

## DARCHAI NOAM

### Its ways are ways of pleasantness - דרכיה דרכי נעם

(Mishlei 3:17)

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How can the Parsha help us grow this week?

### Mishpatim – the indirect message<sup>1</sup>

In this week's Parsha of Mishpatim we read about the Arei Miklat, the cities of refuge (Sh'mot 21:13). If someone accidentally kills another person (ie manslaughter) they would quickly flee to a city of refuge. As long as they are in such a city, they are safe from the Goel HaDam (the relatives of the deceased, known as the 'blood avengers'). Accidental killers are required to stay in the city of refuge until the Kohen Gadol of that time dies. If they leave the city of refuge before the Kohen Gadol dies, they are no longer protected from retribution by the Goel HaDam<sup>2</sup>.

Such a description evokes images of the Wild West. The relatives of the victim take the law into their own hands! There is a desperate race to the city of refuge where the cost of losing the race is death!

However, the reality is actually far more civilised. When we learn this portion of the Torah in light of the oral law, we realise that there are actually 3 categories of 'accidental killing':

- Karov l'ones – these are cases of accident where there is almost no negligence whatsoever. In such cases the perpetrator cannot be held to blame. For instance, a person drives carefully down a street and a young child unexpectedly runs in front of the car. The driver slams on his brakes as quickly as possible but unfortunately the car does not stop in time.
- Karov l'maizid – these are cases where the perpetrator is recklessly indifferent and does not care about the consequences of their actions. For instance, a person who practices target shooting in a public park without considering the safety of the public and without checking that there are no people nearby. Such cases are close to murder.
- Shogeg – these are cases where someone is genuinely negligent and that negligence leads to someone's death. An example may be someone breaking the speed limit or running a red light and causing a fatal accident.

The Torah only permits the blood avenger to kill a perpetrator who falls into the third category. If the blood avenger takes revenge in the first two cases, the blood avenger himself would be guilty of murder. Therefore, the blood avenger is required to wait until the Beit Din judges the case before knowing what action he can take. Those perpetrators that are found to fit in the third category are provided with an escort by the Bet Din to ensure that they make it safely to the city of refuge.

So in reality, it would have been quite unusual for any 'cowboy' type chase to have taken place. Why then does the Torah describe the scenario in this dramatic way if the reality is very different?

There are other cases in this week's Parsha where the Torah seems to convey a particularly harsh punishment for a crime, whereas in reality the punishment is much less harsh.

**An eye for an eye:** The famous passuk (Sh'mot 21:24) states "an eye for an eye, a tooth for a tooth". This seems to imply that if someone injures someone else, their punishment consists of the exact same injury. If I poke you in the eye then you get to poke me in the eye! However, according to the actual halacha, the punishment is actually the monetary value of the injury rather than the physical injury.

<sup>1</sup> This week's Darchai Noam is inspired by a shiur that I heard from Rabbi Buchwald.

<sup>2</sup> See also the description of the cities of refuge in Bamidbar Chapter 35, in particular pasukim 25-28.

**A goring ox:** A person that owns an animal that is known to be dangerous must take appropriate precautions to prevent the animal from causing damage. If they fail to take the necessary precautions and the animal kills someone, the pasuk (Sh'mot 21:29) states that the owner of the animal shall be put to death. Yet, the very next pasuk explains that the owner of the animal may pay a ransom (ie a fine) and he is then free from any further punishment.

In each of these cases, in reality the actual punishment is much less harsh than the way it appears in the Torah. Rabbi Buchwald suggests the following reason. The person who is guilty of negligence resulting in death really deserves to run for his life to a city of refuge and to be killed by a relative of the deceased. Those who deliberately cause a physical injury to their fellow really do deserve to receive the same injury. The owner of a dangerous animal, who does not take appropriate precautions, which leads to someone's death, really does deserve the death penalty. However, Hashem in his mercy reduces the actual punishment, perhaps in recognition of the fact that we are only human and human beings make mistakes. In this way we are being taught about Hashem's attribute of mercy so that we can (hopefully) emulate it ourselves. However the lighter punishment means that there is a risk that the perpetrators of these behaviours might not appreciate the true extent and effect of their actions. Perhaps that is why the Torah elucidates and sets out in full detail what they truly deserve.

When listening to the Torah reading describing the seriousness of their actions and the punishment that they deserve, the perpetrators would be reminded of their crime and hopefully they will be incited to feel remorse. It is a more gentle and indirect method of reminding them of the seriousness of their actions. In addition, the Torah portion describing these punishments can serve as a deterrent to all of us as well as a reminder of Hashem's mercy.

Similarly, we can also use an indirect approach in an effort to change or improve someone's behaviour. For example:

- Instead of directly telling a work colleague that they are not pulling their weight, we could suggest that the team introduce an objective method of calculating everyone's contribution to ensure that everyone does their fair share.
- Instead of directly telling a child that they are not treating adults with respect we can read bedtime stories that explain the importance of such behaviour and the consequences of disrespect.
- Instead of directly telling our friend that he or she was wrong for not giving us more notice when plans had changed, we can discuss with them how some people are less spontaneous than others and prefer more notice.

This indirect method requires patience. It may not work in all cases. However it is worth a try. The advantage is that we are less likely to offend or antagonise others and thus more likely to gain cooperation and maintain a good relationship. Ultimately, it is emulating Hashem in His mercy and having compassion on others. Hopefully, middah k'neged middah, Hashem will treat us in the same way.

Let's try something this week:

1. Before you criticise someone, try to think of a more indirect and less confronting way to convey the message.
2. In situations when we feel we are in the right, perhaps we can stop and be merciful on the perpetrator and feel good about exercising Divine-like compassion.

Shabbat shalom, Rabbi Ledder

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## **About Darchai Noam**

The passuk in Mishlei (3:17) describes the Torah as follows: "Its ways are ways of pleasantness (Darchai Noam) and all its paths are peace". The Torah is our guidebook for life. It is packed full of good advice as to how we should live our lives.

The aim of the Darchai Noam weekly email is to examine an idea from the weekly parashah relating to good middot (character traits). It will focus particularly on treating each other with respect and how to interact with each other in a more peaceful and pleasant manner. It will also suggest some practical tips for implementing these ideas in our daily lives.

By learning together each week, and making an effort to regularly put the ideas into practice, with Hashem's help we can all gradually improve our character traits and our observance of 'v'ahavta l're'echa kamocho' – loving one's fellow as oneself.

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