

## קנאין פוגעין בו הרב שרגא נויברגר

This week's shiur is dedicated in memory of  
הראש ישיבה מורינו ורבינו הגאון הרב יעקב יצחק הלוי רודרמן זצ"ל  
in honor of his *yahrzeit*

This week's *parsha* tells us the story of Pinchas killing Zimri on the *halachic* grounds of בו פוגעין בו. There are many fascinating aspects to this *halacha*, several of which we will discuss.

The *gemara Sanhedrin 82a* brings the following statement from R' Yochanan:  
הבא לימלך אין מורין לו, ולא עוד אלא שאם פירש זמרי והרגו פנחס נהרג עליו, נהפך  
זמרי והרגו לפנחס אין נהרג עליו שהרי רודף הוא

The first *din* is when a *kanoy* asks *Beis Din* whether he can kill someone lying with a *kusis*, they do not tell him he may do so. I believe the *Shita Mekubetzes* says in *Bava Kama* that every time the *gemara* uses this *lashon* of "אין מורין לו", it actually means that *Beis Din* tells the person not to do it, and despite this he is *halachically* allowed to kill the *boel*.

The greatest *chiddush* is the next part of R' Yochanan's *din*: If Zimri would have discontinued his transgression and Pinchas still killed him, Pinchas would have received capital punishment because his *kanoyus* was only allowed during the act of transgression. He was only in the *kanoyus* business and not the punishment business.

The third and final part of this *din* is that if Zimri would have defended himself and killed Pinchas in self-defense, he would not be punished because Pinchas was considered a *rodef*. Why was he a *rodef*? Since Zimri did not have a *chiyuv misah*, rather it was merely a *reshus* for Pinchas to kill him, Pinchas remained a *rodef* even though he was a *tzaddik* for displaying *kanoyus* at the right time and place. (We see this from Hashem's reward to Pinchas in next week's *parsha*.)

This is in contradistinction to two *eidim* who testify that someone is *chayiv misah* who then become the "executioners" with a *psak din*. Even if they are *eidei sheker* they still do not enter the category of *rodef* because the person they testified about is *mechuyav misah al pi din*. However, since Zimri was never *mechuyav al pi din*, rather only *al pi reshus* (of *kanoyim pog'im bo*), Pinchas stayed *b'geder rodef*.

The *Yad Ramah* asks an obvious question on this Pinchas-Zimri *din*. In a generic *rodef* case, where Reuven is chasing Shimon, Shimon can kill Reuven first because of the dictum והרגו השכם והרגו. הבא להרגך השכם והרגו. At the same time, a third party ("Levi") is *mechuyav* to try to save Shimon as well. While he should do anything in his power to save Shimon without

killing the *rodef*, he is even allowed to kill the *rodef* if that's what is necessary to save Shimon via the *din* of לא תעמד על דם רעך. If indeed *Chazal* call Pinchas a *rodef*, why would Zimri be the only one *patur* for killing him when the *din* by *rodef* is that any bystander would be as well?

The *Yad Ramah's* answer is as follows. Everyone in *Klal Yisroel* was told by the Torah that ideally, they too should act like Pinchas. Everyone should be a *kanoy* and kill Zimri. If the Torah would also allow everyone, or even be *mechayev* them, to kill Pinchas because of *din rodef*, it would come out that Pinchas would be *chayiv* to kill himself. This would make no sense. Zimri, on the other hand, is not required to kill himself so he just has the *din* of *nirdaf* to Pinchas and therefore has the *din* of הבא להרגך השכם והרגו. Therefore, only Zimri has license to kill Pinchas in self-defense but no one else can kill Pinchas being a *rodef*.

*La'aniyas da'ati*, without this *pshat* maybe we can say perhaps a simpler way of understanding this *halacha*. Zimri was allowed to kill Pinchas via הבא להרגך השכם והרגו. However, this *din* does not apply if the one trying to kill a person is obligated to, like the *eidim* we mentioned above, because the Torah was *metzaveh* them to kill the person. However, Pinchas was not *mechuyav* to kill Zimri (as a *reshus* by definition is not a *tzivuy*) which meant Zimri still had הבא להרגך השכם והרגו. The reason everyone else was not allowed to kill Pinchas was because he was doing *ratzon shamayim*; his *kanoyus* was licensed by Hashem. This removed the לא תעמד על דם רעך even while Zimri's הבא להרגך השכם והרגו was still in play.

The reason why I choose to say this *hagdara* rather than my understanding of the *Yad Ramah* is because of the following *ha'arah*. At the end of the second *perek* of *Makkos*, there is a *machlokes* about a *rotzeach b'shogeg*. The *halacha* is that the *goel hadam* can kill the *rotzeach*, and the *Mishnah* presents a *machlokes* whether the *goel hadam* has a *mitzvah* to kill him or merely a *reshus beyado*. Does the Torah want him to kill the *rotzeach* or does he simply have permission to avenge the blood of his kin if he so chooses?

The *Mishnah LaMelech* ponders the following question: According to the *man d'amar* who holds it is a *reshus*, what would be if the *rotzeach* took a stroll outside the *ir miklat* and the *goel hadam* spotted him and tried to exercise his right to kill him? Where does this leave the *rotzeach*? *L'halacha*, does he have the right to defend himself and kill the *goel hadam* by virtue of הבא להרגך השכם והרגו? If the *goel hadam* is carrying out *retzon haTorah*, certainly the *rotzeach* cannot interfere by killing him. (His only defense is to hurry back into the *ir miklat*.) However, if this *halacha* is just a *reshus* for the *goel hadam*, then this *rotzeach* seems to match the position of Zimri perfectly. He is not a *mechuyav misah*, but the *goel hadam* has a *reshus* to kill him. Therefore, the *rotzeach* should be able to kill the *goel hadam* in self-defense via הבא להרגך השכם והרגו. Even though he probably shouldn't have left the *ir miklat*, he's not worse than Zimri who certainly should never have been *bo'el kuis* and still maintained the right of הבא להרגך השכם והרגו.

What about a third party watching this story unfold? Can he get involved and prevent the *goel hadam* from fulfilling his *reshus* or is only the *rotzeach* allowed to stop him in self-defense? It seems that we would say from *sevara* the *din* would be the same as by Zimri. The fact that the *goel hadam* has license to pursue the *rotzeach* would preclude a third party from killing him in intervention, despite the *rotzeach* being able to.

According to the logic of the *Yad Ramah*, this case would not match. By Zimri, he explained that everyone was instructed to be like Pinchas, and could have done the same. This is why a third party was not allowed to stop Pinchas. However, by *rotzeach b'shogeg*, only the *goel hadam* was licensed to kill the *rotzeach*. It would seem that if we employed the logic of the *Yad Ramah* to *rotzeach*, a third party would be obligated to stop the *goel hadam* because of לא תעמד על דם רעך.

It seems that the *Yad Ramah* must agree to our *lomdus*, and maybe it is *nichlal* in his words, because the *din* by *goel hadam* allows only the *rotzeach* is allowed to kill the *goel hadam* in self-defense.