



The Story of Shekhem
By David Silverberg

At the center of Parashat Vayishlach stands one the more troubling incidents recorded in the Torah, the story of Shekhem (Bereishit, chapter 34). Yaakov's daughter, Dina, walks through the streets of the city of Shekhem where she is abducted and defiled by the city's prince, who bears the name of the city, Shekhem. Shekhem then rather audaciously asks Yaakov for his daughter's hand in marriage, offering in exchange close economic and social ties with Yaakov's family. Dina's brothers contrive a plan whereby they consent to the deal on condition that all males in the city of Shekhem undergo circumcision. As the men of Shekhem are recovering from the painful procedure, two of Yaakov's sons, Shimon and Levi, capitalize on the Shekhemites' physical frailty and kill every male in the city. Once the mass execution was completed, they and their brothers loot the entire city.

The narrative concludes with a brief dialogue between Yaakov and his sons, which offers a glimpse of the bitterness and tension that arose in the wake of Shimon and Levi's vengeance: "Yaakov said to Shimon and Levi, 'You have disgraced me, making me odious among the inhabitants of the land – the Canaanites and the Perizites. I am but few in number – if they will gather against me and smite me, I and my house will be destroyed'" (34:30). Shimon and Levi respond very plainly, "Should our sister be made into a whore?" (34:31). Yaakov condemns his sons' vigilantism, expressing his concern of its repercussions with regard to his relations with the surrounding peoples. They, however, insist that the grave infringement upon their family honor demanded this drastic and violent course of action.

Towards the end of the Book of Bereishit, in Parashat Vayechi (49:5-7), Yaakov, minutes before his death, has the final word on this issue:

Shimon and Levi are brothers; their weapons are tools of violence. Let my soul not enter their council; let my honor have no part in their assembly, for in their anger they kill men, and they maim oxen as they please. Cursed be their anger, for it is harsh, and their wrath, for it is fierce; I shall divide them in Yaakov and scatter them in Israel.

Here Yaakov emphasizes not the potential risks of Shimon and Levi's violence, but the inherent moral failing of wanton bloodshed. He goes so far as to decree their "dispersion" when his descendants conquer and settle the Land of Israel. As Rashi cites from the Midrash, the tribe of Levi never received a contiguous segment in the Land, and the Shimonites were destined to be poor laborers traveling about in search of a meager livelihood.

Many writers have addressed the question as to the propriety of Shimon and Levi's vengeance, from both a moral and legal standpoint. Should Shekhem's crime have gone unpunished? Was Yaakov's family to have remained silent and passive in the face of such a disgraceful act? On the other hand, did the entire populace of Shekhem deserve to die for the crime perpetrated by their prince? Do the understandable pain and rage felt by Yaakov's sons justify such indiscriminate bloodshed?

Maimonides, in one passage in *Mishneh Torah* (Hilkhos Melakhim 9:14), discusses the legal status of the people of Shekhem in the wake of their prince's crime. The context of his discussion is the laws concerning the *sheva mitzvot benei Noach*, or the seven Noachide laws which, according to Jewish law, are binding upon all mankind. One of these seven laws, which the Talmud lists in

Masekhet Sanhedrin 56a, is the obligation of *dinim*, establishing a legal system. Maimonides approaches the story of Shekhem in light of this obligation:

A gentile who transgresses one of these seven laws is executed by the sword... For this reason, all the people of Shekhem were liable to execution, for Shekhem stole [Dina, in violation of one of the Noachide laws], and they saw and knew and did not put him on trial.

According to Maimonides, the entire population of Shekhem indeed deserved execution for having neglected the law of *dinim*, which requires trying and sentencing violators of the other six Noachide laws. Shekhem's abduction of Dina transgressed the prohibition of *gezel* – theft of people or property – and the populace was thus obliged to hold him accountable for his crime. Their failure to do so rendered them in violation of the obligation of *dinim*, and hence liable to capital punishment.

Interestingly enough, Rabbi Yitzchak Zev Soloveitchik (20th century, Lithuania – Jerusalem) applies Maimonides' reasoning to explain a similar incident recorded earlier in the Book of Bereishit. In Parashat Vayera (chapter 20), we read of Sara's abduction by the Philistine king Avimelekh, to whom God appeared that night and warned that failure to return Sara to her husband would result in his death as well as the death of all his subjects ("*ata ve-khol asher lakh*" – 20:7). Apparently, Avimelekh's crime held him and the entire kingdom liable to death. Rabbi Soloveitchik explained that just as Maimonides considered the entire population of Shekhem in violation of the Noachide law of *dinim* by failing to prosecute Shekhem, so would the Philistines have been guilty of this crime by tolerating their king's abduction of Sara.

Maimonides' position has been challenged and disputed by several writers over the centuries. In the pages that follow we will address each objection raised against his theory and consider possible responses.

Defining the *Dinim* Obligation

We will begin with an issue that is perhaps of only secondary importance in the specific context of this episode, but one which Maimonides very clearly touches upon in this passage, namely, the precise definition of the *dinim* obligation. Maimonides here holds the people of Shekhem liable for violation this law by neglecting to place the perpetrator on trial. And several sentences earlier, Maimonides explicitly defines the *dinim* obligation as requiring all mankind "to appoint magistrates and judges in each and every region to adjudicate with regard to these six commandments." The *mitzva* of *dinim*, according to Maimonides, is defined as ensuring the enforcement of the other six Noachide laws through a judicial process. A community violates this law by allowing violators of the other six laws to escape trial.

Nachmanides, in his commentary to Parashat Vayishlach (34:13), cites Maimonides' comments and expresses his disapproval. Among the points he raises is the definition of the obligation of *dinim*:

In my opinion, the *dinim* listed for Noachides as among their seven laws is not merely to assign judges in each and every region. Rather, it commands them with regard to the laws of theft, fraud, cheating, workers' wages, and the laws of watchmen, rape, seduction, and the various types of damages, causing one's fellow bodily harm, and the laws of creditors and debtors, and the laws of the transactions and the like, just like the civil laws with which Israel were commanded... And included in this *mitzva* is that they must also assign judges in every city, just like in Israel.

Nachmanides posits a drastically different definition of the *dinim* obligation. Whereas Maimonides defined it as the mere appointment of a judiciary, Nachmanides sees it as imposing the Torah's

system of civil law upon all mankind. Gentiles, like Jews, are, in Nachmanides' view, bound by the entire corpus of *Choshen Mishpat* – halakhic civil law. The requirement to appoint a judicial system stems naturally as a result of these laws, given that laws become meaningless without a mechanism for applying and enforcing them. But whereas Maimonides views the appointment of judges as the essential definition of this obligation, Nachmanides sees it as but a secondary feature necessitated by the primary component of this *mitzva*.

It would appear, then, that Maimonides and Nachmanides have very different conceptions of the type of civil law demanded of Noachides by virtue of the *dinim* obligation. Nachmanides demands that all men adopt the Torah's code of civil law, and settle all disputes in accordance with the legal principles transmitted through the Torah and the oral tradition of *Halakha*. Maimonides, by contrast, does not, at least at first glance, impose the halakhic system of civil law upon all mankind. Rather, he demands simply that communities establish a mechanism for trying and convicting violators of the other six Noachide laws, without making any demands as to the precise codes upon which litigation is handled.

While many scholars indeed acknowledge a debate between Maimonides and Nachmanides in this regard, others claim that Maimonides, too, requires the non-Jewish world to follow the Torah's system of monetary law. The *Chatam Sofer* (Rabbi Moshe Sofer of Pressburg, Austria-Hungary, early 19th century), in one of his responsa (vol. 6, 14), argues that Maimonides indeed imposes the halakhic system of civil law upon all mankind, but he does not classify this requirement under the obligation of *dinim*. Instead, this requirement results naturally from another of the Noachide laws – theft. By definition, the prohibition against theft necessitates a system of determining ownership over contested property. The *Chatam Sofer* thus argues that if the Torah forbids gentiles from stealing one another's belongings, it implicitly imposes an equitable system of defining ownership and establishing people's monetary rights. Hence, the Noachide ban on theft *ipso facto* includes the entire corpus of halakhic monetary law which clarifies ownership over property. According to the *Chatam Sofer's* approach, then, Maimonides accepts Nachmanides' contention that Noachides are bound by halakhic civil law.

An Obligation or Prohibition?

In challenging Maimonides' view, Nachmanides raises yet another argument against sentencing the Shekhemites to death for failing to prosecute their prince: "And included in this *mitzva* is that they must also assign judges in every city, just like in Israel. But if they do not do so they are not killed, for this constitutes a 'positive commandment' for them." Nachmanides appears to argue that we cannot apply the death penalty for violation of the Noachide laws in this instance, because this violation involves inaction, rather than a forbidden act. In his view, when the Talmud (Sanhedrin 57) establishes the death penalty as the punishment for Noachide code violations, it refers only to the other six Noachide laws, which forbid certain activities (theft, murder, idolatry, adultery, blasphemy and partaking of meat from a live animal). *Dinim* differs from the other six in that it casts an obligation, rather than prohibiting a certain act. Just as in *Halakha* a *Beit Din* (rabbinical court) never administers corporal punishment for neglecting an obligation, and does so only for active violation of a prohibition, so are Noachides liable to punishment only for committing a forbidden act, and not for neglecting responsibility.

Instinctively, we might respond to Nachmanides' challenge by denying the basic premise restricting punishment to active violation. The guidelines for punishing Noachides differ fundamentally from those governing Jews, and we therefore should not feel compelled to apply this principle – limiting corporal punishment to cases of forbidden acts – to the enforcement of the Noachide laws.

The Meiri (Medieval Talmudist, generally a loyal follower of Maimonides), however, suggests a different response to Nachmanides' objection: "*Dinim* means refraining from evil and corruption, and constitutes a prohibition." The Meiri suggests that Maimonides might accept Nachmanides'

premise in principle, but deny its practical relevance. In his view, *dinim*, like the other six Noachide laws, may be defined as a prohibition – a prohibition forbidding lawlessness. Though practically *dinim* yields an obligation to establish a judiciary, fundamentally, it is essentially defined as a ban against lawlessness. Therefore, the people of Shekhem were, indeed, liable to punishment, for they violated the prohibition against allowing a criminal to escape trial, thereby engendering a state of lawlessness in the land.

Yaakov's Condemnation

The most obvious difficulty, perhaps, that arises from Maimonides' position is in justifying Yaakov's scathing condemnation of his sons' vigilantism. If, as Maimonides claims, the people of Shekhem indeed deserved to die, why did Yaakov strongly oppose Shimon and Levi's violent response? As Nachmanides writes,

if so, then our patriarch Yaakov should have gone out first to earn [merit] by putting them to death. And if he was afraid [and for this reason refrained from killing the people of Shekhem], why did he become angry with his sons and curse them long after, punishing them and separating them and scattering them? After all, they acted meritoriously and performed a *mitzva*; they trusted in God and He saved them!

According to Maimonides' approach, not only should Yaakov not have criticized, cursed and punished his sons, he should have congratulated them for their courage in fulfilling God's will by punishing the condemned city of Shekhem.

Numerous answers have been suggested in defense of Maimonides' position. The Meiri, in the passage cited earlier, comments, "He [Yaakov] cursed them only because he wanted to follow through on his commitment and deal with them beyond the strict letter of the law." While his intent is not fully clear, the Meiri appears to claim that Yaakov felt bound by the agreement made with the people of Shekhem to establish relations with the city after their circumcision. Although they did, indeed, deserve capital punishment for violating the law of *dinim*, Yaakov nevertheless felt compelled to let them live in light of their agreement. It is difficult to explain, however, how this agreement should override the punishment which, in Maimonides' view, the people of Shekhem deserved.

A much different approach was taken by the Radbaz (Rabbi David Ben Zimra, Chief Rabbi of Egypt, early 16th century), in his notes to Hilkhhot Melakhim. The Radbaz claims that the Shekhemites' circumcision marked the first stage of their conversion process, in which case they fell under the halakhic principle, "*Ger she-nitgayer ke-katan she-nolad dami*" – a gentile who undergoes conversion is halakhically "reborn." Generally speaking, this principle is invoked as the basis for the convert's loss of all former familial relationships; according to Halakha, he is no longer considered his parents' child, his brother or sister's sibling, and so on. The Radbaz here extends this principle to the clearing of a convert's prior record at the moment of conversion. The conversion process marks a new beginning, prior to which any crimes committed can no longer be attributed to the convert. As such, once the people of Shekhem underwent circumcision, they could no longer be held accountable for their violation of the law of *dinim*, and Shimon and Levi's act thus constituted cold-blooded murder, rather than legal execution.

Of course, the Radbaz's contention depends upon several questionable assumptions, primarily that we may consider the city-wide circumcision a halakhic conversion. Conversion requires the convert's will and intent to join the covenant between Israel and God, and it is doubtful whether the population of Shekhem, who were urged into this agreement by a passionate young prince enchanted by Yaakov's daughter, had any such motives in mind as they underwent this procedure.

A different explanation appears in a responsum of Rabbi Yehuda Miller (halakhist in late 18th and early 19th-century Europe, responsum #421). Rabbi Miller contended that Yaakov's ire was

aroused not by his sons' act per se, but rather by their insincere motivation. What drove Shimon and Levi to kill the male population of Shekhem was not genuine religious conviction and a desire to uphold the authority of the Noachide code, but rather sheer rage and vengeance. Indeed, in his deathbed censure of his sons, he repeatedly emphasizes their anger and rage, rather than the act itself. As Maimonides writes, the act of killing the people of Shekhem was inherently warranted, but only if it were done out of genuine loyalty to the divine law, rather than to satisfy a vengeful urge.

A more compelling answer is suggested by a contemporary writer, Rabbi David Kviat of New York, in his Torah commentary *Sukat David*, where he writes that even in Maimonides' view, Shimon and Levi were not justified in executing the people of Shekhem (regardless of motive). Although Halakha holds gentiles liable to punishment for violating the Noachide laws, Jewish authorities are to administer punishment only when the perpetrator is under Jewish control. Punishment for Noachide code infractions is warranted only under such circumstances – when the gentile in question is under Jewish authority. (Of course, the Jewish courts must also be invested with the power to administer corporal punishment; this power was lost towards the end of the Second Commonwealth.) Yaakov and his family, however, had just arrived in Canaan and only recently settled near Shekhem. As foreign immigrants, they most certainly were in no position to punish the people of Shekhem for violating the Noachide code. And this is precisely what Yaakov emphasizes to his sons in censuring their violence: "You have disgraced me, making me odious among the inhabitants of the land – the Canaanites and the Perizites. I am but few in number – if they will gather against me and smite me, I and my house will be destroyed." Yaakov here does not justify the inaction of the people of Shekhem, their shameful equanimity towards the crime committed by their leader. He does, however, condemn his sons' reckless response that failed to take into account the family's disadvantaged position vis-à-vis the surrounding peoples. This factor rendered the killing not merely unadvisable, but unwarranted, and hence unjustifiable.

Finally, Rabbi Amnon Bazak of Yeshivat Har Etzion (www.etzion.org.il/vbm/archive/10-parsha/08vayishlach.php) points to a different reason behind Yaakov's condemnation of Shimon and Levi – the pillaging of the city that followed the mass execution. Rabbi Bazak draws an intriguing parallel between this incident and another instance where the Torah sanctions the killing of an entire city – the case of an *ir ha-nidachat*, a city whose entire population embraces idolatry (Devarim 13:13-19). The Torah demands the city's destruction (under very specific conditions), but also very strictly forbids keeping or deriving benefit from any of its property. The Netziv (Rabbi Naftali Tzvi Yehuda Berlin, Lithuania, 19th century), in his *Ha'amek Davar* commentary (Devarim 13:18), writes that refraining from the city's property was necessary to demonstrate the sincerity of the act, that it was done in fulfillment of the Torah's dictates, and not out of personal greed or vengeance. In the case of Shekhem, too, Maimonides' ruling mandating the execution of Shekhem's residents did not grant license to the executioners to help themselves to the city's spoils. The looting undermined the purity and integrity of the sons' alleged pursuit of justice, and transformed what may have otherwise been a legal, religiously mandated execution into a murderous rampage.

We might add that for this reason, perhaps, Megilat Ester emphasizes that the Jews in Persia who took up arms against and killed their foes abstained completely from the enemies' property (9:10,15), despite the explicit royal edict issued permitting them to take spoils (8:11). They preserved the integrity of the bloody campaign they waged against their oppressors by denying themselves any personal gain from their victory, demonstrating that this battle was fought purely for self-defense, and not as a violent means of acquiring wealth.

Trying a Prince

A final challenge against Maimonides' theory, posed by Rabbi Chaim Ben Atar in his *Or Ha-chayim*, and the Maharal of Prague in his *Gur Aryeh*, questions whether the inhabitants of Shekhem could be blamed for not bringing their crown prince to trial. Was it really possible for them, while under the monarchal rule of Shekhem's father, to press charges against the prince? Wouldn't a

citizen of Shekhem have risked his life had he attempted to marshal support for Shekhem's prosecution? How, then, could Maimonides hold the entire city punishable for neglecting their responsibility of *dinim*?

Of course, this question touches upon the political realities of Shekhem, which are subject entirely to speculation. Though instinctively we might indeed assume that the citizens of Shekhem were in no position to prosecute their prince, Maimonides may have understood the political scene differently. In any event, the question is a valid one, and we leave it to the reader to consider possible explanations for the townspeople's guilt in this disturbing episode.