



MISHNAS CHAYIM

משנת חיים

MISHNAH ON THE PARSHAH

פרשת מטות-מסעי תש"ע פרישׂאס מׂטוׂס-מׂסׂׂי 5770

KILLING THE KILLERS – RODEIF REVISITED

One of the subjects treated in this week's *parshah* is *retzichah* – murder (*Bamidbar ch. 35*). One may have thought, initially, that this area of *halachah* would be relatively straightforward. On closer examination, however, we discover numerous facets and complexities associated with it. And while we hope that in general they should not be needed in actual practice, many of these contingencies make for fascinating study.

One of these aspects concerns a topic discussed previously in these pages (*parshas Mishpatim, 5770*) – the *rodeif* (pursuer). While most perpetrators of capital transgressions are only executed in *beis din* through a judicial process, the *rodeif* is an exception. Here, the Torah sanctions vigilante behavior, as any onlooker can – and should – take action. The Mishnah in Sanhedrin (8:7) states that an individual attempting to commit murder should be assassinated before he reaches his victim.

What bears scrutiny, and is actually the subject of much debate, is the phraseology used by the Mishnah to state this *halachah*. Speaking of these “extra-judicial” killings, the Mishnah employs an interesting choice of words: *מצילין אותן בַּנְפְּשׁוֹן* – “We save *them* with their souls” (i.e., by taking away their souls and ending their lives).

Who, exactly, is *them*, and from what is it that they are being spared? Conventional wisdom suggests that the term refers to the intended victim; we save them from their pursuers by eliminating the latter. *Tosafos*, in fact, subscribe to this view (*Sanhedrin 73a, s.v. “L’hatzilo”*).

However, Rashi on the Mishnah (*Sanhedrin, Ibid.*), takes a different tack. He interprets the “them” as referring to the *pursuer himself*, whom we are trying to save from incurring tremendous sin. In order to prevent him from committing a heinous transgression, we are enjoined to use any means necessary – even the removal of his soul.

BETTER OFF DEAD

The truth is that this is not the first time the Mishnah alludes to such a notion. In the very same chapter in Sanhedrin, a previous Mishnah discussed a similar situation, regarding the *ben sorer u'moreh* (recalcitrant son), a rebellious young teenager whose misbehavior has reached a breaking point. The Torah prescribes that in such an instance, the only antidote is death. As the Mishnah explains (8:5):

בֶּן סוֹרֵר וּמוֹרֵה נִדוֹן עַל שֵׁם סוֹפוֹ, יָמוּת זָכָאִי וְאֵל יָמוּת חָבִיב, שְׁמִיתָתָן שֶׁל רְשָׁעִים הַנָּאֵה לָהֶן...

“The *ben sorer u'moreh* is convicted on the basis of his future; let him die while still innocent, instead of dying full of sin. For the (untimely) death of the wicked is actually to their benefit.”

As the commentators explain, the current path of the *ben sorer* can lead only to self-destruction. Having hit a point of no return, his condition will only deteriorate as time progresses. True, until now, he may have only engaged in petty theft, eating, and drinking. But as his cash reserves are depleted, he will seek more desperate measures to fulfill his cravings. Eventually, he will turn to a life of abject crime, laying in ambush on the highway to assault, murder, and pillage the wayfarers. And so, the Torah mandates his execution at an early stage, before

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he further sullies his soul with such egregious transgressions. As such, he can enter the next world with a relatively clean slate; had he stuck around for much longer, his afterlife destination would have been much harsher. Thus, the death of this wicked youngster is really his greatest salvation.

BEATING HIM AT HIS OWN GAME

This question – who, exactly, is being “saved” – manifests itself with quite a fascinating ramification, for this issue can arise when dealing with an attempted suicide (again, hopefully on an exclusively theoretical – and not practical – level).

In a strict interpretive sense, suicide is a form of murder. In fact, according to the Midrash (*Pesikta Rabasi*, ch. 24), one who commits suicide, *chas v’shalom*, has violated one of the Ten Commandments – *lo tirtzach* (don’t murder) – for murdering *himself*. And so, he may be liable to the

same laws governing a *rodeif*, one who pursues another with murderous intent. In other words, as this individual prepares to take his own life, he may be considered to be a *rodeif* against himself! And as stated previously, a *rodeif* is supposed to be killed!

In other words, if someone was attempting suicide, the preferred course of action, obviously, would be to talk him out of it or to prevent it in some other fashion. In a situation, though, where these are not possible – where talking to him is not an option (for whatever reason), and there is no “gentler” way to prevent the deed – perhaps the suicide should be prevented by the same means with which we prevent one who is *rodeif* an innocent victim: by killing the would-be perpetrator.

This issue would seem to depend on the opposing interpretations of *Tosafos* and Rashi as to the intended beneficiary of our “rescue” endeavors. The *sefer Ne’imos Netzach* (*Sanhedrin 73a*) explains: According to *Tosafos*, the intent of the Mishnah was to save *the victim* from peril. In the usual case of a would-be murderer, this is accomplished by killing the pursuer, thus sparing the life of the pursued. In the instance of attempted suicide, however, there would be no need to intervene in this fashion, for it would accomplish nothing. The “murderer” is about to kill himself; by killing him, he is not saved from the peril of death; it only comes sooner.

Following Rashi’s approach, however, may yield different results. According to Rashi, the emphasis of the Mishnah was not so much the safety of the pursued, but on the spiritual destruction which the *rodeif* is about to reign down upon himself. We kill him to prevent the commission of the severest of transgressions. This reasoning would seem to apply here, as well. Here is an individual on the cusp of committing suicide, a heinous crime in its own right. Since the *rodeif* is to prevent the perpetration of grave acts, it would appear that, before incurring guilt, this would-be suicide victim also be stopped – dead in his tracks.

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