

Praying with Criminals (Sinners)

בישיבה של מעלה ובישיבה של מתה

על דעת המקום ועל דעת הקהל

אנו מתפללים להתפלל עם העבריינים¹

On Tuesday evening, the Cantor will sing this prayer 3 times before beginning Kol Nidre. Why it is said and what it means might give us some insight into repentance, the theme of *Shabbat Shuvah*, this Sabbath of Returning. First, the prayer says in the heavenly Tribunal and in the Court below-the court, or בית דין, which we are establishing right now. The reason Kol Nidrei must be completed before *shkiah* (nightfall) is because we are assembling a court, and all business must be completed before Yom Tov begins. Everything in the earthly tribunal is said to be mirrored by what happens in Heaven. Just as we will gather to form a court of law, so too will the angels in heaven do so.

The next part is particularly troubling: על דעת המקום, translated in our Mahzor as “with Divine sanction.” As Dr. Yehuda Kurtzer said,

¹ Phrase said three times before recitation of Kol Nidre

“Who decides that G-d gives us permission?”² We can give ourselves permission to gather but who’s to say that G-d gives us permission to engage in Kol Nidrei, a process of retroactively annulling vows between man and G-d that **will be made** during the coming year but will be unfulfilled? If your head isn’t spinning yet, then read the last phrase, אנו מתירין להתפלל עם העבריינים, “We declare it lawful to pray with those who have transgressed (committed עבירות, the general term used for “sins”). What gives us permission to have sinners as part of our בית דין, and to claim that such permission comes from G-d nonetheless!

I went a step further than Dr. Kurtzer, entitling my remarks *Praying with Criminals*. The word עבריין can mean criminal. Criminals are a caste of sinners, some of whom have done minor wrongdoings, others quite major ones. They very well may constitute our בית דין on Kol Nidre evening.

Why does such permission need to be given? If we do not make direct mention of it, one might think that there are some meant to be

² Shalom Hartman Institute Rabbinic High Holiday Webinar *Praying with Sinners: Religious Pluralism, Revisited*, August 27, 2018.

excluded from Kol Nidre-and by extension not have any shot at all for repentance. That is precisely the **opposite** of what our tradition teaches. As a learned Jewish man (but not the Messiah☺) once said “Let him who is without sin cast the first stone.”³ To focus on Jewish sources, however, we see that the value is placed not on avoiding sin but rather on repenting from one’s sins. As Rav Abbahu stated, “Where *Baalei Teshuvah* stand, *Tzadikim*⁴ cannot stand!”⁵ This implies that it is better to be tempted by sin, perhaps from one’s upbringing, but to turn away from it than it is to never sin in the first place. *Furthermore*, “*Rabbi Bar-Chanina Sava said in the name of Rav, ‘Anyone who does a sin, and is ashamed of it, all his sins are forgiven!’*”⁶ Of course the rabbis are talking about genuine shame leading to changed behavior rather than merely ephemeral shame.

Let us turn back to the idea of criminals in our midst. In our country, once one has a felony conviction is it on his/her record permanently. It impairs his/her ability to get another job, vote and

³ John 8:7

⁴ Meaning in this context people who have never sinned

⁵ Babylonian Talmud B’rachot 34b

⁶ Babylonian Talmud B’rachot 12b

conduct many aspects of daily life. Our tradition, however, believes that nothing is permanent: that everyone has the ability to be a true *baal teshuva* regardless of what s/he has done. With that being said, it is human nature to look down on or disparage someone who has a checkered past. That's one of many reasons why *Kohanim* cover their faces with a tallit before reciting the Priestly Blessing-so that no one will say (G-d forbid) "You mean this guy is the one who is blessing me?!"

Our tradition gives permission to pray alongside everyone who enters our Sanctuary. It does not matter what sin s/he has done, the magnitude of it or the quantity of sins comparatively. What matters is that each of us gives permission to pray alongside one's fellow Jews, to say the *Ashamnu* and *Al Chet Sh'Hatanu*, believing wholeheartedly that they apply to us as a community. As is the case with these words which I strive to live by, not always succeeding-"To be humble is **not** to make comparisons."⁷

⁷ Ernest Kurtz and Catherine Ketcham, *The Spirituality of Imperfection: Storytelling and the Search for Meaning* (US, Bantam Books, 1992), p. 187.

On this Sabbath of Returning and subsequent Day of Atonement, let us strive to pray with full integrity and heart with all those who are around us. Let us put past judgments about others being us, viewing each person as an *אדם חדש*, a new person with a *tabula rasa* (clean slate). Always remember the importance of the *baal teshuva*, the truly repentant person, and strive to be him/her.

Let us conclude with a prayer by Rabbi Leo Baeck written for the High Holy Days: *"At this hour the whole House of Israel stands before its God, the God of Justice and the God of Mercy. We shall examine our ways before Him. We shall examine what we have done and what we have failed to do; we shall examine where we have gone and where we have failed to go. Wherever we have sinned we will confess it: We will say "we have sinned" and will pray with the will to repentance before the Lord and we will pray: "Lord forgive us!"*⁸

⁸ In German Jewish Reform Prayerbook of 1935