Lenny Sermon 2026

SERMON – RH Day 1, 2026 / 5787, Kol Rina
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Shalom and welcome to you all.

As constitutional crises are somewhat in vogue these days, I would like to illustrate the issue of constitutional crises from some pieces of rabbinic lore appropriate to the holiday.

- We read in the Mishna, Tractate Rosh Hashana, that the new month was proclaimed by a high rabbinic court by interviewing witnesses who had claimed to observe the new moon in the western horizon. On one occasion, the witnesses said, We observed the new moon on the 30th of Elul, but on the 31st of Elul it was not visible, and Rabban Gamaliel, who presided over the court, accepted their testimony. Rabbi Dosa ben Horkinas objected: how can you say a woman gave birth on one day, but the next day she had a swollen belly? Rabbi Joshua approved Rabbi Dosa's objection. Whereupon, Rabban Gamaliel ordered Rabbi Joshua: I order you to come to me with your wallet and your staff on the day that you calculate to be Yom Kippur. Rabbi Joshua was perplexed: How can I violate the day that I regard as the most sacred in the calendar? He consulted with Rabbi Akiva. Rabbi Akiva counseled him: We read in Leviticus, אלה מועדי ה' אשר תקראו אותם במועדך — these are the appointed times of God *which you shall proclaim* in their proper time: whether correctly or incorrectly, it all goes by your determination. In the end, Rabbi Joshua came to Rabban Gamaliel on the day Rabban Gamaliel had ordered him. Rabban Gamaliel kissed Rabbi Joshua on the head, and said to him: Come in peace, my teacher and my student. You are my teacher in wisdom, and my student because you accepted my decision.
- What arises from this story so far are the following issues:
    - Rabbinic Judaism was pluralistic up to a point. There are many legal questions where the individual rabbi is given discretion to act by his own opinion. But how far can this be extended without inviting anarchy?
    - Rabbi Joshua doesn't just have his opinion on the setting of the new month, but he believes Rabban Gamaliel's ruling is in error. All the more urgency, therefore, for him to call out the error, so it can be corrected.

    - On a deeper level, there is a constitutional boundary between divine and human authority in establishing the calendar. Ultimately, God decrees the timing of the festivals, and God's will is made known through the position of the sun, moon, and planets. If the planets determine that Tishrei begins after 30 days of Elul, who is Rabban Gamaliel to overrule them? Rabbi Joshua is simply pointing out God's decree, which ought to be obeyed.

- The matter is finally resolved by Rabbi Akiva, who from the interpretation of the word תקראו "you shall call them" decides that God has really delegated authority in the setting of the calendar to the rabbis. The rabbinic act of declaration is performed by Rabban Gamaliel's court, whether correctly or incorrectly from an astronomical viewpoint. Thus Rabbi Akiva persuades Rabbi Joshua to relent and to accept Rabban Gamaliel's ruling as determinative.
- The prevailing issues in this narrative are the authority of the highest court, the value of consensus, and the discretion of the individual rabbi to have his own opinion. The resolution in this case is in favor of authority and consensus.
- The scope of the discussion is broadened by two related narratives, in which the conflict between Rabban Gamaliel and Rabbi Joshua develops further. In a second case, the issue is whether a blemished firstborn animal could be appropriated by its priest-owner for his own use. Rabbi Joshua said, yes, Rabban Gamaliel said no. In the third case, the issue is whether the evening Amidah is a required prayer or optional; again, Rabbi Joshua was more lenient, Rabban Gamaliel more stringent. In each of the latter two cases, Rabban Gamaliel calls Rabbi Joshua to task in public, in the study house, ordering him to stand through the lesson, and thus humiliating him. The third time, the people in the study hall raise a commotion, forcing Rabban Gamaliel to stop his lecture. A rebellion erupts on the spot, and they take the unprecedented step of deposing Rabban Gamaliel from his position as President of the Sanhedrin, and appointing Rabbi Eleazar ben Azarya in his place. Eventually Rabban Gamaliel sees the error of his authoritarian ways. He pays a private visit to Rabbi Joshua in the latter's humble abode, and apologizes for his behavior. The people restore

Rabban Gamaliel to his presidency, while retaining Rabbi Eleazar ben Azarya as an alternate, sharing the Sabbath pulpit with him.

- Now, this constitutional crisis, you will agree, was more severe than the preceding, and involved additional issues. Though the authority of the chief rabbi was unquestioned in the first narrative, it is overturned, however briefly, in this one. The “people,” who were not mentioned previously, assume a role as the ultimate check on the abuse of authority by those at the top. It appears that Rabban Gamaliel, like many others risen to high office, let his power go to his head and ultimately abused it. For the system of governance to operate in a healthy way, there have to be checks and balances, even if informally assumed. The corrective for tyrannical authority at the top has to come from the assertiveness of the people.
- The same issue comes up even more sharply in another famous story, that of the Tanur shel Akhnai--- the coiled oven. In this story, the dispute is between Rabbi Joshua and another of his colleagues, Rabbi Eliezer. Rabbi Eliezer was advocating a minority view, against his colleagues who were in the majority. He challenged them: “If the law agrees with me, let this carob tree prove it! The carob tree uprooted itself. Rabbi Joshua said: We do not take testimony from a carob tree.
- If the law agrees with me, let this brook flow backward! The brook flowed backward. Rabbi Joshua said, We do not take testimony from a brook.
- If the law agrees with me, let the walls of the academy prove it! The walls of the academy started to tilt. Rabbi Joshua admonished them, What business do you have meddling in the disputes of scholars? The walls did not straighten up, out of respect for Rabbi Eliezer, but they did not fall down all the way, out of respect for Rabbi Joshua, and they remained tilted to this day.
- If the law agrees with me, let a voice from heaven prove it! A voice from heaven was heard, saying “The law is according to Rabbi Eliezer.” Rabbi Joshua said, It says in the Torah itself, “It is not in heaven.” We decide the law on the basis of the majority of the sages, not a voice from heaven.

- In the end, they decreed that Rabbi Eliezer should be shunned for violating the agreed-on procedures of collegial deliberation in deciding the law. It did not end well for a number of the personalities involved, but we shall not go into that here.
- The issues in this story are even more serious than those in the previous. Again, the question of ultimate authority is raised: Does the system of Jewish law rest on God alone, or on God's will as interpreted by the rabbis? Rabbi Eliezer claims to speak for God directly, supporting his claim with miracles. Rabbi Joshua says, miracles don't count; only the majority consensus of the rabbis determines the law.
- Again, the overweening narcissism of one rabbi threatens to upset the apple cart. In the first cycle of narratives, it was Rabban Gamaliel abusing his authority and humiliating his colleague. In the last story, it was Rabbi Eliezer, seeking to impose his will to quash the accepted procedures of deliberation and majority vote that were the basis of the rabbinic constitution of governance.
- There are those who warn us today of constitutional crises, here, in Israel, and in other countries of the world. In many of these cases, the established rule of law and procedures is threatened by individuals who in pursuit of their personal power push against the constraints of traditional practices. Maybe we can draw inspiration from the narratives of our tradition in working to reestablish balanced governance based on consensus building and respect for all.
- לשנה טובה תכתבו ותחתמו