

Shemini 5784

April 6, 2024

Responding to Bella Schafer and Jacob Harty

Bella and Jacob, those were both truly excellent divrei Torah. You wrestled with a very challenging text and emerged with insightful and highly relevant lessons about our lives and world today. Both of you asked: why did Nadav and Avihu die? Bella, you brought rabbinic arguments that they were drunk, that they were being punished for Aaron's role in the golden calf, and that they violated the rules of ritual sacrifice and were being treated as any other ordinary Israelite would have been treated after such an infraction. Only your fourth theory, from Maimonides, argued that it wasn't a punishment at all but a simple accident. Jacob, you brought comments from entirely different rabbinic sources than Bella, but they all said the same thing as three of her four – that they were facing consequences for doing something wrong – whether it was the arrogance to make their own decisions in front of their teacher Moses, or that they ignored a warning about using unauthorized incense, or that it was their own incense so the problem was that they were calling attention to themselves instead of the community. So, out of the seven rabbinic commentators you both brought to make sense of this tragedy, one thought it was just an accident and six thought that for one reason or another, Nadav and Avihu were being held accountable for something they did wrong.

Bella, you went from there to argue that though being held accountable is good, the death penalty is too harsh of a punishment. It was too harsh then and it is too harsh now. I couldn't agree more, and as you show, the Reform movement of Judaism is with you on this. And Jacob, you applied the theme of accountability at three levels – the individual, the national, and the global. Your instructions about how to give an effective apology (with the incredibly wise teaching about not using the moment to make it about ourselves) was already a complete and startlingly insightful d'var Torah, but then you also addressed our nation's accountability for the legacy of slavery and our world's accountability for climate change. You want all of us– and our leaders– to take responsibility and to take action to redress past wrongs and to change. AMEN.

When reading your two divrei Torah in the context of this week, I couldn't help but think about Israel and Gaza, and in particular the lack of accountability on both sides. And though this will be my 19th sermon about the war, I need to speak again. You both have made the case very effectively that Jewish tradition, from Torah to the Rabbinic era to the Medieval era to now, believes in accountability, responsibility, consequences for wrong actions.

Here we are six months into war. There are 134 people who have been hostage now for six months. For six months, Israelis have been shaken to the core by the trauma of October 7. They are mourning the dead, they are injured, they are facing the trauma of extreme sexual violence and the nightmare of knowing that 100-plus hostages are still undergoing unspeakable abuse. Meanwhile, there are hundreds of thousands, and then millions of Gazans who are mourning, injured, displaced, huddling in tents from bombs, starving without food, clean water, or sanitation.

One thing that has puzzled me since October 7th is the lack of outrage and condemnation of Hamas from those who are the most vocal and loyal defenders of the Palestinian people. It is now verified that Hamas has been using hospitals as bases for military operations, something the Israeli government claimed all along but was often doubted. It was doubted because that is so extremely immoral. As Ashraf Ibrahim Samour, the deputy director of Hamas military intelligence acknowledged this week, "A lot of Hamas units and bodies operated from inside Shifa Hospital." That demonstrates a desire, a strategic choice, to use the most vulnerable people – the sick, the wounded, children, old people – as fodder for war. How is the world just nodding along with that inhumanity, that abject lack of moral responsibility? The hospitals, of course, are just the most extreme version of this basic strategy– of intentionally placing armed combatants, explosives, rockets among innocents – in schools, and in places where children and elders and women are gathered.

At the beginning, in the first weeks after October 7th, when Israel was dropping bombs killing thousands of people, Hamas could have, at any time, opened their extensive tunnel system, which we now know is hundreds of miles long and multiple layers deep, to innocent people seeking safety. They could have at any time used those tunnels to shelter their people instead of allowing them to die in the thousands. They could have, over all the preceding years, used the materials

with which they built the tunnels, to build bomb shelters for their people, as Israel has. But that's not their strategy. This is their strategy. Mass death and humanitarian crisis is their strategy. For those who care about Palestinian lives, why is there not massive outrage at Hamas? Why is there no public accountability?

On January 25, +972 Magazine published a piece by an anonymous Gazan journalist. He said, "I do not know anymore, or perhaps I cannot know, who is to blame for our suffering. Certainly, the main cause is the Israeli government. But we are beginning to wonder: ...Is Hamas cooperating with Israel? Where is the Palestinian Authority? ... Our dignity and our lives are being violated daily, and no one is providing us with help — do they know, but just don't care? What Israel has done to Gaza is a violent earthquake, an earthquake that is deliberately destroying our homes and neighborhoods. But the citizens of Gaza are asking for a government that ... negotiates with Israel to protect us, not just themselves." The anonymous Gazan journalist then quoted two other Gazans using pseudonyms. One said, "We, the civilians, are in a war against the Israeli army with all its strength, equipment, and criminality. But where is Hamas when it comes to protecting and preserving the interests of the people?" And the other said, "Hamas does not care about the victims among its people in Gaza, and Netanyahu does not care about the hostages or the families of the hostages."

I have been calling for a ceasefire, for the end of the war, for months. This disastrous war must end. It should have ended months ago. But I ask those who've been only calling upon Israel for a ceasefire, do you remember that at any time, Hamas could release the hostages? At any time, Hamas could make this stop, as could Israel. Where is the accountability for Hamas in the Arab world, in the Palestinian diaspora, in the American left?

Now let me be clear, by no means should accountability only be focused on Hamas. The destruction of and conditions in Gaza are shameful, beyond unacceptable. This week, the Israeli army killed seven international aid workers from World Central Kitchen, the heroic organization that feeds people in conflict zones globally. They were in clearly marked vehicles, and we know that Israel has the capability of precision targeting, even though sometimes it does not use its own protocols to protect innocent lives.

Israeli journalist Yuval Abraham filed a report in Jerusalem on Wednesday with +972 Magazine further investigating a report he filed last November accusing the Israeli military of relying on AI for its decisions to bomb thousands of Gazans in the first few weeks of the war. In this article, the IDF leadership denies the testimony of six Israeli intelligence officers, who confirm previous reports that AI was used to systematically surveil Gazans and to use algorithms to predict who is a Hamas operative based on things like changing cell phones and addresses frequently, and then to target often very low level operatives and bomb them at their homes with little human oversight to ensure that the correct people were being bombed, with awareness of a significant margin of error, using what they call dumb bombs (which are cheaper but kill more people) and with approval to kill large numbers of civilians per targeted individual.

The Israeli informants said the following: “We were constantly being pressured: ‘Bring us more targets.’ ... At its peak, the system managed to generate 37,000 people as potential human targets,” said one IDF informant. “But the numbers changed all the time, because it depends on where you set the bar of what a Hamas operative is. There were times when a Hamas operative was defined more broadly,” he continued, “and then the machine started bringing us all kinds of civil defense personnel, police officers, on whom it would be a shame,” he said, “to waste bombs. They help the Hamas government, but they don’t really endanger soldiers.”

“At first, we did checks to ensure that the machine didn’t get confused. But at some point we relied on the automatic system, and we only checked that [the target] was a man — that was enough....”

Another source with knowledge of the system said, “You put hundreds [of targets] into the system and wait to see who you can kill. It’s called broad hunting: you copy-paste from the lists that the target system produces.... One day, totally of my own accord, I added something like 1,200 new targets to the [tracking] system, because the number of attacks [we were conducting] decreased,” the source said. “That made sense to me. In retrospect, it seems like a serious decision I made. And such decisions were not made at high levels.”

Another source said, “Let’s say you calculate [that there is one] Hamas [operative] plus 10 [civilians in the house]. Usually, these 10 will be women and children. So absurdly, it turns out that most of the people you killed were women and children.” “Every person who wore a Hamas uniform in the past year or two could be bombed with 20 [civilians killed as] collateral damage, even without

special permission,” that source continued. “In practice, the principle of proportionality did not exist.... It really wasn’t like that in the past,” Another intelligence source claimed, “There was a completely permissive policy regarding the casualties of [bombing] operations — so permissive that in my opinion it had an element of revenge. The core of this was the assassinations of senior [Hamas and Palestinian Islamic Jihad commanders] for whom they were willing to kill hundreds of civilians.” “There were regulations, but they were just very lenient,” said another intelligence source. “We’ve killed people with collateral damage in the high double-digits, if not low triple-digits. These are things that haven’t happened before.”

To repeat, the IDF’s leadership denies these claims. If they are true, they describe an obscene abdication of moral responsibility. Even if none of these sources are telling the truth and all of them are lying, we have now a situation where tens of thousands of Palestinians are dead, as many as 75,000 are wounded, and almost 2 million are homeless and hungry. According to the Washington Post, *one third of Gazans are so hungry that they are in danger of starving to death*. Some people are receiving as little as a bottle of water and a can of food once per week. Three quarters of the population are displaced, homeless. Some have had to move their families four times in a day to avoid bombings. Some have followed Israel’s evacuation orders only to be bombed in what was labeled a safe zone. The displaced have had almost no access to medical care. Women have given birth on the ground. More than half of the homes are destroyed, so when the bombing stops most people have no home to return to. In Rafah, where most people have fled, sewage overflows into people’s tents. Rafah, where 1.4 million people are huddled, is currently being bombed, and the Israeli army is awaiting orders to invade. What will happen then?

The war is not only devastating Palestinians, it is hurting Israel. Former Knesset Member Ofer Shelah wrote in Yedioth Ahronoth this week, “The military operation in the Gaza Strip has been dragged out to the point of becoming meaningless. The operation in Shifa Hospital, which was successful in its own right, is merely an attempt to empty the sea with a teaspoon, while ignoring the mounting international damage and the [Israeli public’s] despondency upon the clear illustration that areas that we conquered months ago have fallen under Hamas’s control once again. But the real war was never just in the Gaza Strip, nor was it restricted only to the Gaza Strip or the northern theater. The war is regional and,

in certain senses, it is even global. Netanyahu's refusal to act accordingly, with the security establishment's support, runs the risk of having Israel suffer a strategic defeat on all fronts."

This week, for four days in a row, thousands of protesters gathered outside the Knesset calling for the hostages to be released immediately and for new elections to be called. Marching to President Herzog's office demanding that he call for Netanyahu's replacement, the protesters said, "The prime minister is the obstacle to a deal."

Ehud Barak, the former prime minister of Israel, gave a speech at the demonstration. He said, "Removing this disastrous government was and remains the job of the opposition" Quoting the Rabbinic sage Hillel, he continued: "Bamakom she ein anashim, hishtadel lihiyot ish." "In a place where there are no mensches, strive to be a mensch." Former Prime Minister Barak continued, "The ball has been passed to us, the citizens, who are prepared to fight for our country's fate."

Israeli political scientist Avi Shilon wrote in *Yediot Ahronoth*, "People who say that now is not the time to hold demonstrations because we are still at war, are missing the fact that this war will only be decided—in the deep strategic sense—when we force the politicians to decide where we are headed. That is why the demand to hold elections, at an early and agreed-on date, is the only correct and common denominator at the moment."

Even National Unity Party Chairman Benny Gantz, who is currently in the coalition government, issued a public statement on Wednesday in which he called for elections to be held in September this year. But opposition chairman Yair Lapid replied that Israel could not wait another six months for "the most dangerous and failed government in Israel's history to be removed from office."

In the midst of the trauma and pressure of wartime, Israelis are starting to demand that their government be held accountable.

The United States has an important role to play in that accountability. It seems that President Biden successfully got Israel to agree on Thursday to announce and take specific steps to protect innocent civilians from harm and to immediately

admit humanitarian aid. He did so by threatening to condition US aid. Right now, the US is preparing an \$18 billion arms transfer to Israel. As our friends at Omdim Beyachad, Standing Together – the organization of Jewish and Palestinian Israelis who are working together for a shared future – said when they were here in Brooklyn two weeks ago, the United States must not give Israel a blank check. Bibi has rebuffed President Biden again and again as Biden has pleaded with the Israeli government to use restraint, to minimize collateral damage, to facilitate and enable the delivery of humanitarian aid, and to come to a negotiated ceasefire. It seems that Biden made progress for the first time by threatening conditional aid.

All of us who care deeply about Israel's safety, particularly in the context of the wider region, as the conflict with Iran escalates to truly dangerous levels, as Hezbollah continues to hammer Israel from the north, as Hamas fighters retake parts of Northern Gaza, all of us are loath to advocate for conditional US aid. Israel is in a precarious position and needs the backing of the United States. But what choice is Netanyahu leaving the US government? How possibly can our country continue to supply weapons without accountability?

It's hard to imagine the Torah or the many generations of commentators on it tolerating unaccountable leadership in any form, as you, Bella and Jacob made clear in your divrei Torah. Six out of seven of the commentators you cited on the parasha justified extremely harsh accountability for Nadav and Avihu's infractions. Rabbi Samson Raphael Hirsch, the founder of modern Orthodoxy, wrote about Nadav and Avihu, "They were indeed the sons of Aaron but did not consult their father about their ideas; or perhaps because they were the sons of Aaron they thought they were above all advice. ... it was just the value that they put on their own individual personalities that made them think they were self-sufficient" (Hirsch, *Commentary on the Torah*, 252).

None of us as Jews, no matter how important we are, no matter what status or position we hold, none of us is self-sufficient. We are part of a community, and our actions affect that community. We belong to a people. We are accountable to that people, and in a greater sense we are accountable to all people, and to G-d.

All leaders in this terrible war should be held accountable. All of us who call ourselves Pro-Palestine, all of us who say we care about the lives, the safety, the

freedom, and the wellbeing of Palestinians should be loudly and clearly holding Hamas accountable. That includes the Arab world, the Palestinian diaspora, and the American left, all should be calling for the accountability and removal of Hamas.

And all of us who call ourselves Pro-Israel, all of us who care about the lives, the safety, the freedom, and the well-being of Israelis, should be loudly and clearly holding Benjamin Netanyahu's government accountable. Israelis are calling for his removal, are calling for elections, and we should support them. As the Israeli people are beginning to hold their government accountable, the United States must do so as well.

Shabbat Shalom.