

The Torah: Benefit, not Burden

Category: Bamidbar, Masei, Matos

Torah's bizarre legal theory and what lesson it teaches us.

How to Relax

Prime Minister Benjamin Netanyahu was once interviewed on CNN by Larry King.

It was a long interview. But at the end of the interview, King asked him: “You’re Prime Minister of Israel... You live in the center of a hostile world. Are you ever able to really relax?”

And Netanyahu answered him: “Yes, and I’ll tell you when. Every Saturday, our Sabbath, we have a day off. It’s a very good idea that this institution was brought into the world—to have a day off! Every Saturday I take an hour and a half and I read from the Bible with my younger son—he just won the National Bible Championship in Israel—and I relax then. I draw a lot of spiritual strength; you know, I used to teach him, but he’s now 15 and the last couple of years, he teaches me. So yes, I draw enormous reservoirs of strength and relaxation. I think that is needed for all leaders but especially for the leaders of Israel.”

Which brings us to this week’s Torah portion.

When Murderers Go Free

This week, we conclude the Book of Bamidbar, and in our Parshah, the Torah tells us about the “Arei Miklat,” the Cities of Refuge where a person had to flee if he killed someone accidentally. In one of these cities, he would be protected from the “Goel HaDam,” the Blood Avenger, meaning, any relative of the victim who would be angry enough to try to kill him.

Now after the Torah specifies all the laws on the matter, it finishes (Bamidbar 35:24-25): “And the congregation shall judge between the assailant and the blood avenger... and the congregation shall protect the murderer from the hand of the blood avenger...”

The Sages understood that the Torah wanted to teach us a very important principle: The mission of the judges is to make every effort to rescue the accused, meaning, to make every effort to give him the benefit of the doubt.

This idea expresses itself in a very interesting halachah.

Here in the United States, there's the concept of the jury system. In a murder trial, the jury sits in court and decides whether the accused is actually guilty of murdering someone or not. The law establishes that all 12 members of the jury must arrive at a unanimous verdict. They all must agree whether he is innocent or guilty. They sit and debate and try to convince each other until they all come to one verdict.

In Judaism, however, it's the other way around. The Rambam, Maimonides, tells us in the Laws of the Sanhedrin, Chapter 9, Law 1, that "a Sanhedrin whose members all heard a capital punishment case first, and who all ruled that the accused is guilty — is ruled innocent."

In other words, if a Jew is brought to the Sanhedrin to be judged on accusations of murder and all the judges agree that he is a murderer, then he is set free and it becomes impossible to punish him. It's a very strange thing!

In general, capital-punishment cases are judged by Sanhedrin courts of either 23 judges or the "Supreme Court" of 71 judges. And along comes the halachah and establishes that if all 23 or 71 judges conclude that this person is guilty, then he is deemed not guilty.

First of all, to use some simple reasoning, it doesn't make sense that 71 Jews would all come to the same conclusion. As the old joke goes, for every two Jews there are three opinions—so it doesn't make sense that so many people would all agree that this man is guilty.

But the real reason that the accused goes free is the rule stated in this week's Parsha, "And the congregation shall judge... and the congregation shall protect," the court is obligated to find whatever favorable argument they can find for the accused. These judges didn't see the alleged crime actually being committed—and if so, how can it be that not a single one has a doubt whether this man actually committed the crime? How can it be that not one judge thinks that he either did it accidentally or that he's insane?

If a situation should arise where not one of the judges can find a merit for the accused, it's a sign that something is corrupt in the objectivity of the court—and so he is set free.

This concept of trying to judge favorably in every situation is found throughout the Torah.

Everyone has heard of Beis Shammai and Beis Hillel, with Beis Shammai tending to be more strict and Beis Hillel being more lenient. There are more than 300 disputes in the Talmud between Beis Shammai and Beis Hillel. Still, the law is established in favor of Beis Hillel. Why? Because they are the lenient ones—and, as the Talmud (Tractate Brachos 60a) tells us, the lenient side is more important. They are the ones who strive to fulfill the commandment to protect the individual. They are the ones who try to find the good and the compassionate in the Torah. Indeed, the Torah is described as “a Torah of lovingkindness”—and additionally, the Torah is described as “good,” as in: “For I gave you good teaching; forsake not My instruction” (Proverbs 4:2).

This is why the Sages always tried to find the thread of good and lovingkindness in the Torah. This was in direct contradiction with the Tzeduki movement, which arose in the Second Temple era.

The Tzedukim (Sadducees) were confused Jews who only believed in the Written Torah—meaning, the strict literal text, not the traditional interpretation of the text as it has been transmitted orally from generation to generation all the way back to Moshe Rabbeinu (Moses) himself.

Now if you look at which things the Tzedukim and the Perushim (meaning, the mainstream Jews) argued on, you discover something interesting: the Tzedukim interpreted the Torah very strictly. The interpretation of the Oral Torah which was given to Moshe at Mt. Sinai—which the Perushim followed, is a much lighter, more bearable interpretation of the Torah.

For example, everyone has heard the famous verse, “an eye for an eye.” In their confusion and misguided minded, the Tzedukim interpreted it literally: If a man gouged out another man's eye, the court was required to physically gouge out his eye. But the Sages interpreted it differently: G-d forbid to physically gouge out a human being's eye! The Torah only meant that the guilty party must pay the monetary value of the eye to the victim who lost it. (How that value was

calculated—and how this law applies today—is another subject for another time.)

Here's another famous example: "You shall not kindle fire in any of your dwelling places on the Sabbath day" (Shemos 35:3). The Tzedukim interpreted this verse in a very strict way: It's forbidden to benefit from any fire burning on Shabbos. The Sages explain that it's forbidden to ignite a fire on Shabbos—but it's permitted to enjoy fire that has been kindled before Shabbos.

The difference is mighty. According to the interpretation of the Tzedukim, one needs to spend the entire Shabbos in darkness: No Shabbos candles, no cholent, to freeze in the winter from the cold—just imagine what Shabbos would be like today with no heat!

But according to the Sages, on the other hand, it's all permissible: You can eat cholent, sit in the light, dunk in a hot mikvah and so on. After all, the Torah's intention is that "the congregation shall protect"—meaning, the Torah is intended to be observable and enjoyable to keep, not an impossible burden.

Believe in Yourself

What, my friends, is the lesson for us here?

Lots of times, people judge themselves, saying, "That's not for me—I'm not ready for it," or, "I have no influence on people—no one listens to me." But along comes the Torah and says that if you are on trial in a beis din, a Jewish court, and the court does not find one good thing about you, it's a sign that the court is completely wrong. And on the contrary—the Torah believes that you have powers and capabilities that even you weren't aware.

The lesson is: Believe in yourself. Believe in the powers that G-d gave you—and realize them. Bring them out into the open.