YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Sichot of the Roshei Yeshiva**

**Parashat KI TISA**

**SICHA OF HARAV YAAKOV MEDAN**

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This shiur is dedicated *le-zekher nishmot*

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on the occasion of their 14th yahrzeits,

by their children Allen and Patti Ray

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**The Last Set of Forty Days**

Translated by David Strauss

**I. The Second Set of Forty Days**

According to the accepted understanding, on the first of Elul, Moshe ascended the mountain to receive the second set of tablets, he remained on the mountain for forty days, and he received the second tablets on Yom Kippur. In order to commemorate these forty days, the days from the beginning of Elul until Yom Kippur were established as days of repentance and atonement. This period reaches its climax on the last day of the period – on Yom Kippur.

Rashi and the *midrash* note the difference between the middle set of forty days and the last set of forty days:

"Like the first days" (*Devarim* 10:10) – of the first tablets; just as they were passed in [God's] goodwill, so these were passed in [God's] goodwill. But the intervening [forty days], when I remained there to pray for you, were passed in [God's] anger. (Rashi, *Devarim* 10:10)

This matter is explained in greater detail by the author of *Seder Olam*, according to whom the third set of forty days begins on the 29th of Av:

And he ascended [the mountain] on the 29th of Av, and he was taught the Torah a second time. "Like the first days" – just as the first ones were passed in [God's] goodwill, so the second ones were passed in [God's] goodwill. Say from this that the intervening [forty days] were passed in [God's] anger. He descended on the 10th of Tishrei, which was Yom Kippur, and he informed them that God was appeased, as it is stated: "Yet pardon our iniquity and our sin, and take us for Your inheritance" (*Shemot* 34:9). (*Seder Olam*, chap. 6)

The *Tur* writes:

It was taught in *Pirkei De-Rabbi Eliezer*: On Rosh Chodesh Elul, the Holy One, blessed be He, said to Moshe: "Come up to Me to the mountain" (*Shemot* 24:12). Then he ascended [the mountain] to receive the second tablets. And they sounded a *shofar* in the camp [to inform them that] Moshe ascended the mountain, so that they not stray further after idols… Therefore, *Chazal* instituted that the *shofar* should be blown on Rosh Chodesh Elul every year and throughout the entire month, in order to admonish Israel to engage in repentance, as it is stated: "Shall the horn be blown in a city" (*Amos* 3:6), and in order to confound the *satan*… And there are those who say many *Selichot* and supplications from Rosh Chodesh Elul and on. (*Tur*, *Orach Chayim* 581)

I wish to examine the connection between Yom Kippur, which was the fortieth day of Moshe's third ascent to the mountain, and the Yom Kippur with which we are familiar – apart from its being the climax of the fast that Moshe was observing, his third fast of forty consecutive days, a fast that our Yom Kippur is liable to bring to mind.

A deeper connection can be found between these days of Yom Kippur, if we compare Moshe's ascent to the mountain to the High Priest's entry into the Holy of Holies as part of the Yom Kippur service. Indeed, the Ramban compares the Holy of Holies in the *Mishkan* to Mount Sinai at the time of the giving of the Torah:

And the secret of the *Mishkan* is that the [Divine] glory that rested on Mount Sinai should rest upon it in concealment. As it is stated there: "And the glory of the Lord rested on Mount Sinai" (*Shemot* 24:16)… So too it is stated regarding the *Mishkan*: "And the glory of the Lord filled the *Mishkan*" (*Shemot* 40:35)… And the glory which appeared to them at Mount Sinai was in the *Mishkan* with Israel at all times. And when Moshe came, it was the same speech that spoke to him at Mount Sinai. As it is stated in connection with the giving of the Torah: "Out of heaven He sounded to you His voice, that He might instruct you; and upon earth He made you to see His great fire" (*Devarim* 4:36); so too it is written with regard to the *Mishkan*: "Then he heard the voice speaking to him from above the ark-cover that was upon the ark of the testimony, from between the two *keruvim*; and He spoke to him" (*Bemidbar* 7:89). (Ramban, *Shemot* 25:1)

The account of Moshe's ascent to the mountain emphasizes the cloud, whose function was to hide the glory of God from the eyes of Moshe when he stood before the *Shekhina*:

And He said: “You cannot see My face, for man shall not see Me and live.” And the Lord said: “Behold, there is a place by Me, and you shall stand upon the rock. And it shall come to pass, while My glory passes by, that I will put you in a cleft of the rock, and will cover you with My hand until I have passed by.” (*Shemot* 33:20-22)

And the Lord descended in the cloud, and stood with him there, and proclaimed the name of the Lord. (*Shemot* 34:5)

And so it is with High Priest's entry into the Holy of Holies on Yom Kippur:

That he die not; for I appear in the cloud upon the ark-cover. (*Vayikra* 16:3)

And he shall put the incense upon the fire before the Lord, that the cloud of the incense may cover the ark-cover that is upon the testimony, that he die not. (*Vayikra* 16:13)

Moreover, we can distinguish between two situations of Moshe's location vis-à-vis the *Shekhina* and vis-à-vis Israel with respect to the cloud. In the situation described here, the *Shekhina* is on one side of the cloud and Moshe is on the mountain, and behind him the people of Israel are at the foot of the mountain – on the other side of the cloud.

But regarding the middle set of forty days, during which time God was angry with the people of Israel, it is stated according to the *midrash* and R. Yosef Kara:[[1]](#footnote-1)

And it came to pass, when Moshe entered into the tent, the pillar of cloud descended and stood at the door of the tent; and [God] spoke with Moshe. And when all the people saw the pillar of cloud stand at the door of the tent, all the people rose up and worshipped, every man at his tent door. And the Lord spoke to Moshe face to face, as a man speaks to his friend. (*Shemot* 33:9-11)

During the middle forty days, the cloud at the entrance of the tent separated between Moshe and the *Shekhina*, which stood before him face to face without a partition, and the people of Israel, who stood outside the tent and outside the cloud. It seems that the change during the last set of forty days stemmed from Moshe's request of God: "If Your presence go not with me, carry us not up hence" (*Shemot* 33:15). Moshe asked that God not go only with him, but with the entire people. The cost of his request to be with the people was that the cloud – instead of separating between Moshe and the people – now separated between the *Shekhina*, on the one hand, and Moshe and the people, on the other. From that time on, God did not speak to Moshe "face to face, as a man speaks to his friend" (*Shemot* 33:11), but only – "and you shall see My back; but My face shall not be seen" (*Shemot* 33:23).

Let us return to Yom Kippur. The Pharisees and the Sadducees disagreed about the manner in which the incense was burned on Yom Kippur.[[2]](#footnote-2) The Pharisees maintained that the incense on Yom Kippur should function like the cloud during Moshe's last set of forty days on Mount Sinai. Thus, on Yom Kippur, the High Priest would enter the Holy of Holies, and there he would burn the cloud of incense to serve as a barrier between himself and the ark. The cloud of incense separated between the place of the *Shekhina* and the place of the High Priest, with the people behind him outside the sanctuary. The Sadducees, on the other hand, maintained that the High Priest would burn the cloud of incense at the entrance of the Holy of Holies and outside it, but he himself would cross the line of the cloud and go in. The cloud would separate between him, together with the *Shekhina* inside, and the people standing outside the Temple.

In light of what we have said, the dispute between the Pharisees and the Sadducees reflects the question of whether Yom Kippur is similar to the middle set of forty days – during which time Moshe merited a special and sublime closeness to God but the cloud separated between him and the people, so that all the people were far from God – or if is it similar to the last set of forty days – during which time the leader represented the entire people. Although he entered the Holy of Holies, there is a certain limitation on closeness to God, but this is a level fit for the entire people, and not just for Moshe or the High Priest.

**II. The Thirteen Attributes of Mercy**

However, the main comparison between Moshe's ascent to the mountain and our Yom Kippur relates to the recitation of the Thirteen Attributes of Mercy.

And the Lord passed by before him and proclaimed: The Lord, the Lord, God, merciful and gracious, long-suffering, and abundant in goodness and truth; keeping mercy to the thousandth generation, forgiving iniquity and transgression and sin; and that will by no means clear the guilty; visiting the iniquity of the fathers upon the children, and upon the children's children, to the third and to the fourth generation. (*Shemot* 34:6-7)

The recitation of the Thirteen Attributes of Mercy is the essence of Yom Kippur. This is evident from the content of our *Ne'ila* service, in which we recite the Thirteen Attributes seven times.[[3]](#footnote-3)

The expectation in the verses at the time of God's revelation is that He will once again proclaim the Ten Commandments to Moshe, for it was to that end that Moshe ascended the mountain – so that God would give him again that which was written on the first set of tablets that he had broken. To our surprise, however, instead of the Ten Commandments, God tells him the Thirteen Attributes of Mercy.

There is a connection between the Thirteen Attributes and the Ten Commandments. The attributes of mercy begin with "the Lord, the Lord, God," paralleling the first commandment, "I am the Lord." It is stated in the Attributes: "visiting the iniquity of the fathers upon the children," similar to what is stated in the second commandment: "You shall have no other Gods before Me… for I the Lord you God am a jealous God, visiting the iniquity of the fathers upon the children" (*Shemot* 20:3-5). In the Thirteen Attributes, it is stated: "and that will by no means clear the guilty," as in the third commandment, where we find the explanation: "For the Lord will not hold him guiltless that takes His name in vain" (*Shemot* 20:7).

Despite the similarities and parallels between the Attributes and the Commandments, there is a fundamental difference between them. While the Ten Commandments are the pillar of the **Torah**, by way of which God commands his people what they must do, the Thirteen Attributes are the pillar of **prayer**, by way of which the people of Israel ask God to act with His attribute of mercy toward them.

There is another difference between the Ten Commandments and the Thirteen Attributes of Mercy. God proclaims the Ten Commandments before the people, as a king who commands his subjects, but the Attributes are said to Moshe alone, in secret. If it is not enough that the Attributes are not proclaimed directly to the people, the hidden nature of their proclamation finds expression even with respect to Moshe: "And you shall see My back; but My face shall not be seen" (*Shemot* 33:23). This involves an aspect of hidden providence (*hester panim*), which came in the wake of the people's sin of the golden calf. But this also involves an aspect of sublimity, as was formulated by *Chazal*:

"And the Lord passed by before him and proclaimed" – R. Yochanan said: Were it not written in the text, it would be impossible for us to say such a thing: This verse teaches us that the Holy One, blessed be He, drew his robe round Him like the reader of a congregation and showed Moshe the order of prayer. (*Rosh Hashana* 17b)

God passes by before Moshe and before the people, and He, as it were, is part of the community itself. Since God serves as the congregation's reader, Moshe sees only his back, just as we see only the back of the reader in the synagogue. In this sense, God does not stand before Israel as a king who commands his people – face to face. God gives the people a personal model to emulate, in the way of a commander on the battlefield who calls out to his soldiers: "After me!" – and his subordinates see not his face but only his back. Indeed, in a large percentage of the *mitzvot,* we do not see God as commander, but as one who offers a positive example, which we must emulate:

"*Ve-anveyhu*" (*Shemot* 15:2) – Be you like Him: just as He is gracious and compassionate, so be you gracious and compassionate. (*Shabbat* 133b)

On the basis of this principle, R. Moshe Cordevero wrote his book *Tomer Devora*, in which he learns from each of the Thirteen Attributes the way that a person should behave in order that he resemble his Maker.

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I wish to add with respect to the relationship between the Ten Commandment and the Thirteen Attributes of Mercy:

And the Lord said to Moshe: “Write you these words, for according to these words I have made a covenant with you and with Israel.” And he was there with the Lord forty days and forty nights; he did neither eat bread, nor drink water. And he wrote upon the tablets the words of the covenant, the ten words. (*Shemot* 34:27-28)

In verse 27, we find the relationship between the Written Torah and the Oral Torah, between those laws that are written and those that are "according to [*al pi*]these words."[[4]](#footnote-4) According to what was said above, it is possible that "these words" refer to the gist of the Written Torah – the Ten Commandments, which are mentioned in verse 28. Parallel to this, "according to" refers to the gist of the Oral Torah – prayer. It seems that the gist of prayer is the Thirteen Attributes of Mercy, which are proclaimed here orally.

Perhaps Moshe wanted to write on the tablets that he had carved the Thirteen Attributes, bring them down to the people of Israel, and teach them to them as a repair of their sin with the golden calf. God, however, told him that despite the sin and the shock, the Torah does not change; the Ten Commandments remain in place, and he must write only them. The Thirteen Attributes and prayer remain as Oral Torah that helps in the observance of the Written Torah, but "you are not permitted to set them down in writing."[[5]](#footnote-5)

**III. From the Attribute of Justice to the Attribute of Mercy**

I will mention one last point regarding the connection between Moshe's Yom Kippur and the Yom Kippur service mentioned in the Torah, on the one hand, and our Yom Kippur, on the other. Moshe ascended the mountain for the third time after a severe judgment was announced for the people in the wake of the sin involving the golden calf. The harsh attribute of justice found expression in the anger during the middle set of forty days, as mentioned above. It also found expression in the deaths of the three thousand worshippers of the calf at the hands of the Levites and in the plague with which God smote the people afterwards:

And the Lord smote the people because they made the calf, which Aharon made. (*Shemot* 32:35)

Nor can we ignore the fact that according to the plain meaning of the text, the essence of the Yom Kippur service (*Vayikra* 16) was stated not only as a ruling for Yom Kippur, which is mentioned only at the end of the passage, but as a continuation of the harsh blow of the deaths of the sons of Aharon when they drew too near to God. *Chazal* draw a connection (and rightly so, in our opinion) between the deaths of the two sons of Aharon and the sin of Aharon regarding the golden calf. In the wake of the decree imposed upon him on the day of the dedication of the *Mishkan*, Aharon saw a need to come before God to atone, to appease, and to begin a new page in his relationship with God. For this purpose, he was given the order of service, which transformed later – with certain additions – into the order of the service of Yom Kippur, as stated at the end of the *parasha.* In this way, our Yom Kippur, with its order of service, is once again connected to Moshe's Yom Kippur, on which he came to appease and to atone for the sin of the golden calf.

1. I heard this distinction about fifty years ago from my friend R. Danny Weil. Elsewhere, in a discussion of the tent of meeting outside the camp, I dealt extensively with the middle set of forty days. The quotations brought in the coming lines are based on the assumption of the commentators that the description of the tent of meeting outside the camp refers to the middle set of forty days. I adopted a different approach, according to which the middle set of forty days took place at Mount Sinai, and the account of the tent of meeting outside the camp refers to the period after Yom Kippur. What follows thus accords with a position that I myself have not adopted. [↑](#footnote-ref-1)
2. See at length *Yoma* 53a. [↑](#footnote-ref-2)
3. It should be noted that according to strict law, it is appropriate to recite the Thirteen Attributes of mercy that Moshe heard on the mountain on Yom Kippur even in the other services of the day. Thus we find in the *Tur* (*Orach Chayim* 620):

According to the Gaon, the custom of the Yeshiva is that in *Arvit* and *Shacharit*, "And He passed by" is recited 5 times, and in *Musaf* 7 times, and in *Mincha* 6 times, and in *Ne'ila* 3 times. And Avi Ezri writes: I have received by tradition that in the *Yotzer* service, "And He passed by" is recited thirteen times, corresponding to the thirteen attributes. And R. Natronai writes: The custom is that in *Shacharit,* we say 7 *selichot* [the Thirteen Attributes; see Rosh, *Yoma* 8:20], and in *Musaf* 5, and in *Mincha* 3, and if there is time we say 5. [↑](#footnote-ref-3)
4. The Talmud and the *midrashim* saw this as two teachings – that which is written and that which is transmitted orally. See especially *Gittin* 60b, *Yerushalmi Pe'ah* 2:4, and elsewhere. I have presented my understanding of the matter. [↑](#footnote-ref-4)
5. The words of Reish Lakish in *Gittin* 60b. [↑](#footnote-ref-5)