

Parsha Ponders

Vayishlach | December 2, 2020 | 17 Kislev 5781

*Pursuing consideration*¹

ויירא יעקב מאד ויצר לו וגו'

Yaakov was very afraid, and it was distressing to him²

As Yaakov was nearing the end of his journey to his parent's home, his worst fear came true. His wicked brother Eisav, who had a known death threat against him, was approaching with four hundred men. The Torah tells us that Yaakov was very afraid and distressed. Why are his emotions given these two descriptive terms? Rashi tells us³ that he was afraid that he would be killed, and was distressed in case he would have to kill others to defend himself. It's understandable that he didn't want to be killed, but why should he be distressed from the thought of defending himself? If someone is coming to kill you and your family, it's the proper thing to do defend yourself. The Torah says⁴ that if someone is planning to kill you, get up before them and beat them to it⁵. What could he be distressed about?

Maybe someone will say that the four hundred men accompanying Eisav were innocent. Eisav was a very mighty warrior, and a force to be reckoned with. He could have threatened these men to attack Yaakov and his family. It was against their will. As such, it would have been forbidden for Yaakov to kill them in defense⁶. The response would be that even if we assumed that these four hundred men were threatened by Eisav, they should have given up their lives rather than kill another person⁷. A person is forbidden from killing even if their own life is at stake. As such, they were wrong for attacking Yaakov and his family, and Yaakov had the right to defend himself^{8 9}. So we again can ask, why was Yaakov distressed?

Maybe Yaakov wasn't sure of the intentions of Eisav's men. It could be that they were coming to kill him, but maybe not. Maybe they only had intent to kill Yaakov's family¹⁰. As such, they would have the *halachic* status of a *rodef*, a pursuer. The rule is that while you're allowed to kill someone in self-defense, a *rodef* is more stringent. If someone is trying to kill another, there's a *mitzvah* to stop them¹¹.

¹ Based on Mizrachi to Genesis 32:8

² Genesis *loc. cit.*

³ *Ad. loc.*, quoting Bereishis Rabbah 76:2. See also Midrash Tanchuma Vayishlach § 4

⁴ Berachos 58a, 62b, and Sanhedrin 72, derived from Exodus 22:1

⁵ הבא להרגך השכם להרגו

⁶ The Mizrachi has a few innovative ideas in this essay. This is one of them. It's unclear what his source is that הבא להרגו doesn't apply if the רודף is אונס. The Yefeh Toar to Bereishis Rabbah *loc. cit.* even questions this differentiation, as he doesn't see why it should make a difference. In fact, he says that we know we are to destroy a fetus if it is threatening the life of the mother (Oholos 7:7; see Sanhedrin 72b), even though the fetus is an אונס

⁷ Sanhedrin 74a; Mishneh Torah Hilchos Yesodei HaTorah 5:2; Shulchan Aruch Yoreh Deah 157:1

⁸ Gur Aryeh *ad. loc.* § 11 also says this. See Yefeh Toar *loc. cit.*, who asks on this assumption

⁹ I heard Rav Tzvi Berkowitz of Ner Yisroel say that we can learn a *halacha* from this Mizrachi regarding human shields. If a terrorist is attacking someone and is hiding behind human shields, it would be forbidden to attack the terrorist if it will kill their captive. This is because the latter doesn't have a choice in the matter (unless of course if the human shield is compliant in the terrorist's plans)

¹⁰ Cf. Gur Aryeh *loc. cit.*, who says that maybe Eisav's men had no murderous intentions at all. They were simply accompanying Eisav out of fear. The Yefeh Toar *loc. cit.* asks that it's obvious they were coming to kill Yaakov, as they were compliant in Eisav's plan. Eisav clearly wanted Yaakov dead

¹¹ Sefer HaMitzvos Aseh § 247; Mishneh Torah Hilchos Rotzeach 1:6; Shulchan Aruch Choshen Mishpat 425:1

However, if the *rodef* can be stopped without taking their life, it is forbidden to kill them^{12 13}. They of course must be stopped, but only when there's no other option is it permitted to take their life to save the one being pursued.

If so, since Yaakov didn't know if these men were coming to kill him, or only his family, he had to be stringent¹⁴. He wasn't sure their intent. He had to assume they weren't after him, and had to stop them with all of his might without killing them. Only if he had no choice could he take their life. This is what distressed him. What if he ended up killing them in the heat of the battle without justification? What if he could have stopped them without taking their life? He was very worried he would make a mistake in judgement, due to the intensity of the situation¹⁵. He was therefore very distressed at what was yet to come.

What about Eisav? What was Yaakov thinking about his brother, who surely had murderous intentions towards him? Rashi implies that Yaakov was distressed about killing anyone, which sounds like it would

¹² יכול להצילו באחד מאבריו (Sifrei Devarim § 293; Sanhedrin 74a; Mishneh Torah *loc. cit.* § 7, 13; Shulchan Aruch *loc. cit.*). See the *kasha* of Orim Gedolim Derush Rishon L'Parshas Vayishlach by Rav Avraham Yisroel Zevi on this Mizrachi, and what he concludes from this question

¹³ This is another innovation of the Mizrachi. It's not explicit anywhere that the rule of יכול להצילו באחד מאבריו only applies to a regular רודף or also applies to the case of להרגו השכם להרגך. The *gemarra* even sounds like the two cases are equivalent as it calls this case a case of a רודף (Berachos *loc. cit.*) However, this innovation is indeed codified by some later authorities, such as the Mishneh LaMelech Hilchos Chovel UMazik 8:10 (see there where the editor even cites the Mizrachi) and Teshuvos Shevus Yaakov 2:187 (although he limits this leniency; see there and see note 15). They explain that the logic is that if a person's life is being threatened, they're not in the proper frame of mind to calculate if they can stop their pursuer without taking their life. As such, there's a special dispensation to kill the one threatening them without concern. This is untrue when stopping a *rodef*, as the rescuer isn't the one being pursued. This *sevara* is also said by the Kenesses HaGedolah Sheyarei Kenesses HaGedolah Klalim ULeshonos to Genesis *loc. cit.* (cited by the editor of the Mishneh LaMelech), although see there where he suggests a different *sevara*. The Levush as well in his commentary on Rashi Levush HaOrah ad. loc. agrees with the Mizrachi. However, see Derush V'Chiddush Rabbi Akiva Eiger to Kesubos 33b s.v. יעקב ר' אמר ר' who asks many questions on this Mizrachi, and cites Rashi to Sanhedrin 74a s.v. ויכול as disagreeing with it. The Shevus Yaakov, Minchas Chinuch § 420, Aruch LaNer ad. loc., and Dina D'Chayii Asin § 77 (by the Kenesses HaGedolah) also brings this Rashi. Rav Ovadia Yosef in his Yabiah Omer IV Choshen Mishpat § 5 also brings Rashi to 57a s.v. ויכול, the Meiri to 73a and Yad Rama 57a as arguing on this differentiation of the Mizrachi. See there § 6 where he brings many authorities who ask from the *gemarra* in Sanhedrin 49a about Yoav, Avner, and Asael. He also brings that the Shoel UMeishiv III 3:49 answers that *gemarra*. See as well Minchas Asher Bamidbar § 56

¹⁴ This is a third innovation of the Mizrachi, that if someone knows someone has murderous intentions, but doesn't know if its towards themselves or someone else, they have to assume it's not towards themselves and try להצילו באחד מאבריו. I'm not sure if anyone else says this. However, the Yefeh Toar *loc. cit.* rejects this innovation, as a person in this situation has the right to consider the possibility that the pursuer has them in mind. See also the *kasha* of the Levush HaOrah *loc. cit.* (also asked by the Nimukei Shmuel ad. loc.) on this Mizrachi, and the retort of the Tzeidah LaDerech ad. loc.

¹⁵ According to the *sevara* in note 13 that there's no need for the pursuant to calculate if יכול להצילו באחד מאבריו since they're not in the proper frame of mind, we have to say that the Mizrachi held that they'd be more מבולבל in that situation than Yaakov would have been in battle. Otherwise he too could have ignored this rule. This is actually the opposite of what the Shevus Yaakov *loc. cit.* says, as he applied the Mizrachi's differentiation only to a battlefield, where things are so heated there's no expectation on a person to make calculated decisions like this

even include his brother¹⁶. If he killed his brother in self-defense, that would have been perfectly justified. It would have been the right thing to do. Why would that distress him? One explanation is¹⁷ that Yaakov wasn't concerned about Eisav per-se. He was more worried about what their father would think. Eisav successfully tricked their father into thinking he was completely righteous¹⁸. As such, if Yitzchak were to find out that Yaakov killed his perfect son, he would be devastated. He would never forgive Yaakov, and never accept the excuse that it was in self-defense. This conundrum further made Yaakov very distressed.

Thankfully, with all his endeavors to avoid a war with Eisav, Yaakov was able to avoid a violent confrontation. We see from here that as much as it's natural to worry about what the future holds, if we do our proper *hishtadlus*, Hashem will take care of us. The outcome may not be what we were expecting, but we'll know with confidence that we did all that we could have. As well, we'll know that whatever resulted was the best thing for us.

Good Shabbos

¹⁶ The Yefeh Toar *loc. cit.* asks on the Mizrachi that there's no reason to assume Yaakov was distressed about killing Eisav, such that we need an explanation why. Perhaps when Rashi says Yaakov was distressed about killing others, it only meant the men accompanying Eisav. The Mizrachi doesn't explain where he is coming from, so I suggest it's because Rashi wrote in a general way

¹⁷ The Mizrachi quotes this from the Midrash Tanchuma, but our versions don't seem to have it. Gur Aryeh *loc. cit.* and Levush HaOrah *loc. cit.* also say this in the name of the Midrash Tanchuma

¹⁸ Rashi to Genesis 25:28, quoting Bereishis Rabbah 63:10 and Midrash Tanchuma Toldos § 8