

Lesson 31 – Perek 19 – Cities of Refuge

Background:

Now that we have analyzed the structure of the laws in the Mishpatim section, we will move on to analyze their content. Moshe's speech marks Bnei Yisrael's transition from a clan, a group of family tribes, to a nation. While a clan is headed by elders, usually the oldest male of each family unit, who make all decisions, a nation requires an official government, a standing army, and a judiciary. The institution of the four leadership groups we saw above (Lesson 29) puts these changes into action. Many of the laws which Moshe promulgates in this speech are meant to update the old clan-based system of law to a less arbitrary and more ethical system which is controlled by the central judiciary. In this lesson we will see how the Torah seeks to eliminate the blood feud. Similarly, in lesson 36, we will learn that parents may no longer mete out capital punishment to their children themselves.

Activity:

1. Look up 2 Sam 2:23 and context where Abner kills Asa'el. Then look up 3:27-28 where Yo'ab, Asa'el's brother, kills Abner to revenge "the blood of Asa'el."
2. Now give out and read these two news articles about blood vengeance in Albania and in Brooklyn:

Albania: Blood Feuds -- 'Blood For Blood'
From <http://www.rferl.org/>
By Jolyon Naegele

In Albania, one of Europe's poorest countries, the centuries-old tradition of blood vengeance has seen a resurgence over the past decade. The law-and-order vacuum created by the collapse of communism has sent many Albanians back to the oral common laws of their tribal roots -- laws that include the right to murder to avenge an earlier killing.

Tirana, 12 October 2001 (RFE/RL) -- In a broad valley in northern Albania circled by mountains, a medieval hilltop fortress, and a NATO radar station, Ndoc Kapsari and his wife Gjovana take turns standing guard on the roof of the garage where they live. Armed with a hunting rifle, they scan the surrounding cornfields and vineyards for any sign that someone may be coming to kill them.

The Kapsaris have lived this way for 10 years. Blamed for a fatal accident that both Ndoc and police investigators say was none of his doing, he and his wife have become the permanent target of a family seeking "gjakmarra," or blood vengeance. Forced into a life of complete isolation, Ndoc Kapsari describes himself as "the most unfortunate man in the world."

He isn't alone. There are an estimated 2,800 Albanian families living in self-imposed isolation, trying to avoid becoming victims of blood vengeance. In the years since the collapse of communism, Albania has seen law and order crumble in many parts of the country, replaced by the ancient social codes of the "kanun," the unwritten customary laws used by centuries of Albanian tribes to determine everything from standards of dress to marriage to the resolution of disputes. The renewed interest in the kanun has been especially strong in the north of the country, where Albanians maintain close ties with their extended families, clans, and tribes. But even in the capital Tirana, at least three published versions of the kanun are widely available in book kiosks.

Ismet Elezi is a professor of law in Tirana. He says the kanun may date back as far as 2,000 years to the Illyrians, widely believed to be the ancestors of today's Albanians. Today there are three main versions of the code in northern Albania -- the Kanun of Lek Dukagjini, the Kanun of Skanderbeg (named after two medieval Albanian heroes), and the Kanun of the Mountains. Passed orally from generation to generation for centuries, the kanuns were not transcribed until between the mid-19th and mid-20th centuries.

Now, Elezi says, the current lack of state control and distinct laws has sent many Albanians back to the kanun and its guidelines on blood vengeance. "The kanun sanctions the principle of blood for blood, which means the murderer must be killed."

But Elezi adds that despite the kanun's sanction of blood vengeance, it is strict in its rules on how such revenge can be carried out. For example, the kanun firmly prohibits the retribution killing of women, children, and the elderly. It also limits the types of weapons that can be used, as well as the period of isolation that male relatives of a revenge killer must undergo. In the past, male family members were isolated for a week after a blood killing took place. Now, Elezi says, entire families are forced into isolation for months and even years at a time.

"Isolation was a phenomenon thought to be a manner of resolution to the extent that those involved in blood vengeance [otherwise] had no security for their lives and nowhere to

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3. Explain that this common law of blood vengeance was widespread in the ancient world. The Torah law legislating cities of refuge seeks to wipe out this primitive custom. In this old system, a close family member has an obligation to avenge the blood of the dead relative by killing the person who caused his death. The problem is that this allows people to take punishment into their own hands instead of the hands of the courts. Blood vengeance does not distinguish between accidentally killing and purposeful murder. Therefore, as in the case in Albania, someone can be killed simply because he made a mistake. Also, the relative will not always thoroughly check if the person he blames is in fact guilty or not. A court is necessary to objectively decide if someone is really guilty and if it is manslaughter or murder.

Rambam explains in many contexts that it is impossible to change the mindset of a people right away. If the Torah would have simply prohibited all blood vengeance from the start, Bnei Yisrael would not have been able to keep the law. Therefore, the Torah allows the גאל הדם to kill the unintentional killer, but also provides for the unintentional killer a city of refuge where he may not be harmed. The Torah also distinguishes between accidental homicide (pesukim 1-10) and premeditated murder (11-13). In the case of murder, the Torah allows the גאל הדם to kill the murderer, but only after the court finds him guilty. We see the Torah slowly limiting the custom of blood vengeance in favor of a national court system.

Relate this law to the examples above from Sefer Shemuel and from current events and discuss. While western countries no longer practice blood vengeance, many less developed countries do. Additionally, even modern people who have a relative killed feel the urge to take revenge into their own hands. The Torah's message is as relevant as ever. For more details on this subject, see Nehama Leibowitz (Shoftim 5) and Rabbi Shamah's sheet on Parashat Mas'e Part II.