SEVEN MITSVOT OF BENE NOAH (#3): What Constitutes Homicide?

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In this series, we are exploring the Seven Mitsvot that correspond to the descendants of Noah. The Seven Noahide precepts are not the same as the 613 Mosaic precepts (= the Tora). They are the societal and individual laws the Tora prescribes for non-Jews.

It is not only that the Tora contains many more precepts applicable to Jews than to Noah's descendants. Rather, the elements of each of the Seven Noahide precepts are different from the 613 Mitsvot in their definition and mostly in their application. The third Noahide precept is the prohibition of "homicide". This is perhaps where the differences with the Mosaic commandments are most clearly seen.

For the Mosaic law, the prohibition of homicide is conveyed in the Sixth of the Ten Commandments, "YOU SHALL NOT MURDER" (Exodus 20:13) , while the similar Noahide precept has its own source: a verse in Genesis 9:6 that describes what God commanded to Noah: "One who sheds the blood of man, by a man, his own blood shall be shed; as in the image of God, man was made."

At first glance, this verse is saying the same as "YOU SHALL NOT MURDER", in two respects: that a murderer deserves the capital punishment and that man, unlike animals, was created in the image of God.

The Sages of the Talmud, however, focused on a very important element that appears in the verse told to Noah, and not in the Ten Commandments. The Hebrew word of "□□□□", which I translated "by a man", could also be translated "within a man". The Sages decided, then, that Noahide homicide also includes two novel applications: indirect homicide, and abortion.

Let's start with the first.

HOMICIDE BY PROXY

In Jewish law, the agent in a crime cannot use as a defense the argument that a third person told him to do so (□□□□□ □□□□ □□□□ □□□), since the agent is himself subject to the Law, and should have opted to obey the word of God, the ultimate Law Giver, rather than the word of any other person. The agent in a murder is considered guilty of the crime committed, and deserves capital punishment. Capital punishment, however, is not applied to the "principal" who directed the agent to commit the crime. (There are a few exceptions. For example, if the agent is a minor or a person with a mental deficiency, etc.)

Now, in Noahide law, directing someone to commit homicide also qualifies as homicide. The principal who asked the agent to commit the murder is himself guilty of "homicide" and deserves the maximum penalty. The Sages interpreted the above verse as saying: "Whoever sheds the blood of man, even by another man, his blood shall be shed.…"

OTHER CASES OF INDIRECT HOMICIDE

Under Noahide Law, indirect homicide also includes homicide by omission or abandonment. For example, when a person is abandoned and left to die of hunger (Rabbi Benamozegh also mentions within this category a case similar to passive euthanasia, but I have decided not to address this delicate theme here) or to expose an individual to wild animals.

Noahide law also includes a more complex case of indirect homicide: an individual who, in self-defense when attacked, uses lethal force when he could have used non-lethal force. This case is also considered by Noahide law as homicide and carries the maximum penalty (all these cases can be found in Maimonides, MT, Melakhim, 9: 4).

Another important difference is that in the case for Noahide law, ignorance of the law is not an absolving excuse, as is the case in Mosaic law (□□□□□ ,□□□□.) Rabbi Benamozegh suggests that the reason Noahide law is stricter than Jewish Law in the case of ignorance of the law is because it consists of only 7 precepts, compared to the 613 Jewish Mitsvot; and also because Noahide commandments are more readily understood intuitively (what some call Natural Law) than precepts we follow because they are the Law, first and foremost (what is called Positive Law). Therefore, the responsibility to know the law is greater, and ignorance cannot be an excuse.