

AN OUNCE OF PREVENTION

by Rabbi Eliyahu Hoffmann

This week's parsha goes through the process and laws of an accidental murder. The difference in this between Jewish law and contemporary law is immediately apparent: In contemporary law there is no law relating to an accidental murder. To be sure, one must prove that the murder was accidental (the same is true in Jewish law), but once this point has been proven, the killer is free - he bears no further responsibility for what he has done.

Jewish law is not so quick to absolve the murderer. Although he is spared the death penalty (which is given to intentional murderers), he is punished. He must be exiled from where he lives to one of the designated Arei Miklat (Cities of Refuge), where he must remain until the death of the present Kohen Gadol (High Priest).

The Torah, it appears, requires us to take responsibility for everything we do. Even accidental mishaps are not without blame. He could have been more careful. He could have taken more precautions. A small mistake, with grave consequences - and he must take responsibility. We must give serious consideration to all our actions. (The example which the Torah gives for an accidental murder is, "But if with suddenness, without anger, did he push him, or throw upon him a vessel... and he died. (35:22-23)" The murderer accidentally pushed the victim to his death, or the hammer which he was using flew out of his hands and hit the victim, mortally wounding him. These are cases where some degree of negligence, however slight, is found. If the murder could be classified as "ones", totally circumstantial and blameless, then the killer is in fact absolved from responsibility.)

Many times, out of pre-occupation with other responsibilities, or in haste, we do things that are not well thought-out. We're in a rush, so we throw the kids in the car without seatbelts. We drive long distances, even though we know we're really too tired to do so. We don't take proper precautions when working with tools or utensils around the house. We let kids do things and go places without sufficient supervision. We don't clear the ice from our walkway. These are all little, insignificant things which we do every day, without giving them much thought - May Hashem protect us. Maybe though, we should stop sometimes and think about the awesome responsibility we have for the safety of others. The Torah does not take negligence, however slight, lightly. Neither should we.

This motif of taking responsibility for the well-being of others continues in the parsha. The accidental murderer is to remain in the City of Refuge until the death of the Kohen Gadol. Why? This is seen by the Talmud as a sort of punishment for the Kohen Gadol. Since the murderer remains in exile as long as he lives, the Kohen Gadol must constantly cope with the uncomfortable feeling that there is

someone out there who would rather he be dead. So much so, says the Talmud, that the mother of the Kohen Gadol would bring food to the exiled, so that out of appreciation, he would refrain from praying for her son's death.

Yet why is the Kohen Gadol being punished? What has he done wrong? Thus questions the Talmud (Makos 11a). Because, answers the Talmud, he should have prayed that no accidental deaths occur during his tenure. The Kohen Gadol is held personally accountable for any death which occurred in his term. Actually, what the Gemara says is, "He should have prayed for his generation, **and he didn't!**" The fact that such a mishap occurred at all is seen by the Gemara as proof that the Kohen Gadol did not pray (enough) for Divine compassion on behalf of his generation. Had he prayed, **this could not have happened!**

The Mishna (ibid 11b) says that in the case where a new Kohen Gadol was anointed after the murder took place but before the end of the trial, the murderer must remain in the City of Refuge until the death of the new Kohen Gadol. Why? questions the Gemara. What has he done wrong? He should have prayed that the Beis Din (Jewish Court) acquit the defendant. Since he was convicted, it is obvious that he did not pray for him, and he too deserves to be "punished".

Why didn't the Gemara simply answer that he should also have prayed for the wellbeing of his generation? Evidently, to have one's generation in mind, and to pray for circumstances which have yet to occur, is the realm and responsibility of the generation's leaders. Not everyone can be expected to have such foresight and thoughtfulness. But to pray for someone whose circumstances and plight are known is the responsibility of all. Even the newly appointed Kohen Gadol is reprimanded for his lack of awareness and affirmative action on behalf of a fellow Jew.

There are, to be sure, other salient points to this Gemara. For one, the fact that the Gemara feels it appropriate and incumbent to pray for the accused's acquittal, notwithstanding his alleged negligence. Also, the fact that the prayers of the exiled for the Kohen Gadol's death, if spoken, would seemingly be answered. Certainly, though, we see the extreme importance the Torah attaches to our taking responsibility for the well-being of others, through our deeds and through our prayers.

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