

Being Able to Tell the Difference

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Parshat Para

In Parshat Shmini, immediately after the tragic deaths of Aharon's two sons, Nadav and Avihu (VaYikra 10:1-2), the removal of their bodies (10:4-5), and instructions regarding the manner in which the "Kohanim" (priests) are and are not to mourn (10:6-7), a Divine Directive is given to Aharon and his surviving sons regarding their future working in the Mishkan (Tabernacle):

VaYikra 10:8-9

And HaShem Spoke to Aharon (1) Saying:

Wine and intoxicating liquids do not drink, you and your sons
with you, when you enter the Tent of Meeting and you will
not die. It is an eternal statute for your generations.

The positioning of this instruction so that it follows on the heels of the account of the deaths of Nadav and Avihu, leads some commentators (2) to speculate that the deceased priests had been inebriated at the time that they entered the Tabernacle, and it was their impaired judgment that led them to present a Halachically inappropriate fire upon the altar, which in turn made their lives forfeit.

However the manner in which verses 10 and 11 are to be understood in relation to verse 9 is not readily apparent.

"U'LeHavdil" (AND to distinguish) between the holy and the non-holy, and between the ritually impure and the ritually pure.

"U'LeHorot" (AND to teach) the Jewish people all of the statutes that HaShem has Spoken to them by means of Moshe.

Once the phrase "It is an eternal statute for your generations" is placed at the end of verse 9, the reader readily thinks that the matter is closed, and that the principle that the Tora has just completed establishing is that in order for Kohanim to stay alive, they must not enter the Tabernacle in a state of inebriation. But the usage at the start of the next two verses of the conjunction "U'" (and) implies that somehow these subsequent verses are extensions of verse 9. What do these verses add to our general understanding of the issue at hand?

RaShI (10:10) suggests that verse 10 is supplying the REASON why the “Kohen” must not be impaired when he enters the Mishkan, i.e., because he must be able to distinguish between sacrificial rituals that are proper as opposed to those that are improper, whether from the perspective of the manner in which the act is carried out—what is holy and what isn’t—or the ritual status of the objects being sacrificed—that which is pure as opposed to impure. And as for verse 11 wherein Halachic decision-making is discussed, RaShI claims that an additional context, not necessarily associated with the Tabernacle, (3) is being introduced by the Tora at this point. Just as the priest is not to engage in Divine Service when he is unable to discern the difference between proper and improper sacrifices, so too priests, (4) or anyone else for that matter, (5) who are called upon to render Halachic decisions, are prohibited from making such decisions while unable to think clearly. Although RaShI points out that a complete equation between a priest’s serving in the Tabernacle and a Halachic expert answering questions of Jewish law cannot be proposed, since although an inebriated Kohen entering the Mishkan is guilty of a capital offense, the same is not true of the “Posek” (Halachic decisor) who, in a similar condition, answers a question posed to him, (6) the consideration of even the possibility (the “Hava Amina”) that the two roles can be compared draws attention to the basic commonality between engaging in the Temple ritual and deciding issues in Jewish law, i.e., the need for clear-headed, rigorous and ongoing discerning and distinguishing thought processes.

The end of Parshat Shmini discusses yet another area, independent of the Temple and the court in which being able to decide what is permitted and what is not, is crucial—the general laws of “Kashrut”.

VaYikra 11:46-47

This is the law of the domesticated animal and the fowl and all the living forms of the undomesticated animals that swarm in water and all the living forms that swarm on land.

“LeHavdil” (To distinguish) between the ritually impure and between the ritually pure, and between the type of living thing that can be eaten and between the type of living thing that cannot be eaten.

Whereas, in VaYikra 10, “Havdala” is made pertinent to priests and “Poskim”, who constitute relatively small, elite groups within the greater collective of the Jewish people, the language in VaYikra 11, with respect to the

laws of “Kashrut”, would appear to extend to all traditional Jews, at least those who are not vegans or vegetarians.(7) Furthermore, by expanding the emphasis upon and importance of clear-cut decision-making to include even laws of “Kashrut” that non-specialists are expected to engage in on a daily basis, it could be contended that all aspects of the Halachic lifestyle for all Jews, regardless of birthright or intellectual expertise, will require a Jew to be maximally capable of this type of thinking. Should it not then logically follow that restrictions upon activities that compromise one’s capacity for thinking clearly and thereby observe Halacha properly, should equally apply to everyone, rather than be directed only to “Kohanim” and “Dayanim”/”Poskim”? Will an individual be able to engage in meaningful Tora study, a Mitzva that applies at all times, (8) once he has deliberately allowed his brain to become addled? Don’t we all have to carefully analyze how we conduct our lives in order to determine which action constitutes a “Melacha” and which does not in terms of Shabbat and Yom Tov? Isn’t it necessary to sort out ethical, moral business practices from those that are unacceptable Halachically? When considering appropriate topics for conversation, won’t one have to make informed and subtle decisions regarding what is permitted and what falls under the rubric of “Lashon HaRa”? Even the distinction raised by RaShI between the drunk “Kohen” and the impaired “Posek” with respect to whether the violator is subject to execution, becomes moot when one considers that some Shabbat violations from which all Jews are enjoined are also punishable by death, (9) as are certain types of speech, e.g., blasphemy, (10) and acting as a plotting witness in a capital trial. (11) It would appear therefore that the only reason why the Tora stresses that the “Kohen” avoid such behaviors to a greater extent than other Jews is because the priest’s regular and ongoing responsibilities vis-à-vis the Tabernacle/Temple are so extremely sensitive and complex, and, unlike the day-to-day activities of other Jews, the “Kohen” discharges his commanded tasks in a particularly holy locale biblically designated as HaShem’s “Seat on Earth”, (12) that extra precautions are called for. Consequently, the “Kohen”’s lack of preparedness to carry out his duties as a result of his inebriation is considered a more egregious affront to HaShem and His Service, than the parallel unfitness of others. Yet if the Tora also points out that HaShem Wishes for the entire Jewish people to serve as (Shemot 19:6) “a kingdom of priests and a holy nation”, it should not be surprising that just as the priestly class is expected to be ready to engage at all times in considerable sorting out between that which is permitted and prohibited, so too are we all. And if a substance that deprives one of the wherewithal to think clearly will prevent him/her from meeting his/her responsibilities, it stands to reason that such indulgences are to be avoided. (13)

Aside from general areas of Jewish law where a lack of cognitive clarity would render an individual unable to properly make the types of decisions necessary in order to carry out his/her Halachic obligations, a strong case can be made for avoiding inebriation in those ritual areas specifically intended to serve at first as alternate forms of, (14) and subsequently, as substitutes for (15) the Temple Service. Prayer in particular, even before the destruction of the Temples, appears to be very bound up with the sacrificial cult.

Berachot 26b

R. Yehoshua ben Levi said: The prayers were established to correspond to the Daily Sacrifices....

It was taught in accordance with R. Yehoshua ben Levi:

Why is it said that one can pray the morning prayer only until noon? Because the Daily Morning Sacrifice was offered up until noon. Rabbi Yehuda said: Until four hours into the day...

And why is it said that one can pray the afternoon prayer only until evening? Because the Daily Afternoon Sacrifice was offered up until evening. R. Yehuda said: Until "Pelag HaMincha" (the last quarter of the daylight period on any given day)...

And why does the evening prayer have no fixed upper time? Because the limbs and fats that were not consumed on the altar by evening are offered throughout the night without a fixed upper limit...

And why are the Musaf prayers appropriate throughout the daylight period? Because the Mussaf sacrifice was offered at any time throughout the day. R. Yehuda said until seven hours into the day...

Once the Temple and its sacrifices were no longer an option for the Jewish people, even more significance was attributed to prayer as a substitute method for coming close (16) to HaShem, as articulated by Hoshea (14:3) "Take with yourselves WORDS and return to HaShem; All say to Him: Forgive sin and receive goodness, and LET OUR LIPS TAKE THE PLACE OF THE COWS." If engaging in such practices, particularly prayer, is to be viewed as carrying out variant or vicarious forms of Temple worship, then it would logically follow that just as the "Kohen" is enjoined from inebriation whenever the possibility of performing the true "Avoda" (service) presents itself, then those who are now acting in the Temple "Kohen"'s stead should likewise conscientiously avoid ingesting substances that will precipitate such a state.

Such an approach throws additional light on the following formulation of RaMBaM:

Mishna Tora, Hilchot Tefilla and Nesiat Kapayim 4:17

One who is “Shikur” (inebriated) should not pray because s/he will be unable to summon up the requisite intention/concentration.

And if this individual should proceed to pray anyway, his/her prayer is an abomination. Therefore it will be necessary for him/her to pray once more when the drunkenness has worn off.

One who is “Shatui” (drunken) should not pray, but if s/he prays, the prayer is valid.

What defines a “Shikur”? One who is unable to speak properly in the presence of a king.

What defines a “Shatui”? One who can speak properly before a king and who does not err.

Nevertheless, since s/he has consumed a “Revi’it” (3.7-4.3 oz.) of wine, s/he should not pray until the effects of the wine have worn off.

Finally, it is most ironic to reflect upon Jewish tradition’s equation of the table upon which one eats and drinks (!) with the altar of the Temple.

Menachot 97a

(Yechezkel 41:22) “And the ALTAR, three cubits high, and two cubits long, was of wood. And it had corners; and its length and its walls were of wood. And He Said to me: This is the TABLE that is before the Lord.” He begins to speak of an altar, and he concludes by speaking of a table? R. Yochanan and R. Elazar both said: While the Temple is functioning, the altar atones for a person. And now, when there is no functioning Temple, the table of a person atones for him.

Avudharam explains why what one does at his/her dining table can have such a spiritual affect:

Birchat HaLechem, Zimun, Birchat HaMazon

...And this is with respect to what is stated there “Everyone who spends a long time at his table will have his life lengthened.” And the reason for this is that when one sits for a lengthy period at his table, a poor person will come and will benefit from what is on that table. And there is no greater charity than this, as it is stated, (Mishlei 10:2) “And ‘Tzedaka’ saves from death.” And behold the table in the house is like the altar in the Temple. Just as the altar

atones, so does the table atone. Implements of iron (like knives) shorten the days of man, and therefore it is not appropriate to leave such implements during the time of “Birchat HaMazon” on the place of atonement that lengthens the days of man.

Does the table being equated with the altar imply that those who are sitting around that table are taking the place of the Kohanim? And if so, are there limits in terms of the spirit if not the letter of the law, with regard to the quantity of intoxicating substances that one should consume even in the privacy of one’s own home, at his/her own table? The subtext for such a question is how far and how literally ought one to take an analogy?

Shabbat Shalom, and may we strive to continually be able to select the good from the bad, the holy from the “not-yet” holy, and the spiritual from the mundane.

(1) The uniqueness of this verse wherein HaShem Speaks directly to Aharon, rather than Instructing him via Moshe, or along with Moshe is notable when one notes that in ALL other verses in the Tora where Aharon receives a Divine Revelation, it is together with Moshe:

Shemot 7:8; 12:1

VaYikra 11:1; 13:1; 14:33; 15:1.

BaMidbar 2:1; 4:1, 17; 14:26; 16:20; 19:1; 20:23.

(2) e.g., RaMBaN on VaYikra 10:9 quoting VaYikra Rabba 12:1.

(3) Although eventually, the “Sanhedrin HaGedola” (the Supreme Court) would be located in the “Lishkat HaGazit”, there is no indication that during the period of the Tabernacle, that a court per se was associated with it. From Shoftim 4:5, it appears that Devora’s seat of judgment was separate from the location of the Mishkan. Shmuel, in addition to his home at Rama, is described as going from town to town to judge the people, rather than their exclusively coming to him at the site of the Mishkan.

(4) e.g., Devarim 17:9. Another area that requires the judgment of a “Kohen” is determining whether an individual is first suffering from “Tzora’at” (a skin condition that requires quarantine), and then at what point, if ever, this individual has been cured. See VaYikra 13:2 ff. (5) When Yitro makes his original suggestion to Moshe as to how to delegate judicial authority in Shemot 18:21, there was no mention that judges should be exclusively the province of the Kohanim. Furthermore, when Moshe actually picks individuals to fill this role in Shemot 18:25 and Devarim 1:15, again no mention of trying to choose exclusively Kohanim is to be found.

(6) RaShI cites BaMidbar 18 as a proof text, but he is in fact only paraphrasing the actual Tora text. The words that he quotes in fact appear in two different verses in this chapter: 18:7 contains the phrase, “You and your children with you” while “And you will not die” appears at the end of 18:32. Nevertheless, the verses

in Chapter 18 speak only of errors in the Divine Service rather than with regard to rendering “Pesak Halacha”, leading RaSHI to conclude that the consequences for violations of VaYikra 10:10-11 are not identical.

(7) Even R. Meir, who, according to Chullin 11b-12a, would ordinarily not eat meat because he was never certain that some sort of disqualification had been obliterated by the act of “Shechita” (ritual slaughter), would still have to eat “Korban Pesach” and other “Kodshim” (meat from sacrifices), rendering it impossible for an observant Jew during the Temple period to be a strict vegetarian.

(8) Yehoshua 1:8.

(9) Shemot 31:14,15; 35:2.

(10) VaYikra 24:14.

(11) Devarim 19:19.

(12) Yeshayahu 6:1.

(13) Many years ago, a relative of mine who was an Israeli policewoman adamantly insisted that an Israeli who took drugs was guilty of a form of “treason” against the country since it was every citizen’s responsibility to be on the alert for possible terrorist activities, an alertness that would be impaired under the influence of drugs.

(14) During Temple times, the “Yisraelim” of a particular “Mishmar” (lit. “watch”; one of 24 shifts of Jews who took turns carrying out the Divine Sacrificial Service) and “Ma’amad” would pray and read the Tora in houses of worship in Yerushalayim at the same time that their “Kohanim” and “Levi’im” coreligionists would be sacrificing and playing music in the Temple. These practices paralleled the Temple services and in effect allowed “Yisraelim” to be somewhat proactive rather than completely passive during the performance of these rites. The following appears in the CD Rom edition of the Encyclopedia Judaica, “Synagogue”:

... the arrangements of the mishmarot and ma'amadot were that while the mishmar of priests and levites and the Israelite representatives were present during the weekly rota of service of their mishmar in the Temple, the remaining members of the ma'amad who did not accompany the members of the mishmar to Jerusalem gathered in their local synagogues for prayer and fasting (Ta'an. 4:2).

(15) e.g., Mishna Sukka 3:12 re taking the four species throughout the days of Sukkot;

Talmud Pesachim 115a re eating “Matza” together with “Maror” at the “Seder”;

Talmud Menachot 66a re the manner in which the Mitzva of counting the “Omer” is to be fulfilled;

Pesikta Zutrata on Shemot 16 #29:

“And from the time that the Temple was destroyed, we are not able to achieve atonement via sin offerings, but rather by means of repentance, regret, fasting, and corporeal punishment.”

(16) The root of the word “Korban” (sacrifice) is “Karov” or close.

