

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH
(VBM)

PARASHAT HASHAVUA

PARASHAT ACHAREI MOT - KEDOSHIM

THE HOLY CONSTITUTION
By Rav Ezra Bick

Chapter 18 of Sefer Vayikra, in the middle of parashat Acharei Mot, has a dramatic opening, which sets it off from the previous section in a far more distinct manner than the usual "*Vayidaber HaShem el Moshe leimor.*"

God spoke to Moshe, saying:
Speak unto the Children of Israel, and say to them: I am HaShem their God. (Vayikra 18, 1-2)

The following section details the laws of incest and other forbidden sexual relations. However, before getting down to the actual details, the Torah has an introduction to these laws.

After the actions of the land of Egypt, where you dwelled – you shall not follow; and after the actions of the land of Canaan, to where I am bringing you – you shall not follow, and in their laws you shall not walk.

Follow My edicts and observe My laws to walk in them, I am HaShem your God.

And you shall observe my laws and edicts which a man shall do and live by them, I am HaShem. (3-5).

The implication of the contrast between **not following the laws of Egypt and Canaan** and **following My laws** is that the following section defines a particular set of laws which are in some sense constitutive – they define the social and legal differences between Jewish society, based on God's laws, and the two idolatrous societies which form a framework – past and future – of the Jewish experience in the years of the desert.

The Torah now continues and details a long list of sexual offenses (6-23). At the end of the list, there is a conclusion which draws the consequence of violating the "constitution" of Jewish society.

Do not defile yourselves with any of these (practices), for the nations whom I am expelling before you defiled themselves with all these.

And the land was defiled, and I visited its iniquity on it, and the land ejected its inhabitants.

But you shall observe my laws and edicts, and not do any of these abominations, neither a citizen or a stranger who dwells in your midst.

For all of these abominations were done by the people who preceded you in the land, and the land was defiled.

Let not the land eject you when you defile it, as it ejected the nation that preceded you.

For anyone who does any of these abominations, and the performing souls shall be cut off their people.

And you shall observe My observance, not doing these abominable laws which were done before

you, and not be defiled by them, I am HaShem. (24-30).

This gives the appearance of being the closing bookmark of the section that began at the beginning of the chapter, an impression strengthened by the fact that parashat Acharei Mot ends at that point (even though in most years the Torah reading continues with parashat Kedoshim).

In fact, if we continue to read parashat Kedoshim, we discover that the "constitution" is not over.

Kedoshim begins with a command to speak and a short introduction – "You shall be holy, for I, your God, am holy. (19,2). This followed by a list of positive commandments of various and sundry kinds, and a great deal of the traditional commentary on Kedoshim is devoted to trying to identify which *mitzvot* are included in the general category of "be holy." Many of the following verses conclude with the phrase "I am HaShem" or "I am HaShem your God," a phrase which appeared in the introduction to the "constitution" of Acharei Mot and at its apparent conclusion. But what is even more impressive is the continued mention of the actual introduction at various stages of the list in kedoshim.

You shall observe all My laws and all My edicts, and do them, I am HaShem. (19,36)

You shall observe My laws and do them, I am HaShem who sanctifies you. (20,8)

This is followed by a list of prohibited sexual relations, parallel to the list in Acharei Mot, and then:

You shall observe all My laws and all My edicts, and do them, and the land to which I am bringing you to settle in it shall not eject you.

And you shall not go in the laws of the nations which I am expelling before you, for all these they did and I despised them.

And I said to you: You shall inherit their land, and I shall give it to you, a land flowing with milk and honey, I am HaShem your God who has separated you from the nations....

You shall be holy unto Me, for I HaShem am holy, and I have separated you from the nations to be Mine. (20,22-26).

It is clear that these verses parallel the opening section of the "constitution" of Acharei Mot, and conclude with the theme that concluded that section – the danger of being expelled from the land because of the disregard of the laws of God. There is one prominent addition in Kedoshim not present in the parallel verses in Acharei – not surprisingly, it is the element of *kedusha*, holiness.

Taking all of this structure into account, I think the meaning of the double portion is clear. The overall structure is a set of laws which are the social norms of God's people, based on God's laws and edicts (*chukim va-mishpatim*), which are contrasted with the social norms of the societies in the surroundings. The entire section is divided into two – the first part is negative, and is almost completely based on sexual deviations – that which you must avoid. The second section, named and characterized by the word *kedusha*, details the positive aspect of Jewish, God based society. God has "separated you from the nations" (20,26) that you should be His, His people, and that aspect, the positive side, is constitutive of sanctity, *kedusha*.

This explains why the overwhelming majority of the laws in Kedoshim are social, or at least have a pronounced social aspect. The traditional exegesis examined these laws solely through the prism of *kedusha*, which formed the basis of many rabbinical sermons claiming that the core meaning of *kedusha* is found in the social realm. But once we realize that the concept of *kedusha* being espoused in this parasha is part of the social contract between God and his people, and only arises after the larger framework of distinguishing between the perverted and corrupt ways of the nations and their laws and the laws and edicts which will constitute the national and social character of the Jewish nation, the emphasis on specifically social norms is much more understandable. It is correct that forming an ethical community is constitutive of *kedusha*, but that should not be taken to mean that there are no other aspects of *kedusha* which are not found in this parasha, as they belong to the individual spiritual side of *kedusha*. This parasha is dealing with **social *kedusha***, the sanctity that distinguishes society as a whole and which connects them to the land of Israel and protects them from the "ejecting" referred to in the verses. In that context, we may conclude that the distinguishing mark of the holy community is its commitment to social justice, love, ethics, and – once again, sexual purity.

As we have seen, the structure of this social constitution is twofold, divided between the two parshiot. Acharei Mot contains the negative prohibitions of *arayot* (sexual transgressions), and Kedoshim contains the positive social practices which are meant to characterize Jewish society. The Torah uses two different words to define these two subsections. In the conclusion of Acharei Mot, the Torah repeatedly refers to the concept of *Tum'a* – defilement. In Kedoshim, both in the opening and the conclusion, the Torah refers to *kedusha*, holiness (as well as *havdala*, separation).

In the first case, the Torah warns us not to defile ourselves "with all these (sexual transgressions)," adding that they lead to the defilement of the land which will lead to ejection from the land, as indeed is happening to the nations of Canaan.

Yum'a is a difficult concept in Sefer Vayikra. It is divided into two. There is what we may call halakhic *Tum'a*, which is a specific halakhic state requiring a purification ceremony (immersion in a *mikva* and sometimes more, as we saw in last week's shiur). The Mishna discusses this category in Seder Taharot. But the Torah also applies the title of *tum'a* to a wide range of activities, without applying the laws of *tum'a* which apply to the first category. This includes prohibited foodstuffs (in fact, forbidden animals are regularly called *beheimot temeiot* in the Torah), and, in Acharei Mot, certain specific sexual transgressions (adultery [18,20] and bestiality [18,23]) as well as the entire list of sexual transgressions generally (18,24-27; 30). The relationship between the two is a subject of extensive debate and discussion in the commentators. In our section, the relationship is, I think clear. The inclusion of all the transgressions under the rubric of *tum'a* is specifically tied to the consequence of expulsion from the land, not as a punishment but as a natural result. The land itself will eject you. This is a clear parallel to the basic consequence of halakhic *tum'a*, which is exclusion from the sacred precincts. Defiled people are sent out of the *mikdash*, with different degrees of *tum'a* resulting in different degrees of expulsion. Our parasha is saying that moral *tum'a* also leads to expulsion from the sacred precincts, though here the result is not

legal but natural, or rather Divine-natural. The land of Israel is being implicitly defined as a sacred precinct. The basic parallelism is that of a contradiction between *tum'a*, in whatever form, and the sacred.

Parashat Kedoshim is sandwiched by the concept of *kedusha*. *Kedusha* and *tahara* (purity - the opposite state of *tum'a*) are not identical, but, as we have seen, they are linked in that one presupposes the other. Only *tehorim* are allowed to come into contact with *kedusha*. *Tum'a* is what one needs to avoid; *kedusha* is that to which one is meant to aspire. Hence, we may conclude: Acharei Mot details the actions which must be avoided in order to remain undefiled and capable of relating to God, and God's land. Kedoshim details the actions which must be pursued in order to reach the state of positively being like God, holy as He is holy, so as to be properly considered God's people, God's nation.

Concluding verses in Kedoshim appear not once, at the very end, but three times.

1- At the end of the list of (mostly) social and ethical practices, the Torah states: "You shall observe all My laws and all My edicts, and do them, I am HaShem. (19,36)."

2- This is followed by a separate section concerning the prohibition of the *Molech*, which is followed by the conclusion: "You shall sanctify yourselves and be sacred, for I am HaShem your God. (20,7)."

3- This is followed by a list of sexual transgressions, with the appropriate punishment, and the conclusion:

You shall observe all My laws and all My edicts, and do them, and the land to which I am bringing you to settle in it shall not eject you.

And you shall not go in the laws of the nations which I am expelling before you, for all these they did and I despised them.

And I said to you: You shall inherit their land, and I shall give it to you, a land flowing with milk and honey, I am HaShem your God who has separated you from the nations....

You shall be holy unto Me, for I HaShem am holy, and I have separated you from the nations to be Mine. (20,22-26).

The last, without using the term *tum'a*, does reiterate the concept of the connection between these practices and dwelling in the land, as well as the contrast with the practices of the other nations. Hence, I believe that this is the parallel to the original opening verses in Acharei Mot, and hence the entire double section is the social constitution. The previous concluding verse was based on *kedusha*, and hence should be seen as the parallel to the opening verse of parashat Kedoshim. In other words, the total structure consists of two parts, Acharei Mot with its concentration on sexual transgressions and the consequence of *tum'a* and the subsequent ejection and expulsion, and Kedoshim, with its concentration on social ethics, under the title of *kedusha* and the consequence of being holy. The two sections together are unified with the phrase "You shall observe all My laws and all My edicts," which are contrasted with the laws of the other nations.

However, the section in parashat Kedoshim of sexual transgressions is in neither subsection, but rather appended to the end and included only in the overall

structure. It even merits its own introduction: “You shall observe My laws and do them, I am HaShem who sanctifies you” (20,8). This is after the concluding verse of sanctity (20,7), and does not directly enjoin sanctity, while obliquely referring to God’s sanctity as the basis for the instructions. It half belongs to the sanctity section, and half does not.

Of course, the topic of sexual transgression was the entirety of the Acharei Mot section, and, by the theory presented above, shouldn’t be here at all. The repetition of more or less the same list in both parshiot is explained **halakhically** by the necessity to list the punishments. Legally, Jewish law requires an explicit injunction and a separate statement of punishment for every crime. But that does not explain the placement of this section of punishments in Kedoshim.

I think the answer must be that sexual immorality belongs to the negative section of *tum’a*. It defiles the individual in such a way that invalidates him from being a resident of the sacred land. Kedoshim is speaking of society’s reaction to sexual immorality. The Torah does not say that executing adulterers will confer sanctity on the executioner (hence it is not found within the bookends of “Be holy”), but it is saying that the sanctity of the community requires that as a society it fight against such practices. As a social unit, and as a collar of the formation of a social unit, there must be policing and punishment of certain areas of individual behavior, not merely because crime should be punished, but because these particular crimes impugn the sanctity of society as a whole. I realize that this may be a difficult idea for modern Jews, raised on liberal theories of law and society, to accept. However, the Torah is clearly stating that in the context of God’s society, of God’s people, who have been separated from the nations to be His people, society must extirpate certain activities which defile society, and hence undermine its defining quality (and threaten its legitimacy in the sacred land).

One last question I leave unanswered, and that is the status of the special prohibition of *Molech*. In Acharei Mot it is included in the list of sexual transgressions; in Kedoshim it is separated from both the list of social ethics and the list of sexual transgressions, but is included in the *kedusha* bookends. The answer to this question is part of a more general one – what precisely is the nature of this practice, which would appear to be merely an example of idolatry but is singled out and listed by the Torah together with sexual transgressions.

Shabbat shalom

Visit our website: <http://www.vbm-torah.org>