Rescue from Transgression through Death; Rescue from Death through Transgression

Christiane Tzuberi

A short text, part of the gemara on *mSanh* 8:7 (cf. *bSanh* 74a–b), juxtaposes two different approaches to a transgression committed in the face of death: according to the one, a transgression is legitimate if it rescues one’s life; according to the other, death “saves” an individual from committing a transgression. These two approaches are attributed by the Babylonian *stam* to particular places of origin: those advocating rescue from a transgression through death are rabbis active in the Land of Israel; those advocating rescue from death through a transgression are Babylonians.

1 The Sages of Lod and a Question on Esther

Let me begin with the text:

אמר רב יוחנן משומר רבי שמעון בן היזדוק: נימינו וגמרו בעליית בית נתזה בלוד: כל עבירות שבתורה, אם אומרין לאדם: עבור ואל תהרג, יעבור ואל יהרג, חוץ מעבודת כוכבים, ושליח טבות, ושביעית דמים. [ב׳ סנהדרין עד ע׳א].

וכן אמר רב יוחנן: לא שנו אלא שלא בשעת גזרת המלכות. אבל בשעת גזרת המלכות, אפילו מצוה קלה, יהרג ואל יעבור. כי אמר רב בימי אמר רב יוחנן: מה כל עבירות שבתורה, אם אומרין לאדם: עבור ואל תהרג, יעבור ואל יהרג, חוץ מעבודת כוכבים, ושליח טבות, שבעית דמים [ב׳ סנהדרין עד ע׳א].


Rabbi Yohanan said in the name of Rabbi Shimeon ben Yehozadak: By a majority vote it was resolved in the upper chambers of the house of Nitza in Lod that in every law of the Torah, if a man is commanded: “Transgress and suffer not death” he may transgress and not suffer death, excepting idolatry, forbidden sexual relations and bloodshed (*bSanh* 74a).1 [...]
When Rav Dimi came [from the Land of Israel] he said in Rabbi Yohanan’s name: [The decision of the sages of Lod] was taught only if there is no royal decree (of persecution), but if there is a royal decree, one must be killed rather than transgress even a minor precept. When Rabin came [from the Land of Israel], he said in Rabbi Yohanan’s name: Even without a royal decree it was only permitted in private; but in public one must be killed rather than transgress even a minor precept [. . .].

But was not Esther’s case in public?

Abbayye said: Esther was natural soil.2 Rava said: Their personal pleasure is different, for otherwise, how dare we yield to them our braziers and coal shovels?3 But their personal pleasure is different; so too [in Esther’s case] (bSanh 74a–b).

According to this tradition, by a majority vote in the “upper chambers of the house of Nitza in Lod”4 it was decided that someone, who is forced to choose between committing an act of idolatry, a sexual transgression or bloodshed and being killed, should rather let him/herself be killed than commit one of the three enumerated transgressions.5 With relation to this tradition Rav Dimi, a nehutei (i.e. a scholar who traveled regularly between Babylonia and the Land of Israel in order to report traditions from the Land of Israel to the scholars of Babylonia), transmits in the name of Rabbi Yohanan that the majority vote of the Lodian sages appertains solely to a situation in which there is no “royal decree” (גזרת המלכות) forbidding the practice of Judaism. If, however,

---

2 I explain this term in the analysis below.

3 Rashi explains that קוטאנס ודימונקי are utensils made of metal, into which one puts coals and which one places in front of the kings’ tables so as to warm them (cf. Rashi, s.v. הני קוטאנס ודימונסי). That the Jews were asked to give their utensils to the unspecified “them” is explained by Rashi as follows: there was a festival day of the Persians, at which the “priests of idolatry” took by force the lights from every household, in order to place that light in their “house of idolatry” (cf. Rashi, s.v. היכי יהבון להו).

4 On the dating of this meeting in Lod, cf. M. D. Herr, “Persecutions and Martyrdom in Hadrian’s Days,” Scripta Hierosolymitana 23 (1972) 109, n. 79.

5 The decision of the Lodian sages installs limits to an act, which constitutes, according to modern juridical thought, an act of self-defense. For example, a physician may not kill a human being even if this saves the life of five other patients. This, however, does not mean that when the physician’s own life is threatened through some pursuer, he may not kill that man. His deeds would be categorized as acts of self-defense, and the physician could, if he cannot stop the pursuer through lesser means, also legitimately kill the offender. (Cf. W. Sinnott-Armstrong, “Consequentialism,” in: Stanford Encyclopedia of Philosophy [Stanford 2006]; on the so-called “Transplant-problem” see http://plato.stanford.edu/entries/consequentialism.)