

Parsha Emor – May 14, 2022

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I'm going to focus on just a few verses, but first let me put them in the context of the entire parsha.

The overarching concern/theme of Emor is how to establish and maintain a stable society. Indeed, if you wanted to point someone to a single parsha that captures the ancient Israelite sense of how their society should function, Emor might be it. The order of the parsha is telling – building on what's come before about the duties of the leaders (that is, the priests), the parsha lays out the behavioral restrictions and personal characteristics of the leadership; then propounds the structure and obligations of the community as a whole (by fixing the calendar), and then moves on to laying out the strictures on individual behavior. It is a top-down society, built on sacred obligations set in time.

But again, once the fundamentals of the structure are laid out, the Torah turns to the problem of individual behavior within the overall framework. And the very first behavior the Torah deals with is speech.

Maybe this shouldn't seem odd to us – speech is dealt with in the *First* Amendment, too – even though the Constitution wants to limit prohibitions on speech and the Torah wants to impose them. But they both give speech primacy. Why?

I think it's because, while other kinds of behavior – theft, murder – may be in more obvious need of regulation, it's speech that can affect (and undermine) the society as a whole. Even murder – unless rampant – mostly just affects the individuals involved. But speech can affect thought, can strengthen – or threaten – the values, ideals and confidence of an entire society. As the Book of Proverbs says, "Death and life are in the power of the tongue." (And to reference the Constitution again – in a democracy, *limits* on speech can undermine the entire system.) By dealing with speech first, the Torah is underscoring the centrality of speech to the whole structure and stability of society.

But the concern with speech is introduced in a peculiar way. Instead of continuing with having G_d declare laws to (and through) Moses, suddenly the Torah inserts a story. And to add to the oddness, it's a kind of half-told story, with even more elisions and missing facts and unclear context than the average Torah narrative. Why deal with speech through a story and why through a story this incomplete?

I think there may be several reasons. First, a story makes the law more real. The Torah is saying, in effect, "We're not kidding about this. Speech may seem like an odd and difficult thing to regulate, but we mean it. Small matters of speech loom large. Here's an example."

Second, the story shows that speech cases are hard. The Israelites are perplexed with having to handle this circumstance. They simply don't know how to proceed, and the story underlines that fact. We are told they have to wait for an instruction from G_d. It's not obvious

what to do in these situations; the specifics of the case matter. (We still often deal with free speech issues through case law rather than abstractions or simple Constitutional phrases.)

But if the facts of the case matter, why tell a story that leaves so many of the facts out? The simple reason may be to avoid repeating the crime by memorializing the offending words. This can't be a "remember to forget Amalek" situation, where the mandate to forget has the opposite effect.

But also I think the story's gaps make it more open-ended. This is not a prohibition on the specific speech that the blasphemer uses in this case; it's a story about the problem of dealing with inappropriate speech generally. Providing the details would dilute the point.

This concern with speech – the fundamental threat it can pose and the conundrums that arise in dealing with it – always feels current to me, but it feels especially contemporary right now, however archaic and arcane the specifics of the story may be. Whether it's speech codes and mores on college campuses, or who should be able to say what on Twitter, or the spread of misinformation about COVID, or the lies about the 2016 election – the struggle over when speech threatens society should not feel alien to us. (And by the way, blasphemy itself was still a live issue until relatively recently. Many U.S. states had anti-blasphemy laws on the books until well into the 20th Century.)

Our current debates do not take place in the Biblical context, of course. We have the value of free speech as a societal fundamental, and in some debates today, one concern is the effect of speech on sensitive individuals rather than on society. But the overriding questions are the same – when does speech become a threat to the basis of our society? How can you tell, and who should decide?

In the Biblical story, all those who have heard the offending speech have to place their hands on the head of the blasphemer – as much to purge themselves of what they've heard, to transfer it back to him, as to lay blame. (It's reminiscent of the way sins are transferred on to the scapegoat.)

Reading the portion this year made me think about two even deeper issues about speech that the parsha raises, perhaps unintentionally. First, the society created by Emor seems to be extremely fragile. Even small departures from prescribed behavior can break the spell of sanctity and purity and bring the whole system crashing down. The breathtakingly bold assertion in the parsha that "this shall be a law unto you for all time" seems like protesting too much – although in the case of the calendar, it's kind of succeeded (so far). What does it say about a society if every speech infraction – even words said in the heat of an argument, as in this case – can genuinely be seen to threaten the survival of a people?

Second, perhaps more profoundly, the concerns about speech and the laying down of eternal laws are in tension with another value embraced by the Torah – a belief in change. The Torah is perhaps one of the first writings in the West that sees time as moving forward rather than just in cycles; that has an interest in history as we think of it; that has a narrative of evolution, of progress. Yet at the same time, the Torah desperately wants to preserve a kind of

core, societal DNA. How can a society embrace both change and essential continuity? People are going to get itchy, raise questions, rebel against time-honored traditions, lose faith.

How much of that can be allowed before the whole structure comes tumbling down? When is speech a safety valve and a tonic, and when is it a corrosive?

These weren't easy questions when the Torah was written, and they have hardly become easier over time. And they haven't gone away, as much as the context for them may have changed.

So, some questions for discussion: Why does the Torah raise speech issues in this fashion – as the very first issue of behavior, through a half-told story? Why is speech so central to the Torah, to us? When do we limit it, or worry about it, anyway – and what does that say about the state of our society – our level of confidence, our values, our balance between change and continuity?