

## Yizkor Dvar Tefillah ~ Adam Szubin, September 2013

Our gabbais asked if I would speak in the moments before Yizkor service is recited and I agreed, without giving it enough thought. It turns out to be a terrible slot. You see, there are very few moments when Jews stand up and walk out of synagogue en masse, but we're about ten minutes away from one. And so, if history is any guide, when I conclude my remarks, about ¾ of you will stand up and walk out. When the reaction to your speech is the same as the reaction of the UN General Assembly to Mahmoud Ahmedinejad, you know that you're not crushing it.

I'd like to talk today about the Jewish view of Collective Punishment and how that manifests itself on Yom Kippur, and end by tying those themes into the Yizkor service that we are about to recite.

### Collective Punishment

We tend to have strong negative associations with the concept of Collective Punishment. It brings to mind images of fierce and indiscriminate reprisals; the "justice" of regimes that are authoritarian or worse and who they punish the innocent along with the guilty for the simple crime of being in the same family or the same town or the same ethnicity as the offender.

But the concept is actually more complicated, and the Tanach is full of examples of collective punishment being employed by actors both good and bad. From the Flood to the destruction of the City of Shechem by Shimon and Levi; from the plagues in Egypt to the Ir Handichat -- the city of idol worshippers whose population is to be utterly wiped out -- collective punishment seems to have been a part of the moral and legal fabric of antiquity.

But our rabbis, in the Mishnaic and the Talmudic periods, had a distaste for collective punishment, and did their best to -- as we say these days -- "walk it back." It is interesting to watch the legal and exegetical lengths they go to explain away biblical examples of Collective Punishment. The midrash on the Ir haNidachat explains that the execution of the entire city is not a case of collective punishment, but rather that each and every one of the city's inhabitants was punished only after receiving an individualized finding of guilt by a court of law, pursuant to normal requirements of witnesses and the burden of proof being met. When it comes to the tenth plague in Egypt, the Torah goes out of its way to tell us that the plague will strike down all of the first-born of Egypt "...from the firstborn of Pharaoh who sits on his throne **to the firstborn of the maidservant who is behind the millstones.**" (Ex. 11:5). Rashi is clearly bothered. He explains that the commoners in Egypt were punished because -- as Pharaoh oppressed the Jews and enslaved them -- they too were enslaving them and were happy about their misfortune.

Likewise, when troubled by the story in which Jacob's sons slay all of the inhabitants of the City of Shechem, after its Prince Shechem took their sister Dinah, **Rambam** explains that: "All the residents of Shechem incurred a death sentence because [Prince] Shechem stole, **and they saw and knew, yet did not put him on trial.**" (Hilchot Melachim 9:14). Their inaction and indifference equated to complicity. From a moral perspective, I like the Rambam's approach, as it resonates with our views about the shame of the silent onlooker. But remember that the passive onlookers of Shechem were not just blamed, they were killed. As a theory of justice, I think it remains problematic.

### Collective Mercy

But let me ask a harder question. If we all agree that Collective Punishment is troubling, what do we think about Collective Reward or Collective Mercy? Is it right for a group of guilty people to be spared because

of the innocents in their midsts? Or would we say that the ordinary members of the group are unjustly reaping the rewards of someone else's work and good deeds?

The Jewish paragon of Chesed was Abraham, and he was the ultimate advocate for Collective Mercy. When G-d prepared to destroy the cities of Sodom and Gomorrah in their entirety, Abraham famously invokes the potential few righteous people in these cities. But he doesn't invoke them to plead for their salvation only. Abraham daringly argues with G-d that if the cities have 40, 30, even 10 righteous people in them then ALL of their inhabitants should be spared, the thousands of transgressors as well.

And, remarkably, God concedes, responding: "If I find in Sodom fifty righteous people in the midst of the city, then I would spare the **entire place on their account.**" (Gen. 18:26).

In the end, the cities don't have even 10 good people to save them. But one can imagine the case Abraham would have made on behalf of Noah's generation. An ark for evacuation?? No, the whole earth should be spared on the merits of Noah and his righteous family!

We can debate whether Abraham's notion of Collective Mercy is moral. It's certainly not just, under a traditional view of justice. But, whatever we think of it, these notions that permeate the Bible of both collective reward and collective punishment – perhaps Collective Responsibility -- never really disappear from Jewish thought and from our liturgy.

### **Collective Responsibility on Yom Kippur**

As we stand before G-d on the Day of Judgment, this notion of Communal Judgment, of Collective Responsibility, comes up again and again.

We regularly pray as a Collective: "Ashamnu, Bagadnu," "**We** sinned, we rebelled." "Al cheyt sheChatanu lefanecha" "For the sin which **we** have committed before You." We play in the plural even when the sins we're talking about are only possible to commit at the personal level. "Al Cheyt SheChatanu Lefanecha **be Hirhur...**"

And we seek protection invoking the merits of the Jewish Community. "Zechor La'Avadecha LeAvraham, LeYitzchak, uLeYaakov, al Tefen el Kshi ham HaZeh ve'El Risho ve'El Chatato." Remember Your servants Abraham, Isaac, and Jacob; do not look upon the stubbornness of this people nor to their wickedness, nor to their sin."

It echoes our daily prayer in the "Al HaTzadikim" verse of the shmoneh esre: "May Your mercies be aroused, L-rd our G-d, upon the righteous, upon the pious, upon the elders of Your people.... Grant ample reward to all who truly trust in Your Name, **and place our lot among them.**" *[[Ending with "veSeem Chelkeinu Imahem."]]*

Those who coined these tfillot knew the human heart, and knew how glaringly naked and unworthy we feel standing before G-d on this holiest of days. "Meh anu, meh chayenu" "What are we, what are our lives before G-d?" *Umotar ha'ada min habeheima ayin* "The human being is worth no more than the beast of the field."

Their hope came in numbers and in our ancestors. That G-d wouldn't hold us to account individually, but judge us on our worthiness as a people, giving us credit for the righteousness of our ancestors and the great mitzvot and sacrifices of our peers. Don't treat us as you treated Noah and his peers – separating the good from the bad. Treat us as Abraham urged you to act in Sedom. On this scale, we at least stand a chance.

## **Yizkor**

These themes are extremely fitting to discuss immediately before we recite the Yizkor service.

I am fortunate to have both of my parents still living, and grew up practicing the custom that one left shul for Yizkor unless one was reciting it. Until I became a Gabbai at DC Minyan, about ten years ago, I had never heard Yizkor said. It turns out that I had a number of mistaken impressions.

First, I thought that the remembrances for lost family members took 10-15 minutes. The yizkor prayer for a lost parent is a single sentence, fewer than 40 words, in which the person asks that their lost parent be remembered for good and pledges tzedaka or prayer on the parent's behalf. After that, the shaliach tzibbur recites a few short "kel maleh rachamims" and "yizkors" on behalf of communal losses, that are appropriate to be recited by everyone in our community – prayers for those who perished in the Holocaust, for those who died protecting the State of Israel, and for all of our departed martyrs. The reason Yizkor takes 15 minutes is that it takes a large shul like ours a full 6 minutes to slowly file out and 6 minutes to come back in.

More substantively, I had always thought that the yizkor prayer itself was the prayer of a lone individual before G-d – the moment when people stepped away from the community and stood alone in private prayer. There is some truth to that, but the origins of the Yizkor prayer are in the crusades, when Jews were mourning large losses, losses of entire communities. It did not start as a service for mourning individual relatives. And the heart of the yizkor prayer for the departed is the plea "Tehei Nafsho/a Tzerurah BiTzror HaChayim..." "May the soul of the departed be bound up in the bond of life." My father taught me that the common translation of "Tzror" as bond is not reflective of the true meaning. It is not a bond or a chain. Tzror literally means a tied bundle or a sheaf. We pray "May her soul be bound up in the **bundle** of life, along with the souls of our ancestors and the righteous who are in Gan Eden." It is a prayer that our loved ones not be judged separately on their own merits and failings alone, but that they be bound up among the souls of all the righteous Jews who have come before them, and appear before G-d in their company. It is a prayer for Collective Judgment. **VeHachut HameShulash lo Bimherah Yinatek. – the braided rope cannot be easily severed.**

Sadly, I attended a funeral for a good friend of mine's father this past week, two days after Rosh Hashana. And one of the most painful moments was – as it often is -- when the mourners began to spread dirt onto the coffin, when the fact of his father's separation -- permanent separation from his family and community -- became so painfully clear. We Jews are a communal people; we celebrate in communities, we pray in communities, and we mourn in communities. And this is why our prayer for those who have passed away is that they not be left alone in a tallit in a coffin, but that they be bound up, tightly surrounded on all sides by the souls of the righteous.

I would just note here that, in the years since I've begun staying in shul for Yizkor and learned more about the service, I've learned to my surprise that many rabbis and scholars believe that all congregants should remain for the service. And there is no mention in the early sources, like the Shulchan Aruch, of anyone

leaving shul. The custom arose relatively late, hundreds of years later. It has little halachic grounding, and I find the explanations for it superstitious and largely unsatisfying. I don't think it resonates for us that in staying in shul for Yizkor we will bring an evil eye on our parents or that those reciting Yizkor will feel anger and jealousy at those who have living parents. After all, if those notions were halachically powerful, nearly all of us would leave every time the mourners stand to recite kaddish. Instead, we stay beside them and answer "Amen." We remind them that they are not alone.

I know that customs die hard, and customs surrounding death die harder. I suspect that many of you who have had a custom of leaving shul for Yizkor may not feel comfortable changing that custom this Yom Kippur without first talking to your parents. But I would urge you to talk to your parents and/or halachic authorities before our next Yizkor and to at least consider staying in by the side of our mourners the next time.

The Talmud teaches us that "Kol Yisrael Arevin Ze laZeh" (Sanhedrin 27b), "All of Israel are responsible for one another." And the term used, "Arevin" is a legal term, that actually means collateral or guarantee. In modern day law, this idea persists as "joint liability," which can pertain in a partnership or marriage. It means there that the debts of the partnership can be collected from any one partner, no matter who incurred them. The idea that we serve as collateral for one another's souls is so powerful it's a bit frightening. Imagine you found yourself signed up to a partnership with everyone in this room, where any debts or losses they incur can be collected from you. How much care would you take to ensure that each and every one of them succeeded, that none made poor decisions or fell prey to massive debts? *Kol Yisrael Arevin* implies that this level of obligation exists in the spiritual realm -- that we need to safeguard one another and lift up those who are stumbling as if our spiritual lives hung in the balance. Which, under a regime of Collective Responsibility, they actually do.

For today, my hope and prayer for all of us is that by our own merits, and the merits of the righteous among us, and the righteous among our ancestors, that we be blessed for a good and healthy new year. *Gmar Chatima Tova.*