

## CENTER FOR MODERN TORAH LEADERSHIP

Center for Modern Torah Leadership



חרות ואחריות

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"Taking Responsibility for Torah"

### MAY YOU CHEER WHEN YOUR ENEMIES ARE PUNISHED FOR CHEERING WHEN YOU WERE PUNISHED?

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In the still-relevant 1958 Vietnam satire [The Ugly American](#), Ambassador “Lucky” Lou Sears wonders why the “Sarkhanese” masses aren’t grateful for the enormous bags of rice the US ships in as foreign aid. It turns out that communist agents have been stenciling “A gift from the USSR” on all the bags in the local language, which no one at the embassy could read.

I was reminded of Lucky Lou’s misadventures by one Rabbinic approach to Shemot 12:29.

וְהָיָה בַחֲצֵי הַלַּיְלָה  
וְיִקְוֶה הַנֶּזֶה כָּל־בְּכוֹרֵי בְּאֶרֶץ מִצְרַיִם  
מִבְּכֹר פְּרֹעֹה הַיֹּשֵׁב עַל־כִּסֵּאוֹ  
עַד בְּכוֹר הַשֹּׁבֵי אֲשֶׁר בְּבֵית הַבּוֹר  
וְכָל בְּכוֹר בְּהֵמָה:

*It was at the night's midpoint*

*that Hashem struck down every firstborn in the Land of Egypt  
from the firstborn [?of?] Pharaoh sitting on his throne  
until the firstborn captive in the underground cell  
and every firstborn cattle.*

Why was it necessary to strike down foreign captives, who presumably suffered along with the Jews rather than oppressing them? Rashi to Shemot 11:5 writes:

למה לקו השבויים?  
כדי שלא יאמרו

יֵרֵאתם תבעה עלבונם והביאה פורענות על מצרים

*Why were the captives affected by the plague?*

*So that they not be able to say that*

*the god they worshiped sought compensation for their shame and brought  
punishment on Egypt*

In other words, lots of innocent foreigners died lest they stencil falsehoods on Hashem’s bags of gift rice, or napalm.

There are purely rational reasons for rejecting this approach. Was there really no other way to make the point clear? For example: Some commentators hold that absolutely no Jewish firstborns died that night. Simply having the usual percentage of natural deaths among foreign captives should therefore make the point. Even if you worry that some subgroups of captives were so small that no firstborn natural deaths were scheduled that night,

a few surgically targeted killings could have made the necessary point, even if there were no effective means of counter-stenciling other than death.

But the real issue is moral: if the captives were innocent, was it really just to kill them for the sake of clarifying a message?

Many commentators seek instead to challenge their innocence. The captives participated in the enslavement of the Jews, or they expressed a preference for staying enslaved to going free if that meant freeing the Jews as well.

Others point out that Mosheh’s foreshadowing of the tenth plague in 11:5 does not mention captives:

וּמֵת כָּל־בְּכוֹרֵי בְּאֶרֶץ מִצְרַיִם  
מִבְּכֹר פְּרֹעֹה הַיֹּשֵׁב עַל־כִּסֵּאוֹ  
עַד בְּכוֹר הַשֹּׁפֵתָה אֲשֶׁר אַחַר הַרְחָיִם  
וְכָל בְּכוֹר בְּהֵמָה.

*Every firstborn in the land of Egypt will die  
from the firstborn [?of?] Pharaoh sitting on his throne  
until the firstborn of the maidservant who is behind the grindstone  
and every firstborn cattle.*

We can therefore identify the maidservant’s children with the captives, and suggest that they were in fact mitzrim. Perhaps Mosheh spoke during the day, when they were put to work, whereas the plague happened at night, when they were locked up (see e.g. Keli Yakar).

There are other approaches that seek to mitigate the moral challenge. My own preference – I don’t think it is original with me, and welcome references to earlier sources – is to

1. identify the “captives” not as captured slaves but rather as royal hostages, the firstborns of vassals, kept in luxurious confinement, and
2. adopt the approach of Beit Yaakov Lehavah that Mosheh’s foreshadowing left out firstborn captives because they still had a choice to avoid death by identifying with the enslaved Jews rather than with the enslaving mitzrim. Many of them may have converted;

those who remained steadfast anti-Semites were killed in the plague.

One last approach to mitigation seems radically self-undermining. Here is Mekhilta d'Rabbi Yishmael:  
ללמדך שכל גזירות שהיה פרעה גוזר על ישראל - היו השבוין שמחין בהם

שנא' שמח לאיד לא ינקה (משלי יז ה)  
וכתיב בנפול אויבך אל תשמח (משלי כד יז)

*To teach you that all the decrees which Pharaoh decreed upon Israel – the captives celebrated them*  
as Scripture says: “One who rejoices at a time of retribution will not get away clean,”

and it says “When your enemy falls – do not rejoice.”

I think it's hard to read Torah and think we're not supposed to celebrate the manifestation of G-d's power in the deaths of the captive firstborns. Aren't we then committing the sin whose punishment we are celebrating?

I think the answer is yes, but living out that paradox may be important. Which brings me to another story.

On October 12 of last year, a 47 year-old Palestinian woman name Aisha Mohammed Rabi was killed by stones thrown at her car. Several teenage yeshiva students were arrested this week as suspects in her murder.

In the aftermath, people noted a deep tension between two rabbinic responses. One response was to make sure that the yeshiva students had a proper defense team and would be protected from extreme questioning. This rose to the point of permitting Biblical violations of Shabbat to ensure that they would be prepared for or protected from enhanced interrogation, with the formal rationale that such interrogations often led to attempted suicide. A very different proclamation (full disclosure: that I signed on to) called upon the government to make sure that this murder was investigated to the limits of the law, and to the same standards as if the nationalities of victim and suspects were reversed. (It explicitly bracketed the question of whether standard Shin Bet interrogation techniques should be modified for ethical reasons.)

As an American, I don't see this kind of situation as necessarily paradoxical. We have a (very British) adversarial system of justice. Every U.S. citizen is presumed to have a systemic interest in ensuring the best possible prosecution **and** defense. But we also often have a rooting interest for one side or the other.

The rabbinic responses seemed to come from very different cheering sections. That is to say, the author of the first response was thought to be rooting for the prosecution to fail even if the suspects were guilty, whereas the signatories of the public want the suspects convicted if they were guilty, and can reasonably (though maybe not compellingly) be charged with paying insufficient attention to procedural rules that might for example diminish the risk of false confessions etc, even though they might also lead to false acquittals.

But what if we see them as sharing a systemic interest? What if we held that it is really important for those guilty of murder to be convicted, especially when such a large element of chillul Hashem is involved (see Meshekh Chokhmah's argument that chillul Hashem makes killing nonJews worse than killing Jews), **and** held that it is very important for those innocent of murder not to be convicted, and that the perception of chillul Hashem is often a motive for scapegoating, and so suspects in such cases need extra protection (as would suspects in cases that arouse massive communal anger)?

The Torah's ideal is not ideological and temperamental uniformity. A healthy Torah polity is one in which people's very different opinions and emotions create a dynamic equilibrium that inhibits extremism but enables creativity. Some of us can focus on saying Hallel when our enemies fall, some of us on not rejoicing at anyone's downfall, and some of us on carefully distinguishing when we should from when we should not.

I root passionately for the latter to be the default setting of our community, and there are extremes I cannot abide, morally or Jewishly. For example: If there is a rabbi who genuinely hopes that Jews who murdered a random Palestinian woman are not convicted of their crimes, I want him removed from Torah authority and influence, regardless of his scholarship. But I was glad to be challenged by friends and students about whether I was rushing toward judgment in this case, and tolerating or even condoning investigative techniques that in other cases I would oppose with might and main.

It is good to be part of small communities in which moral challenge is an essential part of friendship and collegiality. It would be great if we could restore that notion to our larger communities.