

# What Happens in Heaven... Stays in Heaven

If it is acceptable to have favorite *pesukim* (verses) in the Torah, I would choose the following section. Toward the end of Moshe's farewell speech to Bnei Yisrael, Moshe shares some inspirational words, meant to motivate the people. In *Parshas Nitzavim* (Devarim 30:11-14), Moshe says:

יא כי המצוה הזאת, אשר אנכי מצוה היום-- לא-נפלאות הוא ממך, ולא רחוקה הוא. יב לא בשמים, הוא: לאמור, מי יעלה-לנו השמימה ויקחה לנו, וישמענו אותה, ונעשנה. יג ולא מעבר לים, הוא: לאמור, מי יעבר-לנו אל-עבר הים ויקחה לנו, וישמענו אותה, ונעשנה. יד כי-קרוב אליך הדבר מאד: בפיה ובלבבך, לעשותו.  
11. For this commandment which I command you this day, is not concealed from you, nor is it far away. 12. It is not in heaven, that you should say, "Who will go up to heaven for us and fetch it for us, to tell [it] to us, so that we can fulfill it?" 13. Nor is it beyond the sea, that you should say, "Who will cross to the other side of the sea for us and fetch it for us, to tell [it] to us, so that we can fulfill it?" 14. Rather, [this] thing is very close to you; it is in your mouth and in your heart, so that you can fulfill it.

But there is some debate as to what Moshe was truly referring to. What is this "mitzvah" that is close to us?

According to the Ramban, it is the mitzvah of *teshuva* (repentance). This parsha is always read right before Rosh Hashana. The Seforno explains in this vein that the message Moshe is leaving Bnei Yisrael is "*lo nifleis hi*



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*mimcha*" — "It is not concealed from you" that you would need *nevi'im* (prophets), "*v'lo rechoka hi*" — "And it is not far away" that you would need *chachamim* (Sages), to explain to you what needs to be done. Don't think that *teshuva* isn't a reality given your time or place. Rather, repentance is always attainable, even though we may sometimes feel like it is out of reach for one reason or another.

Rashi offers a broader definition of this "mitzvah" and suggests it is referring to the entire Torah. The messages then are similar, but this interpretation is all-encompassing. It is our responsibility to acquire and attain the Torah. "*Shamayim*" (heaven) isn't going to do it for us. Simultaneously, the contents of the Torah — the commandments, the stories, and the lessons — are accessible to everyone, not just the *chachamim* and *nevi'im*.

Beyond the charge these *pesukim* provide to Bnei Yisrael, they also serve as the basis for a halachic concept. Based in part on the phrase "*lo bashamayim hi*," the Rambam codifies (*Hilchos Yesodei HaTorah* 9:1) that a prophet can't override halacha, nor

can he introduce a new law based on a heavenly prophecy. If a prophet tries to add, remove, or change mitzvos, we do not listen to him.

There is a well-known story in *Maseches Bava Metzia* (59b) that applies this principle as well. Rebbi Eliezer ben Hirkanus declared that a certain oven made out of separate coils of clay is not susceptible to *tum'ah* (impurity), while the Sages declared that it was. After failing to convince the other members of the Sanhedrin, he resorted to supernatural means to convince them. In support of his opinion, Rebbi Eliezer summoned a carob tree to uproot itself and walk across a garden. He then instructed water in a stream to reverse direction. Last, he ordered the walls of their study hall to support him, so they trembled and tilted inwards. After all of these miracles failed to sway the Sages, a *bas kol* (a heavenly voice) called out that the halacha should follow Rebbi Eliezer.

Unmoved by the supernatural display of support, Rebbi Yehoshua, the *av beis din* (chief of the court), responded with "*lo bashamayim hi*" — "It isn't in heaven." It doesn't matter that the

heavens testified on Rabbi Eliezer's behalf. We follow the guiding principles given to us, including "*acharei rabim l'hatos*" — we follow the majority even if an individual sage might have gotten a law "right" in the absolute sense. The Torah tells us through these *pesukim* that the responsibility for interpreting the Torah rests on the *chachamim* of each generation, which they do by utilizing the system given to Moshe on Har Sinai, and then passed down to each generation. This can't be overruled, even by Hashem! (Rabbi Eliezer's refusal to follow this system ultimately led to him being excommunicated.)

The Gemara continues to describe how Rabbi Nasan asked Eliyahu HaNavi how Hashem reacted to their decision to ignore the miracles and the *bas kol*, and rule against Rabbi Eliezer. Eliyahu said that Hashem's response was "*nitzchuni banai*" — "My children have been victorious over me." Hashem rejoiced in the fact that they followed the system He had put in place for the development of Jewish law. This is exactly how Hashem wanted the halachic process to play out.

The compelling question is: why not follow the *bas kol*? If Hashem reveals absolute truth to us, why doesn't He want us to follow that? Aren't the Sages simply trying to uncover the truth? Perhaps it is counterintuitive, but Hashem is not looking for us to follow absolute truth. Rather, Hashem's goal is to create a partnership with us. Hashem wants us, Bnei Yisrael, involved in the creation and shaping of halacha. He wants us to partner with Him in this process.

This isn't the only time we see how much Hashem values His partnership with mankind. During the story of creation, Hashem introduces the

creation of man by saying (Bereishis 1:26) "*na'aseh adam b'tzalmeinu*" — "Let us make man." Why is it plural? With whom was Hashem consulting? One answer is that Hashem was talking to mankind. We are created in an imperfect state (as opposed to all other creations). Hashem started the creation process, and we are invited, and charged, to do our best to continue and complete it — by reaching our potential.

This partnership is also emphasized in the difference between the first and second set of *luchos*, tablets. There was one main difference between the first set of *luchos* — which Moshe ultimately smashed in response to the sin of the Golden Calf — and the second set. While Hashem wrote on both of them, Hashem only carved out the first *luchos*. Moshe had to carve out the second set, upon which Hashem then wrote. Ultimately it was the second set that endured. I heard from Rabbi Eli Rubin that it endured because that was where Hashem and mankind partnered together. The creation of that second set involved both Moshe and Hashem, in partnership.

Until now, we have advanced the theory that even though it may not lead to absolute truth, we follow the halachic process and utilize the tools given to the *chachamim*, like following the majority. Perhaps, though, there is no absolute truth when it comes to halacha. There is some debate about what Hashem gave Moshe on Har Sinai. If Moshe was given both *Torah She'bichsav* (the Written Torah) and *Torah She'ba'al Peh* (the Oral Torah), how are there *machlokos*, arguments, in the Gemara? There are a few approaches to this. One understanding is that Hashem

gave Moshe all of *Torah She'ba'al Peh*. With all of the transmissions over the generations, some of the details were lost. The Sages seek to rediscover them, and that is where *machlokos* come from. Another explanation is that Hashem only gave Moshe the general principles, but left it up to the *chachamim* to apply them. The application of them is where there are disagreements. [See Rambam's introduction to *Seder Zeraim*.]

A third approach, based on the Yerushalmi (*Sanhedrin* 4:2) is that Hashem taught Moshe 49 reasons to prohibit each situation and 49 reasons to permit those very same situations. Hashem gave Moshe and the *chachamim* all of the logic and tools, along with the ability to determine what "truth" is. As Rav Chaim Navon of Yeshivat Har Etzion beautifully explains (article available at [etzion.org.il/en/download/file/fid/4477](http://etzion.org.il/en/download/file/fid/4477)):

*The act of Torah study is not aimed at uncovering and revealing an absolute truth, but at creation and advancement. In this respect, Halakha is closer to a work of art than to a rigid mathematical system, in that it does not require a specific and unequivocal conclusion. ... With respect to the Oral Law, the concept of "truth" is meaningless. The Torah student is not required to strive for the absolute "truth" that is concealed in God's hidden places. The Torah serves as raw material for human creation, and man must develop the Torah in the direction that seems right to him.*

This approach can also give meaning to a well-known phrase from the Gemara in *Eruvin* (13b). The Gemara states that for three years Beis Hillel and Beis Shammai argued. Each one said the halacha was according to their opinion. In the middle of this argument, a *bas kol* came out and said:

אלו ואלו דברי אלקים חיים הן, והלכה כבית הלל.  
*These and these are the words of the Living God, and the law follows Beis Hillel.*

Rav Yaakov Kamenetsky, *Emes L'Yaakov*, *Eruvin* 6b, understood that the argument was not an ordinary argument but a very broad argument about the nature of halacha: who do we follow when we have a majority and a minority, but the minority is a little bit sharper? Beis Shammai argued that you follow the sharper group. Since they are sharper, they will find the absolute truth. Beis Hillel maintained that we follow the majority. Even though it may not be the absolute truth, we follow the majority since it better reflects true human intellect. While the heavenly voice states that both are the words of Hashem, it also concludes that the halacha follows Beis Hillel. In practice, we have to choose an opinion to follow. But fundamentally, “both these and these are the words of the Living God.”

Rav Navon explains that this Gemara

can be understood simply — “since there is no single halakhic truth, both opinions are equally legitimate and ‘true.’ Both are considered a legitimate development of halakha.” Therefore, *machlokes* isn’t a bad thing, and may even be desirable.

Similarly, in his introduction to *Choshen Mishpat*, Rabbi Yechiel Michel Epstein, author of the *Aruch HaShulchan*, says:

ואדרבה זאת היא תפארת תורתנו הקדושה והטהורה וכל התורה כולה נקראת שירה ותפארת השיר היא כשהקולות משונים זה מזה וזהו עיקר הניעמות ומי שמושטט בים התלמוד יראה נעימות משונות בכל הקולות המשוונות זה מזה.

*On the contrary, this is the glory of our pure and holy Torah. The entire Torah is called a song, and the splendor of a song is when there are different voices; this is the essence of harmony. Anyone who sails the sea of the Talmud will discern the harmony rising from all the different voices.*

Mankind’s partnering with Hashem in the creation of halacha is harmonious to Hashem.

Students have asked me if the way we currently do things is the way Hashem intended. “Did Hashem really mean for us to have two sinks, two sets of dishes, etc.?” “Did Hashem really intend for us to soak our strawberries in soapy water to rid them of bugs?” “Did Hashem intend for us to not be able to turn a light on or watch TV on Shabbos, the day of rest?” Perhaps we can now meaningfully and confidently answer these questions. Hashem didn’t have a particular picture in mind; Hashem asked us to help Him paint the picture and determine what it should look like.

This idea — that we partner with Hashem in all ways and even play a role in painting the landscape of the world — resonates with the way my father lives his life. With the support of my mother, he has dedicated his entire life to answering the call to help the Jewish community raise their different voices in harmony to partner with Hashem in *tikun olam*, perfecting the world. May we all merit to contribute our voices to this harmony as well, and truly partner with Hashem.



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