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IF BAR PETORO'S PARENTS WERE DYING IN A DESERT, AND HE HAD ENOUGH WATER TO SAVE ONE OF THEM

By Rabbi Aryeh Klapper

How should halakhic persons deal with equal but competing obligations?

Financial halakhah provides a variety of models for addressing halakhic equilibria. Mishnah Bava Metziah rules that the parties split a disputed garment (*achelike*), but that is not a viable solution for a disputed baby. Other options include holding the disputed object in escrow (*y'bei munach ad sheyavo Eliyahu*), having the law withdraw and allowing the parties to physically fight for it (*kol d'alim g'var*), and having the judge make an arbitrary or subjective choice (*shuda d'dayni* according to some understandings).

Do the same options exist with regard to competing interpersonal obligations? We'll discuss this with regard to honoring parents and saving lives.

The Fifth Statement commands us to *Honor* (kaved) *your father and your mother*. In a *beraita* on Kiddushin 30b, Rabbi (Yehudah HaNasi) notes that the order is reversed in Vayikra 19:3: *A man – his mother and his father you must fear/revere* (tiyrau). He concludes that in each case the Torah is emphasizing that halakhic obligations are the same toward each parent. Children naturally give *kavod* to mothers and *mora* to fathers. Therefore, the Torah puts fathers first when speaking of *kavod*, and mothers first when speaking of *mora*.

Rabbi Shim'on in Tosefta Keritot 4:15 reaches the same conclusion by different means. He provides a roster of sets whose members the Torah usually orders one way, but varies once. For example, the Torah usually mentions Avraham before the other Forefathers, but Vayikra 26:42 lists him last. This teaches that the patriarchs were equal to one another. Similarly, the Torah generally mentions fathers before mothers. The exception of Vayikra 19:3 teaches that fathers and mothers generate identical obligations for their children.

Mishnah Keritot 6:9 makes the same argument using a more halakhically oriented roster of sets. However, it then throws a spanner into the works:

But the Sages said:

The father takes precedence over the mother
bekhol makom

because he (the son) and his mother are obligated in the *kavod* of his father.

Doesn't what the Sages say contradict the lesson of Vayikra 19:3? A *beraita* on Kiddushin 31a offers a casuistic solution.

A widow's son asked Rabbi Eliezer:

"If my father says "Bring me water to drink", and my mother says "Bring me water to drink", which of them has priority?"

He said to him:

"Leave aside your mother's *kavod*, and do your father's *kavod*, because you and your mother are obligated in your father's *kavod*."

He came before Rabbi Yehoshua, who told him the same thing.

He said to him:

"If they divorced, what is the law?"

He said to him:

"From between your eyelashes it is evident that you are the son of a widow!

Pour water into a trough and call them like chickens."

Following Rabbi Yehoshua, we can say that the *kavod*-obligations toward mothers and fathers are intrinsically equal, but this equality is expressed in practice only toward parents not married to each other. I imagine that some readers will find this solution intellectually satisfying, and others very much not so.

Regardless, this mishnah and *beraita* seem in tension with an anonymous *beraita* on Yebamot 62b:

One who lives his wife as he loves himself,
and who gives her more *kavod* than he gives himself,
and who directs his sons and daughters in a straight path,
and who marries them off soon after they reach maturity –
regarding him Scripture says: *and you will know that your tent is at peace*.

Why doesn't the husband's obligation of *kavod* toward the wife offset the wife's obligation of *kavod* toward the husband, and leave the children with equal obligation toward both?

Iyyun Yaakov suggests that the husband's obligation toward the wife is "mere *hilkhot derekh eretz* (manners)", unlike the wife's, which is "*chiyyuv* (obligation)". He is correct that Yebamot 62b isn't formulated as law. But in a sense he begs the question by not providing any legal framework for the wife's obligation.

Mishnah Keritot's formulation resembles a *beraita* on Bava Metziah 32a (cf. Yebamot 5b):

From where in Scripture do we know that if his father said to him:

"Become *tamei* (despite being a kohen)!"

or "Don't return (that lost object to its owner)",
that he must not obey him?

Scripture says:

A man – his mother and his father tiyrau, and My Shabbats you must observe, I am Hashem – all of you are obligated to give Me kavod.

This suggests that *kavod* entails obedience, and thus enables a hierarchy among otherwise equal obligations. We can buttress this explanation by citing another *beraita* from Kiddushin 30b:

Scripture says: Honor your father and mother, and Scripture says:
Honor Hashem out of your wealth –

This equates the kavod of father and mother to the kavod of the
Omnipresent;

Scripture says: A man – his father and mother *tiyrau*, and Scripture
says: And Hashem your G-d *tiyrau* etc.

This equates the *mora* of father and mother to the *mora* of the
Omnipresent . . .

Equality here does not preclude a hierarchy that gives G-d's
commands precedence over those of parents. So too the equality
of children's obligations toward parents may not preclude giving a
father's commands precedence over a mother's.

However, many halakhists deny that obligations of *kavod* or *mora*
entail a per se obligation of obedience. Shu"t Maharik 166 rules
that *kavod* relates only to providing matters directly relevant to
parents' *parnasah* (physical wellbeing). Be'er Sheva accordingly
contends that a wife's obligation of *kavod* is similarly limited, and
therefore that the father's *kavod* takes precedence only in those
areas.

This still begs the question of the obligation's source. Tiferet
Yisrael therefore argues that the obligation compensates for the
husband's obligation to be *mesarves* his wife. It follows that if the
wife declares herself self-supporting, there is no hierarchy, and
probably that if the wife is primary breadwinner, her children must
prioritize her *kavod*.

What should a child do when the obligations conflict and there
is no hierarchy?

R. Yehoshua's solution of "calling them like chickens" fulfills
both obligations simultaneously. Meiri takes this as law: "He
should try to the extent possible to fulfill their commands
simultaneously"; Rabbeinu Yerucham says essentially the same.
That does not tell us what to do when no such solution is available.

Rashi comments that R. Yehoshua was joking. He may think
that calling parents (especially like chickens) rather than serving
them actually diminishes their *kavod*. According to Rashi, we
cannot know even that one must fulfill the obligations
simultaneously whenever possible.

Beit Yosef (YD 240) cites Rabbeinu Yerucham but notes that
RIF omits Rabbi Yehoshua's solution, and Rambam's codification
(Mamrim 6:14) makes no mention of it. Beit Yosef therefore
rejects Rabbeinu Yerucham and rules that the child may give the
water "Payzeh mayhem sheyirtzeh (= to whichever of them he
wants)".

Maharshal (Yam Shel Shlomoh Kiddushin 1:62) disagrees. He
argues that Rashi's "joke" relates to the details of presentation, not
the underlying law. YSS does not address RIF and Rambam
explicitly, but Lev Mayvin (Mamrim 6:14) argues that they omitted
Rav Yehoshua because the need for simultaneity follows obviously
from the equality of obligation.

However, Maharshal does not explain what to do when
simultaneity is impossible. For example, what if your father asks
for two softboiled eggs, and your mother for two eggs scrambled,

with only two eggs available? Should you scramble one and softboil
the other? Flip a coin? Give it to whichever parent you prefer?

In "Every Soldier's Death Diminishes Me" (Parshat Bo), I
offered the following analysis:

If X orders A to murder B on pain of death for
disobedience, A may not kill B, because "what says that
your blood is redder?!" On that basis, Bar Petora taught
(Bava Metzia 62a):

Two people on a wilderness walk, one of them holding a
canteen of water;
either can drink it all and survive, but neither will survive on
less than all –
both must drink, so that neither sees the death of his fellow.

However, Rabbi Akiva taught an exception:

And your brother will live with you –
your life takes precedence over your brother's life.

Since Rabbi Akiva's exception does not apply to third
parties, they must either revert to Bar Petora (split the
water), or else flip a coin. Choosing either party would
violate "what says that your blood is redder?"

SBM alum R. David Fried emailed that Chazon Ish (Yoreh Deah
69) allows a third party to give the water "Payzeh mayhem
sheyirtzeh", to whichever traveler they prefer. Rabbi Fried is
correct. Chazon Ish apparently assumes that given two equal and
ineluctably competing halakhic obligations, the *shuda d'dayni* model
applies, rather than *yachaloku*, *y'bei munach*, or *kol d'alim*.

Chazon Ish thus follows the pattern of Beit Yosef over
Maharshal with regard to parental *kavod*. However, my position is
not based on Maharshal, who might agree with Chazon Ish when
simultaneous fulfillment is impossible.

Chazon Ish also rules that a third party must give the water to a
Kohen over a Levi, a Levi over a Yisroel, and so on down the line
of precedence in Mishnah Horayot 3:8. He concedes that a Kohen
may not murder a Yisroel to save his own life. But he apparently
does not see "what says that your blood is redder" as relevant to
our case. That's why he allows the third party to baldly choose one
person's blood over another *when there is no other basis for choosing*.

Contemporary poskim ignore Mishnah Horayot's hierarchy in
practice. The explanation I prefer is that we rule against that
Mishnah (or decide that it cannot apply to genuine life-and-death
situations) because it contradicts "what says that your blood is
redder", which I see as the fundamental ethical principle of
halakhah. The Mishnah may also conflict with Rabbi Akiva's ruling
in the desert case. I further contend that if Chazon Ish were
correct, even Ben Petora would allow a Cohen to drink the water
over a Levi, etc.

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