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בס"ד

Parashat Emor Part III Priestly Defilement Upon a Wife's Death

1. The Sifra's Interpretation

As the spiritual leaders of the nation, the priests were more closely associated with the service of G-d than were the rest of the people and their role required a greater consciousness of the presence of G-d in all their activities. They, and the standards they live by, would be an example to the rest of the nation concerning the values the Torah cherishes. The first rule addressed to them in the section that provides most of their personal priestly sanctity laws was that they were forbidden to defile themselves through contact with a dead body (Lev. 21:1). As we explained in our previous study, this distinguished the Israelite priesthood from that of all the neighboring nations; it would focus the priests' attention on purity and life, set an important example for the nation and prevent a cult of fascination and involvement with the dead from developing.

The Torah makes a statement of exceptions for ordinary priests. They could (actually should) become defiled upon the death of an immediate family member, an individual's six closest blood relatives: mother, father, son, daughter, brother and sister (unmarried). This allowed them to participate in the funeral and burial of the deceased. The statement of exceptions does not explicitly mention the priest's wife. In addition, the closing statement of the four-verse unit of regulations on this topic (v. 4) explicitly forbids *בַּעַל בְּעֻמָּיו* from becoming defiled, a formulation that apparently refers to a husband, although it is widely considered to be an ambiguous phrase. In any event, one school of thought has assumed that a straightforward reading of the passage indicates that a priest may not become defiled for his wife.

On the other hand, the clause that immediately precedes the enumeration of the six exceptions states: *כִּי אִם לְשֹׂארוֹ הַקָּרֵב אֵלָיו*, "except for the *she'ero* closest to him" (Lev. 21:2a). As the standard meaning of *she'ero* is "his flesh," the Sifra takes *she'ero* closest to him" as meaning his wife, placing her at the head of the biblical exceptions. This interpretation appears linked to the concept inherent in G-d's declaration at the creation of woman: "Therefore shall a man leave his father and mother and cling to his wife and they shall become one flesh" (Gen. 2:24). Becoming one flesh (*וְהָיוּ לְבָשָׂר אֶחָד*) construes a husband and wife as being the very closest of unions, above that of parents. (Some take "and become one flesh" as being fulfilled in a child, but that is not indicated by the context. In the previous verse Adam commented on the perfect fit a woman is to a man, for she was taken from man. The next verse continues the celebration of the husband-wife union. "Therefore," because of the way G-d created woman from man, their bond is so close; that is the meaning of becoming one flesh. It is not necessary to "leave father and mother" nor "cling to his wife" to have a child.)

It should be borne in mind that *basar* and *she'er* are closely related words, sometimes almost synonymous. Consider Psalm 78:27. It refers to the pentateuchal episode of the Israelites requesting meat (specifically *basar*) and G-d providing meat (*basar*) in the form of quails (Exod. 16:8-13; Num. 11). The psalm, however, states "He rained upon them *she'er* as dust," which the NJPS and Koren translate as "meat" and the JPS as "flesh." (Also see Lev. 18:6; Prov. 5:11)

Following the Sifra, some commentators have suggested that the reason the Torah omitted explicit mention of a wife is precisely because she is so close to her husband; she is referred to first with the

description that exemplifies the concept of the exceptions, closeness. In rabbinical terminology, אִשְׁתּוֹ כְּגִרְפוֹ, one's wife is as himself. In any event, understanding a wife to be included in the exceptions is in consonance with the narrative relating of the burial of Sarah (Gen. 23). There, although the case did not possess a priestly dimension, Abraham's protracted negotiations and payment of four hundred shekels for the land sets an example of the enormous sense of responsibility a husband should have for performing a proper burial for his wife.

In the Talmud the law is clear that a priest is permitted to become defiled for his deceased wife, but it does not explicitly define whether it considers the status of the allowance to be biblical or rabbinic. Evidence has been adduced from a talmudic passage, however, supporting the view that it is of biblical provenance. A *Baraita* states:

All those [relatives] for whom a priest becomes defiled [in the Leviticus 21 formulation], an individual [all Israelites] must mourn for: wife, father, mother, son, daughter, paternal brother and unmarried sister. The rabbis added to these one's maternal brother and unmarried sister, and paternal sister even if married. (*b. Mo'ed Qat.* 20b)

As the *Baraita* included a wife in its first section with the six relatives who were explicitly enumerated in the Torah, before the section listing those that the rabbis added, it indicates that the regulation regarding a wife was taken as biblical. Placing her first on the list seems to indicate that the *Baraita* was reading the Biblical passage as the Sifra.

However, the concluding verse of our *Parashat Emor* passage is problematic for this school of thought in that it appears to state "A husband should not defile himself among his people to so desecrate himself" (*lo yitama ba'al be'amav lehehalo* [Lev. 21:4]). Although it does not explicitly mention a wife, what other intention could the law have in mentioning a husband other than to prohibit a priestly husband defiling himself for his wife? The Sifra therefore takes the final word of the verse, לְהַחֲלֹ, not to mean "to so desecrate himself" (with his present act of defiling himself for his wife) but as referring to a priest who had already desecrated himself in his marriage in that

he had married a woman to whom he was forbidden. It is only for such a wife that he may not defile himself, otherwise a wife is included in the exceptions to the prohibition.

Many commentators do not view this latter interpretation of the word לְהַחֲלֹ as the straightforward meaning of the verse. Like most classical rabbinic works in general, the Sifra blends *peshat* with *derash* (straightforward with homiletic interpretation). It was also not a priority for the sages to distinguish between biblical and postbiblical statutes in their *midrash-halakha* texts.

In defense of the Sifra's interpretation on our main issue, it has been pointed out that if the verse 2 statement of exemptions "except for the *she'ero* closest to him" does not permit defilement for a wife, then the verse 4 *lo yitama ba'al be'amav lehehalo* is superfluous. In verse 1 the passage begins with the blanket prohibition of *lenefesh lo yitama be'amav*, a priest is not to defile himself for a dead person. Verses 2 and 3 itemize the exclusions; whatever is not excluded is prohibited from verse 1. Verse 4 is thus not needed to prohibit a wife. It is not the Torah's style to incorporate a verse to explicitly prohibit that which was just prohibited three verses before. Thus, the verse 2a statement beginning the exclusions must be referring to a wife.

This defense of the Sifra has been countered with the following argument. A wife does stand in a close relationship with her husband because of the concept אִשְׁתּוֹ כְּגִרְפוֹ, "one's wife is like himself." Accordingly, we might mistakenly have considered her to be part of the exceptions because we might have interpreted "except for *she'ero* closest to him," precisely as the Sifra did. But that is not the Torah's intention. Therefore, the Torah added a specific statement to teach that a priest should not become defiled for his wife. Others consider this argument strained. Of course the Torah may make a statement to prevent an erroneous understanding of a subject, but in a case such as this, if *she'ero* did not refer to a wife it would simply just not have been used.

Targum Onqelos followed by Ramban translate *ba'al be'amav* not as a "husband among his people" but as "a chief among his people." They understand *ba'al* as referring to the priest (the primary subject of the

passage) but not in his capacity of a husband; it is rather taken to be an honorary title for him, “a notable.” Since לֹא יִטְמָא בְּעַמּוֹ (“The *ba'al* should not become defiled among his people”) closes the four-verse unit dealing with this topic, it is thought to be a statement that corresponds to and expands upon the opening statement of לֹא יִטְמָא בְּעַמּוֹ (“For a [dead] person he shall not become defiled among his people”). The closing provides the explanation as to why the priest is not to become defiled in cases other than the exceptions, namely, because he is a leader among his people and must comport with a more exalted standard. Thus, there is no statement explicitly forbidding a priest from becoming defiled for his wife.

Others have considered this interpretation problematic because the word *ba'al* when standing alone as in our verse, is never clearly attested in Tanakh to mean a chief or leader. Others point out that *ba'al be'amav* may be an idiom of sorts, “a national dignitary.”

All this demonstrates the difficulty commentators had with the idea that the Torah prohibited a priest from becoming defiled for his deceased wife while permitting him to become defiled for close blood relatives.

2. The Rambam's Perspective

Despite the above considerations, many translate the final verse of *lo yitama ba'al be'amav lehehalo* as plainly and simply meaning that a priest is forbidden to become defiled for his wife, as this would desecrate him. Thus, the Rambam codified the law as follows (*MT Laws of Mourning* 2:7): “A priest is to become defiled for his wife [who died] even against his will,* but this is only by scribal enactment (מִדְּבָרֵי סוֹפְרִים).** Earlier in that chapter, after codifying the obligation of all Israelites to engage in mourning rites for the six categories of closest blood relatives (the categories being derived from those a priest is permitted to become defiled for), he wrote: “and by rabbinical enactment a husband mourns for his wife” (*MT Laws of Mourning* 2:1).

Commentators explain that the Rambam considered the Sifra's interpretation that *she'ero* refers to a wife to be an *asmakhta*, a useful peg in the biblical text upon which the sages affixed their enactment so that it

may be more easily and effectively taught and remembered. In straightforward interpretation, according to him, *she'er* does not mean a wife; it is not used that way elsewhere. Understanding it so contravenes the intention of the biblical clause, which was to serve as an introductory formula to the exceptions. Indeed, it does appear to be a case of כְּלָל וּפְרָט, a general statement that defines the principle that governs the exceptions (that they are *she'ero*, the close flesh and blood relatives of the individual being addressed), followed by the six enumerated relationships.

A support to the Rambam's view is Ezekiel's formulation concerning priests' becoming defiled, a formulation that parallels our Leviticus passage: “He shall not come into contact with a dead person to defile himself – only for father, mother, son, daughter, brother and unmarried sister shall they defile themselves” (Ezek. 44:25). Here the six relatives are enumerated and there is no word or phrase that corresponds to *she'er* or that may be construed as referring to a wife.

Another support to the Rambam's view is the formulation of the prohibition to the high priest to become defiled even for his immediate relatives (Lev. 21:11), which according to all interpretations includes his wife. In excluding the categories of exceptions for the ordinary priest, only father and mother are mentioned, it being understood that the other relatives who are not as close as they are, are surely excluded. But if the wife of an ordinary priest is an exception from the Torah and she was alluded to first on the list of exceptions, she should also have been mentioned as prohibited for the high priest to become defiled for.

Commentators wonder if the ancient rabbinical authorities did, indeed, nullify an explicit Torah prohibition for the ordinary priest and allow him to defile himself for his wife and, in addition, mandate that he *should* so defile himself, as the talmudic law stands. They would then have established an obligation to actively do what previously was a transgression of Torah law! This constitutes a category of law not typically seen in the legislation of the sages.

The Rambam (in expanding on a talmudic discussion in *b. Yebam.* 89b) explained the methodology

employed by the authorities in annulling the Torah statute of our case. The sages had previously decreed that a husband inherits his wife. Consequently, a wife's disinherited relatives would desist from accepting the responsibility for her interment – they would feel that the one who inherits her should be responsible for her burial. This would cause the priest's deceased wife (if she had no grown sons) to be considered as lacking someone to bury her – אֵין מְבַרְרָהּ. (The sages had previously qualified the prohibition against a priest becoming defiled; they expounded that when no one else is available to bury a dead person, even a priest is required to do so, since an unburied corpse is a major desecration of the "image of G-d" manifest in man.) Thus, a priest is permitted to become defiled for his wife (*MT Laws of Mourning* 2:7).

Of course, in such a legal construct, the deceased is not a *met misvah* in the pure sense of the term, for it may be the case that others would have been willing to step forward if not for the legal construct. However, since the authorities in talmudic times did feel that a wife should be included with the other close relatives that the Torah permits a priest to become defiled for, they made the legal construct work.

The passage in Ezekiel 24 concerning the death of the prophet's wife may be relevant to our topic. Hashem informed Ezekiel that his wife was about to die and that he was to use the occasion to provide a symbolic lesson to the people concerning the retribution that was soon to come if they did not repent. He was to be silent upon his wife's death, not to eulogize her and not to observe the traditional mourning practices, including partaking of food from the people. In this way he was to depict the magnitude of the destruction, to symbolize that it would be so overwhelming that the people would not be able to mourn (Ezek. 24:15-17). In the following verse Ezekiel states: "I spoke to the people in the morning, my wife having died in the evening, and I did in the morning as I was instructed" (v. 18). The burial is not mentioned; obviously, she had been buried the previous evening. In the morning the people note the prophet's strange behavior and ask him to explain its meaning – his wife had just died and he was not observing mourning rites!

Since he waited until the morning to speak to the people and only then informed them of his wife's

death we assume that in the evening the event was not yet known by the public. Surely had some people known about her death the word would have gotten around. The obvious question is who buried her? Ezekiel was a priest (Ezek. 1:2) and there is no record of his having had sons. Does this narrative imply that he himself engaged in the burial?

If the law requiring a priest to become defiled for his deceased wife is an enactment of the sages, this case appears to be another example of an important process set in motion by the Torah. The deeply embedded thinking of the ancient world, which includes the situation prevalent among the early Israelites, did not meet the Torah's lofty standards in many areas, but it could not be countered in one fell swoop. Thus, just as in his explanation of sacrifices the Rambam posits that Torah law took into account an ancient mode of thought although it was not ideal, because it was deeply embedded in the Israelite nation of the time, so too may the case here be.

The Genesis verse that defines the husband-wife relationship as requiring the husband to leave father and mother and cling to his wife, leading to their merging into one flesh (Gen. 2:24), unambiguously articulates a goal that ran counter to the reality of the time. The concept of marriage in the ancient Near East was generally seen as a man bringing a woman into his family order. The wife was often limited in her rights and to some degree considered an outsider. The establishment of the husband-wife bond as the basis of the family restricts the native power of the father-son relationship in favor of the mutual accommodation and growth potential latent in the husband-wife relationship.

It is a goal that is well described by what the sages term אִשְׁתּוֹ כְּגוֹפּוֹ, one's wife is like his own self. This could not ultimately be reconciled with prohibiting a priest to become defiled for his wife while permitting him to become defiled for his other close relatives. Man is instructed to separate from father and mother and of course his other close relatives for the sake of establishing an even closer bond with his wife – the closest possible, even if based on a social relationship rather than a biological one. It remained for the legislative process set in motion by the lawgiving to continue progress toward the goal manifest in G-d's revealed will expressed in the conceptual statements

of the Torah. The sages recognized the Torah's goal and legislated accordingly. (See our study *After the Flood* for a further discussion on this topic.)

Endnotes

* The Talmud relates that the burial for the wife of Joseph the Priest was on the eve of Passover (a major inconvenience) and he refused to defile himself. His fellow priests intervened and forced him to do so – actually they defiled him (*b. Zebah. 100a*).

** The Rambam's meaning with the term *מדברי סופרים* (literally, "from the words of the scribes") is a subject upon which there has been much discussion. He

seems to understand it as including a category of biblical law subject to definition by the sages in accordance with classic rules of exposition. This would seem to presume an ongoing, progressive dimension to revelation. (In our case see *Kesef Mishneh, Laws of Mourning 2:1*.) Here, however, most commentators understand him to be using the phrase *מדברי סופרים* in the sense of a standard rabbinical enactment, which he seems to often do. Some, however, view the explanation as the outward expression of the rabbinical intent of employing their power to interpret biblical law.

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