

Twice Kissed

Rabbi Moshe Taragin

Ram, Yeshivat Har Etzion

The revelation at Har Sinai was the epic event of religious history and of the Jewish odyssey. It therefore features prominently in King Shlomo's Shir Hashirim, which allegorically chronicles Jewish history.

Indeed, at its very outset, Shir Hashirim describes how the Ribono shel Olam kissed us – a reference to the unsurpassed intimacy which accompanied matan Torah.

Let him kiss me with the kisses of his mouth for thy love is better than wine.

Song of Songs 1:2

ישקני מנשיקות פיהו כי טובים דדיך מיין:
שיר השירים א:ב

Sensitive to the pluralization of 'neshikot', kisses, Chazal infer that the song refers to the *two* sections of Torah – the written and the oral - each delivered on the 6th of Sivan. Although we typically identify Shavuot with the delivery of the written law, Shlomo HaMelech reminds us that Har Sinai was also the platform for delivering the oral Torah, Torah sheba'al peh.

Without question, anchoring the two components of Torah to the same mountain and the same moment in history underscores their fundamental cohesion. Denying either element of Torah is tantamount to heresy, as demonstrated by Shammai's refusal to convert a candidate solely interested in the written Torah, Torah shebichtav⁴⁴.

Yet, despite their unity, an intriguing gemara asserts that a unique covenant centers around Torah sheba'al peh.

Rav Yochanan said, Hashem only affirmed His covenant with Yisrael because of those things that are oral (al peh), as it says "for based (al pi) on these words I have made a covenant with you and with Israel."

Gittin 60b

א"ר יוחנן: לא כרת הקב"ה ברית עם ישראל אלא בשביל דברים שבעל פה, שנאמר: (שמות ל"ד) כי על פי הדברים האלה כרתי אתך ברית ואת ישראל.

גיטין ס:

This dramatic statement isolates Torah sheba'al peh as the subject of a special brit, a covenant, that somehow excludes Torah shebichtav. What unique attributes does this brit confer upon Torah sheba'al peh?

⁴⁴ Shabbat 31a

Covenant of Bilateralism

Torah shebichtav is immutable and unchanging. Every letter, every word, and every grammatical mark was dictated by the Ribono shel Olam. Hence, the gemara states:

When Moshe went up, he found Hakadosh Baruch Hu sitting and tying crowns to the letters (of the Torah)

Menachot 29b

בשעה שעלה משה למרום, מצאו להקב"ה שיושב וקושר כתרים לאותיות
מנחות דף כט:

The Gemara emphasizes that even seemingly secondary embellishments such as the crowns of the letters are pivotal to the subtextual meaning. Consequently, our own role in studying this Divinely written Torah is merely to reveal or disclose Hashem's will. We are not meant or even allowed to create meaning or alter the textual structure. As the Gemara in Megillah claims "kol pesuki d'lo paskei Moshe anan lo paskinan,"⁴⁵ we may not even fragment the pasuk from its original whole. Such dissection is prohibited since it vandalizes Divine perfection.

By contrast, Torah sheba'al peh is a brit - a symbiotic treaty demanding mutual participation. Humans are entrusted to develop and even create the literature of Torah sheba'al peh, as long as they adhere to the divinely dictated guidelines of Halacha. Hakadosh Baruch Hu provided the basic patterns of thought, the fundamental templates, the 13 literary tools of exegesis and interpretation, and the overall halachic structure. Within this structure, we are allowed and even requested to apply, differentiate, classify, organize, formulate, and extrapolate - in short, *to create*. Torah sheba'al peh is a product of the human imagination wedded to the Divine will.

The beracha recited after the public Torah reading captures this essential difference between Torah shebichtav and Torah sheba'al peh:

Who gave us the Torah of truth, Torat Emet, and planted in us eternal life.

אשר נתן לנו תורת אמת וחיי עולם נטע בתוכינו

The Tur⁴⁶ demonstrates that "Torat Emet" refers to the absolute and unchanging Torah shebichtav. Hashem "gave us" Torah shebichtav, and we must preserve the form in which it was given. In contrast, "eternal life" refers to Torah sheba'al peh, which is dynamic and flexible and can respond to the vicissitudes of life. Hashem "planted in us" Torah sheba'al peh; Hashem meant us to tend and cultivate this fluid Torah like a seed, to be responsible for its growth and development.

There are vastly different opinions as to where the imposed structure of Torah sheba'al peh ends and where personal creativity begins. How specific was the set of parameters provided by Hakadosh Baruch Hu, and how much room was left for human invention? Is a dispute, machloket, merely a product of the disintegration of the tradition, or did the Ribono shel Olam

⁴⁵ Megillah 22a

⁴⁶ Orach Chayim 139

give us a Torah replete with multiple coexistent truths, each championed by a different party to the dispute, each reflecting a different aspect of His transcendent wisdom? While the scope of permissibility to innovate is debated, all agree that Torah sheba'al peh is a brit, a dynamic, progressive partnership between Hakadosh Baruch Hu and Am Yisrael.

Covenant of History

The Beit Halevi⁴⁷ writes that originally Torah sheba'al peh did not exist as a separate corpus. Merely glancing at the written luchot yielded a comprehensive understanding of both Torah shebichtav and Torah sheba'al peh. Ultimately, as the egel debacle rerouted Jewish history and precipitated galut, Torah sheba'al peh was detached from the written Torah and incorporated as an autonomous tract. Why did the decree of galut necessitate detachment of the oral Torah from the written Torah?

The inexorable advent of galut posed the challenge of maintaining Jewish identity without country, currency, or flag. Bereft of national symbols, the Jewish nation would be in dire need of a coagulant to unify its scattered citizens who barely spoke the same language. Torah sheba'al peh is our symbol, our unifier. Despite geographical and cultural differences, Jews across the globe always spoke the language of Torah sheba'al peh, and together adhered to the legislation of Chazal that comprises Torah sheba'al peh. The oral Torah provided a 'secret' language and a common schedule to bind together Jews who would otherwise follow disparate personal and collective trajectories. Torah sheba'al peh alone assures our national survival.

Torah shebichtav broadcasts a universal message of monotheism, morality, and obedience to the Divine summons. Early in Sefer Devarim, Rashi⁴⁸ reminds us that Torah shebichtav was translated into 70 languages, because its message is universal. Indeed, the Biblical text has perennially been accessible to Jew and Gentile alike; as a written narrative, it is not and cannot be exclusively reserved for the Jewish community. In Western Civilization, the Ten Commandments still serve as moral guideposts for human behavior. Yet this "accessibility" has resulted in tragic consequences, for in some cases Torah shebichtav was hijacked in the service of fraudulent religious tenets.

In contrast, Torah sheba'al peh remained a secret and esoteric code only decipherable by those who diligently pursued its study and received its transmission from the previous generation. The gemara in Kiddushin⁴⁹ portrays the deliberation of King Yannai prior to annihilating the talmidei chachamim of his generation. To allay his concern about the future of Torah without these scholars, Yannai's advisors assured him that "the book of Torah is still available [without these teachers]; whoever chooses to study may still acquire its knowledge." The gemara comments that Yannai should have responded that although Torah shebichtav would be accessible even

⁴⁷ Derashot Beit Halevi 18

⁴⁸ Rashi, Devarim 1:5

⁴⁹ Kiddushin 66a

without scholars, Torah sheba'al peh would vanish without them. Torah sheba'al peh remains complex and elusive.

Torah sheba'al peh has remained the exclusive legacy of a wandering and scattered people. For this reason, one may teach Torah shebichtav to a Gentile, but not Torah sheba'al peh. Even now that Torah sheba'al peh is committed to writing, it remains accessible only through massive effort and only through endowment from its scholars and masters. Confidential and inaccessible to outsiders, Torah sheba'al peh is our covenant of survival.

Conclusion

Torah sheba'al peh's covenantal nature indicates the desirability of dynamic human participation in its formulation as well as its exclusivity and secrecy which assure Jewish survival. May the Ribono shel Olam bestow upon the Jewish nation sweeping knowledge of His Torah as we once again celebrate the Torah's delivery from Heaven.