

Were there a Third 40 Days?

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The significance of the period between *Rosh Chodesh Elul* and *Yom HaKippurim* derives, according to some opinions, from the period of time spent by Moshe on *Har Sinai*, when he received a second set of Tablets (*Shemot* 34:1-4; *Devarim* 10:1-4). The original Tablets containing the Ten Commandments had been destroyed when Moshe was confronted with the Jews engaged in the sin of the Golden Calf (*Shemot* 32:19; *Devarim* 9:17). A dispute revolves around the implications of *Devarim* 10:10:

And I stood on the mountain **like the first days** 40 days and 40 nights, and God Listened to me also that time. *HaShem* no longer Wished to Destroy you.

Ibn Ezra, during the course of his commentary on *Devarim* 10:1 claims:

(**At that time**, *HaShem* Said to me, “Sculpt two tablets of stone like the first ones, and come up to Me to the mountain and make an Ark of wood.)

“At that time”—the 40 days that had just been mentioned.

The reference that the commentator is making is to the verse in *Devarim* 9:25:

And I fell (in supplication) before *HaShem* for 40 days and 40 nights, that I caused myself to fall, because *HaShem* had Said to Destroy you.

The subsequent verses (*Devarim* 9:26-29), according to Ibn Ezra, parallel what is described in *Shemot* 32:30-34; 33:1-23, 34:1-29, resulting in the view that Moshe spent only two 40 day periods on Sinai, the first beginning with the 6th of *Sivan* and ending on the 17th of *Tammuz*, when the first Tablets were shattered, and the second beginning shortly afterwards, and culminating with Moshe descending with the newly fashioned stone Decalogue. Consequently, in *Devarim* 10:10 quoted above, the phrase “**like the first days**” is a reference to the original of the two 40 day stays on the mountain.

Sefer HaChinuch appears to entertain a similar understanding when he omits all references to Moshe’s coming down from Sinai with the second *Luchot* on Yom HaKippurim:

(*Mitzva* 185 “*Mitzvat Avodat Yom HaKippurim*”)

...Among the bases of the *Mitzva*, that it was a manifestation of the Kindness of God for His Creations to establish for them one day each year for atonement from their sins along with repentance that they should repent. That were the sins of the Creations accumulate annually, their “measure would be filled” (i.e., they would deserve annihilation rather than an opportunity to atone) and the entire world would have to be destroyed (as occurred during Noach’s lifetime.) Therefore He foresaw by means of His Blessed Wisdom how to keep the world in existence, to establish one day each year for the atonement of sins for those who repent. And from the beginning of Creation it was set aside and sanctified for this purpose. And once *HaShem* Set aside this day for atonement, the day was sanctified and received merit from the Exalted One so that He Assists in the achieving of atonement. And this is the language of the Rabbis, may their memories be for a blessing, in many places, “And *Yom HaKippurim* atones”—i.e., there is power within the day itself to atone for minor transgressions...

While one could contend that by virtue of the day being preordained for atonement, that day becomes the ideal day for the final atonement from the sin of the Golden Calf and the anniversary of Moshe’s descending the mountain with the second Tablets, by virtue of such a conclusion not appearing in the *Sefer HaChinuch* would seem to suggest that he did not believe that the association between *Yom HaKippurim* and Moshe’s descent is indicated.

RaShI, according to *Seder Olam Rabba*, Chapt. 6, offers an alternate interpretation of the verses in question, and posits that Moshe endured a third stay of 40 days on Sinai before finally descending for the last time.

RaShI on *Devarim* 10:10

“Like the first days”—of the first Tablets (i.e., the original 40 days when the first Tablets were fabricated). Just as a spirit of (Divine) Favor informed those first days, so too such a spirit informed these (last) days, in contrast to the middle group when I stood there to pray on your (the Jewish people’s) behalves, those were marked by a sense of (Divine) Anger.

In RaShI’s view, the phrase in question is not referring to the quantity of days (40) but rather their quality—what was the atmosphere like while God and Moshe were interacting. Only after God’s Anger had been truly assuaged could the Order for Moshe to make a replacement for the Tablets that he had broken could be given. Consequently this Commandment and the Tablets associated with it could not have taken place during the second 40 day period, but rather per force had to constitute a period unto itself. The “Divine Anger” that RaShI mentions characterizes God’s stated Desire to annihilate most of the Jewish people and begin again from Moshe. Whereas Moshe had succeeded in “dissuading” *HaShem*, as it were, from destroying

the people **immediately** in *Shemot* 32:10, it appears from v. 32 that Moshe was fearful that *HaShem* would nevertheless Carry out this Plan over a **long period of time**, perhaps similar to how the generation that sinned with respect to the spies was eliminated over the course of 40 years of wandering (see *BaMidbar* 14:29, after a similar threat in v. 12.) It was only when Moshe was called up to Sinai a third time, when the threat of annihilation no longer was hanging over the people's heads that Moshe could rest easy and focus upon bringing about a true reconciliation between God and His People.

A great insight is offered by R. Chaim Sabbato¹ in light of *Seder Olam Rabba's* and RaShI's hypothesis of the existence of a third 40 day period that leads to the conclusion that the second Tablets were presented to the Jewish people on *Yom HaKippurim*: If the 40 days between *Rosh Chodesh Elul* and *Yom HaKippurim* are to be imbued with repentance and atonement, then wouldn't it be more appropriate for the annual commemoration of these days to correspond to the second 40 days of Moshe's stint on Sinai, when all was hanging in the balance, and so to speak, the "books of life and death were open" before *HaShem* rather than the third 40 day period during which all had returned for all intents and purposes to normal, to the state of affairs that had existed prior to the sin of the Calf? R. Sabbato suggests that the repentance process in fact contains two stages. At first one hopes that he can prevent punishments from being meted out for his iniquities and therefore engages in a serious quest for atonement. However, just because someone is not going to punish you does not mean that they feel towards you as they did previously. Perhaps you have only restored a cold truce, not a warm, loving relationship. The second 40 day period represented only the deflection of destruction; it is the third 40 days that symbolize reconciliation and a renewal of love and trust.

It would appear that R. Sabbato's evocative idea provides extra meaning to the famous statement of R. Abahu (*Berachot* 34b): "In the place where penitents stand, those who have always been completely righteous are unable to stand, as it is said, (*Yeshayahu* 57:19) 'Peace, peace to the distant and the close'—first the one who is/was distant, and only then the one who is close." Just as there is a preference, particularly during the Days of Atonement, to have a *Shliach Tzibbur* (the individual leading the prayers) to who is married (see *Shulchan Aruch, Orech Chayim* 581:1 *RaMA*), possibly to assure that he has experience love and empathy for another in order to properly represent the congregation in his prayers, so too only an individual who has "loved and lost and loved again" vis-à-vis *HaShem*, can truly appreciate a relationship with the Divine in a way that someone who has not gone through such a stormy series of events would be able to do.

All of us have had our challenging periods when we feel more or less alienated from aspects of our spiritual lives, and if we have the fortitude, motivation and will to restore what we have lost and return to our foundations, it makes for the

¹ *Ani LeDodi—Devarim Al HaYamim HaNoraim, Yediot Achronot*, Tel Aviv, 2005, p.20.

most sublime and profound of experiences. Let us hope that this Elul will not only be one marked by great *Shalom Bayit* in our respective temporal homes, but also in our relationship with *HaKadosh Baruch Hu*, Himself.

Shabbat Shalom.