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"Taking Responsibility for Torah"

EVERY SOLDIER'S DEATH DIMINISHES ME

By Rabbi Aryeh Klapper

Two people walking in the desert, one of them holding a canteen of water, such that either can drink it all and survive, but neither will survive on less than all – Bar Petora taught:

“Let them both drink, and let neither see the death of the other”. This position held sway until Rabbi Akiva came and taught: “And your brother will live with you – meaning that your life takes precedence over your brother’s life”. (Bava Metzia 62a)

What if the canteen belongs to a third party? Talmud (Sanhedrin 74a and elsewhere) rules that if an overlord orders X to murder Y on pain of death for failure or disobedience, X may not kill Y, because “what says that your blood is redder?!” Rabbi Akiva’s *derashah* establishes an exception to this principle. Since that exception does not apply to third parties, they presumably must give each traveler half the water, even though this means that neither will survive.

Or not. If one understands the Talmud’s principle as banning one from acting in a way that values one life more than another, maybe even Ben Petora would allow a third party to pass the canteen on the basis of a coinflip. Making the outcome random also makes it egalitarian.

Dov Weinstein asked me last month whether Rabbi Akiva’s exception must be understood narrowly and literally. The Talmud (Bekhorot 35b and elsewhere) rules that “His wife is like his own body” – might Rabbi Akiva allow a third party to give the water to their spouse rather than to a stranger? If yes, could one extend the principle to one’s children, parents, or closest friends?

This sort of question is addressed by Tosafot in the context of the mitzvah to redeem captives. Mishnah Gittin 45a teaches that “We must not redeem captives at more than their cash-value, for the sake of *tikkun haolam*”. Yet a beraita on Ketubot 52b teaches:

If (a wife) was captured and they ask up to ten times her cash-value,
the first time – (her husband) must redeem her;

thereafter – he may redeem her if he chooses to.

Rabban Shimon ben Gamliel says:

We must not redeem captives for more than their cash-value, because of *tikkun haolam*.

Tosafot ask: How can we require the husband to overpay the first time, if this contradicts *tikkun haolam*?! The first answer is that the decree was never intended to prevent a person from overpaying to save their own life, and “his wife is like his own body”.

Tosafot then ask further. Here on Gittin 45, the Talmud attempts to prove that the decree against overpaying for captives does not apply to private parties from the case of Levi son of Darga, who redeemed his daughter at an exorbitant price. Abayyay responds that Levi may have violated the decree, but his answer is obviously forced. Why not answer instead that the decree was never intended to apply to daughters? Tosafot’s response is that children are not “his body” in quite the same way.

This might be a technical answer, as follows: The ketubah puts a lien on all the husband’s assets to the extent necessary to fulfill its obligations, and ransoming from captivity is such an obligation. So the wife is in a sense ransoming herself, which would not be true of a daughter. Note, however, that this does not explain why the husband has permission to overpay a second or third time.

Alternatively, Tosafot might be making a claim about the nature of the relationships. I need to be clear: not about their depth or importance, just about their nature. Spouses can be extensions of each other in a way that children should not be extensions of their parents. This may depend on whether one understands Adam’s statement (Genesis 2:24) *and they will become one flesh* as referring to the male and female becoming sexually intimate, or rather to their becoming parents.

Ramban suggests a different resolution. Maybe Rabban Shimon ben Gamliel forbids overpaying even for the

redemption of close relatives, but Levi bar Darga was acting in accordance with the position of the Rabbis (i.e. the anonymous position in the beraita in Ketubot), who permit this for wives **and** daughters because spouses **and** children are part of one's self.

We could then read Ramban back into Rabbi Akiva, and permit choosing spouses and children over third parties in cases where Rabbi Akiva permits choosing oneself over others. Should we? If yes, should we draw the line at children? At first-degree blood-relatives? Or should we allow the extension to friends, either within Rabbi Akiva or in the context of redeeming captives?

It is tempting to respond by noting that Rabbi Akiva's verse is *and your brother will live with you*, which read literally excludes "brothers" from one's self. But that seems hyperliteral to me. A better reading of the verse is that it promotes all human beings toward whom you have an obligation *lebachayot* (= to sustain their life) to the status of brother, so that you may not choose among them.

But granting that one can't choose among "brothers", and that one can choose oneself over a brother, any extension of Rabbi Akiva's exception past the physical self raises the question of whether one may choose among "selves".

That question may depend on whether we understand Rabbi Akiva as generating an obligation or rather a permission. If Rabbi Akiva mandates choosing one's own life, but otherwise asks "who says that X's blood is redder than Y's?", he probably forbids choosing among selves. If Rabbi Akiva permits but does not mandate choosing one's own's life, he probably allows choosing among selves.

We can also ask: If Rabbi Akiva is generating a permission, does it work both ways? If I am allowed to choose my life over my brother's, may I also choose my brother's life over mine? Or does Rabbi Akiva only permit choice in one direction? In other words: I can drink the whole canteen myself; but if I don't want to do that, does my acquiescence allow you to drink the whole canteen?

Tosafot and Rambam famously disagree as to whether one is permitted to give up one's life rather than violate a prohibition outside "the big 3" of *avodah zarah*, *gilui arayot*,

and shefikebut damim. But I see this as a separate issue. Here, the question is not whether one may give up one's life for Hashem when Hashem has not asked you to, but rather whether one may give up one's life for the life of another human being.

Toward the end of Yabia Omer 10:6, "the Entebbe teshuvah", Rav Ovadiah Yosef asks whether the Israeli government is permitted to risk soldiers' lives in missions to rescue hostages if a negotiated prisoner exchange is possible.

The practical answer is yes, because the captors may not keep their promises, and released prisoners may kill again. But asking the question is important, because it emphasizes that Israeli soldiers are human beings toward whom the state, its citizens, and the Jewish people have moral obligations.

One function of the state is to risk some lives for the sake of others, and one function of serving in the army is to accept that risk.

We owe enormous gratitude to those who accept that risk. In a halakhic sense, we should probably expand our sense of self to include them, and those whose selves already include them. Donne wrote that

Any man's death diminishes me,
Because I am involved in mankind.

And therefore never send to know for whom the bell tolls;
It tolls for thee.

This is true and essential. But it's not clear to me that it is emotionally healthy, or even survivable, even on the smaller scale I am suggesting here. Moreover, this attitude can detract from the unique anxiety, and HaMakom yenchem the grief, of spouses, family, and friends. Carrying your fellow's burden (*nosei b'ol chaveiro*) must not become a claim of ownership.

With all those caveats, this dvar torah is dedicated *l'ilui nishmat* Zechariah Haber hy"d, and for the consolation of his parents Aharon and Miriam, his immediate and extended family, and the Yeshivat Har Etzion community. As his uncle Professor Michael Segal said in his hesped, may we soon see the realization of the *nevuot nechamah* of Sefer Zechariah.

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