

Parashiot Nitzavim-Vayelech 5780, 2020:

It is Not in Heaven

Rabbi David Etengoff

Dedicated to the sacred memories of my mother, Miriam Tovah bat Aharon Hakohen, father-in-law, Levi ben Yitzhak, sister-in-law, Ruchama Rivka Sondra bat Yechiel, sister, Shulamit bat Menachem, Chana bat Shmuel, Yehonatan Binyamin ben Mordechai Meir Halevi, Shoshana Elka bat Avraham, Tikvah bat Rivka Perel, Peretz ben Chaim, Chaya Sarah bat Reb Yechezkel Shraga, Shmuel Yosef ben Reuven, the *Kedoshim* of Har Nof, Pittsburgh, and Jersey City, and the *refuah shlaimah* of Mordechai HaLevi ben Miriam Tovah, Moshe ben Itta Golda, Yocheved Dafneh bat Dinah Zehavah, Reuven Shmuel ben Leah, Dovid Shmuel ben Chasiyah and the health and safety of our brothers and sisters in Israel and around the world.

Parashat Nitzavim contains a celebrated *pasuk* that proclaims the ready accessibility of the Torah: “*Lo bashamayim he* — 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?’” (*Sefer Devarim* 30:12, this and all Torah and Rashi translations, *The Judaica Press Complete Tanach*) Rashi (1040-1105), basing himself upon *Talmud Bavli Eruvin* 55a, interprets the phrase “*lo bashamayim he*” in a direct fashion: “For if it were in heaven, you would have to climb up after it [in order] to learn it.” In other words, nothing whatsoever may stand in the way of the exceptionally important *mitzvah* of learning Torah.

Our Talmudic Sages view *lo bashamayim he* as the underpinning of one of the most crucial ideas in Judaism, namely, the unchanging and eternal nature of the Torah. *Talmud Bavli, Baba Metziah* 59b is one of the most famous narratives in Talmudic literature where this idea is given powerful voice:

On that day R. Eliezer brought forward every imaginable argument [in a highly technical dispute regarding ritual purity and impurity], but they [the other Sages] did not accept them... [Said Rabbi Eliezer:] “If the *halacha* agrees with me, let it be proved from Heaven!” Whereupon a Heavenly Voice (*bat kol*) cried out: “Why do you dispute with R. Eliezer, seeing that in all matters the *halacha* agrees with him!” But R. Yehoshua arose and exclaimed: “*Lo bashamayim he!*” What did he mean by this? — Said R. Yirmiyahu:

That the Torah had already been given at Mount Sinai; we pay no attention to a Heavenly Voice (*bat kol*), because You [Hashem] have long since written in the Torah at Mount Sinai (*Sefer Shemot* 23:2), “One must follow the majority opinion.” (Translation, *The Soncino Talmud* with my brackets and emendations)

This passage is nothing less than amazing. In one fell swoop, it denies any possibility of a post-Sinaitic Torah Revelation. Moreover, it demonstrates that human reason, in conjunction with the accepted principles of Torah exegesis and majority rule, is the sole determinant in any halachic dispute — even when one of the disputants is a *bat kol*! Rav Moshe Feinstein *zatzal* (1895-1986) drew upon this interpretation of *lo bashamayim he* in his analysis of *Chazal*’s power to determine the *halacha*:

The Holy One blessed be He gave the Torah to the Jewish people to act according to that which they will understand of the Written Law, and that which was given to them orally (*ba'al peh*) at Mount Sinai — based upon [the limits of] their comprehension. Moreover, the Holy One never explained nor determined the actual practice of the laws of the Torah, since *lo bashamayim he*; instead, He agreed from the outset to the understanding and explanations of the Torah Sages... even if this was possibly not in accord with the Holy One blessed be He’s understanding. (*Iggerot Moshe*, Introduction, translation, brackets and underlining my own)

The fundamental import of *lo bashamayim he* is also the focus of *Talmud Bavli, Temurah*

16a:

Rav Yehudah stated in the name of Shmuel: Three thousand *halachot* were forgotten during the period of mourning for Moshe. They said to Yehoshua: “Ask!” He replied: “*Lo bashamayim he.*” They [the Jewish people] said to Shmuel [the prophet]: “Ask!” He replied: “*Aleh HaMitzvot* — These are the commandments,” (*Sefer Vayikra* 27:34) suggesting [that since the *Mitzvot* have been given] no prophet at this time has the right to introduce anything new [to the Torah]... They [the Jewish people] said to Pinchas: “Ask!” He replied to them: “*Lo bashamayim he.*” They said to Elazar: “Ask!” He replied: “*Aleh HaMitzvot,*” suggesting that no prophet at this time has the right to introduce anything new. (Translation, *The Soncino Talmud* with my emendations)

A careful reading of this passage reveals that we have two answers to our ancestors’ demand “Ask!” Yehoshua and Pinchas both responded with “*Lo bashamayim he,*” whereas Shmuel and Elazar declared “*Aleh HaMitzvot.*” At first blush it seems that these replies differ widely from one another, yet, in his commentary on this *Gemara*, the Maharsha (Rav

Shmuel Eidels, 1555-1631) views them as complementary statements:

When the Jewish people requested Yehoshua to “ask,” they wanted him to inquire from Heaven itself to make known to him the *halachot* that had been forgotten. He then told them *lo bashamayim he*, for since the time of Moshe’s death, the Torah no longer granted us the permission to ask Heaven directly to clarify doubts [and questions that may arise]...Yet, the Torah did give [*Chazal*] permission to determine unclear matters in accordance with the principle of majority rule —as found in Moshe’s Torah.

And this is the same response that was given by Shmuel... namely, no prophet at this time has the right to introduce anything new [to the Torah]. This means, that since the time of Moshe’s death, no prophet was allowed to create something new [based upon a revelation] from Heaven, for the power to legislate whether something was ritually impure or pure was now given over to the Sages — based upon the principle of majority rule. (Translation my own)

Based upon our sources, the concept of *lo bashamayim he* and the principle of majority rule represent the gold standard for halachic rulings from the moment of the Revelation at *Har Sinai*. As Rav Feinstein *zatzal* said: “The Holy One never explained nor determined the actual practice of the laws of the Torah, since *lo bashamayim he*; instead, He agreed from the outset to the understanding and explanations of the Torah Sages.” This is reminiscent of Hashem’s charge to *Adam HaRishon* when he became the steward of the world: “Now the L-rd G-d took the man, and He placed him in the Garden of Eden to work it and to guard it.” (*Sefer Bereishit* 2:15) Just as Adam was tasked with protecting the entire world, so, too, are we obligated to study and guard Hashem’s holy Torah. With the Holy One’s *bracha*, and our fervent desire, may this be so. *V’chane yihi ratzon*.

Shabbat Shalom, *Kativah v’Chatimah Tovah*, and may Hashem in His great mercy remove the *magafah* from *klal Yisrael* and from all the nations of the world.

Past *drashot* may be found at my blog-website: <http://reparashathashavuah.org>
They may also be found on <http://www.yutorah.org> using the search criteria Etengoff and the *parasha*’s name.

The email list, *b'chasdei Hashem*, has expanded to hundreds of people. I am always happy to add more members to the list. If you have family or friends you would like to have added, please do not hesitate to contact me via email <mailto:rdbe718@gmail.com>.

*** My audio *shiurim* on the topics of *Tefilah* and *Tanach* may be found at: <http://tinyurl.com/8hsdpyd>

*** I have posted 164 of **Rabbi Soloveitchik's** English language audio *shiurim* (MP3 format) spanning the years 1958-1984. Please click on the highlighted link.