

פרשת משפטים

Parshas Mishpatim

The Altar of Stones and the Chamber of Hewn Stone

ולמה נסמכה פרשת דינין לפרשת מונבס? לומר לד, שפשיים סנהדרין אצל המקדש

And why is the Torah portion of laws juxtaposed to the Torah portion of the Altar? To tell you that the High Court should be placed adjacent to the Altar. (Rashi to Exodus 21:1)

I – The Samaritan Sanhedrin

This past week, the news has been inundated with discussions and debates about the scope of authority of a particular branch of government, and I would like to discuss how the Torah established the separation of powers for Jewish civilization.

About two years ago, I met one of the leaders of the Shomronim community (the Samaritans), a group of people who have been around in one form or another since the Second Beis Hamikdash who only believe in the Torah part of Tanach and deny the validity of Nevi'im, Kesuvim, and any part of Torah SheBa'Al Peh. In fact, the Samaritan community is still around today in Israel. His name was Binyamim (with a “mem”) and he told me a lot of interesting things that his community does. For example, the Samaritans believe that the tenth commandment is to build the Beis Hamikdash on Har Gerizim instead of Yerushalyaim. (Conveniently, this mountain is where the Samaritan community has lived for centuries.) In their shuls, the people are divided into rightists and leftists, with the leftists chanting even number verses and the rightists chanting the odd ones. And on Shabbos, they come to shul barefoot,

daven two Shacharises starting at 3:30 AM, two Mussafs, and zero kiddushes. (Not a great marketing strategy if you ask me!)

But one of the most interesting things Binyamim told me was that for Samaritans, only Kohanim could be rabbis. Now given my professional trajectory and the fact that I'm not a Kohen, I'm very happy that I'm not a Samaritan. That being said, you can understand why someone would say something like that. There are two realms in Jewish religious life: the world of Torah and the world of avodah, service in the Beis Hamikdash. And according to the Samaritans, those two worlds are one and the same. They must completely overlap and be under the same leadership.

As from Jews who believe in the true Torah shebichsav and Torah SheBa'al Peh, we have a more nuanced perspective about the separation of powers. The gemara saysⁱⁱ that the Sanhedrin Hagadol, the Supreme Court in Jewish law, needed to be adjacent to the mizbeach, but in an area that had no *kedusha*, no holiness whatsoever, just like any other ordinary pace down the block.

This imagery is very stark. Hashem is telling us that the world of the judiciary and the world of ritual need to be right next to each other, but they can't overlap. The world of the Sanhedrin and the world of the Beis Hamikdash need each other in order for both to function properly,ⁱⁱⁱ but it's critical that they don't mix.

Why not? Wouldn't it be appropriate for the head of the Sanhedrin to be the High Priest?! Wouldn't it be better that the same person who decides what the Torah says would also be the person who goes into the Holy of Holies and Aron where Hashem actually told Moshe the Torah?! Why don't we do that? Why should those two roles be separate?

II – Rabbi Zechariah ben Avukulus's Error

To answer this question, I'd like to share a story with you.^{iv} During the Roman Empire, there was a self-hating Jew named Bar Kamtza who wanted to destroy the Jewish community. To that end, he traveled to the Rome and informed the Emperor that the Jews were planning on rebelling. The Emperor was reticent to believe this random guy and asked for proof. So Bar Kamtza suggested that the Emperor send an animal to the Beis Hamikdash as a korban and see what happens. If the Jews would refuse to offer it as a sacrifice, then it would show that they no longer viewed him as king.

The Emperor agreed to this test and sent the man back with a beautiful calf. On the journey to Jerusalem when none of the Roman delegation was watching, Bar Kamtza took a knife and made a small cut on the cow's lip. According to halacha, this constituted a blemish and rendered the animal unfit to be used as a korban. But in other cultures, including Roman culture, this type of injury was not considered to be ugly or a blemish. Bar Kamtza hoped that the Kohanim would turn the animal away claiming it was unfit and the Emperor would accuse them of making up an excuse to not accept his gift.

After several weeks of travel, Bar Kamtza finally arrives at the Beis Hamikdash and informs the staff on hand that the Roman Emperor has sent an animal as a gift to be offered on the mizbeach. Naturally everyone is excited and the Kohanim gather round to look at the animal. Sure enough, they find the cut on the calf's lip and now they don't know what to do.

So the rabbis there are debating how to proceed. Eventually, they reach a consensus to offer the animal in order to save the countless Jews whom the Emperor would kill if they refused to accept the korban. But when they presented this strategy to Rabbi Zecharya ben Avkulis, he shot them down. He was afraid that people would misunderstand the circumstances and mistakenly believe that anyone can bring an animal with a cut lip as a korban.

So the rabbis offered an alternative suggestion: “Let’s just kill Bar Kamtza!” He’s trying to kill hundreds of thousands of Jews by creating a diplomatic crisis, so he’s a murderer! This is self defense! Once again, Rabbi Zecharya ben Avkulis disagrees. People might mistakenly believe that you get killed if you bring a blemished animal as a sacrifice.

So with both options off the table, they couldn’t do anything. They had reached an impasse. The animal wasn’t offered and Bar Kamtza lived to tell the tale. And he did. To the Roman Emperor, who, enraged at this perceived rebellion, sent in legions of Roman soldiers to attack and further subjugate Jews. The gemara says that this political faux pas precipitated the eventual destruction of the second Beis Hamikdash and holds Rabbi Zecharya ben Avkulis responsible.

“Because of him,” the gemara says, “ההריבה את ביתנו ושרפה את היכלנו והגליתנו מארצנו” “our house was destroyed, our temple was burnt, and we were exiled from our land.”

III – Humble in Judgement

Now Rabbi Zecharya ben Avkulis was obviously a great Torah scholar and righteous person, but if you were asked to critique him for what he did, how would you phrase? What exactly did he do wrong? I would probably say that he made the wrong judgement call, or that he was indecisive. And that’s what the gemara says.^v

But it does so in a very interesting way.

The gemara says ענוותנותו של רבי זכריה בן אבקולס ההריבה את ביתנו – the humility of Rabbi Zecharya ben Avkulis destroyed the Beis Hamikdash!

Why are we criticizing his humility?! That's a good thing! Humility forces a person to question their judgment and try to look at an issue from a different perspective. The very first mishnah in Pirkei Avos says havei mesunim badin – don't rush to judge. Think about the case. Don't assume you've got it right the first time. Listen to others! Unlike in the US Supreme Court where the most senior justice speaks first, in the Sanhedrin, the most junior member spoke first so they wouldn't be intimidated to voice a dissenting view!^{vi}

Fine, say that Rabbi Zecharya ben Avkulis made a bad call! Say that he was indecisive! But not that he was humble! Granted that humility may have caused him to be indecisive, but is humility in itself a bad thing here?!

IV – Humility in Hashem's House

The answer is yes. Humility has its place. But not in the Beis Hamikdash.

A Sanhedrin must be humble. When it comes to interpreting the Torah, trying to understand the infinite wisdom of Hashem, the creator of the universe, think for a minute before deciding. When it comes to deciding the fate of another person or their property, try looking at the issue from a different perspective before issuing judgement. The Torah's word for judge is "elohim."^{vii} Dictating the direction and destiny of the Torah or a human being is an embodiment of divinity. You're like a god! And such rulership behooves great humility. When you play god, sit and think really hard before doing something.

Not so in the Beis Hamikdash. My father once told me that when he was a resident training to be a physician, the goal was to be able to do a procedure without thinking. Completely by instinct. The hours were so grueling since they wanted the doctors to be able to successfully treat a patient even half asleep.

Why? Because when the hospital wakes you up in the middle of the night for an emergency, you're not going to be able to think straight. You need to know what to do beforehand. And you need to know how to do it well.

The same was true for the Kohanim in the Beis Hamikdash. The gemara says^{viii} that the Kohanim were *zerizin*. They acted with an emotional alacrity. It doesn't just mean that they were fast. It means their instinct was to do the will of G-d. Because when you're lifnei Hashem,^{ix} standing in front of G-d, time to think about what to do is not a luxury that you have. You have to know what to do beforehand. Every procedure, every part of the Temple service has already been decided next door in the Sanhedrin.

In the world of the mizbeach and sacrifices, there is no ambiguity. In the world concrete action and ritual there can be no room for second guessing. It is a world of action. A world of conviction. Humility has no place in Hashem's house.^x Only certainty and pride for total dedication to the will of G-d.

And that was Rabbi Zecharyah ben Avkulus's mistake. He was trying to be a Sanhedrin in the Beis Hamikdash. He was wearing the wrong hat. Now wasn't the time for humility or indecision about potential misinterpretations. You're supposed to do that in the Sanhedrin. Not by the mizbeach. G-d's altar demands certitude. That you know what G-d wants and that you'll do it no matter what others might think down the line.

And because of his humility, that failure to balance those two worlds, our Beis Hamikdash was destroyed.

V – “Amongst B'nei Yisrael”

The Alshich writes^{xi} that each Jew is his or her own Beis Hamikdash, a place for Hashem's presence to call home. And as we've seen, there are two parts to that Beis Hamikdash: the Sanhedrin and part and the mizbeach part. So too within ourselves, there are two ways in which we engage Hashem: The world of Torah learning, judging and evaluating ourselves and others. And the world avodah, serving Hashem with rituals, with mitzvos. And we need both. They complement one another. That's why they're next to each other.

But they're different. Our world of Torah learning and judgment requires great humility, thought, and a dose of wholesome self-doubt. It can't be rushed. It's too precious and pure to risk. But the world of avodah, the world of mitzvos, requires a completely different mindset. When we know the mitzvos that we need to do, when we know what Hashem wants from us at a particular moment, then there is no room for humility. Our daily lives as Jews simply can't operate at the slow pace of a deliberating, equivocal judge. Living as Jews in front of the rest of the world and in front of Hashem means being confident and proud about our Judaism, regardless of what the world may think or say.

Im yirtzeh Hashem, just as the Beis Hamikdash was destroyed because of the failure to balance those two worlds, to balance respect and humility for the development of Torah and fellow Jews with the fierce certainty and pride of living those values, the Bais Hamikdash will be rebuilt when we do.

ⁱ The room where the Supreme Court sat was known as The Room of the Hewn Stone because the hall was constructed of specially designed hewn stones. Such construction is diametrically opposed to the construction of the stone altar which the Torah explicitly prohibits using hewn stone to build it (see Exodus 20:22, Ramban ad loc, Sefer Hachinuch 41).

ⁱⁱⁱ Yoma 25a

ⁱⁱⁱ See Rosh Hashanah 31a; Shabbos 15a

^{iv} Gittin 55b-56a

^v See gesher Hachaim

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^{viii} That's why ein shevus bamikdash

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^xLifnei hashem and bittul eclipses sfeikos and generates pride.

^{xi} Exodus 25:8