

## WHEN DOES HALAKHAH ALLOW A CHILD TO MEDICALLY TREAT THEIR PARENTS?

One of the most ingrained images most people have of Matan Torah is that of the לוחות הברית as two stone tablets. Considering that there were ten commandments, many envision five commandments etched onto each of the tablets. But even while conceptually symmetrical, such a representation would result in a significant imbalance. The number of words in the first five commandments vastly overwhelms the very few in the latter five.

While perhaps not directly addressing the imbalance, many commentators, instead of searching for aesthetic symmetry, offer a more thematic distinction between the two tablets: the first represents mitzvot בין אדם למקום (between Man and God) with the second representing mitzvot בין אדם לחברו (between Man and his fellow). A brief glance at the commandments bears out this distinction, with the obvious exception of the fifth commandment, honoring one's parents.

Ostensibly, honoring parents should seemingly be more appropriately categorized as an interpersonal mitzvah, as it delineates how people relate to each other. In fact, many Rishonim explain that it has both components. Sefer Ha-Chinnukh (mitzvah 33) explains that in addition to the interpersonal value of exemplifying and demonstrating gratitude, through doing so, a person will also come to more properly appreciate and express appropriate gratitude to Hashem.

Given that honoring parents includes a divine element as well, it comes as no surprise that the Torah includes additional details and requirements governing the child-parent relationship. The Torah stipulates that in addition to honoring parents—כבוד, we are also obligated in מורא (often translated as fear, but perhaps more appropriately as awe). Each involves different requirements. For example, kavod requires taking care of parents and helping them with their nutritional and medical needs, while mora requires not sitting in their regular seat and not contradicting them. As Rav Hershel Schachter often explains, mora is halakhically considered to be kavod-squared.

Similarly, the Torah distinguishes the parent-child relationship with regard to when it falls apart. While the Torah prohibits hitting / striking anybody, the Torah adds an additional prohibition to striking one's parents and demonstrates its importance by punishing the latter by death. Prohibited striking, the Gemara (Sanhedrin 84b) explains, requires drawing blood.

Although generally an awful situation, the Gemara debates the propriety of a more benign form of striking—medical treatments that involve blood. When the Gemara inquires as to the permissibility of blood letting for one's father, the Gemara quotes two lenient opinions. Rav Matna simply quotes the familiar, ואהבת לרעך כמוך, which Rashi explains that we are only prohibited from doing to another something that that person would not want to do to

## PARSHAH PERSPECTIVES ON MODERN MEDICINE: YITRO

himself [if and when possible]. Rav Dimi finds textual support for the position that the prohibition of striking another person does not apply to medical treatments. Essentially, both argue that while חבלה of one's parent is forbidden, it doesn't apply to medical situations.

But even while the Gemara's conclusion seems straightforward, it immediately quotes two opinions that appear to contradict the previous assertions.

Rav did not allow his son to remove a thorn that was stuck into him and Mar b. Ravina did not allow his son to open up a pus filled injury. Both were concerned that perhaps in doing so, the child may cause a חבלה and violate a Torah prohibition. The Gemara immediately counters that if the concern is about the potential for an additional prohibition, nobody should be allowed to perform medicinal therapies, since the prohibition of חבלה applies universally! Addressing this concern, the Gemara distinguishes between 'normal' cases of חבלה where a 'simple' prohibition is at stake and חבלה of one's parent, where a death-penalty prohibition is at stake.

The Rif (Sanhedrin 19a in dapei Ha-Rif) and Rosh (Sanhedrin 10:1) understand that these two sections of Gemara are at odds with each other. Rav and Mar b. Ravina disagreed with Rav Matnah and Rav Dimi. For Rav and Mar b. Ravina, a child may not perform medical treatments on their parents because if they would do so, they may come to violate a serious prohibition. Rif and Rosh therefore prohibit the practice.

Rambam (Mamrim 5:7) takes a more moderate position. He writes that a son who bloodlets his father is פטור, but nonetheless, shouldn't do so לכתחילה, because it's possible that in doing so, the son will inadvertently חובל in his father. However, if there isn't anybody else available and their parent is suffering, the son may do whatever is necessary to help treat them. Rambam seems to have read the Gemara as two different stages. Rav and Rav Dimi reflect the pure Halakhah; a child may perform a medical treatment on his or her father. That said, there is room to be stringent in this regard, as Rav and Mar b. Ravina indeed were, because somebody else must have clearly been available.

The Rambam's position is both novel and difficult. Following the logic of the Gemara, the Rambam acknowledges some hesitation for a child to perform a medical treatment on his or her father because of the possibility of violating a prohibition punishable by death. But in the very same breath, the Rambam insinuates that if there isn't anybody else available to perform the procedure, then the child may do so.

Regardless of who else might be present, willing, or able to perform the procedure, nothing changes about the possibility that a child performing the procedure may become liable for a serious consequence. Why then should the availability of somebody else be a relevant factor in the discussion?

Meiri offers a pragmatic solution. When a parent is suffering or is in danger, the requirements of honoring one's parents demand that a child act in whatever capacity necessary to address their parent's need. He explains that the Gemara concludes that a child cannot and does not violate the prohibition of חבלה in treating their parent, but rather should refrain from doing

## PARSHAH PERSPECTIVES ON MODERN MEDICINE: YITRO

so because of the possibility of causing additional חבלה that isn't intrinsic to the necessary medical care. Meiri assumes that there is a Rabbinic enactment forbidding a child from treating his or her parent as a means of ensuring that no accidental Torah violation is incurred by causing an inadvertent חבלה. When it's not possible to find somebody else to help, the Rabbi's never intended their enactment to prevent the parent from being cared for and the child may do so.

Ramban (Torat Ha-Adam, Inyan ha-Sakanah) offers a somewhat different approach and differentiates between medical care that itself entails חבלה and treatment that if done properly, should not cause any blood loss. He explains that regarding the former, there isn't any difference whether the physician is the patient's child or somebody else. They will both be causing a חבלה and doing it for the purpose of healing the patient. As the Gemara explained, there is no prohibition of חבלה when it comes to medical treatment. While there still might be a concern of making a mistake and potentially even killing the patient, Ramban explains that the risk and punishment are equal regardless of who is performing the procedure. Only when it comes to medical care that does not involve any חבלה, is there a preference that a child not treat their parent. Under these circumstances, the possibility exists that the physician might cause a חבלה that is not intrinsic to the treatment itself. Because this type of חבלה is not part of the medical treatment, the physician might be liable for causing it. As such, Ramban explains, it's preferable for a child to avoid treating their parent in such cases and defer to another available physician, since the potential punishment for such an accidental injury is dramatically different. When that isn't possible, it's a risk that the child is allowed to take upon himself or herself.

The Shulchan Arukh (YD 241:3) quotes the basic Halakhah that a child should not remove a thorn from his father or, if he is a physician, a child should not perform bloodletting or surgery on his father because the son may accidentally cause a חבלה. The Rama adds on the Rambam's caveat, that when the father is suffering and nobody else is available to assist, then a son may do all of these things for his father. Ostensibly, the Shulchan Arukh appears to be following the approach of Rif and Rosh against that of the Rambam. This is consistent with his approach in the introduction to the Beit Yosef in which he explains that in cases of disagreement, he will generally rule in accordance with two of the three עמודי הוראה, of Rif, Rosh, and Rambam. Since both the Rif and Rosh don't mention the Rambam's caveat, the Beit Yosef left it out of the Shulchan Arukh.

That said, interestingly, Ben Ish Chai (Shanah 2, Shofetim 24) quotes the Halakhah with the Rama's caveat, although making no mention of Rama or that he disagrees with the Shulchan Arukh. One might even get the impression that the Ben Ish Chai thinks that the Shulchan Arukh and Rama don't actually disagree. Sefer Kevod Horim (ch. 13 note 3) quotes Rav Ovadiah Yosef as similarly ruling permissively, although Yalkut Yosef (Kibud Av va-Em 16:3) rules explicitly otherwise.

Yalkut Yosef rules that a child is required to expend significant effort to find somebody else to perform a necessary medical procedure on their parent and only in dire circumstances, is it

## PARSHAH PERSPECTIVES ON MODERN MEDICINE: YITRO

permissible for a child to treat his parent. While Yalkut Yosef is more lenient when it comes to injections that normally do not bleed, he is quick to note that if another person happens to be around at that time, then the child is forbidden from injecting their parent. Similarly, if the injection is the type to normally bleed, even just a little bit, then the Halakhah reverts to the simple reading of the Shulchan Arukh and a child may not administer such an injection to their parent.

For the Rama however, and the many Poskim who follow his approach, defining the parameters of “nobody else is around” is not as simple as it might seem. Some effort must clearly be expended to find somebody else, but how much effort? Additionally and perhaps quite commonly, a child might be willing to treat their parent free of charge, while finding another medical professional would cost money, sometimes significant sums. Does the fact that another person might be available to help but that he or she demands payment affect the notion of “nobody else is around”?

In our modern society, aside from acutely arising needs, it is indeed quite rare to be in a situation where nobody else is available to treat a parent. In most urban areas, people have a choice of various dentists, physicians, and options for nursing care. The challenge is that options cost money. Another dentist may be available, but may not be on the parent’s insurance plan if they have one or even simply charge for their service, while a child would not do so. The question also arises with routine diabetic care, in which frequent glucose testing requires drawing a tiny amount of blood so as to calculate the requisite amount of insulin to inject. When children are living with their parent and the parent is unable to test their glucose levels on their own, it’s most natural and convenient for their child to assist. While it’s certainly possible to hire an outsider to help with the glucose tests, for some people they might need to be done frequently and throughout the entire day, leading to a serious expense if the children cannot assist. (The question of whether a child-in-law or a grandchild may treat the parent-in-law / grandparent is beyond the scope of this post, but may open up other possibilities.)

Interestingly, Rav Shlomo Zalman Auerbach (Shu”t Minchat Shlomoh 1:32) accepted the notion that if nobody else is available to treat the parent just like the child can—meaning free of charge—then it is considered as if nobody else is available at all. He explains that this is predicated on the notion that the mitzvah of honoring parents is specifically *משל אב*—from the funds of the father. Meaning, that a child is not required to expend funds to honor his parents; all expenses must be borne by the father himself.

Rav Auerbach understands that the any necessary expenses needed for the parents’ treatment are considered to be part of the parents’ medical treatment. If so, the expenses should normally be borne by the parents. However, this isn’t a ‘regular’ medical expense, in the sense that it is going toward helping the parent heal. The cost only exists so that the child—who is also qualified and available to help—need not do so himself, out of concern that he may come to violate the prohibition of *חבלה* in his parent. This is especially true, considering that if nobody else is available, the child is allowed to treat their own parent.

## PARSHAH PERSPECTIVES ON MODERN MEDICINE: YITRO

Meaning, that it's clear to everybody involved that while the expense is necessary for the parent's health needs, it is only indirectly needed, as its sole purpose is to mitigate the child's potential חבלה violation. Rav Auerbach rules that while a parent is financially responsible for his or her health needs, the parent need not bear any costs associated with minimizing their child's chances of violating a Torah prohibition. Since the parent is not obligated to pay for hiring an outsider and the child is not required to spend money to honor their parents, it's considered to be as if "nobody else is available" and therefore the child may directly treat their parent.

Rav Zvi Pesach Frank (Shu"t Har Tzvi, YD 197) argues that when somebody else is available, even at a cost, a child is forbidden from treating their own parent and the expense for hiring an outsider must be borne by the child. He explains that the Halakhah that expenses for honoring parents must be borne by the parents themselves is only true when the mitzvah no longer applies. For example, according to the Shulchan Arukh that a child is completely forbidden from treating his parent, the child need not expend his or her own money to find somebody to treat the parent, which would be a fulfillment of the mitzvah of honoring parents. Since the mitzvah doesn't require a child to expend his or her own money, they are halakhically exempt from the mitzvah.

However, according to the Rambam and Rama, when somebody else isn't available, the child is obligated to treat their parent, meaning that they are still considered obligated in the mitzvah. It makes no difference whether the child treats their parent on their own or hires somebody else to do so, since the child can fulfill the mitzvah of honoring their parents through other agents. The issue at hand, explains the Har Tzvi, is that the child is required to try and avoid entering a situation in which he or she may come to violate חבלה in their parent by finding somebody else to treat their parent. He considers this to be a הידור—an embellishment of the mitzvah and a means of fulfilling it in a more 'beautiful' manner. It is self understood that הידורים often cost more money than the 'basic' mitzvah and if the child is required to seek out this הידור, then it is self understood that he or she is required to pay for it.

Both Rav Auerbach and Rav Frank agree that the expense of hiring an outsider is not fundamentally part of the mitzvah of honoring parents. Instead, it's simply a means by which the child can avoid entering a situation of potentially violating a Torah prohibition. Rav Auerbach argues that while a parent is responsible for their medical care, they need not bear this type of tangential associated cost. Since a child isn't required to spend their own money to honor their parents, it works out that nobody actually needs to pay to hire an outsider. Since nobody is obligated to pay for an outsider and an outsider isn't available free of charge, the child may treat on their own, because practically speaking, they are the only one available.

Where Rav Frank differs is in his understanding of the child's financial responsibility. He argues that the child's need to spend money to avoid a potential prohibition of חבלה is not

## PARSHAH PERSPECTIVES ON MODERN MEDICINE: YITRO

part of the mitzvah of honoring their parent, but rather completely tangential to the essential mitzvah. He explains that this is true by an analogy to a more common situation.

If a father who lives some distance away from his son were to ask him to help with food shopping, which is clearly included in the mitzvah of honoring parents, the son would be required to comply. If the distance were too far to walk and instead the son would have to drive or take a train or bus, he could not exempt himself from the obligation simply because the mitzvah now requires the son to spend money. This is because essentially, the son is expected and required to walk to his father to help him out. Driving or taking a bus or train is only a means of making life easier for the son, but isn't essential to the mitzvah of honoring parents. As such, it's an expense that the son is expected to bear. Only if the child is unable to reach his father through walking (if the distance were exceptionally far), can the travel expenses be considered part and parcel of the actual mitzvah.

So too when it comes to treating a parent. The child is obligated to help with their parents' medical needs, whether they do so themselves or hire somebody else to help out. But whether or not the child chooses to spend the money, the mitzvah of honoring their parents still applies, which is proven by the fact that if there isn't anybody available for whom the child can spend money to hire, the child is obligated to treat the parent on their own. If so, the money expended, concludes Rav Frank, is considered only as a means of mitigating a potential violation on the part of the child—not part of the mitzvah of honoring parents—and therefore incumbent on the child.