When Did the People say *Na'aseh V'nishmah*"?

Ramban Exodus 24:1

And unto Moses He said: 'Come up unto the Eternal etc.' "This section was told to Moses before the giving of the Ten Commandments, on the fourth day of Sivan." This is Rashi's language. "*And the Eternal said unto Moses: 'Come up to Me into the mountain, and be there*' (verse 12) – this was said to Moses after the Giving of the Torah." These too are Rashi's words. But if so, the sections of the Torah are not in chronological order, nor even in their ordinary sense! Moreover, it is written here, *And Moses came and told the people all the words of the Eternal, and all the ordinances* (verse 3), which are these ordinances written above, concerning which He said, *And these are the ordinances which thou shallt set before them* (21:1). For it is not correct to interpret the expression: *and all the ordinances* (verse3), to mean [as Rashi wrote], the ordinances which "the sons of Noah" were commanded, or the laws which were given to the Israelites in Marah (15:25) which they had already heard and knew, and besides, the word *vayesapeir* (*and he told*) (verse 3) always indicates new things which one tells!

But Rabbi Abraham ibn Ezra has already grasped this subject correctly, in explaining the verses to be in their proper order, when he commented (on the preceding verse 23:33): "up to here is the Book of the Covenant." On the basis of this statement it can be seen that all the sections of the Torah are in methodical arrangement. For after the Giving of the Torah immediately on the same day God said to Moses, *Thus shall you tell the children of Israel: You yourselves have seen that I have talked with you from heaven* (20:19), and He began to warn them again against idolatry, by saying, *You shall not make with Me etc.* (20), and He continued to command him, *Now these are the ordinances which thou shall set before them* (21:1) and all the commandments following that, and finally He finished with the admonition against the worship of idols which they find in the Land, and against making a covenant with their worshippers. He then said to Moses, "After you have commanded them this, *come up unto the Eternal, thou and Aaron*." The section mentions that Moses did according to the command of God, and came to the camp *and told the people all the words of the Eternal* (3) as He had commanded him, *Thus shall you tell the children of Israel: You yourselves have seen etc.* (20:19); *and all the ordinances* (3), as He had commanded him, *Now these are the ordinances which thou shall set before them* (21:1). The people received everything with joy and said, *All that the Eternal has spoken will we do* (19:8). Thus on that day he wrote down in a book all that he had been commanded – the statutes, the ordinances, and the laws – and he *rose up early in the morning* (verse 4) of the following day to make a covenant with them concerning all this. He built the altar and offered the sacrifices (verse 4), and put half of the blood upon the altar of God, and half of it he put in basins (verse6) [in order to sprinkle upon the people], and he took the book which he had written the day before and read it in their hearing (verse 7), and they accepted upon themselves to make the covenant with Him, saying. *All that the Eternal has spoken will we do, and hearken* (verse 7) to you and to whatever you will command in His Name…Thus the act of the covenant took place on the day after the Giving of the Torah, and on that day was the ascent, when Moses went up into the mountain and he stayed from then on for forty days. It is with reference to this that Scripture explains, *and on the seventh day He called unto Moses out of the midst of the cloud* (verse 16), [i.e., *the seventh day* of the month of Sivan, which was the day after the Giving of the Torah], and it is said, *And Moses entered into the midst of the cloud* (18). All this is correctly and clearly explained.

When Did the People say *Na'aseh V'nishmah*"?

Ramban in the above passage records the debate between himself and *Rashi* on the question of when did the Jewish People officially enter into the covenant at Sinai and accept the Torah. If one assumes the Torah operates chronologically, then the covenant at Sinai occurred after the aseret hadibrot and the laws of *Parashat Mishpatim*. *Rashi* argues otherwise. Chapter 24, at least the first twelve verses, really belongs to chapter 19, and takes place before the *aseret hadibrot*.

According then to *Rashi*, the *sefer habrit* read to the people by Moses contains Genesis and all that happened until Mount Sinai. The bulk of it is narrative, although the commandments given at *Marah* are included. For the *Ramban* and others, *sefer habrit* contains the *aseret hadibrot* and *Parashat Mishpatim*, which is overwhelmingly legal in character.

What does it mean to say *na'aseh v'nishmah* for *Rashi?* Perhaps one can say while there certainly is a legal dimension, it is primarily an acceptance of Torah based on the commitment to the story and destiny of the Jewish People, the covenant of Abraham.. It follows well upon Exodus 19 "You have seen how I brought you out on eagle's wings". This acceptance of Torah certainly includes the laws to come, but is rooted in the identity of becoming a kingdom of priests and a holy nation that emerges from their collective identity as a people and their being rescued from Egypt.

What does it mean to say *na'aseh v'nishmah* for the *Ramban*? The covenant at Sinai, while certainly generated by the covenant with Abraham, is primarily rooted in the commitment to *mitzvot*. Sinai includes not only a sense of destiny, but the details and complexities of goring oxen, suffering orphans and widows, and all that it takes to establish a society rooted in the observance of Divine law.

The *Rambam* sees conversion to Judaism as following the model of the Sinai covenant, or, a better ways of expressing it, that at Sinai we all became converts. As we are all familiar, the nature of conversion is an ongoing controversial issue. What does one have to accept to become a Jew? Is it primarily an acceptance of *mitzvot* or a connection to the story and destiny of the Jewish People? Is a willingness to serve in the Israeli army a substantial definition of *kabbalat mitzvot* to enable someone wishing to convert to be accepted? Is this debate an extension of an earlier debate between Rashi and the Ramban as to when did the Jewish People say *na'aseh v'enismah?*