

Dr. Cohen is rabbi of the Stanmore Synagogue, London, England, and lecturer at Jews' College.

IS IT A *MITSVAH* TO DO SECURITY DUTY?

1

The ubiquitous presence of security officers at public functions, and particularly around synagogue buildings and Jewish institutions, is now an accepted and high-priority feature of our communal scene. While the necessity for such vigilance is obviously most disturbing, and a constant reminder of the vulnerability of Jewish communities in the face of countless anti-Semitic guerrilla groups, ironically, there is also a positive dimension to the problem.

It cannot be denied that the need to protect our community has aroused latent emotions on the part of a fair number of uncommitted individuals who had hitherto felt no urge to identify in any positive way with any religious, Zionist or communal cause. In a high proportion of instances what begins as an expression of a personal sense of "responsibility" develops into a new-found and more broadly based identification with wider Jewish, and even religious, aspirations on the part of themselves and their families.

One cannot be drawn into security work in a vacuum. It begs such questions as, "Do I understand and appreciate *what* I am protecting?" "What is it that has motivated me to regard my people as deserving of my particular (as opposed to merely being satisfied with police) protection?" "What is my relationship with the heritage and community I am helping to defend?"

One cannot protect synagogues, in particular, without coming into an impressionable proximity with Jewish religious fervor and the warmth of a devoted fraternity. So, in some weird and wonderful way, Jewish survival is immeasurably strengthened by the forces which seek to threaten it.

Leaving aside the naturally felt imperative of positively ensuring the protection of Jewish lives, as well as the potential effects of such a

This article will appear as a chapter in the author's forthcoming *Moments of Insight—Biblical and Contemporary Perspectives* (London: Vallentine, Mitchell & Co.).

contribution in cementing religious identity, the question may be asked whether or not there is a *mitsvah*—either biblical or rabbinic—involved in participating in security duties, and, if so, whether or not there is a heightened dimension to the *mitsvah* where the security duty involves protecting Jews at synagogue prayer.

The Mishnah¹ already established the duty of coming to the rescue of a fellow whose life is endangered by an assailant, declaring it permitted to go as far as taking the life of the latter where administering a mortal blow is the only way of preventing him from taking his victim's life. This is the well-known principle of *redifah*, the "law of the pursuer," and the Talmud² links this principle to the biblical verse, "Do not stand idly by the blood of thy neighbor" (Lev. 19:16).

Maimonides³ codifies the talmudic law thus:

Whoever is in a position to save another (from his assailant) and refrains from doing so, transgresses the biblical verse, "Do not stand idly by the blood of thy neighbor." Similarly, whoever sees his neighbor drowning or pounced upon by thieves or attacked by a wild beast, and is in a position to save him personally, or to hire others to save him, and yet refrains from doing so; or he who hears heathens or informers devising harm or setting a trap for another and does not alert the latter to the danger; or he who knows personally the would-be perpetrators of such evil and is in a position to dissuade them from (or frustrate) their violent intent, and refrains from doing so . . . all such are guilty of violating the command, "Do not stand idly by the blood of thy neighbor."

There can be no mistaking the ever-present threat to Jewish lives and property, as witnessed by the catalogue of atrocities, assassinations, bomb-attacks on synagogues and communal buildings and on Israeli interests abroad, the recent discovery of a P.L.O. arms dump in Hull, England, and the regular arrests or deportations from European cities of guerrillas apprehended before they have had the opportunity to do their worst. Every Jewish community today may certainly be categorized, therefore, as in the classical *nirdaf* ("pursued") situation.

The *rodef* ("pursuer") may be faceless, but the situation of *redifah* ("pursual") into which our community is plunged by the world-wide activities of international anti-semitic terrorism is real and imminent. The biblical and rabbinic laws requiring the participation of every Jew in averting such potential disasters are therefore unequivocal.

and part-time staff to assess, classify, and coordinate information, training and equipping of personnel, etc. What would be the rabbinic attitude towards imposing a communal levy for this purpose? The answer to this question may be readily inferred from the sources dealing with the law of the *rodef*.

If we look back to the above quotation from Maimonides' formulation of that law, we find reference to "one who is in a position to save personally or to *hire others* to save." The question arises, however, if one does have to engage professional help to protect another, who has to foot the bill: the one who peremptorily summons the professional assistance, or the victim, once he has been rescued from his predicament?

Rosh⁴ states quite clearly that "the rescued person is obliged to repay to the rescuer his monetary outlays, since one is not expected to utilize one's own money to rescue another where the latter has money to pay for it." Rosh infers this from the talmudic law that if, during the course of the violent pursuit, the victim damaged property belonging to the pursuer, he does not have to pay compensation. However, if during his flight from the assailant he pushed over and damaged a third party's property (which includes, obviously, property belonging to the man who comes to his assistance), then he has to make restitution.⁵

Now, reasons Rosh, if we were inclined to propose that the one who hires assistance to save another is nevertheless expected to pay for it from his own pocket, then it would be inconsistent of the Talmud to expect the victim to pay compensation for damage to the property of the one assisting him, since we have proposed that the latter is, in any case, obliged to employ his own resources to rescue the victim! The victim only did his damage in the course of his attempt to escape from the pursuer—and we have already assumed that that escape, and all its attendant costs, is the responsibility of the one who lends assistance to underwrite. It is obvious then, according to Rosh, that, where the victim has the resources, it is his own responsibility to provide for his protection and to reimburse others for their expenses. This decision was codified by his son Jacob in the *Tur*.⁶

It is clear, therefore, that it is unreasonable for members of our community to expect protection as a right. Our centralized or local security authorities, knowing as they do that the provision of security is a complex matter calling for strict professionalism, are entitled to assess the current critical situation as one wherein the pursued cannot defend themselves. The security unit fulfills the vital role, therefore, of those "hired to save" (Maimonides) which, as Rosh and *Tur* have proved, have to be reimbursed by all who enjoy their protection. Any

communal levy for such a purpose is clearly justified, and payment of it patently obligatory.

An objection may be raised to our line of argument, on the basis that although our current situation may justifiably be described as one of crisis, akin to the classical case of *redifah*, the two scenarios are, in fact, not quite analogous, since the classical *nirdaf* is actually being pursued; he is not merely perceived to be in danger. In our situation, however, the danger is not quite as imminent. Hopefully, there is no would-be *rodef*. Can we, in such a situation, still define our security as a *mitsvah* for which an imposed levy is halakhically authorized?

Once an ever-present threat to Jewish life and limb is accepted, there are several biblical sources for imposing upon Jewry the responsibility of mutual protection.

The primary source is the fundamental principle of *ve-ahavta le-re'akha kamokha*, "loving one's neighbor as oneself" (Leviticus 19:18),⁷ subsumed under which is the duty of affording one's neighbor all the protection that one desires and expects for oneself. *Sefer ha-Hinnukh* expresses it thus:

The basis of this law is obvious. For, in the way one acts towards another so will the latter react, and this will promote harmony among people. . . . The overall objective is that a person should adopt the same concern for others as he does for himself, protecting their financial interests and keeping them far from any harm. . . .

This command applies in every place and at all periods, and whoever does not take care to protect his neighbor's property violates this precept. How much more so, if he inflicts financial damage on another or consciously causes him any distress, does he disregard a positive biblical command.⁸

This biblical principle emphasizes the importance of adopting an ongoing ethic of mutual concern, not a mere response to a sudden, real threat. Other biblical laws exemplify the means to be employed in order to keep others—especially the vulnerable—"far from any harm."

Two such examples are the law of providing food, escort and protection for wayfarers passing through one's community,⁹ and the obligation to provide a parapet wall (*ma'akeh*) around the flat roof of one's home.¹⁰

The first example is inferred by the Rabbis from the ritual of *eglah arufah*, breaking of the heifer's neck. Where the body of a murdered man is found in the countryside, the religious leaders of the nearest town have to break the heifer's neck and make the solemn declaration, "Our hands have not shed this blood; neither have our eyes witnessed [the crime]." The Talmud appositely asks, "Do we, for one moment, suspect the religious leaders of murder? So why the

necessity for such a declaration? Its meaning is that he did not come under our jurisdiction and leave without our providing him with food for the journey; neither did we let him go [into dangerous countryside] without an escort.”¹¹

It is clear from this source that one may not knowingly allow a fellow Jew to put himself into a position of vulnerability to possible attack. The prominence of the leaders of the community in the ritual, and their imposed declaration with its implication that the responsibility is theirs for what occurred, suggests that the protection of Jews is a communal responsibility, in which not just the co-operation but the direct involvement of the religious authorities at the highest organizational level may be expected.

From the biblical requirement of providing a *ma’akeh* around one’s flat roof, Maimonides infers the wider obligation of property owners or occupiers¹² “to remove obstacles and sources of danger from all our habitations.” Maimonides also extends the scope of the *mitsvah* to include not merely removing the danger of someone falling off the side of the flat roof, but “similarly all dangerous or shaky parts of the building must be made sound, to remove the particular hazard.”¹³

Accordingly, the parapet-wall is merely an exemplification of but one potential danger to the unsuspecting that it is incumbent upon the homeowner to remove. Where the whole building is unsafe, by reason of its vulnerability to attack (being a Jewish communal building), the same principle of ensuring the safety of all who use it, by the provision of adequate security, would certainly apply.

An objection might be raised, however, to employing the law of *ma’akeh* as a source for the necessity of providing security for synagogue buildings on the grounds that rabbinic law actually excludes synagogues and school-houses (along with gate-houses, *exedras*¹⁴ and galleries¹⁵) from the requirement of having a *ma’akeh* installed!¹⁶ This is because the Torah employs the term *bayit* (“when you build a new home”) with its special connotation of a domestic dwelling (*beit dirah*). A synagogue is also excluded because of the use of the term *le-gaggekha* (“for your roof”),¹⁷ whereas a synagogue is not “owned” to the extent that it may be designated “your roof.”

This exclusion of a synagogue is clearly based only on an exegetical technicality which removes it merely from the orbit of a biblical obligation. Once the principle of preventing injury within buildings was established, however, it would be most unlikely that flat-roofed community buildings would not have been provided with parapet-walls. Indeed, R. Barukh Halevi Epstein provides a significant rationale for the exclusion of synagogues from the biblical law:

The main obligation to provide a *ma'akeh* relates only to roofs which are used regularly for eating, sleeping, and as work areas. Therefore, synagogues and school-houses which belong to the community are absolved from having to be provided with a *ma'akeh* since, unlike private residences, it is not customary to use their roofs.¹⁸

It is clear, therefore, that there is no question of a synagogue—and its congregants—not requiring protection, but simply that where there is no danger, because the public are either excluded or do not use a particular area, then extra precautions are superfluous. Other areas of the building which do expose the people inside to dangers must obviously be made safe and secure and, where necessary, be kept under surveillance.

Epstein also accounts for the fact that the law of *ma'akeh* is technically applicable only to the land of Israel. Again, this does not mean that Jewish lives in the diaspora do not require equal protection, but simply that the roofs in Israel were traditionally flat at a time when elsewhere the custom was to build sloping roofs. Only in Israel could the flat roof be put to regular daily use for many different purposes, requiring therefore, a *ma'akeh*, whereas elsewhere one only rarely climbed onto the roof, and at such a time one employed great natural caution to avoid falling.

It is in the spirit of this law of *ma'akeh*, and the law to provide adequate protection for those who temporarily come into a city or into the communal organizational orbit, and look to their co-religionists to ensure their safety from any potentially hostile element, that we derive our obligation to participate personally and financially in the *mitsvah* of security.

4

While the protection of Jewish life and limb is clearly a religious obligation, the question may yet arise as to whether or not one may opt out of security duty if one feels unequal to the task, through fear of the dangers involved and apprehension for one's own safety.¹⁹

This consideration, according to *Bah*, was in the mind of the *Tur*²⁰ when he came to formulate the law which imposes the duty of saving another in distress:

Whoever sees another drowning in a river or being attacked by robbers is obliged to come to his aid either personally or by supplying funds (to secure his deliverance). . . . And Maimonides writes: whoever sees another drowning in a river or being attacked by robbers and is in a position to save him or to hire others . . . but does not do so, such a person transgresses the command, "Do not stand idly by the blood of your neighbor."

*Bah*²¹ believes that the *Tur* quotes Maimonides here because he wishes to draw attention to a significant difference of opinion between them. *Tur* avers that the Talmud²² imposes the duty of going to another's aid under all circumstances, even if one is doubtful whether or not he can deliver his fellow from the assailant or from the river. A person is still obliged to place himself in a position of possible personal danger in order to save someone in certain danger.²³ And this decision, according to *Hagahot Maimuniyyot*, is rooted in a clear statement in the Palestinian Talmud.

Tur then proceeds to quote Maimonides,²⁴ since the latter stresses that the talmudic obligation is operative only if one is sure that he can certainly undertake the task of delivering his fellow without endangering his own life. Where one entertains doubts about his abilities, Maimonides would relieve him of his obligation to "have a go."

It would seem then that the *Tur*, with the apparent approbation of R. Joseph Karo (*Beit Yosef*), *Hagahot Maimuniyyot* and *Bah*, would not countenance fear or misgivings as to one's ability as an excuse for not shouldering a security responsibility. However, in an extreme case of emotional distress and mental terror in the face of what such a person perceives as a real danger (even if, in reality, the situation is not quite as grave), it would seem that Maimonides would allow him to opt out of his obligation.

5

While we have hitherto adduced some traditional sources pertaining to concern for the protection of fellow Jews, and applied them to our theme of security, Moses Nahmanides detects a hitherto unnoticed biblical source for this *mitsvah*.

Deuteronomy 11:1 states, "And you shall love the Lord your God *and keep His charge*." This is how most translators render the Hebrew, *ve-shamarta mishmarto*. This is, however, a fairly vague formulation, and begs the question why it was preferred to the more straightforward expression *ve-shamarta mitsvotav* (or *hukkotav*), "And you shall observe his commands."

Nahmanides²⁵ decides, therefore, that the formulation comes to convey a particular instruction, and is to be rendered literally, "You shall protect (*ve-shamarta*) those whom He protects (*mishmarto*)," in an objective-genitive construction. He elaborates, suggesting that this is a biblical command to protect those who are particularly vulnerable:

He protects the strangers; He shows special concern for the poor and the needy. He demands justice for the orphan and the widow [so, in a similar manner, "You shall protect those whom He protects"].

The force of this command, that Israel should pursue God's activity (protecting those whom He protects), is rooted in the principle of *imitatio dei*. This is given its clearest expression in Leviticus 19:2, "Be holy for I the Lord your God am holy." The talmudic sage Abba Shaul viewed this principle as underlying the verse "This is my God *ve-anvehu*" (Ex. 15:2). He renders the latter Hebrew word, "and I must make myself like him," interpreting it as a composite of the two words *ani* ("I") and *vehu* ("and He").

So it is incumbent upon Israel to be "protectors," in the same way as God is *the* protector. Indeed, in numerous biblical passages, particularly in the Psalms, and in our liturgy, God is specifically hailed as *shomer Yisrael*, "the One who protects Israel," and *imitatio dei* requires that we perform that same role.

The nature of God's protection is spelled out in Psalm 121, "Behold the guardian of Israel neither slumbers nor sleeps," and if, following Nahmanides, the same responsibility rests on us, then security must always be prioritized at an optimal level.

The daily *Tahanun* petition stresses God's role as *shomer Yisrael*,²⁶ and indicates a special time and place wherein God exercises particular vigilance in this area:

Guardian of Israel, guard the remnant of Israel
And do not allow Israel to perish,
Those who say, Hear O Israel.

The second stanza reiterates the same sentiments, concluding with the lines, "And do not suffer to perish those who declare the unity of Your name [saying], the Lord our God, the Lord is One."

So the first two stanzas entreat God to protect the individual Jew at prayer. The third stanza calls upon Him to protect not only the individual but also those who assemble for prayer at synagogue, reciting the *Kedushah*-Sanctification which is exclusive to public worship.

NOTES

1. *Sanhedrin* 8:7.
2. *Sanhedrin* 73a.
3. Maimonides, *Yad, Hilkhos Rotse'ah* 1:14. In 1:15, Maimonides actually establishes that one who stands aloof from protecting the victim of violent attack is guilty of disregarding one positive biblical law ("Thou shalt cut off her hand," Deuteronomy 25:12) and two negative laws ("Thine eye shall have no pity," *ibid.*, and "Do not stand idly by the blood of thy neighbor," Leviticus 19:16).
4. Rabbenu Asher, commentary on *Sanhedrin* 73a.
5. *Sanhedrin* 74a.
6. *Tur Hoshen Mishpat* 426.
7. See *Darkhei Moshe* on *Tur Hoshen Mishpat* 426.

8. *Sefer ha-Hinnukh, mitsvah* 219. See also Maimonides, *Sefer ha-Mitsvot*, positive command 206.
9. Deuteronomy 21:1–9.
10. Deuteronomy 22:8–9.
11. *Sotah* 48b.
12. Although the biblical verse makes specific reference to “your roof,” which suggests that the duty of providing the parapet-wall devolves exclusively on the owner of the property, rabbinic law extends the responsibility to provide it to one who merely rents the property. See *Bava Metsia* 101b and *Hagahot Maimuniyyot* to Maimonides, *Hilkhot Rotse’ah u-Shemirat Nefesh* 11:1.
13. Maimonides, *Sefer ha-Mitsvot*, positive command 184.
14. “Covered place in front of a house” (Jastrow).
15. *Mirpeset*. In talmudic times this referred to “a gallery or balcony to which doors of the upper compartments open, and from which steps lead down to the court” (Jastrow).
16. See *Sifre ad loc.*
17. See Maimonides, *Hilkhot Rotse’ah u-Shemirat Nefesh* 11:2, and *Kesef Mishneh ad loc.*
18. Barukh Halevi Epstein, *Torah Temimah* on Deuteronomy 22:8, sec. 77.
19. A precedent for “opting out” of a biblical law may be found in the case of the instruction to reprove a fellow Jew who is pursuing a sinful life (Leviticus 19:17). Where one feels sure that the sinner will not only take no notice, but will react with violence at such criticism, and one is consequently afraid of antagonizing him, the biblical command to reprove is suspended. (See *Yevamot* 65b and *Sefer ha-Hinnukh, mitsvah* 218.)
20. *Tur Hoshen Mishpat* 426.
21. *Bah ad loc.*
22. *Sanhedrin* 73a (*baraita*).
23. See *Beit Yosef, ad loc.*
24. The Maimonidean source is *Hilkhot Rotse’ah u-Shemirat Nefesh* 1:14. Rambam’s phrase, *ve-yakhol le-hatsilo* (“and he is in a position to save him”) is not, in fact, found in the *baraita* (*Sanhedrin* 73a). It occurs only later in the context of the prohibition of inflicting a potentially mortal blow on the assailant if there is a possibility of saving the victim by inflicting merely a localized blow (*yakhol le-hatsilo be-ahad me-evarav, Sanhedrin* 74a). Was Rambam influenced by the later formulation?
25. See *Peirush ha-Ramban* to Deuteronomy 11:1 (second interpretation).
26. See Authorized Daily Prayer Book (Singer ed.) p. 67.