

*The Center for Modern Torah Leadership Weekly Torah Exploration
with Rabbi Aryeh Klapper*

Parashat Shmini

Please also like our [Facebook page](#), and browse our [website](#)!

**“NO BEERS BEFORE BLOGGING!”;
HALAKHIC DEMOCRATIZATION AND ITS DISCONTENTS**

Vayikra 10:8-11 juxtaposes a prohibition against kohanim entering the Sanctuary after drinking alcohol with a list of types of legal decisions. The midrash halakhah reasonably concludes that making such decisions is also forbidden to anyone who has drunk alcohol.

This conclusion is challenged in two ways. On Eruvin 64a, Rav Nachman asserts that he achieves mental clarity only after drinking beer, while a beraita on Keritut 13b insists that some forms of Torah study must be permitted even after drinking. I have difficulty relating to Rav Nachman’s objection (although I’m very glad this prohibition has not been Rabbinically extended to caffeine), but I can see why a culture in which alcoholic liquids are standard beverages would insist on the latter.

Which forms of Torah study are permitted? The printed text, which seems also to have been that of Rashi, records two positions. The first anonymous position (missing in several manuscripts) is that Mishnah is permitted, while Rabbi Yose bar Yehudah says that Talmud (other versions: gemara) is permitted. The common denominator is apparently an attempt to distinguish forms of Torah study that generate *hora’ah*, halakhic rulings, from those that don’t.

Keritut 13b cites Rav as ruling like R. Yose bar Yehudah. But, the Talmud objects, Rav himself refused to teach publicly after his Yom Tov meal, owing to alcohol consumption? Why should he not simply have taught Talmud, without issuing halakhic rulings? The final answer is

כל היכא דיתיב רב לא סגי ליה בלא הוראה
Wherever Rav sat, it would be insufficient without hora’ah.

Rashi explains

דכ"ע בעו מיניה.
Because everyone asks questions of him.

Rav therefore would not teach publicly after his Yom Tov meal, but he would be engaged in Talmud on his own

Maimonides, however, explains Rav's exceptionality as follows in Laws of Entrance to the Temple 1:4:

ומותר לשכור ללמד תורה
ואפ' הלכות ומדרשות
והוא שלא יורה,
ואם היה חכם קבוע להוראה לא ילמד
שלימודו הוראה היא.

Is it permitted for someone who is drunk to teach Torah
even laws and legal interpretations of Scripture
so long as he does not issue halakhic rulings,
but if he was a sage “established for legal ruling” he must not teach
because his learning *is* legal ruling.

Arukh HaShulchan YD 242 suggests that Rashi and Rambam differ only about the stature of the sage who is forbidden to teach: for Rambam it refers to anyone who is recognized as a decisor, while for Rashi it refers only to

אדם גדול שרבים שואלים אצלו שאלות ואין ביכולתו להמלט מזה
A great man whom many ask questions to and is unable to escape from this.

Kessef Mishnah, however, hints at a more fundamental disagreement.

ודברי רבינו מבוארים בפירוש'
ורש"י פירש בענין אחר:

I confess that I cannot confidently translate what he says about Rambam (first line above), but he is clear that

Rashi explained it in a different manner,

which I think refers to a more fundamental disagreement than the one presented by Arukh HaShulchan. My suggestion is that Kessef Mishnah understands Rambam as forbidding all public teaching of Torah by all recognized decisors because their words are automatically taken as guides for practice, rather than as intellectual frameworks for discussion. Recognized decisors lose the capacity to speculate publicly. Here Kessef Mishnah anticipated the age of Twitter.

I want to make a further suggestion. Rambam's sociological reality drew a hard-and-fast distinction between recognized decisors and others. In our world, however - for good or for ill – many people see the intellectual plausibility of an argument as sufficient to make it a guide for practice, regardless of the stature of the person making it. This means that every speculation in Torah offered publicly by anyone should be subject to this halakhah, which we can frame epigrammatically as the “No beer before blogging!” rule.

A deeper point is that the current democratization of halakhic authority in some Jewish communities – leaving aside the questions of how far it ought extend, and whether it is likely to survive – must at the least be accompanied by a concomitant acceptance of responsibility. One component of this is that everyone making a halakhic suggestion must think about what would happen not only if everyone adopted it, but also about what would happen if some people would adopt it while others would as a result see the adopters as beyond the halakhic pale.

We must also realize that the combination of completely eliminating private Torah conversational space with the complete democratization of Torah authority may have the ironic effect of shutting down all capacity for serious halakhic deliberation (as opposed to polemical debate), and in the end generate and enable an effective authoritarian backlash.

Very likely this is already happening.

Shabbat shalom!

Aryeh Klapper