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Nochum *ben* Mayer Shmuel *a”h*
a fellow Jew who passed away with no relatives to arrange Torah study on behalf of his *neshamah*

Now or Then? A Question of Judgment

PARSHAS VAYEIRA 5777

This week’s *parshah* sheds some light on the methods utilized by Hashem in exercising His attribute of Divine justice.

“In Where He Is”

The issue attracts particular focus in the episode involving Yishmael, son of Avraham, who was forced to wander the desert with his mother, Hagar. The situation became most critical when their water supply was exhausted. Fearing that her son was near death, Hagar began to cry. It was at this point that she was reassured by the angel, who told her the following: אֲלֹתֵי־רְאִי כִי־שָׁמַע אֱלֹקִים אֶל־קוֹל הַנַּעֲרָה בְּאֶשֶׁר הוּא־שָׂם – “Do not fear, for G-d has heard the voice of the lad ‘in where he is’ ” (*Bereishis 21:17*).

Obviously, it is this final phrase – “*ba’asher hu sham*” (literally: “in where he is”) that calls for explanation. Citing the teachings of Chazal, Rashi demonstrates that these words contain much depth. He reveals that, at the time, deliberations with fatal consequences were occurring in the Heavenly Court, and these words represent the conclusion of the proceedings.

Apparently, the celestial company argued against the salvation of Yishmael. Looking into the future, the Ministering Angels perceived the tremendous harm that Yishmael’s descendants would inflict on B’nei Yisrael. (Specifically, they saw an event that took place at the time when the Jewish people were led by Nevuchadnezzar into exile. At that time, Yisrael looked to Yishmael’s descendants for succor. The latter responded with an act of deception, which bore dire consequences. They appeared before the Jews and supplied them with provisions – salty fish and air-filled jugs – which caused the fatigued exiles to expire.) But Hashem insisted that Yishmael was to survive; for at the present moment – “in where he is (now)” – Yishmael was innocent of any crime. As such, he did not deserve to die on account of what would be perpetrated in the future.

Thus, we learn a most important principle with regard to Hashem’s manner of conducting judgment. As summed up by the Gemara (*Rosh Hashanah 16b*): אֵין דָּנִין אֶת הָאָדָם אֶלָּא לְפִי אֵין דָּנָהּ שְׂעָה שֶׁנֶּאֱמַר ... בְּאֶשֶׁר הוּא־שָׂם – “A person is judged only on account of his deeds of that moment, as it says: ... ‘In where he is.’”

Preventative Measures

The issue that arises is that, at first glance, this notion seems to be completely at odds with another well-known Torah passage (*Devarim 21:15-21*) – the laws governing a *Ben Sorer U’moreh* (Wayward Son). The Torah dictates that when certain conditions are fulfilled (such as the consumption of a quantity of meat and wine purchased with stolen money), the *Ben Sorer* is put to death. The Mishnah (*Sanhedrin 8:5*) states flatly that he is executed on account of the future yet to unfold:

בֶּן סוֹרֵר וּמוֹרֵה נִדוֹן עַל שֵׁם סוּפוֹ, יָמוּת זָכָאִי וְאֵל יָמוּת חֲבִיב

“A *Ben Sorer U'moreh* is judged on account of his (eventual) end – let him die while still innocent, rather than (suffused) with guilt.”

The Gemara (*Sanhedrin 71a*) elaborates on the necessity for such swift and harsh action:

“Could it be that because (this lad) ate a *tarteimar*'s worth of meat and drank a half-*log*'s worth of Italian wine – the Torah would mandate that he be taken out to *beis din* (the rabbinic court of judgment) for stoning? Rather, the Torah ascertained the trajectory of the (life-path) of the *Ben Sorer U'moreh* (who until now had been paying for his indulgences by stealing his father's money). Eventually, he will use up his father's resources; nonetheless, he will still seek to fulfill his cravings – but find himself unable to afford them. Then, he will be driven to venture out to the highways and assault and rob the wayfarers (killing them in the process). Thus, the Torah says: Let him die now while still innocent (i.e., before adopting his murderous ways) and let us not wait to execute him at a time when he will be truly guilty (of these heinous acts).”

In any event, we see clearly here that the Torah did in fact mandate his execution on account of his future deeds. We thus seem to be confronted by a classic quandary: which principle prevails? On the one hand, the tenet emerging from the episode with Yishmael states: אֵין דָּיֵן אֶלָּא בְּעֵת הַהִיגוֹן – “A person is judged only on account of his deeds of that moment.” On the other hand, the unequivocal ruling regarding a *Ben Sorer U'moreh* is that he is *סוֹפֵרוֹ* – “judged on the basis of his end.” How can these apparently contradictory principles be reconciled?

As to be expected, this question sparks much discussion amongst the commentators, who differentiate between the two instances. A number of approaches are advanced. As a sample, two of them are cited by Tosfos's commentary on the Torah (*Moshav Zekeinim*). One key consideration, Tosfos points out, is the matter of who exactly is adjudicating. Heavenly judgments are governed by the principle of “*ba'asher hu sham*”; thus, Hashem ruled that Yishmael was to be saved. But the case of a *Ben Sorer U'moreh* is delegated to the human court, and they abide by the notion of taking the future outcome into consideration. Tosfos's alternative explanation highlights another significant distinction. In the case of Yishmael, he himself – even insofar as the future was concerned – was not destined for evil; the crimes were to be perpetrated by his descendants. As his own “end” would remain clean, he was judged only by the present. The *Ben Sorer U'moreh* himself, on the other hand, is headed for a most inglorious future; thus, he is judged based on his trajectory.

There is, of course, much more that can be said (and has been said) on this intricate subject. Next week, *im yirtzeh Hashem*, we will focus on one more approach to this issue and the profound lessons we may glean from it.

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