

Vay'chi: Settling Old Scores

1 Kings 2:1-12

X

מלכים א' ב'

(1) Now the days of David drew nigh that he should die; and he charged Solomon his son, saying: (2) 'I go the way of all the earth; be thou strong therefore, and show thyself a man; (3) and keep the charge of the Lord thy God, to walk in His ways, to keep His statutes, and His commandments, and His ordinances, and His testimonies, according to that which is written in the law of Moses, that thou mayest prosper in all that thou doest, and whithersoever thou turnest thyself; (4) that the Lord may establish His word which He spoke concerning me, saying: If thy children take heed to their way, to walk before Me in truth with all their heart and with all their soul, there shall not fail thee, said He, a man on the throne of Israel. (5) Moreover thou knowest

(א) ויקרבו ימי דוד למות ויצו את שלמה בנו לאמר. (ב) אנכי הלך בדרך כל הארץ וחזקת והיית לאיש. (ג) ושמרת את משמרת יי אלהיך ללכת בדרךיו לשמר חקתיו מצותיו ומשפטיו ועדותיו כפתוב בתורת משה למען תשביל את כל אשר תעשה ואת כל אשר תפנה שם. (ד) למען יקים יי את דברו אשר דבר עלי לאמר אם ישמרו בניך את דרכם ללכת לפני באמת בכל לבבם ובכל נפשם לאמר לא יכרת לך איש מעל כסא ישראל. (ה) וגם אתה ידעת את אשר עשה לי יואב בן צרויה אשר עשה לשני שרי צבאות ישראל לאבנר בן נר ולעמשא בן יתר ויהרגם וישח דמי מלחמה השלח ויהזו דמי

בראשית מ"ז (כט) ויקרבו ימי ישראל למות ויקרא לבנו ליוסף ויאמר לו אם נא מצאתי חן בעיניך שים נא ידך תחת ירכי ועשית עמדי חסד ואמת אל נא תקברני במצרים:

The time drew near that Israel must die, and he called his son Joseph, and said to him, "If now I have found favor in your sight, please put your hand under my thigh, and deal kindly and truly with me. Please do not bury me in Egypt.

Israel. (5) Moreover thou knowest also what Joab the son of Zeruiah did unto me, even what he did to the two captains of the hosts of Israel, unto Abner the son of Ner and unto Amasa the son of Jether, whom he slew, and shed the blood of war in peace, and put the blood of war upon his girdle that was about his loins, and in his shoes that were on his feet. (6) Do therefore according to thy wisdom, and let not his hoar head go down to the grave in peace. (7) But show

כִּסֵּא יִשְׂרָאֵל. (ה) וְגַם אֶתָּה יָדַעְתָּ אֵת
 אֲשֶׁר עָשָׂה לִי יוֹאָב בֶּן צְרוּיָה אֲשֶׁר
 עָשָׂה לְשְׁנֵי שָׂרֵי צְבָאוֹת יִשְׂרָאֵל
 לְאַבְנֵר בֶּן נֵר וְלְאַמָּסָא בֶּן יֵתֵר וַיְהַרְגֵם
 וַיִּשֶׂם דָּמֵי מִלְחָמָה בְּשָׁלֶם וַיִּתֵּן דָּמֵי
 מִלְחָמָה בְּחִגְרָתוֹ אֲשֶׁר בְּמִתְנָיו וּבִנְעָלוֹ
 אֲשֶׁר בְּרַגְלָיו. (ו) וְעָשִׂיתָ כְּחִכְמָתְךָ וְלֹא
 תוֹרֵד שִׁיבְתוֹ בְּשָׁלֶם שְׂאֵל. (ז) וְלִבְנֵי
 בְּרוּזֵי הַגִּלְעָדִי תַעֲשֶׂה חֶסֶד וְהָיוּ
 בְּאַכְלֵי שֶׁלֶחֶף כִּי כֹן קָרְבוּ אֵלַי בְּבִרְחֵי

EXHIBIT ONE: JOAB'S TRIAL

[King Solomon] brought **Joab** to trial and said to him: Why did you kill **Abner**? He replied: I was avenging [my brother] **Asael**. Wasn't Asael in pursuit of Abner? Abner could have saved himself by wounding Asael in one of his limbs [i.e., he needn't have killed him]. Perhaps he was not able to do so? Since Abner was able to strike him at the fifth rib... he could have just wounded him.

[Solomon] said: Let us leave [the subject of] Abner. Why did you kill **Amasa**? [Joab] replied: Because Amasa committed treason against the king. "The king [David] ordered Amasa to summon all the men of Judah in three days' time... Amasa went to summon them and tarried" (2 Samuel 20:4 ff.). [Solomon] said: Amasa construed the "buts" and "onlys." He found them engaged in [religious] study and reasoned [as follows]: [The Israelites promised Joshua] "Whoever contradicts you or disobeys you, whatever you command, shall die" (Joshua 1:18). Does that include [disagreement on account of] Torah study? The verse states: "Only be firm and resolute" (Josh. 1:7).

[So why was Joab executed?] He was a traitor, as it states: "The news reached Joab who had sided with Adonijah, although not with Absalom" (1 Kings 2:28) (*Sanhedrin* 49a).

EXHIBIT TWO: ABNER, AMASA, AND DISOBEDIENCE

The Talmud Yerushalmi (*Sanhedrin* 29a) asked:

Who were those servants [who refused Saul's order to slay the priests of Nob (1 Samuel 22:17)]? Rav Shemuel ben Yitzhak said: They were **Abner** and **Amasa**. They said to Saul: If we owe you anything besides these belts and coats [their military insignia?], take them back!

The Talmud Bavli (*Sanhedrin* 20a), however, had certain reservations about their conduct:

Rav Yehudah said in Rav's name: Why did **Abner** meet an untimely death? Because he failed to take a stand against Saul. Rav Yitzhak said: He took a stand, but he was overruled.

Abner's death at the hands of Joab was the former's just desserts for his failure to assume a more vigorous opposition to the murder of the kohanim of Nob. This provides us with our second important insight into the laws of obedience: It may not be enough to abstain from obeying an illegal order; you might have to offer more than your resignation. Indeed, the Talmud (Shabbat 55a), in elaborating on Ezekiel 9:4 ("Go through the streets of Jerusalem and place a mark on the foreheads of all who sigh and groan over the abominations committed in her"), made the point that it is not enough to refrain from committing evil when one can also take a strong stand against it.

EXHIBIT THREE: JOAB AND DISOBEDIENCE; A CONTRAST

The same talmudic passage (*Sanhedrin* 49a) with which we began, continues:

God brought [Joab's] guilt down upon his own head for having struck down two more righteous and better men than he. Better, in that they [Abner and Amasa] construed the "buts and onlys," while he did not. More righteous, in that they refused a command that came orally; while he obeyed a command that came in writing.

EXHIBIT FOUR: CRIME AND AGENCY

The Talmud in *Kiddushin* (43a) stipulated:

If one commissions an agent to commit murder and he complies, the agent is guilty and the principal is exempt. Shammai the Elder said in the name of the prophet Haggai, the principal [too?] is guilty, as it states [of David, regarding Uriah]: "You slew Uriah... by the sword... and killed him by the Ammonite sword" (2 Samuel 12:9).

Radak:

You slew him: As though you had slain him [personally] by instructing Joab to place him in harm's way. You killed him: [Why the repetition?] You have compounded the felony by having him slain by the Ammonites, the enemies of Israel.

Our Sages have said: Although the universal rule is "there is no agency for the commission of a crime" [*ein shaliah li-devar `aveirah*] and everywhere the agent is culpable and not the principal, here the situation differs since the verse calls [David] a killer. Why is this? Since he was the king and his word was law, it is as though he did the killing himself. Similarly, when Saul ordered the killing of the *kohanim* of Nob, it was as though he killed them himself.

Generally, a person should refrain from following the king's orders in such a case. We have explained, apropos of "Anyone who defies your word shall die" (Joshua 1:18), that this does not include the commission of a crime, as the verse states: "Only" [be firm and resolute, excluding instructions that violate Torah law].

Not everyone, however, is capable of construing "but's" and "only's." The onus [punishment], therefore, is on the king.

OPERATIVE/ NORMATIVE CONCLUSIONS

1. Maimonides, *Hilkhot Melakhim* 3:9:
Whoever defies a royal order on account of a preoccupation with *mitzvot*, even of a minor variety, is not culpable. When the master [God] and the servant [the king] both speak, the master's words take precedence (*divrei ha-rav ve-divrei ha-talmid, divrei ha-rav kodemin*). It goes without saying that if the king commanded that a mitzvah be annulled, he is not to be obeyed.
2. Rav Shlomo Min-HaHar: *Dinei Tzava u-Milhamah* (#28)
The regulations of the General Staff and the Military Rabbinate are available to assist soldiers in all cases. According to regulations, *orders that contravene halakhah are invalid*.
3. U.S. Dept. Of the Army, "Field Manual: The Law of Land Warfare" 182:
[Military courts are admonished] to take into consideration the fact that obedience to lawful orders is the duty of every member of the armed forces; that the latter cannot be expected, in conditions of war discipline, to weigh scrupulously the legal merits of the orders received.
4. The American Law Institute: Model Penal Code, Military Orders (2.10):
It is an affirmative defense that the actor, in engaging in the conduct charged to constitute an offense, does no more than execute an order of his superior in the armed forces which he does not know to be unlawful.¹

¹ The Israel Defense Forces "Code of Ethics" can be viewed at: <https://www.idfblog.com/about-the-idf/idf-code-of-ethics/>

the grave in peace. (7) But show kindness unto the sons of Barzillai the Gileadite, and let them be of those that eat at thy table; for so they drew nigh unto me when I fled from Absalom thy brother. (8) And, behold, there is with thee Shimei the son of Gera, the Benjamite, of Bahurim, who cursed me with a grievous curse in the day when I went to Mahanaim; but he came down to meet me at the Jordan, and I swore to him by the Lord, saying: I will not put thee to death with the sword. (9) Now therefore hold him not guiltless, for thou art a wise man; and thou wilt know what thou oughtest to do unto him, and thou shalt bring his hoar head down to the grave with blood.'

תֹּרַד שִׁיבְתוּ בְּשָׁלֹם שְׂאֹל. (ז) וּלְבָנֵי
 בַרְזַלַּי הַגִּלְעָדִי תַעֲשֶׂה חֶסֶד וְהִיוּ
 בְּאֹכְלֵי שְׁלֹחֶנְךָ כִּי בֶן קָרְבוֹ אֲלֵי בְּבִרְחִי
 מִפָּנַי אֲבִשְׁלוֹם אַחִיד. (ח) וְהִנֵּה עִמָּךְ
 שִׁמְעִי בֶן גֵּרָא בֶן הַיְמִינִי מִבְּחָרִים
 וְהוּא קָלְלָנִי קָלְלָה נְמַרְצָת בְּיוֹם לִכְתִּי
 מִחֲנָיִם וְהוּא יָרַד לִקְרָאתִי הַיַּרְדֵּן
 וְאָשַׁבַע לוֹ בִּיָּי לֵאמֹר אִם אֲמִיתָךְ
 בְּחָרְב. (ט) וְעַתָּה אֵל תִּנְקֶהוּ כִּי אִישׁ
 חָכֵם אַתָּה וַיִּדְעַתָּ אֵת אֲשֶׁר תַּעֲשֶׂה לוֹ
 וְהוֹרַדְתָּ אֶת שִׁיבְתוֹ בַּדָּם שְׂאֹל. (י)
 וַיִּשְׁכַּב דָּוִד עִם אֲבֹתָיו וַיִּקְבֹּר בְּעִיר
 דָּוִד. (יא) וְהַיָּמִים אֲשֶׁר מָלַךְ דָּוִד עַל
 יִשְׂרָאֵל אַרְבָּעִים שָׁנָה בְּחֶבְרוֹן מָלַךְ
 שִׁבְעַת שָׁנִים וּבִירוּשָׁלַם מָלַךְ שְׁלֹשִׁים

(שמואל ב י"ט:ל"ג) וברזילי זקן מאד בן שמונים שנה והוא כלכל את המלך בשיבתו במחנים כי איש גדול הוא מאד.

Now Barzillai was a very aged man, even fourscore years old; and he had provided the king with sustenance while he lay at Mahanaim; for he was a very great man.

(שמואל ב ט"ז:ה) ובא המלך דוד עד בחורים והנה משם איש יוצא ממשפחת בית שאול ושמו שמעי בן גרא יוצא ומקלל.

And when king David came to Bahurim, behold, there came out thence a man of the family of the house of Saul, whose name was Shimei, the son of Gera; he came out, and kept on cursing as he came.

(10) And David slept with his fathers, and was buried in the city of David. (11) And the days that David reigned over Israel were forty years: seven years reigned he in Hebron, and thirty and three years reigned he in Jerusalem. (12) And Solomon sat upon the throne of David his father; and his kingdom was established firmly. (13) Then Adonijah the son of

וַיִּשְׁכַּב דָּוִד עִם אֲבֹתָיו וַיִּקְבֹּר בְּעִיר
 דָּוִד. (יא) וְהַיָּמִים אֲשֶׁר מָלַךְ דָּוִד עַל
 יִשְׂרָאֵל אַרְבָּעִים שָׁנָה בְּחֶבְרוֹן מָלַךְ
 שִׁבְעַת שָׁנִים וּבִירוּשָׁלַם מָלַךְ שְׁלֹשִׁים
 וּשְׁלֹשׁ שָׁנִים. (יב) וַיְשַׁלְּמָה יֵשׁב עַל
 כִּסֵּא דָּוִד אָבִיו וַתִּפֶּן מַלְכָּתוֹ מְאֹד. (יג)
 וַיָּבֵא אֲדֹנִיָּהוּ בֶן חַגִּית אֶל בֵּית שִׁבְעַת
 אִם שְׁלֹמָה וַתֹּאמֶר הַשְּׁלוֹם בְּאֵד