

DARCHAI NOAM - דרכי נועם

“Its ways are ways of pleasantness”

(Mishlei 3:17)

Parashat Vayera
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How can the Parasha help us grow this week?

Vayera – Being merciful to the wicked¹

In this week's Parasha of Vayera, we read the story of Avraham's three angelic visitors. Rashi² informs us that each of the angels had a mission – one angel brought the good tidings of Yitzchak's upcoming birth; one angel came to heal Avraham and to save Lot; and one angel came to overturn Sodom and Gomorrah and the surrounding villages, which were to be destroyed for their intolerable evil.

After the angels left, Hashem informed Avraham of His plans for Sodom and Gomorrah. Avraham then famously pleaded in their defence, desperately trying to find a reason to justify sparing them.

“And Avraham approached [Hashem] and said, “Will You even destroy the righteous with the wicked?”
(Breishit 18:23)

While Avraham was davening for Sodom and Gomorrah, the angels continued in their mission to carry out Hashem's decree.

“And the two angels³ came to Sodom in the evening, and Lot was sitting in the gate of Sodom, and Lot saw and arose toward them, and he bowed his face to the ground” (Breishit 19:1)

The pasuk tells us that the angels only arrived in Sodom in the evening. The angels had come to Avraham earlier “when the day was hot”⁴ which is the middle of the day. Even allowing time for the angels to enjoy Avraham's hospitality and eat their meal, they should have been able to cover the short distance to Sodom well before evening.⁵ Alternatively, the angels did not have to travel like normal people, and they could have arrived at Sodom instantly.⁶ Rashi explains that they were angels of mercy and therefore they deliberately delayed their trip in order to give Avraham sufficient time to mount a defence for the cities. They were hoping that during this extra time, Avraham would be able to convince Hashem to avert the decree. However, despite Avraham's valiant efforts, he was not able to identify merits that would justify overturning the decree.

In his work, the Tomer Devorah, Rav Moshe Cordovero (the Ramak) exhorts us to imitate Hashem by striving to acquire His Divine traits. Rav Cordovero analyses the thirteen attributes that were revealed by the prophet Micha,⁷ which parallel the divine attributes revealed to Moshe after the sin of the Golden Calf⁸. The kabbalists explain that the attributes revealed to Micha are on a higher level than the ones given to Moshe because they lack entirely any aspect of judgement or severity. After explaining each of the middot, Rav Cordovero explains how we can and should incorporate each trait into our own behaviour. The ninth trait refers to Hashem casting our sins into the depths of the sea.⁹ This teaches us how to behave with an evildoer in a manner that emulates Hashem. Rav Cordovero writes that we should not hate an evildoer. Rather we should bring close the downtrodden and those who are punished and have mercy upon them.

Indeed, there are a number of halachot that demonstrate the Torah's way of leaning towards mercy even when judging people who are accused (or even found guilty) of serious crimes. For example:

¹ **Important note:** in this article we are only dealing with ordinary people who behave poorly. It goes without saying that some people are so wicked, and behave so despicably, that they have forfeited their right to be treated as human beings. We don't have to look far for examples.

² In his commentary to Breishit 18:2.

³ At this point there were only two angels. The third angel had come to announce the birth of Yitzchak. He had carried out his mission and thus he departed (Rashi based on Midrash Tanchuma Vayera 8).

⁴ Breishit 18:1.

⁵ The Maharal of Prague notes this in his commentary on Rashi (Gur Aryeh).

⁶ Midrash, Breishit Rabbah 50:1.

⁷ Micha 7:18-20. These attributes are the basis of the Tashlich prayer that we recite on Rosh Hashana.

⁸ Parashat Ki Tisa, Shmot 34:6-7.

⁹ This is the trait from which the name of the Tashlich prayer is derived.

- One can only be appointed as a judge if he has children of his own, because he would thus be more merciful towards other men's children.¹⁰
- If someone is sentenced to death, the location of the execution must be outside the city boundaries, very far from the courthouse. This allows for time to explore all possible arguments of defence. If any of the judges can think of an argument in defence of the accused, a messenger races on a horse to stop the execution and to bring the convicted back to the Bet Din for a retrial, even though the final verdict has already been issued. Having the execution take place outside the city far from the Bet Din creates more time for this possibility.¹¹ (This is comparable to the extra time that the angels took to travel to Sodom in our Parasha.)
- Even if it is the condemned man himself who claims that he has argument that would acquit himself, he is returned to the Bet Din, even multiple times, as long as there is some substance to his words.¹²
- Before being executed, the convicted person would receive drugs to calm his mind in order to minimise his suffering from the fear of his impending death.¹³

The Sanhedrin would subject the witnesses to very intense scrutiny, in order to determine the veracity of their testimony. In addition, there was other strict criteria that had to be met before the Sanhedrin would actually impose a punishment. Thus, it was very rare for a defendant to be executed. The Mishnah¹⁴ teaches us that a Sanhedrin that executes a transgressor once in seven years is characterized as a destructive Sanhedrin. Rabbi Elazar ben Azarya said that even a Sanhedrin that executes a transgressor once in seventy years is called destructive. However, Rabbi Tarfon and Rabbi Akiva said that if they were members of the Sanhedrin¹⁵, they would have conducted trials in a manner that ensured that no person would ever have been executed. Rabban Shimon ben Gamliel said that if they would have adopted such an approach, this would have led to an increase in the number of murderers among the Jewish people. The death penalty would lose its deterrent value, as all potential murderers would know that no one is ever actually executed.

Thus, we see that there is a built in tendency towards being merciful, even to people who are deserving of the death penalty. Yet, based on Rabban Shimon ben Gamliel's caution, there must be some measure of balance. We can't take mercy too far to the extreme such that there is no longer any real deterrence against committing serious crimes.

Though most of us do not judge capital cases, we do judge people that we interact with on a daily basis. And some of those people are not so righteous. In fact, in some cases, they might even be deserving of serious punishment for their behaviour.¹⁶ This gives us plenty of opportunities to strive to behave with mercy, like the angels that visited Avraham, and like we are exhorted to do by the Ramak.

Before passing judgement on those that we interact with:

- We can try our best to be merciful.
- We can take our time to deliberate slowly and carefully before passing judgement.
- We can give the 'condemned' person every opportunity to acquit himself.
- And even if we have no choice but to pass judgement, we can still do our best to be as merciful as possible with the 'sentencing'.

Let's try something this week:

1. Remember the lesson of the angels of mercy who deliberately delayed their mission to punish Sodom and Gomorrah. Remember too, the instructions of the Ramak in Tomer Devorah and our obligation to emulate Hashem and strive to be merciful, even to those who are wicked.
2. Remember that we judge people every day. Try to apply these lessons before we judge our fellow human beings.

Shabbat Shalom, Rabbi Ledder

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¹⁰ Rambam, Hilchot Sanhedrin 2:3.

¹¹ Gemara, Sanhedrin 43a.

¹² Ibid, 42b.

¹³ Ibid, 43a.

¹⁴ Makkot, Chapter 1, Mishnah 10.

¹⁵ By the time of Rabbi Tarfon and Rabbi Akiva there was no longer a Sanhedrin (court) that had the authority to carry out executions.

¹⁶ If you haven't already done so, please read the important point in footnote 1.