

This week's text is from R. Barukh Epstein's Torah Temimah, still a very useful anthology of rabbinic interpretation and perhaps the first commentary to look at on any specific unit of midrash halakhah. This week's text, however, seems to me a puzzling example of a type of category error, and I welcome suggestions as to why Rabbi Epstein makes this error, or that defend his reading.

Bamidbar 3:4 recapitulates the deaths of Nadav and Avihu for bringing an "alien fire" at the inauguration of the Mishkan. It adds that they had no sons when they died, and that El'azar and Itamar therefore replaced them as subpriests to Aharon.

Yebamot 63b-64a, however, cites Abba Chanan in the name of Rabbi Eliezer as claiming that the lack of children explains not why they were replaced by their brothers instead of by their sons, but rather why they died. This interpretation occurs in the middle of a beraita that comprises a series of rabbis¹ competing to offer Biblical prooftexts demonstrating that failure to engage in procreation is a serious offense. Thus Abba Chanan cited the case of Nadav and Avihu to demonstrate that failure to engage in procreation is a capital offense.

Now as the other positions claim that failure to engage in procreation drives the Shekhinah away, the genre here seems to me clearly midrash aggadah rather than midrash halakhah. Furthermore, while I generally advocate strongly for seeing midrash as a rigorous form of exegesis, I concede that some forms are intended playfully, and among them is the contest as to who can find Biblical evidence that most extravagantly praises or denigrates a particular act.

In other words, Abba Chanan does not intend to suggest that the verse is best read as explaining that Nadav and Avihu died because they failed to engage in procreation. Nor does he intend to suggest that the verse demonstrates that Nadav and Avihu's failure to have children was willful and culpable. Rather, he has found a clever way entry into this rabbinic game.

Torah Temimah, however, apparently assumes that Abba Chanan's reading is compelling, in other words that Abba Chanan genuinely understands the verse as saying that Nadav and Avihu died because they failed to procreate. What troubles him is how Abba Chanan understands "died". He reasons first that Abba Channa can't mean that Nadav and Avihu would otherwise have been immortal !!!! because we know that all men are mortal (other than Eliyahu and perhaps Enosh; I note that success at procreation has not historically been a guarantor of immortality). But then he argues that Abba Chanan also can't mean that they died when and how they did for failure to procreate, as the verse here and elsewhere attributes their deaths to their bringing of an "alien fire". Accordingly, he suggests that Abba Chanan must have meant that having children is a form of immortality, such that what happened to Nadav and Avihu would not have been described as "mitah" had they had children. On this understanding, he too concludes that the midrash must be seen as mere *asmakhta* rather than genuine legal exegesis.

Laaniyut daati, this reading bowdlerizes the midrash, reducing it to the tautology "one who fails to engage in procreation will not have children". Rather, the attempt to read it as legal exegesis was misbegotten from the start, and there is no reason that the claim of "deserves death" should be held to the exegetical standard of midrash halakhah, or for that matter of midrash aggadah. I therefore see no reason not to take "deserves death" literally *in the context of the midrash*, and don't understand why R. Epstein refused to do so.

Adding to the puzzle, R. Epstein then asserts that the equation children=immortality can be demonstrated from the famous claim on Taanit 5b that Yaakov never died. However, Rabbi Yitzchak there explicitly states that his claim is based on a playful textual reading – after all, Yaakov was embalmed and eulogized! - which asserts that Yaakov is alive *in the same way* that his descendants are alive, not *because* his descendants are alive. So R. Epstein appears to be making the identical category error there.

Now it cannot be claimed that Rabbi Epstein refuses to recognize that some rabbinic readings are not intended as exegesis, as he himself concludes that these are not so intended! I am therefore at a loss to explain what motivates his refusal to allow these midrashim to use "death" literally.

Shabbat shalom

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¹ Note that the anonymous first position and the position of "Acherim" apparently reach the same conclusion from different prooftexts,. This may indicate that the first position and the last two were originally not part of the same text, but I have not yet done the research on this.

במדבר פרק ג:א-ד

ואלה תולדת אהרן ומשה ביום דבר ה' את משה בהר סיני:
ואלה שמות בני אהרן: הבכור נדב, ואביהוא, אלעזר ואיתמר:
אלה שמות בני אהרן הכהנים המשחים אשר מלא ידם לכהן:
וימת נדב ואביהוא לפני ה' בהקרבתם אש זרה לפני ה' במדבר סיני ובנים לא היו להם ויכהן אלעזר ואיתמר על פני
אהרן אביהם: פ

תלמוד בבלי מסכת יבמות דף סג: - סד.

ת"ר:

(במדבר י') "ובנחה יאמר שובה ה' רבבות אלפי ישראל" - מלמד שאין השכינה שורה על פחות משני אלפים ושני
רבבות מישראל.
הרי שהיו ישראל שני אלפים ושני רבבות חסר אחד, וזה לא עסק בפריה ורביה, לא נמצא זה גורם לשכינה שתסתלק
מישראל?
אבא חנן אמר משום רבי אליעזר: חייב מיתה, שנאמר: (במדבר ג') "ובנים לא היו להם" - הא היו להם בנים, לא
מתו.
אחרים אומרים: גורם לשכינה שתסתלק מישראל, שנאמר: (בראשית י"ז) "להיות לך לאל-הים ולזרעך אחריו" -
בזמן שזרעך אחריו, שכינה שורה; אין זרעך אחריו, על מי שורה? על העצים ועל האבנים?!

תורה תמימה במדבר ג:ד

הנה הלשון "חייב מיתה" בודאי לא כפשוטו, אלא פירושו "עונשו גדול",
ונמו שנמצא בגמרא בכמה מקומות לשון זה במובן כזה,
וכ"כ התוספות בכורות נד. ונפקא מינה לאלקויי טפי משאר מלקויות (מכות מרדות),
ובכגון זה צריך לפרש כוונת הראיה מדב ואביהוא שאם היו להם בנים לא היו מתים,
דבודאי לא שייך לומר שלא מתו כלל, דהא חוק לאנוש עלי ארץ,
וגם לא שייך שלא היו מתים באופן ובזמן שמתו, דהא סיבת מיתתם מפורש בתורה, מפני שהקריבו אש זרה,
אלא היא ע"ד דרש ואסמכתא ע"פ מ"ש בתענית (ה:): "יעקב אבינו לא מת" - משום דזרעו בחיים לא נקרא מת, יעו"ש.
ובבבא בתרא קטז. איתא: "מפני מה נאמר בדוד 'שכיבה' וביואב 'מיתה'? מפני שדוד הניח בן כמותו,
והכא נמי הכונה שאם היה להם בנים והיו משמשים תחתיהן,
וכמו שכתוב בדרשה הבאה שאם היו להם בנים היו הם קודמין לאלעזר ואיתמר,
וא"כ לא היה נאמר בהם מיתה.

Bamidbar 3:1-4

And these are the generations of Aharon and Mosheh on the day Hashem spoke with Mosheh at Mount Sinai.

And these are the names of the sons of Aharon: the eldest Nadav, and Avihu, El'azar and Itamar. These are the names of the sons of Aharon who were anointed, whose "hands were filled" to serve as priests.

But Nadav and Avihu died before Hashem when they brought an alien fire in the presence of Hashem in the Sinai Wilderness, and sons were not had by them, so El'azar and Itamar were appointed as priests in the presence of Aharon their father.

Talmud Yevamot 63b-64a

A beraita:

"And when (the Ark) came to rest, he would say: 'Return Hashem, (amidst the) myriads and thousands of Israel'" – this teaches that the Shekhinah does not 'rest' on fewer than two thousands and two myriads of Israel.

So if there were in Israel two thousands and two myriads less one, and someone had not engaged in procreation, would it not turn out that he has caused the Shekhinah to depart from Israel?

Abba Chanan said in the name of Rabbi Eliezer: He would *deserve death*, as Scripture says:

"And sons were not had by them" – but if they had had sons, they would not have died.

Others say: They cause the Shekhinah to be withdrawn from Israel, as Scripture says: "To be for you a Divinity, and to your seed after you" – when you have seed after you, the Shekhinah rests; when you do not have seed after you, on whom does it rest? On sticks and rocks?!

Torah Temimah to Bamidbar 3:4

The language "deserves death" is certainly not intended in its superficial meaning, rather it should be interpreted as "its punishment is great",

as we find in the Talmud in several places this language with that meaning,

and so wrote Tosafot to Bekhorot 54a "the practical implication is that he is flogged more than for other offenses that are punished by (rabbinically ordered) flogging,

and we must similarly explain the proof from Nadav and Avihu that if they had had children they would not have died,

as certainly it is not possible to say that they would not die at all, as (death) is a fixed rule for human beings on the earth,

and it is also not possible to say that they would not have died in the manner and time that they died, as the cause of their death is explicit in the Torah - because they brought an alien fire.

Rather this is in the manner of derash and asmakhta, after the manner of what is written on Taanit 5b: "Yaakov our forefather did not die" – because his children are alive he is not called dead. See there.

So here too the intent (of saying "if they had had sons") is that if they had had sons who had served in their places (as priests),

as is written in the next derashah I cite that "if they had had sons, those sons would have taken precedence over El'azar and Itamar,"

and if so death would not have been said regarding them.