

Schechter calls Catholic Israel, and thus we acquire the right to participate in the process of creating Judaism anew.

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דבר אחר | A Different Perspective

Songs of Joy, Counterpoints of Tragedy

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Perhaps the Torah speaks now, in the spring of atonement, because we know so well our songs of joy carry with them counterpoints of tragedy.

—Ruth F. Brin, *Interpretations for the Weekly Torah Reading*

Why should we be reading about Yom Kippur around the time Pesah is celebrated? These two holidays seem so different, and yet, in her poem “*Aharei Mot*,” Ruth Brin was on to something, leading me to wonder: How was I to understand the interrelationship between Yom Kippur and Pesah? How was I to take Ruth Brin’s instructive words to heart?

My sister, Miriam, passed away less than a year ago, on a temperate and otherwise normal day in May. Recovering from this life-altering tragedy was, and remains, for me an arduous journey—one that was amplified during this year’s family seder, our first without Miriam.

Just as Aaron, the biblical first high priest of Israel, was called on to conduct the rituals of Yom Kippur after the death of his sons, I, too, was tasked with leading a family seder in the wake of my sister’s passing. The assignment was daunting.

Barukh Hashem (thank God) for ritual that helps us to anchor and focus ourselves, creating an uplifting experience that otherwise could have been disorienting and overwhelmingly sad. The seder became a welcome counterbalance to our family’s weighty loss, a sanctuary for both joy and sadness. We sang with more spirit and cried with more purpose. And not only did we retell the story of our Exodus from Egypt, we spoke of our Miriam, too. Her memory came alive at our seder, and I felt comforted.

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Parashat Aharei Mot 5776

פרשת אחרי מות תשע"ו

Where is Authority Found?

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People familiar with the dietary laws of Judaism know that meat from an animal that died a natural death or was torn apart by wild beasts is not kosher. This is stated explicitly in the Torah. Exodus 22:30 reads, “You shall be my holy people: you may not eat meat torn by beasts in the field; you should throw it to dogs.” (The Hebrew word for “torn by beasts”—*terefah*—refers specifically to torn flesh in biblical Hebrew.) Deuteronomy 14:21 extends this law to animals that have died naturally: “You may not eat an animal that died a natural death; give it to the stranger living in your community so he can eat it, or sell it to a foreigner. For you are Hashem your God’s holy nation.” (The word for “an animal that died a natural death” is *nevelah*.)

Thus it comes as a surprise to read a verse from this week’s parashah, *Aharei Mot*. Leviticus 17:15 states:

Every person who eats an animal that died naturally [*nevelah*] or was torn apart by beasts [*terefah*] should wash his clothes, bathe in water, and remain ritually impure until evening, whereupon he becomes ritually pure. This applies both to citizens and to strangers living within your community.

According to this verse, Israelites *are* allowed to eat both *nevelah* and *terefah*. To be sure, eating those kinds of meat renders the person who ate it ritually impure, but that presents no problem as far as Leviticus is concerned: ritual impurity in the Torah is a normal human state that people enter with great frequency, and the Torah does not view that state as morally deficient. The Torah contains no prohibition against becoming ritually impure. In the course of their typical activities, Israelites would often need to contract impurity, frequently through religiously positive activities, such as burying the dead, giving birth, and performing certain required rituals. A person who is ritually impure is not allowed to enter the Temple or Tabernacle, but most Israelites, other than priests, went to the Temple infrequently. In any event, the ritual impurity caused by eating *nevelah* or *terefah* lasted only a few hours and was cleansed by simple washing, according to our parashah; a person who ate these foods and wanted to enter the Temple could do so later the same evening.

Our parashah, then, contradicts other parts of the Torah: according to Leviticus, eating meat from animals that died naturally or were torn apart is permissible, but according to

Exodus and Deuteronomy, it is prohibited. We modern biblical scholars explain this contradiction by referring to the theory that the Five Books of Moses combine several legal collections from ancient Israel, and these collections sometimes disagree with each other. The passage from Exodus is part of a very early law collection, possibly written by Levites; the passage from Deuteronomy was written by a somewhat later group of Levites; the passage from Leviticus was written by priests, or *kohanim*.

It's well known that in later Judaism there are sometimes multiple viewpoints on a question of Jewish law. Some Jews follow a ruling that we must wait six hours after eating meat before we can have dairy products (this is especially common among Eastern European Jews); others wait three hours (this is the common practice among German and Sephardic Jews; many in the Conservative Movement have adopted this practice). Most Ashkenazic Jews refrain from eating legumes on Passover; Sephardic Jews do not. (Again, the Conservative Movement now permits the Sephardic practice, even for Ashkenazic members of its communities.) This sort of divergence of legal opinion was common already in biblical times. The difference we have seen regarding *nevelah* and *terefah* is just one example of this phenomenon.

In this case, however, Jewish legal practice did not remain open to the difference: while both views of *nevelah* and *terefah* are found in the Torah itself, later authorities unanimously endorse the position found in Exodus and Deuteronomy. No Jewish authority in the past 25 centuries or so permits Jews to eat meat from an animal that has died naturally or that was killed by other animals. Indeed, even animals killed by humans in a way that does not follow the practices of kosher slaughter are not permitted. Yet the verse from Leviticus remains part of our sacred text. It holds no legal authority, but it is still holy, and it is still chanted aloud in the synagogue. Minority opinions that have been completely superseded are not purged from our scripture, even though we all know that they are not to be obeyed.

Leviticus 17:15, in short, is still part of our heritage even though it is no longer law. This realization helps to answer a question that many of us have about another verse in this week's parashah. Speaking to men (as the Hebrew pronoun indicates), Leviticus 18:22 states: "You may not lie with a male as with a woman; doing so is an abomination." It is on the basis of this verse (along with another one from next week's parashah, 20:13) that Judaism's legal traditions long ruled that sexual acts between two men were forbidden. This ruling reflected a view of homosexual behavior that was common in most, though not all, human cultures for millennia. But many of us have come to view homosexual relationships, behaviors, and orientations as morally equal to heterosexual ones; indeed, many of us have come to understand that loving, committed relationships between two men (or two women) are ethically praiseworthy. Accordingly, an opinion approved by the Committee on Jewish Law and Standards of the Conservative Movement overturns the rabbinic prohibitions associated with Leviticus 18:22 and 20:13; a further opinion spells out some practical implications of this new halakhic stance with regard to marriage.

For some religious Jews, attending shul this week and next week can be uncomfortable, for in the fifth aliyah of this week's parashah (at 18:22) and the sixth of next week's (at 20:13), we read verses whose basic meaning we cannot reconcile with the will of a God who is just and merciful. Many of us today have a deep moral intuition that the plain meaning of these verses cannot remain part of the system of Jewish law; our experiences of our friends' lives or of our own lives testify that gay and lesbian relationships are not abominations but can be full of love, compassion, and commitment. What are we to do with these verses, whose legal status, we believe, is no longer in force?

Even though reading a verse prohibiting same-sex relations can be painful in a way that reading about dietary restrictions is not, the example of Leviticus 17:15 earlier in the parashah shows us that the situation of Leviticus 18:22 and 20:13 is, conceptually, neither new nor unique. Over time, the Jewish people's understandings of the will of God revealed at Mount Sinai develop and deepen. As this occurs, it has long been the case that specific laws, individual ideas, and certain texts are superseded by newer ones. But the earlier texts are not expunged from our record. Keeping texts that are no longer authoritative in our canon has never presented a problem, because in Judaism authority does not lie only, or even primarily, in our sacred texts. Rather, religious authority is found, as Solomon Schechter (The Jewish Theological Seminary's chancellor a century ago) taught, in communities of committed and observant Jews, which Schechter calls a "living body." Schechter explains that

this living body, however, is not represented by any section of the nation, or any corporate priesthood, or Rabbithood, but by the collective conscience of Catholic Israel as embodied in the Universal Synagogue. . . . Liberty was always given to the great teachers of every generation to make modifications and innovations in harmony with the spirit of existing institutions. . . . The norm as well as the sanction of Judaism is the practice actually in vogue. Its consecration is the consecration of general use,—or, in other words, of Catholic Israel. (*Studies in Judaism: First Series* [1896], xviii–xix)

Today, communities of religious Jews have modified the laws of sexual practice anchored in this week's parashah. But that does not mean that we pretend the verses that reflect the older practice are not there, any more than we skip the reference to kosher *terefah* that also appears in the parashah.

The texts we study and chant as religious Jews contain a wide variety of opinions and laws, some of them still current, some of them no longer in use. As we chant the verses no longer in effect, we can reflect on the way that Judaism continues to evolve even today, and how we are responsible to participate in the perpetuation of Judaism that this evolution allows. Sometimes this involves modifying particular elements of the Torah while continuing to observe the rest of the laws that emerge from the Torah. That this specific law here or that one there changes need not undermine our commitment to the system of Jewish law as a whole. And by continuing to hold firm to the obligatory nature of the legal system, we put ourselves into the living body that