

JEWISH STUDY NETWORK

Parsha Matot-Massei

Every society has a method of dealing with violent criminals. In the Torah's legal system there is a distinction between those criminals who commit murder intentionally and those who commit murder unintentionally. Those who commit murder intentionally are dealt with in a what we would consider to be a conventional method and may even receive capital punishment for their crime. But for those who commit murder unintentionally the Torah prescribes a system of exile and isolation. They are forced to move out of their hometown and are sent to an area where they will have time to think about their actions and how the tragedy could have been avoided had they been more cautious. Until they enter the city of refuge they are fair play for any relative of the victim to avenge the death.

There were a total of six cities of refuge for the unintentional murderers to use as a safe haven. Three of these cities were located in the main body of Israel, and the other three were located across the Jordan River (Numbers 35:14). The Talmud (Makot 10a) comments that this is not really a fair split. Nine out of the twelve tribes were situated in the main body of Israel and they had only three cities of refuge. Less than three of the twelve tribes lived across the Jordan River and they also had three cities of refuge. If three cities of refuge were necessary for three tribes, how could it have been sufficient for nine tribes? The split should have been proportionate to the number of tribes or the number of people, not an even split! The Talmud's justification for the division is that since across the Jordan there was an excessive amount of cold blooded murderers and violent criminals, it was necessary to supply them with a relatively large number of cities with which to take refuge.

Many of the commentaries have trouble with this Talmudic passage. The cities of refuge were only effective for protecting those who killed unintentionally. The fact that the murder rate was higher across the Jordan River than in Israel proper should not have an impact on the amount of refuge cities that are needed. Accidental killings should have still been approximately equal on both sides of the Jordan, therefore the refuge cities should have been split in proportion to the number of inhabitants. Ramban explains that the murderers were often able to cover up their crimes and plot an intentional murder that seemed like an accident. Since there were so many cold blooded murderers claiming to have killed unintentionally, the Torah had to provide them with cities of refuge. It was therefore necessary to set up an equal number of refuge cities on each side of the Jordan River to accommodate for the high murder rate on the far side of the river.



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The Maharal points out that the great difficulty with the explanation offered by the Ramban is that he seems to be rewarding the wicked. Why should we supply those murderers who killed intentionally with more places of refuge? This enables them to take advantage of the flawed system. After masterminding their devious cover up plans and staging the murder to look like an accident it is now easy for them to take refuge in the designated cities.

The Da'as Zekainim Mibaalei Hatosafot offers a more plausible explanation for this difficult Talmudic passage. There is another passage in the Talmud that explains the refuge city system of justice. Often there are people who commit acts of murder and deserve capital punishment. However, the Torah legal system, taking every precaution not to kill an innocent human being, requires that to convict for a crime, the defendant had to have committed the crime immediately upon being warned and in the presence of two witnesses. As one can imagine, it was not likely that even the most violent and aggressive criminals would be convicted for their crimes. Similarly, there were situations where people were accidentally involved in a murder without any witnesses present and therefore no one to enforce the punishment of exile to the cities of refuge. Ultimately the Torah system entrusts G-d Himself with the task of carrying out justice. G-d sets a stage where all those who were unintentionally involved in murder would happen to cross paths with the intentional murderers. This time, in the presence of witnesses, the unintentional murderer will once again kill accidentally, and his victim will be the intentional murderer. Justice will then be achieved; the fate of the intentional murderers will be capital punishment and the unintentional murders will now be forced to flee to the cities of refuge. In light of this, we now have a better understanding of how the high murder rate across the Jordan River will affect the presence of those who were accidentally involved in a murder. The stage will be set so that those who murdered accidentally without witnesses find themselves on the other side of the Jordan River in a situation where they meet up with the intentional murderer deserving of capital punishment. We can now appreciate the need for three cities of refuge on the other side of the Jordan, to accommodate those who killed accidentally despite the small number of tribes.

The entire system involving the cities of refuge is somewhat of a mystery. It is a peculiar way to deal with criminals. The system would be ineffective if it were randomly. The implementation of this system is testimony in and of itself that there is a G-d who controls the world and ultimately each and every person will be rewarded and punished as deserved.

Shabbat Shalom!

