

DARCHAI NOAM - דרכי נועם

“Its ways are ways of pleasantness”

(Mishlei 3:17)

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How can the Parsha help us grow this week?

Ki Tetze – lessons from the 40 lashes

In this week's Parsha of Ki Tetze Moshe discusses the details of many different mitzvot. One of these mitzvot is the obligation to give lashes as a punishment to one who is found guilty of certain crimes.

*“And it shall be, if the **wicked one** has incurred the penalty of lashes, that the judge shall cast him down and flog him in front of him, according to his wickedness, **by a count**. He shall **flog him with forty**, he shall not add, lest he strike him an additional blow beyond these, and your **brother** will be degraded in your eyes. (Devarim 25:2-3)*

There are a number of lessons that we can extract from the form of this punishment.

Kindness, even to the wicked

The Gemara¹ teaches that the court would check the sinner's strength and physical condition and carefully set the number of lashings at an appropriate level for that individual. In addition, the person chosen to inflict the lashes would be someone wise but not overly strong. Furthermore, the Torah warns the court to make sure that the sinner is not struck even one time more than appropriate. As soon as the requisite number of lashes has been inflicted, the punishment is over. An additional lashing at this point would itself be a sin.

This teaches us that the purpose of the lashes was to help the person to do teshuva, not to inflict physical pain. Despite the sinner's evil ways, the court was demonstrating kindness and mercy. So too, we should try to err on the side of showing mercy and kindness, even to those whom we don't think deserve it.

Being quick to forgive

In his commentary, Rashi notes that the sinner is referred to as 'wicked' during the description of the punishment process (see the first pasuk quoted above). However, as soon as the lashing is over, the Torah refers to him as 'your brother' (see the second pasuk quoted above). This suggests that once the sinner has received his punishment, the slate is wiped clean and the man returns to his previous status of 'our brother'.

If someone has done something wrong they may need to pay for the consequences. If someone has upset us, we should speak to them about it and rebuke them if appropriate. However, once they have genuinely apologised and made good any damage that they caused, the best course of action is to forget about the incident and wipe the slate clean.

The mystical nature of the number 40

As noted above, the court sets the number of lashes based on the physical condition of the sinner. However, from the pasuk quoted above, it seems that the maximum allowable number of lashes is 40. The Sages derive that the maximum number is actually 39. They understand the pasuk as stating 'by a count that brings to 40'. In other words, the actual number of lashes is one less than 40.

This raises two questions. Question1: What is significant about the number 40?

Question 2: If the actual number of lashes is 39, why does the Torah state this in an indirect way?

The number 40 appears a number of times in the Torah, the Gemara and elsewhere in Jewish literature. Here are some examples:

- A mikva needs to contain 40 seah² of water in order to be valid.
- When Noah was in the ark during the flood – the rain lasted for 40 days and 40 nights.

¹ Makkot 22a-b.

² One seah is approximately 14.4 litres or 3.8 US gallons.

- Moshe was on Har Sinai for 40 days to receive the Torah.
- Pregnancy lasts for approximately 40 weeks.
- The Gemara states that one does not truly understand their teachers' lessons until after 40 years.³
- Bnei Yisrael wandered in the desert for 40 years before they were permitted to enter Eretz Canaan.
- There is a commonly held belief that one should not begin learning Kabbalah and the mystical secrets of Judaism until one reaches the age of 40.⁴
- There are 39 forbidden melachot on Shabbat. However, the Mishnah refers to the number of melachot as '40 minus 1' (Mishnah Shabbat 7:2).

Based on the writings of the Arizal, Rabbi Yaakov Zalman Labinsky⁵ explains that the number 40 represents a spiritual transition. It is a qualitative change, the reaching of a new spiritual state. In this light we can explain each of the examples of the number 40 listed above:

- A mikva causes a spiritual transformation, changing a person from being ritually impure to pure.
- The flood in the time of Noah was a new beginning for the world, washing away the stains of the sinful behaviour and giving mankind the chance for a new beginning.
- After 40 days on Har Sinai, Moshe brought down the luchot for Bnei Yisrael. Bnei Yisrael with the Torah is on a different spiritual level than Bnei Yisrael without the Torah.
- The 40 weeks of pregnancy transforms an embryo into a living human being.
- After 40 years one has sufficient maturity and experience to fully understand what they learn from their teachers.
- It took 40 years of Bnei Yisrael wandering in the desert to reach the spiritual level where they could enter the Land.
- One needs to be on a higher spiritual level to merit learning kabbalah.

However, the number of melachot on Shabbat and the number of lashes inflicted on the sinner only total 39 and not 40. How can we understand this?

Rabbi Labinsky explains that Shabbat is a transformative experience. Every week we have a taste of the World to Come to remind us of our purpose in the world and to keep us on track. However it is only a taste. We are still in Olam Hazeh. Therefore the number of melachot is '40 minus one'. It is very close, but not a complete spiritual transformation. It is up to us to take the elevation of Shabbat into the week and transform ourselves.

Similarly, the sinner receives '40 minus one' lashes. The purpose of the lashes is to give the sinner a push in the right direction and inspire him to repent and transform himself. We specifically don't give the sinner the full 40 lashes because the lashes cannot do all of the work to transform the sinner into a new person. The sinner also has to put in the hard work to do teshuva internally and achieve the transformation.

The time period between Rosh Chodesh Elul and Yom Kippur is 40 days. May these 40 days provide us with a spiritual transformation leading up to the Days of Awe. And more particularly, may our experience during the first 39 days give us the impetus to do complete teshuva, to put in the hard work and to elevate ourselves to our full potential on the 40th day, the day of Yom Kippur.

Let's try something this week:

1. Remember the lessons of the lashes – to have mercy on others, even if they don't technically deserve it, and to be quick to forgive.
2. Remember that Yom Kippur is now less than 40 days away. Seize this time period to plan and prepare ourselves for the upcoming auspicious days.

Shabbat Shalom, Rabbi Ledder.

³ Gemara Avodah Zarah 5b, in the name of Rabbah.

⁴ This is not strictly true. Some of the greatest kabbalists of all time died before reaching the age of 40 (e.g. the Arizal and the Ramchal). The Mishnah (Pirkei Avot 5:25) states that the age of 40 is the age of binah (understanding). It seems that one should not start learning kabbalah until they have reached a sufficient level of understanding, which is commonly associated with the age of 40.

⁵ In his 'Growing through Shabbos' series of lectures at <http://becomingdivine.com/shabbos/>

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About Darchai Noam

The pasuk 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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