

Fundamental Issues in the Study of *Tanakh*
By Rav Amnon Bazak

Shiur #10e: *Peshat* and *Midrash Halakha*

(2) Re-interpretation motivated by practical considerations – the date of Shavuot

In the previous *shiurim* we discussed discrepancies between the simple reading of the text and the halakhic conclusions of *Chazal*. We explained that in certain cases there was a moral and ethical motive which lay behind *Chazal's* desire to give a different interpretation to the verses than the one conveyed by their simple reading. We now move on to a second sub-category in which the Sages making use of the authority with which the Torah invests them to interpret not according to the text's plain meaning. However, unlike the first category, in which these changes are introduced out of moral considerations, here the considerations are practical.

An example is the discussion about the time when the *omer* sacrifice must be offered – which has ramifications for the timing of the Shavuot festival. The Torah teaches that the *omer* must be waved "on the day after the Shabbat" (*Vayikra* 23:11), and then a count is immediately commenced, leading up to the festival when a new meal offering is brought:

"And you shall count for yourselves **from the day after the Shabbat**, from the day that you brought the *omer* of the wave offering, seven complete *shabbatot* shall there be. Until **the day after the seventh Shabbat** you shall count fifty days, and you shall offer a new meal offering to God." (ibid. 15-16)

When the text speaks of "Shabbat," it usually refers to the seventh day; thus, "the day after the Shabbat" would seem to refer to the first day of the week - Sunday. This interpretation is supported by the verses that follow, which speak of counting seven weeks leading to "the day after the seventh Shabbat," where the expression once again indicates Sunday, the day that follows the seventh Shabbat. Since the counting of the *omer* is not attached to any specific calendar date, there is no way of knowing the date of the end of the counting.¹ For this

¹ It should be noted that in the period when the new moon was sanctified and declared on the basis of testimony by witnesses, the exact date of *Shavuot* could not be calculated even if the date for the start of the count was given, since the date of the festival depended on the number of days in the months of *Nissan* and *Iyar* (see Tosefta *Arakhin* 1:9 [Zukermantel edition p. 543], noting that the festival can fall on the 5th, 6th, or 7th of *Sivan*: if *Nissan* and *Iyar* each have 30 days, *Shavuot* will fall on the 5th of *Sivan*; if one has 30 days and the other 29, then *Shavuot* will fall on the 6th; and if both months have 29 days then *Shavuot* will fall on the 7th of *Sivan*.)

reason, the timing of the Shavuot festival – the fiftieth day of the counting – is not defined by the date on which it falls (as the other festivals are), but rather by the day of the week.

However, *Chazal* taught that "from the day after the Shabbat" means "from the day after the festival" (*Menachot* 65b and elsewhere). On this basis, the *omer* is offered not on the Sunday of the week after Pesach (or on the Sunday of any week after that), but rather on the first day of *chol ha-mo'ed* (the intermediate days) of Pesach – i.e., on the 16th of Nissan, the day after the first day of the festival. Thus, Shavuot will always fall fifty days after Pesach. Here too, as in the discussion regarding the verse of "an eye for an eye," the Gemara cites many different proofs for this law, most of which are rejected. And this matter, likewise, was at the center of a great controversy with the Sadducees,² who maintained that the verse should be understood in its plain sense – i.e., that the reaping of the *omer* and the festival of Shavuot should both fall on Sundays.³

Chazal's interpretation was accepted by all of the commentators (including those like Rashbam, who adhere to the *peshat*), but it is difficult to ignore the fact that this understanding seems somewhat forced. Firstly, nowhere else in *Tanakh* do we find the word "Shabbat," on its own, used to mean 'festival.'⁴ Secondly, the word "Shabbat," if understood as a reference to the festival, makes no sense in relation to verse 16 – "until the day of the seventh Shabbat shall you count fifty days," since there is no additional festival ("Shabbat") on the 49th day of the

² It was owing to this controversy that the reaping of the *omer* was carried out on the 16th of *Nissan* with special pomp and ceremony, as described in the Mishna (*Menachot* 10:3): "And [the inhabitants of] all the neighboring towns would gather there in order that the reaping of the *omer* would be with great ceremony. When it became dark he would say to them, 'Has the sun set?' They said, 'Yes.' [Again,] 'Has the sun set?' And they say – 'Yes.' '[With] this sickle?' They say, 'Yes.' [Again,] '[With] this sickle?' And they say – 'Yes.' 'In this basket?' They say, 'Yes.' 'In this basket?' They say – 'Yes.' On Shabbat he says to them, 'On this Shabbat?' They say, 'Yes.' 'On this Shabbat?' They say, 'Yes.' 'Shall I reap?' And they say to him, 'Reap.' 'Shall I reap?' And they say to him, 'Reap.' [Thus] three repetitions for each and every detail, and they say to him, 'Yes,' 'yes,' 'yes.' Why all this ceremony? Because of the Boethusians, who said, 'There is no reaping of the *omer* at the conclusion of the festival.'"

³ The conflict is described in Megillat Ta'anit (Noam edition, pp. 59-63, 174-179, and it is cited in the discussion in *Menachot* 65a-b: "The Boethusians said: 'Shavuot is [celebrated] on the day after Shabbat [i.e., Sunday].' Rabban Yochanan ben Zakkai contended with them, saying: 'Fools; from where do you deduce this?' And none of them was able to answer him, except for one old man who began prattling before him, saying: 'Moshe our teacher loved Israel, and he knew that Shavuot was only one day, so he fixed it on the day after Shabbat so that the Jewish People could enjoy two days [of festivity].' He [Rabban Yochanan ben Zakkai] then quoted them this verse: 'It is a journey of eleven days from Chorev by way of Mount Se'ir to Kadesh Barne'a' (*Devarim* 1:2): If Moshe loved the Jewish people, why did he keep them in the wilderness for forty years?" This anecdote presents the Sadducees in an ironic light, for the simple answer to Rabbi Yochanan ben Zakkai's question should have been that that is the plain meaning of the text.

⁴ A festival is sometimes referred to as "*shabbaton*," but even this appellation is used only with reference to the festivals in the month of *Tishrei* (the "day of sounding of the shofar" [Rosh ha-Shana], *Yom Kippur* [the only day that is referred to as "*Shabbat shabbaton*"], Sukkot, and *Shemini Atzeret*. See *Vayikra* 23:24, 32, 39); it is never used with reference to Pesach.

count. We must therefore conclude that the word "Shabbat" is used in two (!) unusual ways in these two verses: In verse 15 it means "festival," and in verse 16 it means "the end of the seventh week from the start of the counting" (see Rashi). How are we to understand this rather significant discrepancy between the plain meaning of the text and *Chazal's* interpretation of it?⁵

The key to understanding this puzzle is to be found in the words of Rabbi Yehuda Ha-Levi (1075-1141), in his great work, *The Kuzari*:

"Even if we accept the Karaite⁶ interpretation of the verses, 'From the day after the Shabbat' and 'until the day after the Shabbat' (*Vayikra* 23:11, 15, 16) to refer to Sunday, we submit that one of the judges, or *kohanim*, or kings who was righteous in the eyes of God, interpreted the verse thus, and the Sanhedrin and all of the Sages were in agreement with him, that the counting is intended to create an interval of fifty days between 'the first fruits of the barley harvest' and 'the first fruits of the wheat harvest,' and to maintain 'seven weeks,' which are 'seven complete *Shabbatot*.' The first day of the week is only mentioned as an example, as if to say: If the beginning – the day of 'putting the sickle to the standing corn' – is a Sunday, then you will reach the end of your count on a Sunday. From this we deduce that if the beginning [of the count] is on a Monday, then we count until a Monday. But the time of 'putting the sickle to the standing corn' is in our hands: we may start [putting the sickle to the corn] whenever we see fit, and count from that day. And indeed, that day was fixed as the second day of Pesach. This in no way contradicts the Torah, and we are obligated to accept this ruling as a commandment, since it emerged from 'the place which the Lord shall choose.'"⁷

Rabbi Yehuda ha-Levi raises the possibility that at an earlier period, Shavuot did indeed fall on a Sunday every year, as suggested by the plain meaning of the expression "from the day after the Shabbat." However, at a later stage, "one of the judges, or *kohanim*, or kings who were righteous in God's eyes" changed this practice, and this change was accepted by the Sages of the Sanhedrin.

Rabbi Yehuda Ha-levi's suggestion here makes two assumptions. First, by the expression "from the day after the Shabbat" the Torah merely means to illustrate the manner in which the date of Shavuot is to be calculated, rather than giving an instruction that the *omer* be sacrificed and the counting commenced

⁵ The question is discussed at length and in detail by Rabbi David Zvi Hoffmann in his *Perush le-Sefer Vayikra*, vol. II, Jerusalem 5719, pp. 113-151. For a different direction see Rabbi Y. Bin-Nun, "*Chametz u-Matza be-Pesach, be-Shavuot u-ve-Korbanot ha-Lechem*," *Megadim* 13, 5751, pp. 32-37.

⁶ On this point there is a connection between the Karaites and the Sadducees (a fairly rare occurrence), since the Karaites also interpreted "the day of the Shabbat" as a reference to Sunday (Corinaldi, column 45).

⁷ *Sefer Ha-kuzari*, part III, section 41.

specifically on a Sunday.⁸ In other words, the verse is descriptive rather than prescriptive. Second, he assumes that it was agreed, and confirmed by the Sanhedrin, that the beginning of the counting – "when the sickle is put to the standing corn" (*Devarim* 16:9) – would always be from the second day of Pesach.

Rabbi Yehuda Ha-levi's words make a substantial contribution to reconciling the discrepancy between the *peshat* and the *midrash halakha*. When *Chazal* declared that "from the day after the Shabbat" means "from the day after the festival," they did not mean this as an *interpretation* of the verse in *Vayikra*; rather, they meant it as a *halakhic ruling*, by virtue of the authority of the Sanhedrin to decide the beginning of the count on a particular date, although the Torah makes no such stipulation.

At the same time, Rabbi Yehuda ha-Levi's solution does not explain why in fact it was decided that the count would begin specifically on the 16th of Nissan, rather than on another date. The answer to this question is to be found in a *beraita*:

"On the day of the Shabbat' – that is, on the day of the festival. Or perhaps it is not so, but rather on the day after the Shabbat of Creation [i.e., the seventh day]? Rabbi Yossi ben Yehuda said: the text says, 'You shall count fifty days': every count that you make will be only fifty days. If you were to say that the verse refers to the day after the Shabbat of Creation, then it would sometimes come to 51, sometimes to 52, 53, 54, 55, or 56." (*Menachot* 65b)⁹

⁸ Seemingly, an argument could be brought against Rabbi Yehuda ha-Levi from the verse, "They ate of the corn of the land on the day after the Pesach, unleavened bread, and parched corn, on that very day" (*Yehoshua* 5:11) – which would appear to parallel the verses relating to the counting of the *omer*: "And he shall wave the *omer* before God to be accepted for you; on the day after the Shabbat shall the Kohen wave it... And you shall eat neither bread nor parched corn nor green ears until that very day..." (*Vayikra* 23:11-14). From here we see that already by the time of *Yehoshua* it was established that "on the morrow of the *Shabbat*" means "on the morrow of Pesach" (see Rambam, *Hilkhot Temidin uMusafin* 4:11). However, the verse in *Yehoshua* is difficult to understand in light of *Chazal's* interpretation, since the expression "Pesach," as a date, always refers to the 14th of Nissan (see, for example, *Bamidbar* 28:16; *Yehoshua* 5:10). Thus, in this context "the morrow after the Pesach" means the 15th of Nissan, and this appears explicitly: "They journeyed from Ra'amses in the first month, **on the fifteenth day of the first month; on the morrow of the Pesach** *Bnei Yisrael* went out with a high hand in the sight of all of Egypt" (*Bamidbar* 33:3). Indeed, *Chazal* are divided as to whether the expression, "on the morrow of the Pesach" in *Sefer Yehoshua* refers to the 15th or the 16th of Nissan (*Yerushalmi Challa* 2:1; 58b), and whether the prohibition on the "new" produce was observed already at this stage, or whether it came into effect only after the inheritance of the land. Even the "*peshat*" commentators agree that the plain meaning of the verse in *Yehoshua* refers to the 15th of Nissan, and therefore the text is not talking about eating of the new produce, but rather about eating of the old produce (see Radak on *Yehoshua* 5:11; Ibn Ezra on *Vayikra* 23:11).

⁹ The discussion in the Gemara brings several proofs for the assertion that "the morrow of the Shabbat" means the morrow of the festival. The very attempt to cite proofs would seem to weaken Rabbi Yehuda ha-Levi's argument that this is a halakhic ruling that does not have a basis

This seems rather opaque: if we count fifty days, how do we get to these other numbers?¹⁰ However, the explanation is quite simple: these numbers (51-56) testify to the varying interval between the first day of Pesach and Shavuot. If the counting begins on the first Sunday after the first day of Pesach, then the interval between the first day of Pesach and Shavuot changes from year to year: when the 15th of Nissan falls on a Shabbat, the count will begin on the 16th, and Shavuot will fall 50 days later. But if the 15th of Nissan falls on a Friday, then the count will only begin on the 17th of Nissan (the next Sunday), and Shavuot will fall 51 days from the first day of Pesach. If the 15th of Nissan falls on Thursday, the count will begin on the 18th of Nissan, and Shavuot will fall 52 days after the first day of Pesach... and so on.

Why was it so important to maintain a fixed period of time between Pesach and Shavuot? We might suggest that the motive was a practical one. As noted above, Shavuot is exceptional in relation to the other festivals prescribed in the Torah in that it has no fixed date. In ancient times, according to Rabbi Yehuda ha-Levi, Shavuot would fall on a different date each year, and there would be a varying number of days between Pesach and Shavuot. Fixing the beginning of the count on the 16th of Nissan entailed a (relatively) fixed date for Shavuot.¹¹ While in ancient times one had to take two variables into consideration in order to establish the date of Shavuot (the day of the week that the first day of Pesach had fallen on, and the respective lengths of the months of Nissan and Iyar), in the later period there was only one variable that affected the date (the length of the months of Nissan and Iyar).¹² This had practical importance, since it helped a Jew to know when Shavuot would fall without having to conduct complex calculations every year. According to this understanding, *Chazal's* aim in their teaching arose from practical considerations.

This offers us the possibility of understanding other instances in which we find a discrepancy between the *peshat* of the verses and *midrashei halakha*,¹³ as

in the verses. However, according to Rabbi Yehuda ha-Levi one could suggest that the Gemara is seeking is "*asmakhtaot*" – i.e., attempts to find allusions to a law which is not actually derived from the verses.

¹⁰ In light of this question, the Gemara argues at the end of the discussion (ibid. 56a) that indeed this claim can be disproved, since "perhaps the verse intends 50 days, not including these other six days" (see Rashi ad loc.).

¹¹ The date of the festival was still not altogether fixed, because in those times, before the calendar itself was fixed, a count of fifty days after the first day of Pesach could lead to any one of three dates, depending on whether the months of Nissan and Iyar had 30 days or 29 days: "Shavuot can fall on the 5th, the 6th, or the 7th [of Sivan] – no earlier and no later" (Tosefta Arakhin chapter 1 law 9, Zukermandel edition p. 543).

¹² The process of fixing the date of Shavuot in the calendar as the 6th of Sivan was only completed with the transition from sanctification of the new month on the basis of testimony from eye-witnesses, to the adoption of the fixed calendar year.

¹³ It may be that the same idea applies also to other instances where the Written Law leaves room for maneuver which is then limited by the Oral Law. For instance, the Torah gives no definition of the quantity of bread that must be consumed for the Blessing After Meals to be

stemming from practical considerations.¹⁴ These considerations were viewed as important by *Chazal*, and therefore some of their *midrashei halakha* were intended to serve these purposes.

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obligatory; it states merely, "you shall eat and you shall be satisfied and you shall bless the Lord your God for the good land which He has given you" (*Devarim* 8:10), but the Oral Law gives objective measurements – a "*ke-zayit*" or a "*ke-beitza*" (the volume of an olive or the volume of an egg). As *Chazal* teach: "God said to [the ministering angels]: And shall I not lift up My countenance to Israel, seeing that I wrote for them in the Torah, 'You shall eat and be satisfied and bless the Lord your God', but they take care [to recite Grace After Meals] even over the quantity of a mere olive or a mere egg" (*Berakhot* 20b).

Likewise concerning the quantity of produce from which *teruma* (a tithe) must be taken: the Torah offers no definition of the quantity that must be given to the Kohen, but gives a general instruction, "All the best of the oil and all the best of the wine, and of the wheat, the first of them which they shall offer to God – to you have I given them" (*Bamidbar* 18:12). However, *Chazal* provide defined guidelines: "One part in forty is considered generous... a medium measure is one in fifty, while one part in sixty is considered meager" (*Terumot* 4:3). Therefore we might propose that underlying these *midrashei halakha* is the desire to establish defined halakhic norms.

¹⁴ The idea of explaining some of the contradictions between *midrashei halakha* and the *peshat* as arising from practical considerations is developed at length by Shadal. For a discussion of his approach in this realm see S. Vargon, "Shadal's Critical Attitude Towards *Chazal's* Halakhic Interpretations that Run Counter to the Simple Meaning of the Text", *JSIS* 2 (2003), pp. 97-122; Lockshin, pp. 39-45.