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A mistake should be a stepping stone, not a life sentence

by rabbi judah dardik

Massei

Numbers 33:1-36:13

Numbers 28:9-15

Jeremiah 2:4-28 and 3:4

Considering our Torah portion's discussion of accidental murder, one is reminded of Oscar Wilde's quip, "Murder is always a mistake — one should never do anything that one cannot talk about after dinner." Yet here in Chapter 35 (as well as in Deuteronomy 19), and the entire second chapter of the talmudic tractate Makkot, we see careful address of concerns related to intention and situation when it comes to killing.

Judaism distinguishes between four different circumstances under which a life could have been wrongly taken. The first is by complete accident, where the killer had no way of knowing or preventing this, and could not have done anything differently. Such people are set free to go on with life bearing a heavy weight in their hearts. On the opposite end of the spectrum is the intentional murderer, who is warned not to murder and is witnessed proceeding to kill anyway. Such a person is subject to the full penalties of the law.

In between these two extremes lie legal categories that could probably best be translated into English as "gross negligence" and "minor negligence." While those who kill through gross negligence are not afforded protection by the law, those who take a life through minor negligence are exiled to a city of refuge. The commandment to set up such cities is contained in the Torah portion we read this Shabbat.

What happened here was truly unintentional, but through behavior that still was not sufficiently and appropriately careful. The courts do not act against this person, seeing as he or she did not mean to kill. Yet at the same time, we bear concern that a bereaved family member may lash out and attack, thus causing further loss of life. The city of refuge serves as a safe place to run away to and make a new life in the aftermath of tragedy.

There were two types of refuge cities. First there were six larger cities, centrally positioned in the northern and middle and southern tracts of land on both sides of the Jordan River where the Jewish people lived. These cities were more developed and offered a better quality of life to the accidental murderer who sought asylum there. The second option was to run to one of 42 cities belonging to the Levites that were scattered across the land.

The Talmud in Makkot (13A) curiously states that killers who went to one of these smaller Levitical cities, as opposed to one of the six larger cities, had to pay rent for their years of protection there. But doesn't that seem backward? I would think that this person, running into exile as a result of their negligence, would pay for the right to live in the more developed and expansive locale.

It may be that this detail offers us insight into the wisdom of this entire system. It is true that accidents happen, and the Torah does not formally punish via the court for the consequences of unintended events. Yet at the same time, neither is this person completely free from blame. Thus, accidental murderers are to uproot their own lives, forced to leave the environs that they know and begin life over again in a new place.

The 42 smaller Levitical cities were dotted all over the map, meaning that the accidental murderer did not have to expend much energy to get there. They thus have to pay rent, as what we are seeking is a sign of recognition and effort to confront one's responsibility in what happened. The larger cities are in most cases further away, and so despite the better lifestyle they offered, they are free of charge as this person has traveled further while in danger to get there. Negligent people who seek the path of least resistance and run to the nearest city are made to pay; they need to further extend themselves.

We aren't looking to punish these people and make their lives miserable — these were mistakes. But what is critical is that they recognize their role in it and make efforts to learn better for the future. Truth be told, there is far more to be learned here from philosopher Eli Siegel than from Wilde: "If a mistake is not a stepping stone, it is a mistake."

Rabbi Judah Dardik is the spiritual leader at Orthodox Beth Jacob in Oakland. He can be reached at <mailto:Rabbi@BethJacobOakland.org>.