

Kindly take a moment to study MISHNAS CHAYIM in the merit of
Simchah *ben* Moshe *a”h*
a fellow Jew who passed away with no relatives to arrange Torah study on behalf of his *neshamah*

Murder Mystery

PARSHAS SHOFTIM 5777

At one point in this week’s *parshah*, a statement is made that carries some intriguing implications.

Professions of Innocence

This occurs in the context of the section featuring the ritual of the *eglah arufah*, the “broken-necked calf.” The Torah outlines an interesting procedure to be followed in the event of a certain grisly discovery: **כִּי־יִמָּצָא הַחֵלֶל בְּאֶדְמָה... נִפֵּל בַּשָּׂדֶה לֹא נוֹדָע מִי הִכָּהוּ... וְהָיָה הָעִיר הַקְּרֹבָה ... אֶת־הָעֵגְלָה בְּנַחַל – “When a corpse shall be found in the land... strewn in a field, (and) it is not known who has smote him... And it shall be, regarding the city that is closest to the corpse – the elders of that city shall take a calf... and break the neck... of the calf in the valley” (*Devarim 21:1-4*). The *pessukim* go on to relate how the city elders, after washing their hands over the dispatched calf, must issue a proclamation, absolving themselves of all blame in this unsolved murder: **וַעֲנוּ וְאָמְרוּ יָדֵינוּ לֹא וְעֵינֵינוּ לֹא רָאוּ – “And they shall answer and say: ‘Our hands have not spilled this blood, nor have our eyes seen’” (*Ibid. v. 7*).****

Now, the very fact that they must make this assertion is somewhat curious; did we indeed suspect the city elders of participation in the murder, such that they had to issue such a disclaimer? The Mishnah takes note of this issue and provides the following interpretation to their announcement (*Sotah 9:6*):

וכי על דעתנו עלתה, שזקני בית דין שופכי דמים הו, אלא שלא בא לדינו ופטרונוהו בלא מזון, ולא ראינוהו והפחנוהו בלא לונה.

“Would it really enter our minds (to think) that the elders of the Rabbinic Court were murderers? Rather, (what they are really testifying to is the following): ‘He did not come to our hands after which we sent him on his way with no offer of food; and we did not simply see him and allow him to depart without escort.’”

It seems, however, that even after the Mishnah’s explanation, additional clarification is still called for. Granted, the Rabbinic elders never had to answer for an actual charge of murder; well and good. But what exactly was it for which they were answering? It seems they had to aver that they had not indirectly contributed to the victim’s unfortunate death through neglectful conduct. Thus “our hands have not spilled this blood” is interpreted as a reference to the fact that they did not leave this man unfed; “our eyes have not seen” means they did not send him off unaccompanied. But what would have been had they indeed acted in this manner? The implication is that leaving him without food or accompaniment would somehow have led to his demise. But how? The Torah here is not speaking of a starvation victim, but a murder victim. What connection is there, then, between these factors and his actual death?

This is the intriguing matter alluded to at the outset, the mystery connected with the murder. As we shall see, the commentators offer a number of fascinating approaches in elucidating the issue.

Desperation, Weakness, and Influence

Rashi (*Sotah 38b*) lays out a chain of events set into motion by the lack of provisions. The man was sent away without food and thus became quite famished. So famished was he that when encountering other wayfarers, he set upon them to steal their food. They, in turn, acted in self-defense and ended up killing their attacker. So it is that neglecting to properly care for an individual in need could indeed lead to his untimely and violent death.

There is an opinion appearing in the Talmud Yerushalmi that likewise attributes the matter to pillage, but from an opposite standpoint. That is, the elders proclaimed that they did not allow “him” to go without provisions. While we have assumed the subject to be the victim, the Yerushalmi contends that the intent is actually for the murderer himself. In other words, the elders are stating that they are not to blame for the murder, for they had not encountered the murderer and let him go without offering food. Had this been the case, they would be partially to blame, for the murderer’s hunger eventually drove him to pillage and murder. (As stated, this is but one opinion; the bulk of the commentators, it seems, assume the subject to be the victim.)

Rather than maintaining that the failure to feed led to an act of pillage, others offer a different approach. The *Tiferes Yisrael*, in his comments to the Mishnah, suggests that the lack of provisions left the victim in a state of weakness – such that, when eventually set upon by bandits, he did not have sufficient strength to protect himself. Likewise, the lack of accompaniment gave his attackers comfort, as he was a much easier victim without any protection. The Alter of Kelm (cited in *Pninin Mi’shulchan Govohah*) follows along similar lines, but with a slight variation. Rather than focusing on the physical diminishment resulting from a lack of nourishment, he perceives an emotional side to this affair. In other words, having suffered the mistreatment of being denied food and escort, this individual went on his way in a state of dejection. This is what sapped his energy, leaving him open to exploit by his attackers.

An approach of a much different sort is offered by R’ Ya’akov Neiman (*ibid.*). The discussion until now has focused mainly on physical/logical factors that would facilitate the perpetration of this violent act; the lack of provisions either drove the individual to an act of violence, or he became weakened from malnourishment. But R’ Ya’akov understood that spiritual forces were at work here. He quotes a fundamental principle of R’ Yisrael Salanter: When one learns Torah or studies *mussar* (ethical teachings) in the city of Kovno, he prevents a Jewish professor in Berlin from assimilation. The idea is that there are spiritual ramifications to our deeds. When we strengthen ourselves in an area of Divine service, the effects are felt from afar and influence others in a positive direction.

This, explains R’ Ya’akov, could be the connection between providing food and escort and the perpetration of murder. Had the respected members of the community been particular about the treatment of their fellow man – manifest by offering them food and accompaniment – this would have had the effect of elevating their surroundings in the same area. As such, no one in that environment would be capable of stooping so low as to commit murder – the ultimate act of disdain and betrayal toward the well-being of one’s fellow.

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