

1. Ramban (1194-1270) & Rambam (1135-1204)

It is also plausible that Jacob's anger at Simeon and Levi, with which he cursed their rage (below, 49:7), was because they killed the men of the city, who had done nothing wrong to him, whereas it would have been fitting for them to have killed Shechem alone, for he deserved to die. This is the explanation of what Scripture says, Jacob's sons answered Shechem and his father Hamor with deception and they spoke, because he had defiled their sister Dinah. For they all agreed to speak to [Shechem] with this deception because of the outrage that he had committed against them.

[Ramban now discusses the ethical issues behind Levi's and Simeon's behavior:] Many people ask this question: How could the righteous sons of Jacob do this deed, spilling the innocent blood of the Shechemites?

[Ramban cites Rambam's (Maimonides') opinion on the matter:] The Rabbi (Maimonides) answers this question in the Book of Judges, saying that "the children of Noah" are commanded concerning the execution of justice, that is, in his words: To set up judges in every district to administer justice regarding [the Noahides] other six laws ... And a Noahide who violates any one of

2. Gur Aryeh Maharal of Prague R' Yehuda Loew (1520-1609)

[their seven laws] is to be put to death by the sword ... Thus, if [a Noahide] sees someone transgressing one of [the Noahide laws] and they do not sentence him to be executed, this person who witnessed the crime must himself be killed by the sword. It was for this reason that all the Shechemites became liable for the death penalty, for Shechem committed theft (by abducting Dinah), and they saw it and knew about it, but they did not administer justice against him (Mishneh Torah, Hil. Melachim 9:14).

[Ramban disagrees with Rambam:] But these words are not sound in my opinion. For if so, our forefather Jacob should have gone ahead of his sons and sought the privilege of killing [the Shechemites], rather than becoming angry at Simeon and Levi for doing so! And if you should reply that he was afraid of them and thought that he would not be able to execute them all, nevertheless, why did he become angry at his sons and curse their anger after such a long time, and punish them by separating them and scattering them (below, 49:7)? After all, they had the merit to fulfill a commandment; they trusted in God to protect them in the face of the danger inherent in executing all the Shechemites, and He saved them.

[Ramban continues with his refutation of Rambam:] But why does the Rabbi (Rambam) search for reasons for [the Shechemites'] liability for the death penalty? Weren't the people of Shechem - and all the seven Canaanite nations - perpetrators of idolatry, sexual immorality and all the other acts considered abominations to God? In many places Scripture proclaims loudly about them and their attachment to idolatry, such as: ... where the nations that you are driving away worshiped their gods - on the high mountains and on the hills and under every leafy tree, etc. (Deuteronomy 12:2); and, When you come to the land that Hashem, your God, gives you, you shall not learn to act according to the abominations of those nations (ibid., 18:9); and, concerning sexual immorality, For the inhabitants of the land who were before you committed all these abominations (Leviticus 18:27). However, the truth is that the matter was not given over to Jacob and his sons, that they should execute justice against [the Canaanites] for all their sins.

הכתוב אומר כו'. דאם לא כן אשר טמא אחותם למה לכתוב, כי לא דברו הם "אשר טמא(ו) את דינה אחותם", דהא במרמה השיבו, ואם היו אומרים להם "אשר טמא(ו) דינה אחותם" היו מבינים כי במרמה הם מדברים, אלא בודאי הכתוב אומר "כי טמא דינה אחותם" ולא הוי זה מרמה. אך קשה אם שכם חטא כל העיר מה חטאו להרוג, ותירץ הרמב"ם (הלכות מלכים פ"ט הי"ז) דבני נח מצווים על הדינין, ועבירה אחת שעובר - נהרג על ידו, וכאן ראו המעשה הרע הזה ולא דנוהו, לכך היו חייבין מיתה שלא היו דנין אותם. ובאמת דבר תימה הם אלו הדברים, כי איך אפשר להם לדון את בן נשיא הארץ (פסוק ז), כי היו יראים מהם, ואף על גב שנצטוו על הדינין - היינו כשיוכלו לדון, אבל אונס רחמנא פטריה (נ"ק נח), ואיך אפשר להם לדון אותם. ונראה דלא קשיא מידי, משום דלא דמי שני אומות, כגון בני ישראל וכנעניים, שהם שני אומות, כדכתיב (פסוק טו) "והיינו לעם אחד" - ומתחלה לא נחשבו לעם אחד, ולפיכך הותר להם ללחום כדין אומה שבה ללחום על אומה אחרת, שהתירה התורה. ואף על גב דאמרה התורה (דברים י) "כי תקרב אל עיר להלחם עליה וקראת אליה לשלום", היינו היכי דלא עשו לישראל דבר, אבל היכי דעשו לישראל דבר, כגון זה שפרצו בהם לעשות להם נבלה, אף על גב דלא עשה רק אחד מהם - כיון דמכלל העם הוא, כיון שפרצו להם תחלה - מותרים ליקח נקמתם מהם. והכי נמי כל המלחמות שהם נמצאים כגון "צורו את המדיינים וגו'" (דברים כה, ז), אף על גב דהיו הרבה שלא עשו - אין זה חילוק, כיון שהיו באותה אומה שעשה רע להם - מותרין לבא עליהם למלחמה, וכן הם כל המלחמות:

Deuteronomy 20:10 says, "you shall call to it for peace", but that is where they have not acted upon Israel. Where they have acted toward Israel, such as here [Shechem] where they had broken forth, doing this repellent thing, then even though only one of them had done it, since they had attacked first, Israel was permitted to respond. So, too, for all wars... since there were those among the nation who had harmed them, they were permitted to go to war against them..

4. R' Samson Raphael Hirsch
(1808-1888)



V. 25. et seq. Now the blameworthy part begins, which we need in no wise excuse. Had they killed Shechem and Chamor there would be scarcely anything to say against it. But they did not spare the unarmed men who were at their mercy, yea, and went further and looted, altogether made the inhabitants pay for the crime of the landowner. For that there was no justification. For that Jacob too reproached them: You have "clouded" me, our reputation, our name, our honour, which was clear as crystal you have besmirched, "have brought me in evil odour" even with the Canaanites and the Perizzites. And just as you have dealt unjustly so have you dealt unwisely, we are so few in number etc.

In a peculiar manner this story follows immediately on the preceding one. There we saw a transitory קוֹל יַעֲקֹב, a humane emotion flaring up in Esau's feelings, and we recognised in that, the germ of humaneness that ultimately was to grow to complete development in Esau too, and here we see, all at once the sword of Esau transitorily in the hands of Jacob, and learn from that the fact that brightens Jewish history, namely that,

though we have ultimately become the nation to whose hands the least spilt blood sticks, if we have become the mildest most soft-hearted of nations, this is not due to any inherent weakness on our part, to any form of cowardice — the last days of our existence as a state showed our courage and military spirit in such a terrific manner that the very bravest and chosen legions of Esau-Rome had to be called against us. We can wield the sword of Esau, we can also become bloodthirsty. Our humaneness and mildness are the fruits of the education which God has given us through our history and through His Toarh.

It is only the means which they took and their going much too far in their use of them that is blameworthy. The motive that moved Simeon and Levi, the purpose they were striving for was a holy and most justified one. The spirit with which they were filled is an indispensable one for a family that had to wander about amongst the nations of the world, had to allow the bitterest fate to pass over them, to endure the deepest degradation, and yet was to remain upstanding with all elasticity of spirit and all nobleness of mind for their world-historic revival to an everlasting path through history which is unparalleled. Still on his death-bed we shall see the old father expressing his curse on the means and the excessive passion, but his blessing and recognition of the motive and the spirit which lay behind them. He indicates that Simeon and Levi should be allotted such a position in the future Jacob-Israel nation, that political and military powers of decision should never lie in their hands (see Ch. XLIX,5 & 6 I.L.), but, on the other hand, that their strong spirit, always conscious of their own worth and Israel's lofty destiny, should come into contact with every sphere of the whole nation, actively imparting and teaching its life-giving, sustaining and saving effect. That same sword which Levi used here against an external foe to rescue the honour of his sister, we see him wielding internally against his own brethren when it was a question of ruthlessly — את אחיו לא הכיר ואת בניו לא ידע — saving his brethren up out of their degeneration.

"In practice, there is insufficient basis to permit action against an entire community that has failed to execute its duty and remove murderers from its midst so long as it is reasonable to excuse them with the claim of fear, pressure, and the like."

3. B'Ikvei Ha'Tzon
R' Herschel Schachter



ועפ"י הדברים האלה הי' נראה לומר דהוה"נ [ובאמת ק"ו הוא] בזה"ז, שמדינת ישראל עומדת היא במצב של מלחמה, וכל הפרעות והמהומות שבימינו דינם (עפ"י הלכה) כהמשך מהמלחמה הראשונה [מלחמת השחרור], שהרי הערכים טוענים בפירוש ובפה מלא, שהם רוצים את ירושלים ואת תל אביב ואת חיפה וכו' וכו', וממילא, צריכים אנשי צה"ל לנהוג עם כל המשתתפים באלו הפרעות כמו שנוהגים בשעת מלחמה ממש, שאם יש צורך בכך, שיירו בהם ע"מ להרוג, ואם יש צורך בכך — כי לפעמים מן הנמנע לברר מי הם המחבלים והטרוריסטים המארגנים את הפרעות ואת המהומות — רשאים וחייבים צה"ל להכות ואף להרוג — כפי הדרוש לנצח במלחמה — אף אחרים מאותה האומה שהם חפים מפשע, וכמבואר בגור אריה למהר"ל מפראג לפ' וישלח¹. וכן נראה נמי לומר, דהואיל והמצב כעת בארץ הוא מצב של מלחמה, שאין להתחשב בסכנ"פ של היחידים, וכאשר הבאנו מדברי המנח"ח והנצי"ב ומדברי שאר המחברים.

5. Shut Amud
Ha'Yemini 16:2



R' Shaul Yisraeli
(1909-1995)

טו. ויוצא לפ"ז שגם בענייננו, אם כל הצבור מעלים עיניו ממעשי הכנופיות הרצחניות, ואורבא מעודד אותם, אם יש להם איוז שהיא אמתלא שאין יכולים להתנגד למעשהם מחמת איוז שהוא פחד, אם פחד מיתה הוא פטורים הם לדעת הכל, אם אונס יותר קל מיתה הוא לדעת הרמב"ם חייבים ולדעת הרמב"ן פטורים.

ובענייננו מצטרפת לדעת הרמב"ן גם דעת התוס' שהובאה לעיל, שאיסור אין מורידים איסור תורה הוא ומשום שלפני שנגמר דינם ע"י ב"ד אינם בני קטלא, ואסור לנגוע בהם.

ויוצא שלמעשה אין יסוד מספיק להתיר פעולה נגד הציבור שנמנע למלא חובתו ולבער מתיכו את המרצחים, כל עוד שיתכן שיש להם אמתלא של פחד אי לחץ וכי"ב.