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בס"ד

Parashat Va'ethanan Part I On Moses' Oration: Before the Decalogue

1. Motivational Themes

Moses began his valedictory address (a group of several discourses that served as the framework for the covenant reaffirmation he was leading the Israelites through) with a prologue, mostly a brief historical retrospective that dealt with key topics of the past forty years. In accordance with the nature and purpose of prologues to suzerain-vassal treaties of the time, the model upon which the format of the G-d-Israel covenant was primarily based, he emphasized G-d's faithfulness to Israel and His benefactions on its behalf. He began from the period following revelation so that when he had brought his review "up-to-date" he would backtrack and focus on that most central event of Israel's history. He provided a powerful introduction to his description of revelation and the Decalogue, the proclamation through which G-d revealed Himself and which lies at the foundation of the G-d-Israel covenant.

But first, Moses brought the historical segment of his address (chapters 1–3) to a close with very personal and emotional information. In *Parashat Va'ethanan's* opening passage (Deut. 3:23 ff.) he informed the people of his plea to G-d to allow him to enter the land and of G-d's categorical refusal. Toward the end of the following pericope Moses returned to the theme of his not being allowed to enter the land, emphasizing the point with several repetitive clauses (4:21–22), creating "bookends" around this portion of his discourse. He employed the matters of his imminent death and not entering the land as motivational factors for the Israelites: He is not entering the land but they are. They should ensure they deserve it by abiding by G-d's laws. And by speaking so definitively of his impending death, his "sermon" takes on the character of a last will and testament. He has no ulterior personal motive and is expressing his most sincere thoughts

for their welfare, strengthening his entreaty that they abide by the laws. Moreover, their full awareness that he will no longer be available to assist them in their crises may prompt them to more fully heed his words. One wonders if G-d's rigid refusal was to prompt him to turn his attention to these matters.

Moses begins his introduction to revelation and the lawgiving by expressing the most basic benefits of fulfilling the laws. Doing so results in life, plain and simple – לְמַעַן תִּחְיֶיךָ (4:1) – and will bring success in taking possession of the land. Those who followed Baal-peor met destruction while those who remained attached to Hashem were still alive.* Between these linked thoughts Moses charges the nation not to add to or subtract from the laws he is transmitting to them.

Concerning this latter command, the Ramban, following the Rambam on the issue of the validity of rabbinic law (*Mishneh Torah, Laws of Rebellious Scholars* 2:9), stated: "It is part of Torah law to abide by ordinances established by the rabbis ... but it must be made clear that such ordinances are not from the Holy One, blessed be He, in the Torah." Hizquni (alternate interpretation) maintains that the prohibition against adding to or subtracting from the laws only applies to G-d's commands concerning idolatry. He bases this on the fact that our verse is formulated in direct association with the prohibition of idolatry and that the same holds for the only other attestation of an exhortation not to add to or subtract from the Torah (Deut. 13:1). In all other spheres of law, legislation subsequent to the lawgiving by the duly recognized authority of the time (later termed rabbinic) is straightaway permitted.**

In any event, this stricture was addressed to the public at large. Even if it was intended to apply to all the laws (as most commentators take it), its scope of prohibition surely excluded future instruction that G-d may send through another prophet. This would be in accordance with what He stated to Moses in a context that described

an aspect of the lawgiving: “I will raise a prophet for them ... like you, and I will place My words in his mouth; he will speak to them all that I command him” (18:18). True, the Talmud does state that even prophets were not permitted to add to or subtract from the Torah corpus *אין נביא רשאי להקדש דבר מעתה* (“A prophet is not permitted to put forth something new from now” [b. *Shabb.* 104a, based on Lev. 27:34]). However, the wording of this principle (“from now”), its derivation and the talmudic discussions regarding it are all extremely problematic. As Rabbi S. D. Sassoon commented on this passage, the historical setting compelled the sages of that time to strongly legislate against even a prophet adding to or removing from the law. False prophecy, by changing the law, was threatening traditional Judaism. (See our further comments on this topic in the coming section.)

Moses then extols the excellence of the law. It is Israel’s “wisdom and discernment in the eyes of the nations”; when the nations learn about it they will admire Israel and proclaim, “Surely, a wise and discerning people is this great nation” (Deut. 4:6). Of course, in accordance with G-d’s larger goals for the world it is important that the nations think well of Israel and its laws and that Israel identify with these considerations. But Moses’ intention here appears to be motivational: since Israel will receive prominence and respect as a great nation through its laws it is appropriate for it to appreciate them and have a full commitment to them.***

Moses continues on the theme of the preeminence of Torah law and its rendering Israel a great nation. Through the use of rhetorical questions he essentially declares that as a result of fulfilling these laws G-d’s closeness to the Israelites will be unparalleled among the nations of the world. The righteousness of Israel’s laws is also unparalleled among the nations of the world. Multiple use of the *גוי גדול* (“great nation”) clause recalls G-d’s use of that term in His promise to Abraham concerning the nation that is to stem from him, *ואעשהך לגוי גדול* (“And I will make you a great nation” [Gen. 12:2]), and with it the attendant blessings to the nations of the world. point to the difference these factors make as regards Israel and the nations.

Torah law has, indeed, been widely credited, particularly in the context of the ancient Near East,

as unique, with innovations of countless valuable reforms. It has promoted advances in the application of justice, equality and humanitarianism in virtually every sphere of human interaction. For a discussion on various aspects of this topic and for many examples, see our studies, “Parashat Yitro Part II: Reflections on the Decalogue,” “Parashat Mishpatim Part I: Innovations in Law” and “Parashat Ki Tese Part II: On Torah Advances for Human Rights.”

Moses recapitulates some of the awesome details of the revelation experience and adjures his audience to forever keep that remarkable day in mind. They should transmit the particulars to their children and grandchildren. Reminding the people of the Ten Commandments, he cautions them at length concerning worship of the one G-d and the dire consequences of its violation. Although referring to a time almost forty years before, when the members of his present audience had either been under twenty years of age or not yet born, he speaks to them as dealing with their own experience, taking for granted that Israel is to be construed as a “corporate entity,” with parents bringing their children into the covenant.

In the following section (Deut. 4:25 ff.) Moses addresses the possibility of the Israelites’ violating the covenant with idolatrous behavior and G-d punishing them with destruction and exile from their land. Citing the depth of G-d’s commitment to the covenant, he proclaims that even then G-d will accept their sincere repentance. Guaranteeing that sincere repentance would be accepted was a monumental modification of covenantal norms as understood in the ancient world. The hope that the possibility of repentance provides when and if necessary overrides the possible weakening it may cause to the nation’s commitment to comply in the first place.

Moses dramatically recounts the extraordinary and unprecedented events of the lawgiving and of the Exodus and emphasizes that the G-d-Israel covenant is a unique phenomenon in world history. With this he brings his introductory remarks to an inspirational climax before reviewing the core of the covenant, the Decalogue. (See our several studies on the Decalogue in our comments on Parashat Yitro.)

2. Stressing the Divinity of the Laws

After reciting the Decalogue, Moses reviewed the people’s fearful reaction to that awe-inspiring event.

They could not handle the pressure and had requested that henceforth he be an intermediary between them and G-d. G-d was favorable to their request. His words on this matter are highly motivational; they exude a feeling of satisfaction with the people and a sense of reasonableness toward their responsibilities, with the intention of benefiting them and their children forever. Moses attached to this another statement of benefits that they would receive for fulfilling the forthcoming law section – longevity and perpetuation on the land. He greatly emphasized the divine origin of the post-Decalogue regulations that he had taught them and would now be teaching them (Deut. 5:29-6:3).

Despite the fact that the divine origin of the post-Decalogue laws is clearly stated in other books of the Torah (such as in the common superscription, “Hashem spoke to Moses, saying...”), in our context Moses stresses it time and again; it is a most significant matter and must be fully internalized. In his review of the people’s reaction to revelation he emphasizes that they had been in touch with the divine and it was their choice not to remain in such a firsthand relationship in which they themselves would have received the laws directly from G-d. It was at their request that he served as an intermediary to transmit G-d’s words, which is exactly what he was now continuing to do.

In a later chapter, Moses returns to the people’s reaction to the lawgiving experience and to G-d’s acceding to it. He adds details that he did not spell out in our account. G-d had informed him that His intentions for Israel’s future included the presence of a prophet like himself to provide divine instruction to the nation. It is anticipated that in the future communication with G-d was to be vital. Contrasting Israel with the nations, “who hearken to sorcerers and augurs” (Deut. 18:14), Moses states: “Not so has *Hashem* your G-d designated for you. A prophet from your midst, from your brethren, like me, *Hashem Elokekha* will raise up, him you shall heed... as you asked from *Hashem* your G-d at Horeb on the day of the assembly, as you said, ‘Let me no longer hear the voice of Hashem my G-d and this great fire let me no longer see, that I not die’” (vv. 14-16).

As he developed this theme in our context Moses informed the people that in accommodating the people’s request, G-d had instructed him thus: “Go tell them ‘return to your tents.’ But as for you, remain here with Me and I shall speak to you the whole *misvah* and *huqim* and *mishpatim* that you shall teach to them” (5:27-28). Thus, the laws Moses taught to the people after the Decalogue are of divine origin. In each of the following five verses, right up to the *Shema* ‘Yisra’el verse which begins the section that elaborates the laws, Moses touches on this very critical point with slight variations of nuance.

Moses then enunciates a major and comprehensive code of law that spans more than twenty-one chapters (6:4–26:15) and constitutes the majority of his valedictory address and the book of Deuteronomy. These laws represent the “stipulations” segment of ancient Near Eastern covenant format, that is, the suzerain’s demands of his vassals, as we demonstrate in our study, “The G-d-Israel Covenant: On Meaning and Format.”

3. *Misvot Huqim and Mishpatim*

The Deuteronomic compendium is often described by G-d and Moses as comprising three distinct classes of law: *misvot*, *huqim* and *mishpatim* (Deut. 5:28; 6:1; 7:11; 8:11; 11:1; 26:17; 30:16), usually but not exclusively in that order, sometimes using the singular *misvah*. Although the dividing lines between categories of law are somewhat fluid and there may be overlap in some cases, the basic definitions of these categories in Deuteronomy appear clear and consistent.

At the conclusion of what we shall soon see is the first section, that of *misvot*, Moses describes *hamisvah* as “to love Hashem your G-d, to go in His ways and to cleave to Him” (11:22). (Or, in accordance with the corresponding word usage for אהבה [love] in covenant parlance of the time, the first clause should be translated, “to be loyal to Hashem your G-d.”) In other words, *hamisvah* refers to G-d’s command to have full devotion to Him alone. A similar definition of *hamisvah* is given in Deuteronomy 19:9: “to love Hashem your G-d and to go in His ways.” The Deuteronomy verses that use the term *hamisvah* without reference to the other law categories are fully consistent with this definition (6:25; 8:1; 11:8; 30:11).

We may thus define *misvah* (“the command”) in Deuteronomy as a precept that focuses directly on the relationship with the *mesaveh* (the Commander), and the commitment to Him. This category thus refers to the covenant’s foundation and essentials and naturally constitutes the law compendium’s first section (we will use the more convenient term “section” although it may be more appropriate to refer to a sub-section). This section begins shortly after the Decalogue (6:4) and extends until the end of *Parashat ‘Eqeb* (11:25). The three verses that appear at the beginning of *Parashat Re’eh* that concern blessings and curses and the two following verses that call for a national ceremony to be held upon entering the land (11:26-30) confirm that the *misvot* section had concluded, as we shall explain in a coming study.

The second section comprises *huqim*. When used in the specific sense as one of two or more categories of law, particularly when joined with *mishpatim*, *huqim* refers to statutes that are seen as having come into being by *הִקְיָנָה* (“inscribing”), the lawmaking activity of the legislator. This implies an arbitrary origin. Such laws are not thought of as necessarily required by considerations of justice or as being enjoined by human reason, although they may provide great benefit. By no means is there an implication that they are incompatible with or inexplicable by human reason. The Rambam’s view on this matter is compelling. Specifically mentioning the *huqim*, he states: “Every one of the six hundred and thirteen commandments serves either to inculcate a truth or remove an erroneous opinion, to transmit a rule of justice or remove injustice, to train man in moral qualities or to warn against an evil trait” (*Guide for the Perplexed*, 3:31). No law of G-d should be thought of as incompatible with or inexplicable by human reason, although human reason may not have postulated it and its explanation may not be readily apparent. This category constitutes the whole gamut of specifically religious and ritual legislation.

The *huqim* section begins in *Parashat Re’eh* (12:1) and extends to that *parasha*’s conclusion (through 16:17). Some of the subjects it covers are sacrifices, responses to idolatrous acts, dietary regulations, tithes, seventh-year release of loans and festival practices. Although not demanded by human

reason, such regulations may promote the goals that human reason prescribes.

The third law section, *mishpatim*, comprises ordinances based on *mishpat* (justice and fairness). These are laws that human reason requires out of an innate sense of conscience and propriety. Some commentators are of the opinion that *mishpatim* are laws that stem from the legislation of the *shofet* (judge), but even so it would be related to the judge’s exercise of his judgment and sense of justice and fair play. This category covers the sphere of human interpersonal relationships, including civil and criminal law, plus man’s obligations to lower creatures. It begins in *Parashat Shofetim* and continues until near the end of the law compendium (25:16), at which point three laws, appropriate for closing the law compendium, are elaborated (25:17–26:15).

In accordance with these basic definitions of *misvot*, *huqim* and *mishpatim*, it is clear that the Decalogue itself is composed of these three categories in that sequence. It is also the case that the ensuing law compendium reflects the Decalogue structure in that it comprises three corresponding sections in similar order, as we pointed out in the previous paragraphs.

In addition, it may be that one of the factors governing the arrangement of particular items within the three sections is the sequence of the specific laws within the Decalogue. Many of the later laws seem to be linked in one way or another to particular Decalogue laws and may be seen as elucidations and expansions of them. Thus, the Decalogue and G-d’s revelation from which it emerged may be viewed as the foundation as well as the source of all the laws that follow. As we elaborate on the above we will follow the most traditional enumeration of the Ten Commandments and not join the discussion regarding the exact delineation of each one, as our thesis is unaffected by whichever approach was intended.

In the Decalogue’s first commandment, Hashem proclaims His identity, His relationship with Israel and His great recent benefaction on behalf of the Israelites, namely, His redeeming them from slavery. This implies the Israelites’ responsibility to be committed to the covenant He established with them. The second commandment is a corollary that demands exclusive devotion to Him and bans all forms of polytheism and idolatry. The first two commandments together constitute the covenant’s foundation, comprise its most

essential features, and are wholly concentrated on the commander. Applications and extensions of these two commandments and of the covenantal relationship they manifest, plus measures to enhance and preserve the relationship and prevent violation of it, make up the section of *misvot*.

The third commandment – the prohibition to take Hashem’s name in vain – may also be part of the *misvot* category, but it borders on the *huqim*, and as we shall propose in a coming study, its expansion in the subsequent laws enters the *huqim* section. The fourth commandment concerns the Sabbath, a prime example of the *huqim*. The fifth commandment, honoring father and mother, can perhaps be taken as beginning the *mishpatim*. However, framed as a categorical imperative as all the Ten Commandments are, it has often been considered to be part of the *huqim*. Its subsequent expansions in applications to other cases appear to be part of both the *huqim* and *mishpatim* classes.

The *mishpatim* proper comprise the sixth through tenth commandments.

It is noteworthy that the combination of *misvot*, *huqim*, and *mishpatim* that so often appear in one phrase, do not so appear after the introduction to the second section (that is, the introduction to the second and third sections, the *huqim* and *mishpatim*) and before the conclusion of the third section. In introducing the second section, Moses calls upon Israel to “take care to fulfill all the *huqim* and *mishpatim*” (11:32) and “these are the *huqim* and *mishpatim* that you should take care to fulfill” (12:1). He omits *misvot* since at that point the *misvot* section was concluded. In the midst of the festival laws, part of the *huqim* section, Moses calls upon Israel to take care to fulfill “these *huqim*” (16:12).

In his introductions to chapters 4 and 5, however, and, in his introduction to the articulation of the covenant formula in 26:16, subsequent to the law compendium, Moses does mention *huqim* and *mishpatim* without *misvot*. Those statements are in the context of a discussion of an aspect of the covenant category itself (the *misvah*), and those usages are specifically directed to the non-*misvot* classes of law that are attached to the covenant.

In the *misvot* section (6:4–11:25) Moses describes at length the appropriate and required attitude and disposition an individual should have toward G-d. He articulates a comprehensive constellation of מְצִוֹת שֶׁבֶלֶב (precepts of the heart), whose purpose is to inculcate in the nation a deep commitment and loyalty to G-d and the covenant. This section is almost exclusively devoted to the covenant and the first two commandments. There is an allusion to the third commandment in the verse “and by His name shall you swear” (6:13; 10:20), as this aspect of that commandment fits within the *misvot* category. This relatively lengthy section of more than five chapters and 144 verses does not contain a single direct reference to any one of the later Decalogue commandments.

In coming studies we will demonstrate the first section’s intrinsic and thoroughgoing linkage with both the covenant theme and the first two commandments by briefly surveying its passages in order. We will dwell somewhat on the *Shema*’ and *Vehayah Im Shamo’a* passages, formulations that have always been of special significance in Judaism and central to the daily prayer liturgy.

Endnotes

* Rabbi S.D. Sassoon pointed out that in the book of Joshua there is an indication that the “destruction” of which Moses here speaks refers to a sexually transmitted disease contracted while engaging in the rites of Peor with the foreign women. Phinehas and the leaders speak of the Peor transgression “from which we have not been purified until this very day” (Josh. 22:17). Had the Israelites still been serving Peor it surely does not seem likely that the leaders would pass over that situation as they did. Moses’ contrasting statement to those who had remained steadfast in their attachment to Hashem, who are הַיּוֹם כָּלְכֶם חַיִּים (“all of you are alive today” [Deut. 4:4]), might then be translated as “all of you are healthy today,” based on an established translation of *hayim*). (See our comments on הַיּוֹם כָּלְכֶם חַיִּים in our study on “Parashat Vayigash Part I.”)

** Perhaps, in accordance with the strict definition we shall soon discuss of *misvah* as specifically referring to the first two commandments, there is a hint of this interpretation in Moses’ multiple use of that stem in our verse: מְצִוָה אֶתְכֶם, followed by מְצִוֹת ה', and again מְצִוָה

אָתְּכֶם, indicating that it is this category of law to which he is referring.

*** In accord with the fact that this verse touches on the importance of the nations of the world acknowledging the wisdom of the Torah, Rabbi Samuel the son of Nahmani stated in the name of Rabbi Jonathan: “What is the biblical source from which we learn that it is a meritorious deed to calculate תְּקִיפּוֹת וּמְזֻלוֹת (equinoxes and solstices and heavenly constellations)? From ‘it is your wisdom and discernment in the eyes of the nations,’ for what knowledge projects ‘wisdom and discernment in the eyes of the nations,’ say, the calculation of תְּקִיפּוֹת

וּמְזֻלוֹת” (b. *Shabb. 75a*). In his *Commentary to the Mishnah (Sanh. 10)*, the Rambam cites this verse as a guideline to the interpretation of Torah doctrine. Accordingly, he considers those who interpret Scripture (even as regards the interpretations of the sages in *midrashim* and *aggadot*) in a manner that discounts basic rational criteria and prompt the nations of the world to disrespect the Torah and Israel, to be in violation of this verse.