



RESPONSA IN A MOMENT

WHAT DOES JEWISH LAW SAY ABOUT THE MURDER OF MUHAMMED ABU KHDEIR AND OTHER ATTACKS AGAINST INNOCENT ARABS? (1)

Volume 8, Issue No. 9, July 2014

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Question: During the past few years we have witnessed a growing phenomenon of "price tag" attacks in which religious Zionist teenagers attack innocent Arabs and deface Mosques as revenge for specific terror attacks or for Israeli government decisions about destroying illegal homes or settlements. On July 2nd, in the wake of the brutal murder of Naftali Fraenkel, Gil-Ad Shaer and Eyal Yifrah hy"d, six young religious Jews apparently kidnapped and brutally murdered Muhammad Abu Khdeir. In addition, on Tuesday night after the burial of Naftali, Gil-ad and Eyal, there were violent demonstrations in Jerusalem in which Jews shouted "*mavet la'aravim*", "death to Arabs"; police rescued eight Arabs from the mob and 47 Jews were arrested for disorder, assault and property damage. What do Jewish law and tradition have to say about these phenomena?

Responsum: At first glance, one could say that compared to our Arab neighbors throughout the Middle East, these are minor, negligible incidents. Just look at Syria, Egypt, Yemen, Libya, Iraq, the West Bank and Gaza, and at Israeli Arabs. In the past few years, hundreds of thousands of Muslims have been killed by their fellow Muslims, Muslims have killed large numbers of Christians such as the Copts in Egypt, and "honor killings" happen every week in Israeli Arab villages and in the West Bank and Gaza. Finally, for 100 years, innocent Israelis have been murdered by Arabs simply because they were Jewish. For example, eight months ago Eden Atias, aged 18, was stabbed to death by a 16 year old Palestinian while asleep on a bus. Shelly Dadon was brutally murdered two months ago by an Israeli Arab (she was stabbed 17 times). As mentioned, Naftali, Gil-Ad and Eyal were brutally murdered by two Hamas Palestinians just a few weeks ago. And now Hamas is shooting 60-100 rockets per day at innocent civilians all over the State of Israel.

I would reply that the Jewish people has never measured morality by the standards of its frequently cruel neighbors but by our own very high moral standards based on God, the Torah and Jewish law. Our role models are Abraham, Hillel and Maimonides; not Hamas, Al-Qaeda, and Hezbollah. Therefore, we must ask what Jewish law and tradition have to say about the murder of and attacks against innocent Arabs. And the answer is very clear: **Jewish law and tradition are thoroughly opposed to the murder of innocent non-Jews and to attacks on innocent Arab civilians.**

I) The Murder of Non-Jews is Murder (2)

As Rachel Fraenkel, the mother of Naftali hy"d, said: "There is no difference between blood and blood. Murder is murder, whatever the nationality or the age. There is no justification, no forgiveness, and no atonement for any murder." (*Walla Hadashot*, July 2, 2014) "The last will [of the three murdered boys] was of love and humaneness. Spilling innocent blood is against morality and the Torah, which is the

basis for all of us." (*Walla Hadashot*, July 8, 2014)

Murder is forbidden in a number of different places in the Torah. Genesis 9:5-6 and *Sanhedrin* 56a list murder as one of the Seven Laws of the Sons of Noah; the Ten Commandments include "*Lo tirzah*", "you shall not murder" (Exodus 20:13); while Exodus 21:14 outlaws premeditated murder.

All of the Sages and the classic halakhic authorities agree that it is forbidden for a Jew to murder a non-Jew, but they explain this prohibition in different ways. Some rabbis say that it is forbidden for a Jew to murder a non-Jew since Jews are also obligated by the Seven Laws of the Sons of Noah (Issi ben Akiva on Exodus 21:14 in *Mekhilta Mishpatim, Parashah 4*, ed. Horowitz-Rabin, p. 263 coupled with *Sanhedrin* 59a).

Others say that a Jew may not murder a Jew or a Gentile because of *Lo Tirzah* (Rabbi Eliezer ben Natan, Mainz, d. 1170, *Sefer Ra'avan* to *Bava Kamma* 113a, ed. Samloi, 1926, fol. 194d).

Maimonides (*Sefer Hamitzvot, Lo Ta'aseh*, No. 289, but see below) and *Sefer Hahinukh* (ed. Chavel, No. 34, p. 91) seem to say that *Lo Tirzah* applies equally to **all** human beings.

Others say that this is a Rabbinic prohibition based on *Avodah Zarah* 26a (Rabbi Eliezer of Metz, d. 1198, *Sefer Yere'im Hashalem*, Vilna, 1892, No. 175).

The *Mekhilta* mentioned above and Maimonides (*Hilkhot Rotzeah* 2:11; the reading in 1:1 is the result of censorship) say that it is forbidden for a Jew to kill a non-Jew, but that the punishment will come from God and not from a court of law.

A powerful expression of the Sages' opposition to **all** murder is found in a famous Mishnah (*Sanhedrin* 4:5) in its original version as found in manuscripts and Genizah fragments (as proved by Prof. E. E. Urbach, *Tarbitz* 40 [5731], pp. 268-284):

Therefore Adam was created alone to teach you that whoever destroys **one soul** is considered by Scripture as if he had destroyed the entire world, and whoever sustains **one soul** is considered by Scripture as if he had sustained the entire world.

Later versions of this Mishnah added "one [Jewish] soul", but the original reading of this Mishnah does not distinguish between destroying the life of a Jew and of a Gentile.

II) The General Attitude towards Non-Jews

The young Jews described in the question hate non-Jews in general and Arabs in particular. Indeed, Talmudic literature contains many negative statements about non-Jews. (3) This is not surprising, considering the Roman persecutions of the Jews which lasted for hundreds of years, but it also contains many statements such as the following: (4)

1. "[Rabbi Akiva] used to say: Beloved is **adam [=man]** who was created in the image of God. Still greater was the love shown to him since he was created in the image of God, as it is written (Genesis 9:6) 'in the image of God he made **man**'" (*Avot* 3:14 and cf. *Tosfot Yom Tov ad loc.*)." The plain meaning of this text is that **all** men (*adam*) were created in the image of God, not just Jews.

2. "Heaven and earth are my witness, both Gentile and Jew, everything is according to the act that one does, so the Holy Spirit rests upon him." (*Seder Eliyahu Rabbah*, Chapter 10, ed. Ish Shalom, p. 48)

3. "The Holy One Blessed be He [said to Moses]: Do I play favorites between a Jew and a Gentile, between a man and a woman, between a slave and a maidservant – if he did a *mitzvah*, it is rewarded." (*Yalkut Shimoni, Bereishit*, parag. 76, ed. Warsaw, 1878, fols. 21a-b; it is not found in the Mosad Harav Kook edition)

4. "A non-Jew who observes the Torah is like a High Priest." (*Sifra Aharei*, chapter 13, ed. Weiss, fol. 86b and cf. *Sanhedrin* 59a and parallels)

5. "If a person wants to be a Levi or a Kohen he cannot... but if he wishes to be a *tzaddik*, even if he is a Gentile, he can be a *tzaddik*." (*Midrash Tehillim* 146:7, ed. Buber, p. 536)

6. "Said Rabbi Joshua... behold there are *tzaddikim* among the nations who have a place in the World to Come." (*Tosefta Sanhedrin* 13:2, ed. Zuckerman, p. 434)

7. "And not only the tribe of Levi, but every single person in the entire world whose spirit led him to stand before God and to serve Him... behold he has been sanctified [like the] Holy of Holies and God will be his portion and inheritance forever..." (Rambam, *Hilkhot Shemitah V'yovel* 13:13)

8. "A Gentile who is scrupulous in observing the Seven Laws of the Sons of Noah (see above) – be careful of their mistakes [in business], for you may not profit from their mistakes and you must return his lost object, and don't belittle him, rather honor him more than a Jew who does not study Torah." (*Sefer Hassidim*, ed. Margalioth, paragraph 358)

9. The Mishnah says (*Sanhedrin* 10:1) that all Israel has a portion in the World to Come. When the Mishnah says "Israel", it means anyone who does the acts of Israel, not just he who is called a Jew. "And therefore every true *tzaddik* is Israel" and has a place in the World to Come (*Akeidat Yitzhak*, gate 60, Jerusalem, 1961, fol. 36b)

As rabbis and educators, it is our job to teach our children that just as we must fight and even kill terrorists who want to destroy us in self-defense, we must do our utmost to protect innocent civilians. Indeed, that is what the IDF tries to do in all its operations and our soldiers have frequently died as a result of their attempts not to harm civilians.

III) *Hillul Hashem*, the Desecration of God's Name

Kiddush Hashem is the sanctification of God's name and *Hillul Hashem* is the desecration of God's name. They stem from the same verse in Leviticus (22:32): "You shall not desecrate My holy name, that I may be sanctified in the midst of the people of Israel – I am the Lord who sanctifies you". This verse means that any good or holy act that a Jew does, sanctifies God's name in the eyes of his Jewish and gentile neighbors, while any bad or profane act that a Jew does, desecrates God's name in the eyes of the public. Indeed, this idea appears in many places in rabbinic literature. (5)

The young extremists who apparently killed Muhammed Abu Khdeir and who have been carrying out "price tag" attacks for years think that they are doing some sort of mitzvah. In fact, they have committed terrible acts of *Hillul Hashem*. The world media has used their actions to show that Israel and the Jews have no respect for other religions and that we are murderers.

IV) *Mipnei Darkei Shalom*, Because of the Ways of Peace

A Talmudic passage which appears in *Gittin* 61a lists a series of rabbinic enactments *mipnei darkei shalom*, because of the ways of peace, including feeding non-Jews, visiting their sick, and burying their dead. Parallel sources list a number of similar enactments (6) These sources do not relate to our specific topic, but defacing mosques, attacking innocent Arabs and murdering an innocent Arab child are all clearly a violation of this Talmudic principle.

V) What is hateful unto you...

There is a famous story in the Talmud (*Shabbat* 31a) about a convert who came to Hillel and asked to convert on condition that Hillel would teach him the entire Torah while standing on one foot. Hillel

replied: "what is hateful to you, do not do to others, this is the entire Torah; the rest is commentary, go and learn". For 1900 years, from the Destruction of the Second Temple until the twentieth century, Jews were discriminated against by non-Jews. Now, when we have our own sovereign State of Israel where we are the majority, we must follow the dictum of Hillel which he considered the most basic commandment in the Torah.

VI) Ger Toshav, a resident alien

The Torah contains many *mitzvot* related to the *Ger Toshav* or resident alien. (7) While there is disagreement among rabbis as to whether these laws apply to non-Jews living in Israel today, the spirit of these Biblical and Rabbinic laws demands that we treat all non-Jews in Israel with respect for "you shall love [the stranger] as yourself, for you were strangers in the Land of Egypt" (Leviticus 19:33-34).

VII) The Halakhic Status of the State of Israel

The young people who perpetrate these attacks believe that they are acting according to halakhah, which takes precedence over the laws of the State of Israel and over government decisions. They are wrong. As I have explained elsewhere (*Responsa in a Moment*, Jerusalem, 2000, pp. 90-91), the democratic institutions of the State of Israel are not something to be "tolerated" outside of Jewish law. Rather, they are part and parcel of Jewish law. There are three proofs of this assertion:

1. The Talmudic sage Samuel, who lived in third-century Babylonia, coined the phrase "*dina d'malkhuta dina*" - "the law of the land is the law" (*Nedarim* 28a and parallels), which meant that Jews must obey the laws of the countries in which they reside. But many rabbis state that this applies to a Jewish state as well. If so, Jewish law requires Jews to observe the secular laws of the State of Israel.

2. Throughout Jewish history, every Jewish *kahal*, or community, was governed democratically on the basis of a passage in the Talmud (*Bava Batra* 8b). The State of Israel is the modern equivalent of the *kahal*, and its democratic institutions must be treated with the same respect and authority as the medieval *kahal*.

3. Rabbis Abraham Isaac Kook, Shaul Yisraeli, and Hayyim David Halevy, three of the foremost religious Zionists of the twentieth century, have explained that, in our day, the democratically elected government and leaders of Israel have taken the place of the king and must be obeyed accordingly (*Responsa Mishpat Kohen*, No. 144; *Amud Hayemini*, part I, nos. 7, 9; *Aseh Lekha Rav*, Vol. 7, No. 68).

VIII) Revenge (8)

It is clear that many of the actions described in the question above were acts of revenge. Isn't revenge a natural human reaction to murder?

The word *nakam* or *nekama* (revenge, vengeance) appears 44 times in the Bible. Some verses talk about human vengeance (see Judges 16:28; Psalms 18:48 = II Samuel 22:48; Psalms 149:7), but in most cases, the Bible talks about revenge that was taken or will be taken by God, not by human beings. For example:

"I will bring a sword against you to wreak vengeance for the covenant." (Leviticus 26:25)

"O nations, acclaim His people!

For He'll avenge the blood of his servants.

Wreak vengeance on His foes,

And cleanse the land of His people."

(Deuteronomy 32:43)

"Their unavenged blood shall be avenged." (Joel 4:21)

"Let the nations not say: where is their God?
Before our eyes let it be known among the nations
That You avenge the spilled blood of Your servants."
(Psalms 79:10)

"God of vengeance, Lord, God of vengeance appear."
(Psalms 94:1; and cf *Berakhot* 33a)

As for human beings, the Bible tells them **not** to take revenge:

"You shall not take vengeance or bear a grudge against the sons of your people." (Leviticus 19:18) In other words, one Jew should not take revenge against another. Indeed, this is why the Torah set up *arei miklat*, cities of refuge, in order to prevent a kinsman of a person killed by accident from being murdered by a relative of the victim (Exodus 21:13; Numbers 35:22-28; Deut. 19: 1-10)

"Do not say: I will do to him what he did to me.

I will pay the man what he deserves." (Proverbs 24:29)

As opposed to Leviticus 19, this passage is part of the wisdom literature which is directed at all human beings.

Indeed, the Midrash says that wrath and vengeance should be left to God: "Rabbi [Judah the Prince] said: A human being, wrath controls him, but the Holy One Blessed be He -- controls his wrath, as it is said 'the Lord avenges and is master of wrath' (Nahum 1:2)." (*Bereishit Rabbah* 49:8, ed. Theodor-Albeck, p. 508)

The Sages understood very well that revenge also destroys the person taking revenge:

In Sanhedrin 102b, Rav Papa quotes an Aramaic proverb: "Who seeks revenge, destroys his [own] home."

"[Vengeance] can be compared to a person who is cutting meat and accidentally cuts his other hand; will his other hand then cut his first hand?!" (*Yerushalmi Nedarim* 9:4, ed. Venice, fol. 41c)

IX) Summary and Conclusions

In conclusion, "religious" youths who attack innocent Arabs and Mosques and murder an innocent Arab child are transgressing all of the above Jewish laws and teachings. The police, the IDF and the government must deal swiftly and severely with these phenomena and the religious Zionist community must do some serious soul-searching and change the education which is being given to these young people. "*Veyafe sha'ah ahat kodem*", and the sooner the better.

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15 Tammuz 5774

Notes

1. This is a greatly expanded version of my "Responsa in a Moment" column, December 2011.
2. This section is based on *Entziklopedia Talmudit*, Vol. 5, cols. 355-358, s.v. *Goy*; Rabbis Yitzhak

Shapira and Yosef Elitzur, *Torat Hamelekh*, Samaria, 2000, pp. 17-27; Rabbi M. M. Kasher, *Torah Sheleimah*, Vol. 17, pp. 77-78, paragraphs 263-264; Rabbi J. D. Eisenstien, *Otzar Yisrael*, Vol. 10, New York, 1913, pp. 12-14, s.v. *Retzihah*.

3. See Rabbi Emil Hirsch, *The Jewish Encyclopedia*, Vol. V, pp. 616-619, s.v. Gentile; J. Z. Lauterbach, *CCAR Yearbook* 31 (1921), pp. 186-233; *Entziklopedia Talmudit*, *ibid.*, cols. 363-364. For some contemporary rabbis who preach hatred and even murder of non-Jews under certain circumstances, see Noam Tziyon, *Hakannai: Gibbor Leumi O Okheir Yisrael?*, Hartman Institute, Jerusalem, 1996, pp. 152-155 and especially *Torat Hamelekh* mentioned above.

4. For these sources and others, see the first two items in note 3; David Golinkin *Teshuvot Va'ad Hahalakhah* 6 (5755-5758), pp. 289-290; Rabbi Tuvia Friedman, *ibid.*, 2 (5747) , pp. 45-46; Menahem Hirshman, *Torah L'khol Ba'ei Ha'olam*, Tel Aviv, 1999; David Ben Zazon, *Atah Behartanu*, Tel Aviv, 2012. (The latter two items are also available in English.)

5. See, for example, *Tosefta Bava Kamma* 10:15, ed. Lieberman, p. 53; *Yerushalmi Bava Kamma* 4:3, ed. Venice, fol. 4b; *Bavli Bava Kamma* 113a; Maimonides, *Hilkhot Gezeilah Va'aveidah* 11:3, 5; *Shulhan Arukh Hoshen Mishpat* 266:1.

6. See *Mishnah Gittin* 5:8-9; *Tosefta Gittin* 3:13-14, ed. Lieberman, p. 259; *Yerushalmi Gittin* 5:9, ed. Venice, fol. 47c and parallels; *Entziklopedia Talmudit*, s.v. *Goy*, cols. 357-358.

7. See David Golinkin, *Insight Israel*: Jerusalem, 2003, pp. 85-89; Rabbi Tuvia Friedman, *op. cit.*, pp. 49-50; *Entziklopedia Talmudit*, Vol. 6, cols. 289-304, s.v. *Ger Toshav*.

8. For sources about vengeance, see Rabbi J. D. Eisenstein, *Otzar Yisrael*, Vol. 7, New York, ca. 1913, pp. 110-111; Joseph Baron, *A Treasury of Jewish Quotations*, New York, 1956, p. 529; *Encyclopaedia Judaica*, Vol. 16, cols. 93-94; Avraham Even Shoshan, *Concordantzia Hadashah*, Jerusalem, 1986, p. 780.

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