

Explanatory Notes:

Lo Ta'amod 'al Dam Re'ekha

Bill, 5753-1992

Hanan Porat, Knesset Member

Translated by David Schonberg, Advocate

From the draft bill of former Knesset member Hanan Porat, submitted to the Knesset Speaker and Deputies and set before the Knesset on 19 Kislev 5753 (December 14, 1992).

This bill is founded upon the command of the Torah, which stipulates the great moral rule, “You shall not stand idly by when your fellow man is in danger of harm; I am the Lord.”¹

The Gemara explains this rule in graphic terms:

From where arises the obligation for one who sees his fellow man drowning in a stream or a wild animal mauling him or robbers attacking him, that he is obligated to save him? From the verse: “You shall not stand idly by when your fellow man is in danger of harm.”²

Furthermore, the Talmud learns from this verse that the duty of rescuing one's fellow man also applies when this involves great efforts and financial expense on his part, and such is the halacha according to Rambam.³ *Tur, Hoshen Mishpat* adds that if the rescued person has the means, he is obligated to pay his rescuer.⁴

The bill, thus, is intended to anchor this principle of Jewish law in the laws of the State and to involve the State with responsibility for and the application of these moral principles, both in the monetary field – by stipulating that if the rescued person lacks the means to pay the rescuer, then the State shall bear the costs – and

1. Leviticus 19:16.

2. *Sanhedrin* 73a.

3. *Hilchot Rotseah u-Shemirat ha-Nefesh* 1:14.

4. *Tur, Hoshen Mishpat* 436:1. These laws are systematically delineated in the work of the Deputy Attorney General, Professor Nahum Rakover, *Osher ve-lo be-Mishpat* (Jerusalem: The Library of Jewish Law, 1987), pp. 175-94.

in the area of punitive measures – by providing that if rescue is knowingly withheld from one’s fellow man who is in close proximity, then that person shall be subject to a penalty of up to one year’s imprisonment.

Indeed, it is not usually the case that provision is made for punishment for an offense that is committed by omission – by “inaction.” However, “standing idly by” is not merely standing passively by; rather, it is a blunt and serious expression of estrangement from and disregard for human life, and it therefore deserves a suitable punishment, where necessary.

*Source: ASSIA – Jewish Medical Ethics,
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