

As this is evident in **פרק בן סורר** where the גמרא establishes this following **ברייטא** -
דתניא אם זרחה עליו השמש וכי עליו בלבד זרחה –

Which we learnt; it says in the תורה, ‘if the sun shone upon him’⁶ (upon the intruder); the ברייתא asks, **did the sun shine only on him?! The ברייתא responds:**

אלא אם ברור לך כשמש שאין לו שלום עמך הרגהו ואם לאו אל תהרגהו –

But rather the meaning of the פסוק is as follows, **if it is clear to you like the sun that the intruder is not at peace with you, then you may kill him, however if it is not clear to you (you are in doubt), then you may not kill him.** This concludes the ברייתא. The גמרא there establishes this ברייתא is discussing a case -

באב על הבן –

where a father is intruding into the house of his **son**. Therefore the son may kill the father only if he is certain that his father will kill him if he resists. Otherwise even if he is not sure whether or not his father will kill him, he may not kill his father since the assumption is that generally a father will not kill his son.

והיה דתניא אם ברור לך שיש לו שלום עמך אל תהרגהו מוקי בן על האב:

And the גמרא establishes the other ברייתא which states ‘**if you are certain that the intruder is at peace with you do not kill him**’, this ברייתא is discussing the case **where the son** is intruding **against the father**. In this situation the father may kill the son (and certainly strangers); unless he is certain that his son (or the stranger) will not kill him.

SUMMARY

If there is doubt whether the intruder will kill, then באב על הבן, he may not be killed; however by בן על האב (and anyone else) the intruder may be killed.

THINKING IT OVER

רש"י is interpreted by many to mean that אי פשיטא לך is a general assumption (not a particular or individual knowledge)⁷ that an intruder kills (except by אב על הבן), and אי מספקא לך is the general assumption by אב על הבן (which is [seemingly] similar to ruling)⁸. Why does תוספות not accept רש"י's interpretation?⁹

וכי השמש עליו בלבד זרחה אלא אם ברור לך כשמש שיש לו שלום עמך אל תהרגהו ואם לאו הרגהו.

⁶ שמות כב,ב.

⁷ Our ברייתא (as opposed to the ברייתות in סנהדרין) seems to be addressing a third party (not the רודף or the נרדף) observing the incident (who may not have particular knowledge concerning the intimate relationship between the robber and the homeowner). Therefore we follow the general assumption.

⁸ There is seemingly an advantage in פירש"י over תוספות. According to our ברייתא here is (merely) a repetition of the (first) ברייתא in סנהדרין (discussing only אב על הבן). However, according to רש"י our ברייתא is a more general ברייתא, which covers all cases. See (also) previous footnote # 7.

⁹ See תוספות הרא"ש (מכון אופק) הערה 57 ועוד.