
**CHOICES:
ETHICAL DEBATES AND DILEMMAS**

NERUSY SPRING CONVENTION

APRIL 28 - 30, 1995 / 28 - 30 NISAN 5755

THE ETHICS OF FRIENDSHIP

קל שיודע בחבירו שהיא רגיל ליתן לו שלום יקדים לו שלום.
(ברכות ו, עמוד ב)

If one is aware that his friend always greets him (when they meet), he should anticipate his friend's greeting and greet him first.

Plato:

(Berakhot, 6a)

The more I reflected upon what was happening, upon what kind of men were active in politics, and upon the state of our laws and customs, and the older I grew, the more I realized... it was impossible to do anything without friends and loyal followers.

(Epistle VII)

"יִתְנֶה לְךָ חֵבֵר" (אבות, א:ו) - כִּי צָדַק מְלַמֵּד שִׁנְיָנָה אִדָּם חֵבֵר לְעִצְמוֹ שִׁיאֲכַל עִמּוֹ וְיִשְׁקָא עִמּוֹ וְיִשְׁנוֹ עִמּוֹ וְיִגְלֶה לוֹ כֹּל סִתְרָיו, כִּתְרֵי חוֹרֵה וְסִתְרֵי דִרְךְ אֲרִזָּה.
(אבות דרבי נהן, ח)

And acquire a friend. (Avot, 1:6) How? This teaches that a person should acquire a friend; he should eat with him, read with him, study with him, sleep (in the same house) with him, and reveal his secrets to him, the secrets of the Torah (that is, methods of deduction and reasoning) and the secrets of worldly things.

(Avot d'Rabbi Nathan, 8)

יְהִי כְבוֹד חֲבֵרְךָ חֲבִיב עֲלֶיךָ כְּשֵׁלְךָ.

(אבות ב:טו)

Let the honor of your friend be as dear to you as your own.

בְּיוֹם כּוֹכְבוֹ שֶׁל חֲבֵרְךָ קָמָה עִבּוֹ. (Avot, 2:15)
(קהלת רבה, ו)

On the day of your friend's success, participate in his joy.

(Koheleth Rabbah, 7)

אִם אֶדְמָה חֲבֵרְךָ בְּעִצְשֵׁי קְדָמְךָ בְּבִשָּׁר. (במדרש רבה, כ)

If your friend approaches you with lentils (a vegetable similar to peas), you ought to approach him

הַקֹּהֲנֵיךְ וְקָלוֹן חֲבֵרְךָ אֵין לוֹ חֶלֶק עוֹלָם הַבָּא. (ירושלמי, חגיגה, ב)

One who elevates himself at the expense of his friend's shame, has no share in the world to come.

(Yerushalmi Chagigah, 2, 1)

כל המקבל עליו שדרה בשביל להנות ממנה אינו אלא כנואף.
(מסיקתא רבתי, עשרה הדברות, כב)

He who takes upon himself a position of political authority in order to benefit from it is comparable to an adulterer.

(P'sikta Rabbati, Aseret

Ha-Dibrot, 10)

רשות יש למלך ליהן מס על העם לצרכיו או לצורך הלחמות... ושולח בכל
גבול ישראל זלוקה מן העם הגבורים ואנשי חיל ועושה מהם חיל...

(מסנה חורה, הלכות כלכים, ד:א, ב)

The king has the right to tax the people for his needs or for the needs of war... And he may send within all the boundaries of Israel and take strong men, warriors, and make of them an army.

Mishneh Torah, m'lachim, 4:1,2

לא נאמרה משה זו - "שום תשים עליך מלך" משום מצוה, אלא כנגד
הרעובתם, שגלוי לפניו עתידים להתרעם על כך ולומר "והיינו גם
אנחנו ככל הגויים".

This section--"And thou shalt put over thee a king"--was not uttered as a commandment, but against their complaints. It was apparent to Him (to God) that they (the Israelites) were certain to complain and to say, "And let us, too, be like all the nations."

(Rashi, ibid.)

וכותב לו ספר חורה לשמו; יוצא למלחמה מוציאה עמו, נכנס הוא
מכניסה עמו, יושב בדין היא עמו, שנאמר "והיתה עמו וקרא בו
כל ימי חייו".

(מסנה סנהדרין, ב:ד)

And he has a Sefer Torah written on his behalf; when he goes to war he takes it with him and when he returns he brings it back with him when he judges it is by his side, when he relaxes it is with him, as it is said: "And it shall be with him and he shall read from it all the days of his life."

(Mishnah, Sanhedrin, 2:4)

המלך לא דן ולא דנין אחרו, לא מעיד ולא מעידין אחרו.
(מסנה סנהדרין, ב:כ)

The king does not judge nor is he judged, he does not bear witness nor is he testified against.

(Mishnah, Sanhedrin, 2:2)

כל מלכות שאין לה יועצים אין מלכות מלכות.
(פרקי דרבי אליעזר, ג)

Any government which has no advisors is not a government.

(Pirkei d'Rabbi Eliezer, 3)

ר' נהוראי אומר: לא נאמרה פרשה זו (דברים יז:טו) אלא כנגד תרעמו שנאמר, "ואמרת אשימה עלי מלך".

(סנהדרין, כ, עמוד ב)

Rabbi Nehorai teaches: "This section (Deuteronomy 17:15) was not said except against their demands, as it is said, "And you shall say, I shall put over me a king".

(Sanhedrin, 20b)

"שום הסיים" אינה מצוה, אלא רשות; כשיהיו מתרעמים ותובעים מלך, רשאים למנותו.

(ביאליק, ספר האגדה, דף תקס"ט)

"And thou shalt put..." is not a commandment but a free choice; when they complain and demand a king, it is permitted to appoint him.

(Bialik, Sefer ha-Agadah, p. 569)

רבן שמעון בן גמליאל אומר: על שלשה דברים העולם קיים; על האמה ועל הדין ועל השלום. ושלחתם דבר אחד הם: נעשה הדין - נעשה אמת, נעשה שלום.
(ירושלמי פאה, ד:ב)

Rabbi Shimon ben Gamliel says: "The world exists by virtue of three things--truth (faithfulness), justice, and peace. And they are all one thing: when justice is done--then truth and peace are also accomplished."

(Jerusalem Talmud, P. ah, 4:1)

אמר רב יוסף: לא שנו אלא מלכי ישראל אבל מלכי בית דוד דן ודנין אותן דכתיב (ירמיהו כ"א:י"ב) "בית דוד כה אמר ה' דינו לבקר משפט" (סנהדרין, י"ט ע"א)

Rabbi Joseph said: "This refers only to the kings of Israel (That is, the kings of the ten northern tribes), but the kings of the House of David judge and are judged, as it is said, "The House of David, thus saith the Lord, execute justice in the morning..." (Jeremiah, 21:12)

(Sanhedrin, 19a)

רבי אליעזר אומר: "אל תהי נוח לזעזוע..." (מקוץ אבות, בוסו)
Rabbi Eliezer said: "...be not easily moved to anger..."

(Pirkei Aboth, 2:15)

אמר ריש לקיש: כל אדם שזועם - אם חכם הוא, חכמתו מסתלקת ממנו; אם נביא הוא, נבואתו מסתלקת ממנו. (מסחים סו, עמוד ב)
Resh Lakish says: "A man who becomes angry--if he is wise, his wisdom leaves him; if he is a prophet, his ability to prophesy leaves him."

(Pesachim 66b)

מעשה בבית הכנסת של טבריא שנחלקו (סם) ר' אלעזר ור' יוסי (בדבר הלכה) עד שנקרע ספר תורה בחמתם, והיה שם ר' יוסי בן קיסמא, אבן המה, אני אם לא יהיה בית הכנסת זו עבודה זרה - וכך היה. (יבמות, גז, גז)
An event occurred in the synagogue of Tiberias where Rabbi Elazar and Rabbi Yosi quarreled over a matter of law until a Scroll of the Torah was torn as a result of their anger. Rabbi Yosi son of Kisma was there. He said: "I will be surprised if this synagogue does not become (a house of worship for) idolatry--and so it was."

(Yebamoth, 96b)

A man should study ever to keep cool. He makes his inferiors his superiors by heat (that is, anger).

(Emerson, Lectures)

המקור בגדיו בחמתו והמספר פליו בחמתו והמפור מעותיו בחמתו יהא בעיניו מעורב עבודה זרה, שכה אמנותו של היצר הרע, היום אומר לו: עשה כן וילמד אומר לו: עשה כן, עד שאומר לו: לך, עבור עבודה זרה - והולך ועובד.
A person who tears his clothes out of anger and shatters his utensils out of anger and scatters his coins out of anger should be considered as one who engages in idolatry; for this is the nature of the evil inclination: today it tells him: "Do this," and tomorrow it tells him: "Do that," until it tells him: "Go and worship idols"--and he goes ahead and worships.

(Shabbat, 105b)

Aristotle:

Anybody can become angry--that is easy; but to be angry with the right person, and to the right degree, and at the right time, and for the right purpose, and in the right way--that is not within everybody's power and is not easy.

שָׁנוּ רַבּוּהֵינוּ: שְׁלֹשָׁה חַיִּים אֵינָם חַיִּים - הַרְחֻחֵנִים... (פסחים, קי"ג, פ"ג)
 There are three (that is, three kinds of people) whose lives are not really lives:... those who are easily angered...

(Pesachim, 113b)

Whenever you are angry, be assured that it is not only a present evil, but that you have increased a habit, and added fuel to a fire.

(Epictetus, Discourses)

One of the Rabbis offered the following statement concerning gradations of anger:

אַרְבַּע סָדוֹת בְּדַעוּת: נוֹחַ לְכַעֵם וְנוֹחַ לְרַצוֹת - יֵצֵא הַתְּסַדְרוֹ מִתְּסָדְרוֹ; קָשָׁה לְכַעֵם וְקָשָׁה לְרַצוֹת - יֵצֵא שְׂכָרוֹ מִתְּסָדְרוֹ; קָשָׁה לְכַעֵם וְנוֹחַ לְרַצוֹת - תְּסִיד; נוֹחַ לְכַעֵם וְקָשָׁה לְרַצוֹת - רָשָׁע. (פירקי אבות, ה:יד)

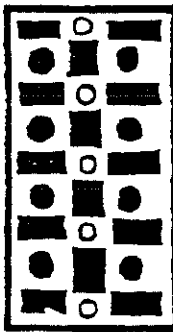
There are four kinds of dispositions: he whom it is easy to provoke and easy to pacify, his loss disappears in his gain (that is, the loss--"easy to provoke"--and the gain--"easy to pacify"--cancel each other out); he whom it is hard to provoke and hard to pacify, his gain disappears in his loss; he whom it is hard to provoke and easy to pacify is a saintly man; he whom it is easy to provoke and hard to pacify is a wicked man.

(Pirkei Aboth, 5:14)

בְּשִׁלְשָׁה דְבָרִים אָדָם נִיפָר: בְּכֹסוֹ, בְּכִיסוֹ, וּבְכַעְסוֹ. (עירובין, ס"ה, פ"ג)

A man (that is, the value or character of a man) may be evaluated in three ways: by the way he drinks (that is, by the way he holds its liquor), by his pocket (that is, by the extent of his generosity and by the way he conducts his business affairs), and by his temper (that is, by the extent to which he does or does not exercise control over himself with respect to his temper).

(Erubin, 65b)



SIFRA

BEHAR SINAI 5

Rabbi Ben Petura explained the passage: "That thy brother may live with thee." [LEVITICUS 25:36]

Two men were traveling through the desert, and only one had a flask of water. The water was enough to keep only one man alive until they reached the next water hole. If the owner of the flask of water kept it for himself, he would reach the spring; if he shared it with his fellow traveler, both would die. Rabbi ben Petura said: "The verse: 'That thy brother live with thee' means that the water should be shared, even though both men die."

But Rabbi Akiva said: "'That thy brother live with thee' means that your life takes precedence over your friend's. The water should be used to save a life."

THIS MIDRASH POSES A question that modern philosophers, particularly those who try to deal with the ethics of conservation and the environment, have rediscovered. Today the problem is called the "lifeboat question": A ship goes down and a lifeboat is launched; it is capable of carrying nine people to safety. Twelve people clamber aboard the nine-passenger lifeboat. The slightest wind, any wave, will swamp the boat. Should three people be forced out of the boat to save the nine? And if so, how do you pick which people should be thrown into the water?

The environmental philosophers consider this question extremely relevant because the world population could someday exceed the world's capacity to produce food. If that happens, they ask, do we share equally what we have, so that the whole world might starve to death? Or do we allow some nations to die to keep the rest alive?

Our Sages dealt with this problem centuries before the advent of environmentalism. However, they did not pose the question in world terms. They posed it in simpler, more human terms: Two people are in a life-threatening situation. Only one can get out. Should one person escape or should both die together?

On the question of self-sacrifice and survival, two rabbis offer opposing views. Rabbi ben Petura gives the romantic answer, a kind of Romeo and Juliet answer: If we cannot live together, we shall die together.

But Rabbi Akiva, whose decisions are generally the ruling ones, gives a more rational answer, even though it is a much harsher one: We must choose life. If we cannot choose life for all, then let us choose life for those whose lives can be chosen.

And how shall we decide whose life should be saved? No one can say with absolute certainty that one life is worthier than another—that this one deserves to die less than that one. These are subjective judgments that vary from individual to individual. Rabbi Akiva says, in effect, let us leave the decision to some

objective standard, to something already decided. In this case it happens to be "whose water is it?"

Today we use pretty much the same standards to decide questions almost as important as life and death. For example, who shall work and who shall lose his job. If a factory with 400 employees has to cut back to 250, the owner can make the final decision. This decision could result in a smaller, more efficient work force. It might also result in favoritism, or keeping relatives, or some kind of kickback. As a general rule, the decision is taken out of the judgment of individuals and left to the objective standard of seniority. The people who have worked the longest are the last laid off. The calendar decides.

This objective method allows for what may seem to be unfairness. A harder worker might be laid off while a lazier one is kept on. A family head with four dependents may have to go while an unmarried person stays. But what if the family head has a millionaire father, and the unmarried person supports aged parents? No person can decide absolutely who needs the job most; there are too many factors and human judgment is fallible.

Rabbi Akiva knew that when it comes to deciding who is worthier of life, no human mind or heart can choose. Perhaps one of the travelers is the father of a large and needy family, and the other a revered scholar and teacher. How to choose? Perhaps one is young with life still before him, but he isn't a very good person, and the other is an old man who has lived all his life according to the commandments. How to choose? Perhaps one man is a bachelor, and rich, but given time he might leave his money to charity which would save many lives, and the other a poor man on his way to the wedding of his only child. How to choose?

Rabbi Akiva seems to say: First, we must choose life. We must save lives—if not all lives, then those which can be saved. But since we cannot decide whose blood is redder, we cannot choose between two lives when both can be saved. We must leave such a decision to circumstances, or to God.□

STUDY QUESTIONS

1 Which of the two Rabbinic authorities, Rabbi ben Petura and Rabbi Akiva, do you agree with?

2 If you were to follow Rabbi Akiva's advice, and in the act of saving your own life deny someone else the chance to live, would you be violating the Talmud's warning against regarding one man's blood as redder than another's?

3 Does Rabbi ben Petura suggest that we are obliged to sacrifice our own lives to help another human being? Or does he urge us to refuse to make a choice between our own survival and someone else's?

Whose position is more realistic, Akiva's or ben Petura's?

4 How would you reconcile Rabbi Akiva's argument with another Torah precept, urging every Jew to love his neighbor as much as he loves himself [LEVITICUS 19:18]. Is it possible to love one's neighbor and still deny him a drop of water that might keep him alive a while longer?

Does the commandment to love one's neighbor take precedence over one's own survival?

5 Do you think that the life-boat analogy effectively describes the situation in today's world? Or can you think of a better analogy for the problem of scarce resources?

6 The distribution of food and wealth is a continuing source of conflict in the modern world. Some nations are plagued by persistent problems of famine and overpopulation.

Is it reasonable, and consistent with the teachings of this midrash, for the wealthier nations to sacrifice some portions of their wealth to provide adequate food supplies to poorer regions? Are prosperous peoples responsible for those who are less prosperous? Up to what point?

7 What role does chance play in determining who lives and who dies in a time of crisis? Give an example and explain your answer.



BABYLONIAN TALMUD

PESAḤIM 25b

A man came to Rava and said to him: The governor of my town has ordered me to kill another man. If I do not kill as he ordered, he will have me killed. What shall I do?

Rava replied: Do not kill another, even if your own life is forfeit. How do you know that your blood is redder than his? Perhaps his is redder.

IN THIS MIDRASH HALAKHah the legal question is quite clear: May I kill another human being to save my own life? Rava's answer is equally clear: You may not kill an innocent person, even if you must sacrifice your own life.

This decision seems very broad; it might even be read to mean that no killing is justified because there is no way to tell whether your "blood is redder than his." In other words, how do you know that you are worthier of life than the intended victim?

However, we must remember that Mishnah and Talmud are case law—decisions on individual cases—and are not legislation. The centuries during which Mishnah and Talmud grew included many decades of persecution and subjugation. In those years, many of the cases brought before the rabbis dealt with questions of life and death, ransom and sacri-

fice. These very serious problems often required long and technical discussions. But the decisions in each case were based on specific facts presented to the rabbinical court. The rabbis were not acting as lawmakers or legal philosophers; they were deciding individual cases in which individual lives were at stake.

When Rava said, you cannot kill another merely to save your own life, his judgment was on a specific case. The case involved a man being ordered to kill another for no reason, except that if the man did not carry out the king's command, he himself would be put to death. Rava did not mean to include in his decision every possible killing in defense of life. For example, he did not mean to rule out killing

someone who is intent on taking your life, a person the Talmud calls a "pursuer." The case for self-defense is handled fully, and quite differently, in other sections of the Talmud.

The Jerusalem Talmud treats a similar case a little differently:

If a company of Israelites on a journey meets a band of heathens who say, "Deliver us up one of your number, and we will kill him; if not we will kill you all." Then they [the Israelites] may not do this [give up one of their number]. But if they [the heathens] say, "Deliver us up such a one, [mentioning him by name] and we will kill him; if not we will kill you all." Then they [the Israelites] may deliver him up. One Rabbi said: Yes, but only if the named one had committed a crime for which he is liable to be put to death. Rabbi Johanan said: Even without this restriction.

Here the law is clear: If the "heathens" say they will allow the group, the Jewish community, to go free if the Jews select one person to be offered as sacrifice, then the group must risk the chance of death. No Jewish community may choose who shall die and who shall

live. "How do you know that your blood is redder than his?" However, if the "heathens" name the person who shall be killed to save the group, this person *may* be given up.

The law is clear, and yet another midrash tells us what happens when the law is applied too strictly: Ulla ben Kischev was under sentence of death by a Roman governor. Roman soldiers sought Ulla everywhere. He ran away and found refuge with Rabbi Joshua ben Levi, in the town of Lud. The Roman soldiers learned that Ulla was in Lud and encircled the town. The Roman governor offered the Jews of Lud a choice: either give up Ulla for execution, or the town and its inhabitants would be destroyed.

The law was clear: Ulla had been named specifically by the Romans, and the townspeople had the right to deliver Ulla to the executioners to save many lives. But, the Midrash continues, the Jews of Lud refused. They said they would all die rather than turn one of their teachers over to the Romans. Rabbi Joshua ben Levi went to Ulla and told him of the choice before the Jews of Lud. Joshua persuaded Ulla to give himself up to the Romans. Lud and its inhabitants were saved.

The Talmudic midrash does not end there. A story is added, as if to make the point that righteousness does not always follow from strict application of the law: Rabbi Joshua ben Levi was a very learned and pious man. So much so, says the midrash, that the prophet Elijah frequently spoke to Joshua in his dreams. But after Joshua persuaded Ulla to give himself up to the Romans, Elijah did not appear in Joshua's dreams. So it went for a long, long time. Joshua prayed and fasted, fasted and prayed until, after years, Elijah finally reappeared to him. When Joshua asked Elijah why he had not appeared to him for so long, Elijah said, "Shall I reveal myself to an informer?" Joshua defended himself, "But I only followed the law given us by the sages. And Elijah answered, "Is this a teaching that a godly person should follow?" □

STUDY QUESTIONS

1 What would your advice have been had someone asked you the same question that was asked of Rava?

2 Under what conditions does the Talmud allow one person to kill another? What moral and legal principle do the rabbis invoke to justify killing?

Do you believe there are conditions under which one may kill? What about war?

3 Can you think of any modern nation that simply refuses to defend itself against aggression (on the grounds that such defense would inevitably lead to the taking of life)? What do you think would happen to such a nation?

4 The Jerusalem Talmud seems to waver over the question of whether or not it is right to hand someone over for execution, and particularly when that someone is Jewish and his executioners are non-Jews. One rabbi takes the position that it is permissible to hand over that individual, but *only* if he has actually committed a capital crime. Rabbi Johanon, however, takes the position that it simply doesn't matter whether or not the accused individual has committed any crime at all.

Which of these two positions do you agree with and why? Do you believe that it is ethically and legally just to sacrifice an innocent man if his sacrifice will assure the survival of the community?

5 Had you been in Rabbi Joshua's predicament, what would you have done?

6 Should one's first and deepest loyalties be to family and friends, or to the community and its laws?

7 Why does Elijah rebuke Rabbi Joshua and call him an informer? Didn't Rabbi Joshua do exactly what at least one Talmudic ruling urges?