

INSIGHTS

Into The Weekly Parsha

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This week's Insights is dedicated in loving memory of Al Galbut, Avraham ben Nossan. "May his Neshama have an Aliya!"

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Based on the Torah of our Rosh HaYeshiva HaRav Yochanan Zweig

PARSHAS EMOR

Speaking vs. Communicating

Hashem said to Moshe, say to the Kohanim, the sons of Aharon, and you should say to them: to a dead person you should not become impure [...] (21:1).

Rashi (ad loc), quoting the Gemara (Yevamos 114a), explains that the reason the word "emor – say" is used repeatedly ("say to the Kohanim" and then again "say to them") is to enjoin the adults to instruct the minors that they are not permitted to become unclean by coming in contact with a corpse.

In general, the Torah uses several different words to describe speaking – the most common ones being *daber* and *emor* (usually translated as "speak" and "say" respectively). What is the practical difference between the two words and when does the Torah choose to use one instead of the other?

We find a fascinating *possuk* in *Sefer Bamidbar*: "And when Moshe went into the Tent of Meeting to speak with Him, he heard the voice of one speaking ("medaber") from the Kapores, from between the two kerubim; and he spoke to him" (7:89). Rashi (ad loc) makes an unusual comment; Moshe was just listening in while Hashem was speaking to Himself. In other words, the term "*daber*" refers to the act of an utterance, even when one is merely talking to himself (e.g. reciting poetry).

On the other hand, the word "*emor*" refers to an act of communication. In *Parshas Yisro*, Moshe is told, "Thus shall you say ("somar") to Beis Yaakov, and tell the Bnei Yisroel" (19:3). Rashi (ad loc)

explains that Beis Yaakov refers to the women of the Jewish people. Hashem tells Moshe to "tell" the men the laws while to the women he must speak gently.

Similarly, we find the Mishna in *Shabbos* (2:7) says that a man is obligated to say ("lomar") in his home on *Erev Shabbos*, "Have you tithed (the produce)? Have you made an *eruv* (for walking and carrying)? If yes, the man then says, 'light the candle.'" Here too the Gemara (*Shabbos* 34a) mentions that it must be said gently.

In other words, women don't want to be spoken to, they want to be communicated with (probably not a shock to anyone who has been married). This is why the word "*emor*" is used in regards to women; "*emor*" means to communicate not dictate.

In this week's *parsha*, the Torah is telling us that we must be very sensitive to what we are telling the Kohanim. The Kohanim have an elevated responsibility that outstrips that of the rest of Bnei Yisroel. Here the Kohanim are told that they must not come into contact with a dead person, however, this restriction is a little counterintuitive.

After all, preparing the dead for burial and accompanying the body to the grave is considered a great kindness – known as a "*chessed shel emes*." This prohibition on the Kohanim is theirs



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alone; even the greatest of Torah scholars are permitted to become "*tamei*," and it is in fact considered to be performing a great *mitzvah*.

When asking someone to accept a higher level of responsibility or service, we must be careful not to impose it on them. This is why Hashem asked Moshe to communicate with the Kohanim, who in turn were to communicate it to their children. Asking someone to do something that others are not obligated to do requires a full explanation of why it should be done.

This is particularly true when we are dealing with our children. When we want to teach them rules that go beyond the scope of social rules, such as not to steal or not to kill, we must patiently explain to them why we do what we do. Simply telling them that they have to keep *Shabbos* or put on *teffilin* is not an effective manner of getting them to accept or follow the *mitzvos*. We must communicate to them the beauty and meaning behind our *mitzvos*. In this way, we can be sure that they will appreciate what *Yiddishkeit* is really all about, and ensure that they will convey the meaning to their children.

Customizing the Law

And Moshe declared the festivals of Hashem to Bnei Yisroel (23:44).

The last Mishna in tractate *Megillah* concludes with a verse from this week's *parsha* and the following teaching: *And Moshe declared the festivals of Hashem to Bnei Yisroel* – indicating that it is an obligation to read each and every festival portion at its appropriate time (*Megillah* 31a). The final Gemara in the tractate further elucidates with the following statement, “Our rabbis taught, Moshe instituted for them, (Bnei) Yisroel, that they should inquire about the matters of the day (holidays) – the laws of Pesach on Pesach, the laws of Shavuos on Shavuos and the laws of Sukkos on Sukkos” (ibid 32a).

Maimonides (*Yad; Hilchos Tefillah* 13:8) comments that Moshe Rabbeinu instituted that on every holiday we read from the Torah sections that are relevant to that holiday. Seemingly, Moshe also chose which sections to read on each holiday. Yet, when Maimonides discusses which portion is read on Pesach he says, “It was instituted to read from the edition of the holidays (in this week's *parsha*) but the custom has become to read (a different section from *Parshas Bo*).” Rambam is following the opinion of Abaye in the Gemara (*Megilla* 31a).

This seems to be very odd. Moshe Rabbeinu instructed them to read certain sections on the holidays. How is it possible that someone would abrogate what Moshe instituted? In addition, the language of the Gemara is very unusual: “Moshe instituted for them, Yisroel, that they should read [...]” Why do we need the extra words “for them,” why not merely say Moshe instituted for Yisroel?

In every generation, the *Beis Din* serves two functions; one is that they are the final arbiters of what laws are to be included in the Oral Law (i.e. using the exegetical rules that are applied to the analysis of the Torah). In other words, *halacha* needs to be an evolving entity in order to address new situations that arise, and the *Beis Din* applies the accepted methods to make a ruling on what the *halacha* is. In this way, they are empowered by Hashem to act as the interpreters of the Oral Law. This began with Moshe and he gave that authority to Yehoshua, and it has continued throughout the generations.

But the *Beis Din* has another important function. They are also the legislative body of the Jewish people; enacting laws that enable society to function properly. As an

example, even though according to Torah Law the sabbatical year dissolves all personal loans, the sages instituted a system whereby creditors would be protected so that creditors would not be discouraged from lending money (there are many such examples). These laws aren't interpretations of the Torah, they are laws instituted so that society can function properly. This legislative power is derived from the people.

Moshe Rabbeinu didn't institute the reading from the relevant Torah portions on each holiday as a Torah law. He instituted it as a way of enhancing the holiday and making it meaningful for us. This is why the double language is used; he did it for them, for their sake. As it was done as a legislative function, it was the kind of law that could be changed by a succeeding *Beis Din*. Thus, the custom of what to read can be determined and changed by succeeding generations as the power remains with the people.

We must also bear in mind that customs of one segment of our society have great legitimacy and efficacy, and often bear the weight of Torah law. However, we mustn't confuse customs for actual Torah law. Whether your custom on Pesach is to eat rice, or *non-gebrokts*, or to put *teffilin* on *Chol Hamoed*, they are all valid ways of observing Torah and *mitzvos*.

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