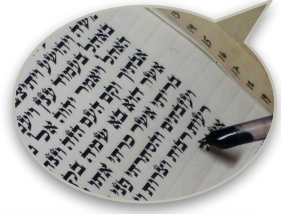




# The Collective Conversation

*Weekly Torah Essays from the  
Young Israel of Scarsdale Community*



**Sefer Devarim**

**Parshat Shoftim**

**Elul 5783 / August 2023**

## Zealotry In the First Degree

*By Joe Heller*

Many Collective Conversation divrei Torah look at the world through the prism of Torah. This week I want to start a discussion based on looking at the Torah through the prism of the Torah. It's a discussion you can have at dinner and one you can continue at Shabbat lunch.

Six weeks ago, we read Parshat Pinchas, which builds on the dramatic conclusion to Parshat Balak. As you recall, Balak ends with Pinchas, grandson of Aaron Ha-Cohen, killing Zimri, an Israelite man, and Cozbi, a Midianite woman, after seeing them lay together.

Pinchas kills Zimri and Cozbi based on his own judgment and notably absent a command from God or formal judicial process. This marks the first act of zealotry in the Torah and will have serious implications for Jewish law and even Jewish history. That's the first piece of Torah to consider.

This week's parsha, Shoftim, outlines much of the Torah's approach to law and the process of judging. Shoftim discusses the requirements of a Torah-based judicial system, including the need for honest judges, careful investigation into alleged crimes, the need for witnesses and warnings, and more. That's the second piece of Torah to consider.

Though the facts of the case involving Pinchas, Zimri and, Cozbi seem clear, like many legal matters, it's not straightforward. It's complicated.

Parshat Pinchas opens with Hashem's verdict: Hashem gives Pinchas a "covenant of peace," an indication that there should be no punishment to Pinchas due to his actions. And Hashem gives Pinchas a reward of "everlasting priesthood" to his descendants.

In summary, Hashem seems to provide a clear validation for Pinchas's act of vigilante justice.

Pinchas's story will go on to serve as an inspiration to Mattisyahu, the father of Judah Maccabee. It was used as a key justification for the revolt against the Greeks, which we celebrate every year with latkes and fire hazards.

However, the story of Pinchas creates significant challenges based on the mandates of Shoftim, and it was quite unsettling for the rabbis in the Talmudic era. For example, was there a "heavenly court" to judge the actions of Pinchas?

Did Zimri and Cozbi deserve to die for this sin? Should citizens be allowed to apply capital punishment wantonly and without judicial due process? From the Torah text, there does not appear to have been a court judgment, and the answer to the question about citizens imposing punishment seems to be a resounding yes. Personally speaking, that is not a comforting thought!

The rabbis of the Talmud shared these concerns. A more cynical interpretation might also view this incident from the perspective of political power over policing and foreign policy. Taking the Hasmonean revolt as

an example, the rabbis might have been incentivized to limit when vigilante justice, or in that case, a rebellion, would be permissible, thereby having the final say on military action against foreign powers.

Regarding whether the actions of Zimri and, Cozbi deserve capital punishment, we should begin by emphasizing that Jewish law requires that significant hurdles be crossed before a sentence of capital punishment can be imposed. This is a theme throughout the Talmud. The fourth perek of Mesechet Sanhedrin elaborates on the requirements for the death penalty, including the necessity that multiple witnesses must warn the offender that the act is punishable by death before they commit the violation. Moreover, even with a warning, the offender would need to affirm to these witnesses that they understand the punishment and are willing to violate the law. Even if the offender merely acknowledges the punishment but does not state they are committing the act despite the punishment, they are not liable for execution. (Yes, that's a mouthful, but it is exactly what I mean by significant hurdle.)

Navigating Hashem's apparent verdict that vigilante justice was permissible is more difficult. One interpretation offered in the Talmud Yerushalmi infers that Pinchas did convene a Sanhedrin and tried the case of Zimri and Cozbi before delivering the punishment. It's a convenient supposition, but I have a hard time buying it. Hashem told Moshe that Pinchas would receive a "covenant of peace." Had there been a Sanhedrin and a legal verdict, Pinchas would not have needed the award of a peace covenant to ensure that he is exempted from punishment.

Mesechet Sanhedrin (82a) takes a different approach. It seeks to limit the scenario of when vigilante justice may be implemented and introduce significant risk to anyone seeking to apply it. Rav Hisda clearly states that if someone witnesses a Jewish man lying with a non-Jewish woman, i.e., committing the same sin as Zimri, and he asks the court for permission to murder the offender, the court should not grant it. Rabbi Yohanan takes Rav Hisda's point and applies it to the case of Pinchas, and then goes a step further, stating:

- 1) Had Zimri not been actively engaged with Cozbi when Pinchas killed him, Pinchas would himself have been liable for capital punishment.
- 2) Had Zimri seen Pinchas coming to kill him and killed him in an act of self defense, he would not have been punished because Pinchas would have been considered a "rodef."

Viewing the story of Pinchas through the prism of Parshat Shoftim is an incredibly rich exercise and a topic for debate and discussion that has been heard in the Jewish community for centuries. This summary merely scratches the surface, and I hope it inspires you to continue the conversation and investigation on your own!

**Joe**, son of Amy & Paul Heller grew up in the YIS Community.

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