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Center for Modern Torah Leadership



חרות ואחריות

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"Taking Responsibility for Torah"

IS IT OK TO KILL PEOPLE BECAUSE THEY DESERVE TO DIE?

By Rabbi Aryeh Klapper

Shekhem kidnapped Dinah. Kidnapping is a violation of the Noachide prohibition against *gezzel*. All Noachide prohibitions are capital crimes. Therefore, Shekhem committed a capital crime.

Kidnapping is a violation of the Noachide prohibition against *gezzel*. The Noachide commandment of *dinim* obligates punishing kidnapers. According to Rambam (Laws of Kings 9:14), it follows that "All *baalei Shekhem* were liable to be killed, because Shekhem committed *gezzel*, and they saw and knew, and they did not bring him to justice".

Ramban disagrees. He initially grounds his disagreement in Yaakov's criticism of Shimon and Levi:

ואין דברים הללו נכונים בעיני,

שאם כן,

היה יעקב אבינו חייב להיות קודם וזוכה במיתתם,

ואם פחד מהם,

למה כעס על בניו ואירר אפם אחר כמה זמנים,

וענש אותם וחלקם והפיצם,

והלא הם זכו ועשו מצוה ובטחו בא-להים והצילם!?

These words are not correct in my eyes,
because if this were so,

our father Yaakov would have been obligated to precede them
in the merit of causing (the Shekhemites) deaths,
and (even) if he was afraid of (the Shekhemites),
why did he express anger at his sons and curse their rage many
years later,

and punish them by separating and dividing them,
when they meritoriously did a mitzvah, and had faith in G-d,
Who saved them?!

Ramban then points out an internal weakness in Rambam's argument. Why is his justification at all necessary?! Shekhem was a Canaanite city, and the Torah testifies repeatedly that the Canaanites were idolaters, and therefore deserved death! Ramban concludes that Shimon and Levi had no jurisdiction over the people of Shekhem. They were vigilantes masquerading as sheriffs.

Let us be clear. Ramban does not think Yaakov criticized his sons for any actions necessary to rescue Dinah. He does not

deny the guilt of the people of Shekhem. The only question is whether their actions were in fact necessary, in two ways: First, maybe their overtures of conversion and peace were genuine. (I think this explanation assumes that Dinah would post facto have chosen to stay with Shekhem. That would not in any way justify Shekhem's action in kidnapping her.) Second, maybe some of the killings were not necessary to rescue Dina.

Ramban challenges Rambam by asking why Yaakov criticized Shimon and Levi. He leaves open the possibility that Rambam successfully articulates Shimon and Levi's self-justification.

However, I suggest that Rambam may not accept that self-justification. He may agree with Ramban that Shimon and Levi had no jurisdiction over the Shekhemites, but on different grounds.

Ramban believes that one nation cannot interfere in the internal affairs of another except as necessary to protect specific victims. (It's not clear whether interference is justified to protect victims internal to the other society, or only to rescue one's own citizens from them.)

Rambam by contrast allows for the possibility of "nation-building". However, he agrees that jurisdiction over failure to fulfill *dinim* can be exercised **only** for the purpose of enabling the creation of a lawful society. Shimon and Levi had no such purpose. A society in which everyone is equally dead is not better than a society in which some people kill others.

If one reads Rambam the other way, as agreeing with Shimon and Levi, the results are as follows. Everyone in Shekhem has committed a capital crime; everyone in Shekhem has the obligation to kill everyone in Shekhem who has committed a capital crime; therefore everyone in Shekhem has the obligation to kill everyone else. Subsequent repentance is irrelevant if the punishment is for past crimes, so there is no way out, ever. I don't see this as a reasonable Torah outcome¹.

¹ Deborah Klapper contends that "The real problem with Rambam's position is that it makes everyone everywhere who belongs to any society we don't control liable to death because they didn't kill someone else for doing something we think is illegal." I think this is an

Ramban's underlying claim is that Yaakov was correct, and I am arguing that Rambam agrees. The basis for this claim is that Yaakov curses Shimon and Levi's anger in his deathbed "blessings" for his sons in Parashat Vayechi.

Moreover, Yaakov expresses fear that their actions will generate a wave of violent antiJacobism, but some sort of Divine Terror prevents the violence. One might think as a result that Shimon and Levi are "justified by history". However, Yaakov knows on his deathbed that his fear was not borne out and curses their anger anyway. This suggests that his primary argument was moral rather than pragmatic; and/or that he saw the Divine Terror as an act of Divine grace rather than as an endorsement; and/or that he saw the generation of antiSemitism as a terrible thing even if it did not lead to violence. Possibly he saw his eventual need to leave Israel for Egypt as a consequence of Shimon and Levi's actions, and/or he understood the kidnapping of Yosef, as performed and enabled by his brothers, as a punishment for or consequence of Shimon and Levi's actions.

The objection to Ramban's claim is that in this week's parshah, Shimon and Levi have the last word, and their last word is powerful and convincing: "Shall he treat our sister like a harlot?" A full defense of Ramban (and Rambam as I read him) requires an explanation of the Torah's choice to delay its judgment and leave us in temporary and uncomfortable sympathy with Shimon and Levi.

One possible approach is to analyze this as a rhetorical device. A useful debating tactic is to present the other side's position clearly in order to demonstrate that one's rejection arises out of understanding and sympathy rather than dismissal. That helps us avoid the trap of thinking that other actions like those of Shimon and Levi can be justified because they are somehow better motivated or aimed at worse crimes.

The obvious problem with this approach is that it often backfires. Readers have a hard time overcoming their sympathy for Shimon and Levi. For that matter, a careful reading of the parshah also yields at least a degree of romantic sympathy for the individual person of Shekhem, the star-crossed, self-sacrificing, and charismatic leader.

Rav Aharon Lichtenstein zt"l liked to quote a dialogue in which a woman told Voltaire "To understand all is to forgive all", and he replied: "Let us therefore not understand too much, lest we forgive too much". Empathy is dangerous; we are capable of sympathy for the devil, and Satan is the most relatable character in Paradise Lost. Lack of empathy is at least equally dangerous; among other consequences, it makes violence seem the inevitable consequence of disagreement. The Torah chooses to risk allowing us to understand too much. Let us be careful lest we forgive too much, in ourselves and others.

Shabbat shalom!

effective reductio ad absurdum against that position, but I don't think it's what Rambam intended. He must grant Gentiles the capacity to define the Noachide laws to a very significant extent; to acknowledge that *dinim* has been minimally fulfilled if a society has a passable criminal justice system, even if the occasional eater of flesh from live animals slips through, or I suspect even if they all do; and his position must in practice be qualified and nuanced in many other ways. In short, Rambam's brief restatement of the Noachide commandments is an expression of principles rather than a practical law code. Epigrammatically one might say that it is more Torah than Mishneh Torah.

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