



Covenant & Conversation

Jonathan Sacks
THE RABBI SACKS LEGACY

VAYISHLACH • וַיִּשְׁלַח

FROM THE TEACHINGS AND WRITINGS OF RABBI LORD JONATHAN SACKS 7"צז

With thanks to the Schimmel Family for their generous sponsorship of Covenant & Conversation, dedicated in loving memory of Harry (Chaim) Schimmel. "I have loved the Torah of R' Chaim Schimmel ever since I first encountered it. It strives to be not just about truth on the surface but also its connection to a deeper truth beneath. Together with Anna, his remarkable wife of 60 years, they built a life dedicated to love of family, community, and Torah. An extraordinary couple who have moved me beyond measure by the example of their lives." — Rabbi Sacks

Collective Responsibility

By any standards it was a shocking episode. Jacob had settled on the outskirts of the town of Shechem, ruled by Hamor. Dina, Jacob's daughter, goes out to see the town. Shechem, Hamor's son, sees her, abducts and rapes her, and then falls in love with her and wants to marry her. He begs his father, "Take this girl as a wife for me" (Gen. 34:4).

Jacob hears about this and keeps quiet, but his sons are furious. She must be rescued, and the people must be punished. Hamor and his son come to visit the family and ask them to give consent to the marriage. Jacob's sons pretend to take the offer seriously. We will settle among you, they say, and intermarry, on condition that all your males are circumcised. Hamor and Shechem bring back the proposal to the people of the town, who agree.

On the third day after the circumcision, when the pain is at its height and the men incapacitated, Simon and Levi, Dina's brothers, enter the town and kill every single male (Gen. 34:26).

It was a terrible retribution. Jacob rebukes his sons:

"You have brought trouble on me - you have made me odious to the inhabitants of the land, the Canaanites and Perizzites. I am few in number, and if they join forces and attack me, I and my household will be destroyed."

Gen. 34:30

But Simon and Levi reply:

"Should he have treated our sister like a prostitute?"

Gen. 34:31

There is a hint in the text that Simon and Levi were justified in what they did. Unusually the Torah adds, three times, an authorial comment on the moral gravity of the situation:

Jacob's sons, having heard what had happened, came back from the field. They were shocked and furious, for Shechem had committed an outrage in Israel by sleeping with Jacob's daughter. Such a thing cannot be done!

Gen. 34:7

The sons of Jacob came upon the slain, and spoiled the city, because they had defiled their sister.

Gen. 34:27

Yet Jacob condemns their action, and although he says no more at the time, it remains burning in his mind. Many years and fifteen chapters later, on his death-bed, he curses the two brothers for their behaviour:

Simon and Levi are brothers; weapons of violence their wares. Let me never join their council, nor my honour be of their assembly. For in their anger they killed men; at their whim they hamstringed oxen. Cursed be their anger, for it is most fierce, and their fury, for it is most cruel. I will divide them up in Jacob, and scatter them in Israel.

Gen. 49:5-7

Who was right in this argument? Maimonides vindicates the brothers. In his law code, the Mishneh Torah, he explains that the establishment of justice and the rule of law is one of the seven Laws of Noah, binding on all humanity:

And how are the Gentiles commanded to establish law courts? They are required to establish judges and officers in every area of habitation to rule in accordance with the enforcement of the other six commands, to warn the citizenry concerning these laws and to punish any transgressor with death by the sword. And it is on this basis that all the people of Shechem were guilty of death (at the hands of Simon and Levi, sons of Jacob): because Shechem (their Prince) stole (and raped) Dina, which they saw and knew about, but did not bring him to justice...

Maimonides. Laws of Kings, 9, 14

According to Maimonides, there is a principle of collective responsibility. The inhabitants of Shechem, knowing that their prince had committed a crime and failing to bring him to court, were collectively guilty of injustice.

Nachmanides disagrees. The Noahide command to institute justice is a positive obligation to establish laws, courts and judges, but there is no principle of collective responsibility, nor is there liability to death for failure to implement the command. Nor could there be, for if Simon and Levi were justified, as Maimonides argues, why did Jacob criticise them at the time and later curse them on his death bed?

The argument between them is unresolved, just as it was between Jacob and his sons. We know that there is a principle of collective responsibility in Jewish law: *Kol Yisrael arevin zeh bazeh*, "All Jews are sureties for one another." But is this specific to Judaism? Is it because of the peculiar nature of Jewish law, namely that it flows from a covenant between God and the Israelites at Mount Sinai, at which the people pledged themselves individually and collectively to keep the law and to ensure that it was kept?

Maimonides, unlike Nachmanides, seems to be saying that collective responsibility is a feature of all societies. We are responsible not only for our own conduct but for those around us, amongst whom we live. Or perhaps this flows not from the concept of society but simply from the nature of moral obligation. If X is wrong, then not only must I not do it. I must, if I can, stop others from doing it, and if I fail to do so, then I share in the guilt. We would call this nowadays the guilt of the bystander. Here is how the Talmud puts it:

Rav and R. Chanina, R. Yochanan and R. Habiba taught [the following]: Whoever can forbid his household [to commit a sin] but does not, is seized for [the sins of] his household; [if he can forbid] his fellow citizens, he is seized for [the sins of] his fellow citizens; if the whole world, he is seized for [the sins of] the whole world.

Shabbat 54b

Clearly, however, the issue is a complex one that needs nuance. There is a difference between a perpetrator and a bystander. It is one thing to commit a crime, another to witness someone committing a crime and failing to prevent it. We might hold a bystander guilty, but not to the same degree. The Talmud uses the phrase "is seized." This may mean that he is morally guilty. He can be called to account. He may be punished by "the heavenly court" in this world or the next. It does not mean that he can be summoned to court and sentenced for criminal negligence.

The issue famously arose in connection with the German people and the Holocaust. The philosopher Karl Jaspers made a distinction between the moral guilt of the perpetrators and what he called the metaphysical guilt of the bystanders:

There exists a solidarity among men as human beings that makes each co-responsible for every wrong and every injustice in the world, especially if a crime is committed in his presence or with his knowledge. If I fail to do whatever I can to prevent them, I too am guilty. If I was present at the murder of others without risking my life to prevent it, I feel guilty in a way not adequately conceivable either legally, politically, or morally. That I live after

such a thing has happened weighs upon me as indelible guilt.¹

So there is real guilt, but, says Jaspers, it cannot be reduced to legal categories. Simon and Levi may have been right in thinking that the men of Shechem were guilty of doing nothing when their prince abducted and assaulted Dina, but that does not mean that they were entitled to execute summary justice by killing all the males. Jacob was right in seeing this as a brutal assault. In this case, Nachmanides' position seems more compelling than that of Maimonides.

One of Israel's most profound moralists, the late Yeshayahu Leibowitz (1903-1994), wrote that though there may have been an ethical justification for what Simon and Levi did, "there is also an ethical postulate which is not itself a matter of rationalisation and which calls forth a curse upon all these justified and valid considerations."²

There may, he says, be actions which can be vindicated but are nevertheless accursed. That is what Jacob meant when he cursed his sons.

Collective responsibility is one thing. Collective punishment is another.



Around the Shabbat Table

1. What can the debate between Ramban and Rambam teach us about the complexities of decision-making in Jewish history?
2. What are some other instances of collective responsibility in Sefer Bereishit?
3. How do you see the notion of 'Kol Yisrael arevin zeh bazeh' (all Jews are responsible for one another) playing out in modern and diverse Jewish communities?

● These questions come from this week's **Family Edition** to Rabbi Sacks' Covenant & Conversation. For an interactive, multi-generational study, check out the full edition at www.RabbiSacks.org/covenant-conversation-family-edition/vayishlach/collective-responsibility/



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¹ Karl Jaspers, *The Question of German Guilt*, Trans. E. B. Ashton. New York: Fordham University Press 2000, p. 26.

² Yeshayahu Leibowitz, *After Kibiyeh: Judaism, Human Values, and the Jewish State 1953-4*, <http://www.leibowitz.co.il/leibarticles.asp?id=85>.