**Part I. How שמעון and לוי could destroy the city of שכם, and more on that story**

**To Highlight:**

**Source #1:**

**a) Style:**

**Paragraph 1**

- Starts with an obvious pshat question, one which will obviously be very difficult to answer

- (Address the overall moral ambiguity of the story; lack of clear-cut heroes and villains according to פשט).

- Assumes the children of יעקב אבינו are צדיקים, and won't be quick to assume they sinned

- Interesting how this particular type of problem (the moral failure of the אבות) is the one which bothered him the most and he felt the need to address

- As opposed to other obvious פשט problems, such as the fact that these were two people versus a city, or that they were mere children

- (These wouldn’t have been the type of problems to bother the רמב"ן; see the very end, by יעקב אבינו taking on the neighboring enemies. Extreme protection and near blatant miracles/השגחה of the greatest צדיקים).

**Paragraph 2**

- Both reasons are based on the story, not later-day halachic texts such as מדרשי הלכה or the תלמוד בבלי or תלמוד ירושלמי.

- As reasons to reject a halachic conclusion, these are therefore automatically somewhat weaker. As we’ll see, רמב"ן has his own reasons to bolster his own conclusion based off of actual halachic texts below. Nonetheless, highlights רמב"ן’s general perspective that the הלכה is actually very close to the surface of the תורה’s words, and often the correct הלכה beautifully — even most beautifully — fits with the פשט of the תורה.

**Paragraph 3 and Paragraph 4**

- First undermines רמב"ם’s halachic statement, and reveals that part of his reason for arguing was from halachic sources as well

**Paragraph 7**

- Read other literature, but isn’t willing to grant everything the same level of legitimacy. Also, still explains how to see in the text, and also why so terse

**b) Content:**

**Paragraph 1**

- Quotes many who ask: how could the sons of יעקב אבינו, who were צדיקים, do this and shed innocent blood?

- Quotes רמב"ם (in הל' מלכים ומלחמות ט:י) – they didn’t do anything wrong. The people of שכם were מיתה חייב, because they failed to fulfill one of the ז' מצוות of the בני נח, the מצוה of דינין. They knew שכם had violated another one of the מצוות (גזל), and they didn’t kill him; thus, they were מיתה חייב.

 - (Interesting how רמב"ן assumes רמב"ם’s coming to answer this question with this explanation, and not just state the correct הלכה and cite proof).

- [This opinion of the רמב"ם’s is fascinating for many reasons: that knowledge of a crime is sufficient to kill a בן נח even without עדים proper; that he understands דינין this way, despite the גמרא not specifying this; that he thinks they can get killed for דינין; that he calls שכם’s crime “גזל,” and more…]

**Paragraph 2**

- רמב"ן attacks רמב"ם’s halachic conclusion for two reasons:

 - 1) If so, then יעקב אבינו should’ve been the first one to carry out this הלכה!

 - (First assuming יעקב אבינו certainly would act correctly, and wouldn’t be paralyzed by fear or indecision, as the פסוקים might have suggested).

 - 2) And even if he were afraid — why would he chastise his sons and punish them so severely for their heroic actions?

 - (Note that if this was the correct thing to do, their success was because ה' saved them and helped them, not because of their strength).

**Paragraph 3 and Paragraph 4**

- רמב"ן next suggests his own interpretation of the הלכה that רמב"ם referenced:

- Rather, the מצוה of דינין doesn’t merely mean the requirement to set up the appropriate court systems.

 - (Now, and before, based on the sole source in the תלמוד בבלי [the most authoritative halachic text] delineating the parameters of this מצוה of theirs)

- It also includes other basic civil laws (such as loan payments, damages, etc.), comparable to the laws that the בני ישראל were commanded in.

 - (What he means by this “comparable to the laws the בני ישראל were commanded in” is rather ambiguous, but is very important. Does he mean:

 - a) they also have all of these civil laws which we have, all falling under the rubric of דינין?

 - This would be a big חידוש on many levels.

 - b) or that they have an obligation to create a system of fair, civil laws, comparable to the ones we have in the תורה?

 - This is more likely what he means, since it would make sense to fail under the category of דינין this way — of setting up court systems

 - To this, a non-Jewish lawyer or judge working on legislature would literally be fulfilling a מצוה of theirs!

- They would indeed deserve to be killed if they violated one of these prohibitions therefore.

 - (How does he know this? What’s prompting him to admit this? Even if these are closer מצוות ל"ת and not מצוות עשה — still, they fall under an עשה!)

 - (See the upcoming ירושלמי. רמב"ן must recognize that, and explain it as a proof for him against רמב"ם; but to do so, he must first fit with all of it).

- However, they don’t get killed for what רמב"ם said they would (namely, not setting up court systems).

- Two halachically sourced reasons for how רמב"ן knows this:

 - 1) This a עשה מצות, and the גמרא in סנהדרין on נז. and later indicates that they only get killed for violating one of their ל"ת מצוות!

 - 2) The ירושלמי indicates they get killed for perverting justice; but not for backing out of a court case and not judging it. No idea of לא תגורו מפני איש!

- (This is an interpretation of the ירושלמי which doesn’t necessarily fit better than other viable alternatives; רמב"ם could use it in his own way too).

- (Thinking that there is no לא תגורו מפני איש by a בן נח fits nicely with how רמב"ן understands that איסור [מעילה in ה'’s service], vs. רש"י or רבינו יונה).

 - [For more on this מחלקת, see ר"ן and מאירי in סנהדרין on נו:. See also שו"ת חת"ס חו"מ בליקוטים ח"ו סי' יד, and see the מפתח in פרנקל edition].

**Paragraph 5**

- רמב"ן then undermines רמב"ם’s whole basis for inventing this חיוב — there were more than enough other reasons why they would have been חייב מיתה for other reasons, such as גילוי עריות and עבודה זרה! Clearly then, יעקב אבינו and his sons just weren’t obligated to kill them for these.

- (To defend: רמב"ם may have sought out this reason for their מיתה חיוב because they only *concretely* knew of this violation).

- (Again, רמב"ן is assuming that רמב"ם reached this halachic conclusion in order to answer this question, and not the other way around.

**Paragraph 6**

- Having dispensed with why רמב"ם’s halachic conclusion is invalid, and thereby dispensing with his answer for why the בני יעקב could murder innocents, רמב"ן now turns to answering this question himself:

- They viewed the lives of the townsfolk as meaningless, since all were רשעים anyhow, and wrought revenge upon the king and his people.

- As for the promise they violated — it was similarly meaningless to them, and wouldn’t stand in the way of their revenge.

- יעקב אבינו rebuked them on two accounts:

 - [not the killing of innocents though; their deaths were meaningless and worth the revenge, as רמב"ן has said, and that “crime” wasn’t a crime]

 - a) placing the family in danger now of potential retribution from neighboring enemies

 - b) they violated their word, and thus wastefully massacred people who seemingly were willing to change themselves, and may have done תשובה

 - (later, in פרשת ויחי, רמב"ן actually says that they had done תשובה! If so, that makes these killings even more wanton and potentially wrong).

**Paragraph 7**

- Various ancient sources — some more reliable than others — indicate that יעקב אבינו’s fears were indeed founded. יעקב אבינו himself fought of hordes of enemy legions who swarmed around then to take retribution, and he soundly defeated them all with ה'’s help.

- The פסוק only alluded to these miracles though, since they were hidden, just as it also didn’t elaborate by אברהם אבינו and the כבשן האש or by עשו’s wars.