's Mishpat Ivri, p. 243 ff. In English, the reader is referred to "How Do We Know This" by Jay Harris and "Midrash, Mishnah and Gemara" by David Weiss Halivni, as well as Halivni's "Peshat and Derash".)

Parenthetically, this second position provides some insight into the enigmatic Aggadah (Menahot 29) regarding Mosheh's inability to understand the various lessons taught by R. Akiva, upon his mystical visit to the latter's Beit Midrash - and his ultimate comfort when R. Akiva answered that a specific Halakhah is "a tradition from Mosheh at Sinai". If the Halakhah was originally a purely oral transmission, devoid of textual reference or sourcing, it is easy to understand Mosheh's consternation at the various derivations employed by R. Akiva. We then understand why the final answer - "this was a tradition from Mosheh at Sinai" eased his mind - because that is exactly the way that he received it from HaKadosh Barukh Hu!

[For a related treatment of this Gemara, the reader is referred to Dr. Moshe Koppel's recent work

"Meta-Halakhah" - a very worthwhile read].

If we accept the second position, we can begin to formulate a fresh approach to the nature of Torah shebiKh'tav, one which will ease the questions raised above.

Even if we accept the first position, however, we may still be able to reassess our understanding of Torah shebiKh'tav; it may well be the case that even if Midrash preceded Mishnah chronologically, that may only be a question of presentation, not derivation. In other words, it may be that Halakhah was always an oral transmission, disassociated from the text - but that the beginnings of instruction were "text-linked" for reasons mentioned above.

One step further: Even if there are some Halakhot that were totally derived from text, such that without that text there would be no reason to legislate in that manner, we still have many Asmakhtot in the Talmud, as well as numerous Halakhot without textual basis (all of those which are considered Halakhah l'Mosheh miSinai, such as the laws regarding various minimum measures known as Shi'urim).

In any case, we must certainly provide an explanation for the nature of Torah shebiKh'tav which moves us beyond the legalistic, since every position must address the elemental divorce of Halakhah from text in at least some cases. How do we then understand the written Torah?

V

TORAH SHEBIKH'TAV AS "KETUBAH"

Midrashic literature is replete with references to the stand at Sinai as a wedding between haKadosh Barukh Hu and the B'nei Yisra'el. The Midrash (Sh'mot Rabbah 46:1) utilizes the analogy of a Ketubah (marriage contract) for the Torah. What is the Ketubah? It defines the parties, who they are and their lineage; what they are bringing into the relationship and their responsibilities towards each other. I would like to suggest that, instead of viewing the written Torah solely as the essential framework and skeleton of Halakhah (even according to the first position, above), we will understand it, thematically and stylistically, if we view it as the essential document of the relationship between us and God. This would also explain why the written Torah - the Ketubah - was presented "before the B'nei Yisra'el", whereas the detailed Halakhah was transmitted privately, teacher to student, until the publication of the Mishnah - thus answering question #7 above. (This is, admittedly, an oversimplification of the issue; but a detailed presentation of this point is well beyond the scope of this shiur.) This is, at least, one answer to question #8, above.

Since the Torah shebiKh'tav is the Ketubah, it stands to reason that those elements of the relationship which are central and help define the relationship will play a central role, be repeated, stressed and detailed. This explains why some narratives - e.g. the building of the Mishkan (the most

intimate setting of the relationship) or the marriage of Yitzchak (our lineage) are presented in great detail. (This answers question #5 above). This also explains the "coherence" of the unit known as T'nakh - it is all about the relationship of God and the Jewish people. The difference between Torah and Nakh is one of the quality of prophecy (see Rambam's 7th principle), not the teleology of the book (thus answering question #6 above). Once we understand the parameters of that relationship, we can address all of our questions.

VI

IVE UNIQUE BOOKS

Unlike the division into chapters, which is a foreign "overlay" onto the Torah (generally credited to Stephen Langton, an English churchman, who created this division in 1205 CE), the division into five books is inherent in the text itself. Not only does every Sefer Torah contain four blank lines between each Sefer, but each begins and ends in a style that is appropriate for a beginning or ending (as the case may be); case in point is the end of Vayyikra, the beginning of D'varim etc.

Each of these books reflects our relationship with haKadosh Barukh Hu through a different perspective:

B'RESHEET: THE PEOPLE AND THE LAND

In his first comment on the Torah (mentioned above), Rashi asks the famous question in the name of R. Yitzchak : Why did the Torah begin with the story of Creation - it should have begun with the first Mitzvah given to the Jewish people? His answer gives us an insight into the nature of the entire book of B'resheet: By committing the Creation to writing, our "deed" to Eretz Yisra'el becomes affirmed. In the future (!), when the nations of the world will come to dispute our claim on Eretz Yisra'el, we will show them that the Land is not theirs - nor is it ours. The Land belongs to God (as demonstrated in the Creation narrative); He gave it to whom He favored and then took it from them to give it to us. B'resheet is the only book of the Torah which takes place in the Land; it is the description of our well-anchored past there and the development of the covenant with the Patriarchs which gives us title to the Land. The final statement of this book is Yoseph's reminder to his brothers that one day, God will remember them and take them out of this land to bring them back to the land that He promised to the Avot. In summary, B'resheet is a description of our relationship with the Almighty through Eretz Yisra'el.

SH'MOT: THE PARADIGM OF JEWISH HISTORY

As we see through the rest of T'nakh - and in literature and liturgy until this day - all of Jewish history is viewed through the prism of the Egypt-Sinai- experience, known broadly as Y'tziat Mitzrayim. Whether the focus is on the oppression of slavery, the miracles of salvation, the Song of thanksgiving, the faithfulness of the desert experience, the stand at Sinai or the intimacy with the Divine realized in the Mishkan, the events of Sefer Sh'mot serve as the all-encompassing paradigm for Jewish history. In summary, Sh'mot is a description of our relationship with God through history.

VAYYIKRA: THE MISHKAN-RELATIONSHIP

As is easily evidenced, the entire focus of the book of Vayyikra is our relationship to God as it is realized through the vehicle of the Mishkan. Here, unlike in Sh'mot, the Mishkan is not an end in and of itself, rather it is that place of offering Korbanot, coming close to God - with all of the attendant restrictions and considerations. Vayyikra is, indeed, a description of our relationship with God through the Beit haMikdash/Mishkan.

D'VARIM: "ASEH L'KHA RAV"

Unlike the first four books, Sefer D'varim is not said in God's "voice"; the voice of this book is Mosheh's. God is presented in the "third person". From the introductory line: "These are the words that Mosheh spoke..." to the finale, the eulogy for Mosheh, D'varim is a book in which our Master and Teacher, Mosheh Rabbenu, takes center stage. D'varim is a description of our relationship with God through a Rebbe - through our association with tradition through our teachers.

BAMIDBAR: THE BOOK OF K'LAL YISRA'EL

Now, to our book - Bamidbar is the description of our relationship with the Ribbono shel Olam through K'lal Yisra'el - the interactions of the Jewish people.

This explains why there is a dramatic shift, at the beginning of Bamidbar, to the division of tribes, where each one marches and camps, how each one participated in the dedication of the Mishkan etc. It also explains why the dedication of the Mishkan, which belongs in the middle of Sefer Vayyikra, is presented in Bamidbar. Since each tribe offered its gift independently, this is as much about our interrelationship as it is about the Mishkan. This also explains the placement of the story of B'not Tz'lofchad, the demands of the 2 and a half tribes (to inherit outside of the Land) etc. in Bamidbar (we will deal with some of these narratives in the coming weeks). (This answers question #4, above).

VII

BACK TO THE CENSUS

With this approach in hand, we can now address our original, "local" questions about the census. By viewing the presentation in Bamidbar as a description of our interrelationship, we see that the Torah places a great emphasis on the continuity of generations. The 46,500 Reubenites are not just coincidentally related; although any individual Re'ubenite may "rise above" the legacy of the eponymous founder of that tribe, the group as a whole is defined by the actions and relationships developed by their ancestor. As much as Avraham, Yitzchak and Ya'akov helped shape our destiny, so did Re'uven play a role in developing the personality of his descendants.

Although we will look at this in greater detail next fall (God willing), it is clear from the latter half of B'resheet that Re'uven lost his rights as firstborn due to his impetuous nature and failed leadership. As such, the Torah counts his tribe first, properly noting that he is B'khor Yisra'el - and then moves him away from the leadership by putting Yehudah's camp first. Keep in mind that Yehudah was the brother who was given the rights of the firstborn, at least from a military and political perspective, by father Ya'akov.

On other hand, the preference of Ephraim over Menasheh was not due to a failure on the part of Menasheh, rather because of Ya'akov's prophecy that Ephraim would supercede him in greatness (see our shiur on Parashat Vay'chi from earlier this year). Therefore, we find that both "B'nei Yoseph" are included in that honored position - sometimes Ephraim (as in our Parashah) and sometimes Menasheh.

Why was Levi taken out of the census? When we look back at the development of the tribes, our first encounter with Levi is negative - he and brother Shim'on lead the murderous attack on Sh'chem (B'resheet 34). Unlike Shim'on, however, Levi (his progeny) is able to turn this trait around and use it for the good - when the "sons of Levi" raised their swords and fought with Mosheh against the calf-worshippers (Sh'mot 32:26-28). It was specifically this event that earned the Levi'im their august position, replacing the first-born as the worship-representatives.

We can now understand why Levi was counted separately; even though they were to be reckoned, it was their ability to transform their own traits and use them in accordance with God's will that earned them their special position within the people. Within the context of "who we are and how we relate to God", the Levi'im occupy a unique and distinct position, a legacy for all of B'nei Levi until this day.

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