

Parshat Va'etchanan, 17 August, 2019
(given at a family function in Canada)
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Parshat Va'etchanan encompasses a significant tranche of Moses's speech to the Children of Israel, on the eve of their final sojourn into the Promised Land – a journey that Moses himself will not take. And indeed, his pleading to God at the beginning of this parshah deals with this very sore matter: Moses lays the blame for God's refusal to allow him to cross the Jordan River squarely on the Children of Israel: "But the LORD was wrathful with me on your account and would not listen to me."

The substance in this week's Parshah is colossal.

Moses warns the Children of Israel against digressing from the word of God, reminding them of the deadly fate that came to every person who chose to follow Baal-peor. He warns them to not add or take away from the laws they receive, reminds the Children of Israel to steer clear of idol worship, and repeatedly implores them to follow the law set down by God at Mount Sinai.

In the third portion Moses sets aside three cities of refuge on the east side of the Jordan River.

He then reiterates the 10 commandments followed by the Shema.

Towards the end of the Parshah, Moses describes how God will help the Children of Israel purge all those who live in the Promised Land: "the Hittites, Girgashites, Amorites, Canaanites, Perizzites, Hivites, and Jebusites, seven nations much larger than you". The reason for this destruction is clear – if you do not destroy these peoples, you may be tempted to assimilate with them, inter marry with them and worship their gods.

Somewhere in the midst of this very clear and stark doctrine, however, is a small gem, found in Chapter 6, verse 8, which contrasts with the rigidity of everything Moses has lectured the Children of Israel so far:

וַעֲשִׂיתָ הַיָּשָׁר וְהַטּוֹב בְּעֵינֵי יְהוָה לְמַעַן יֵיטֵב לְךָ וּבָאֵת וְיִרְשָׁתָּ אֶת-הָאָרֶץ הַטֹּבָה אֲשֶׁר-נִשְׁבַּע יְהוָה לְאַבְרָהָם:

Do what is right and good in the sight of the LORD, that it may go well with you and that you may be able to possess the good land that the LORD your God promised on oath to your fathers;

Do what is right and good in the eyes of God.

This phrase has caught the imagination of many rabbinical scholars. Rashi interprets this as the ability to compromise by acting beyond the strict demands of the law.

Reading through a Dvar Torah by the late Rabbi Sol Tanenzapf, I found that this can be looked at in two distinct ways:

1. Situations which may arise which are not covered by existing laws
2. Situations in which the law may indicate a clear solution, but human decency and compassion may suggest an alternative solution.

Ramban expands both these points:

“And now, it says: even regarding what God did not command, pay attention to do what is good and right in God's eyes, because God loves goodness and righteousness. And it is important because it is impossible to mention in the Torah (what should be) everyone's conduct; with their neighbours and friends, in any business matter, and regarding ordinances of any town or country...”

He continues:

“...generally one should do what is good and right regarding everything, including compromise, acting beyond the strict demands of the law...”

Many examples in Halachah, Mishnah, where compromise is promoted over the letter of the law, including the most cited case of land ownership discussed in Bava Metzia 108a, in which a stranger who takes possession of land between two lots belonging to partners or brothers is allowed to keep it even if Halacha dictates that he should be removed.

On the Sefaria website, I found this interpretation from Tur HaAroch:

Our sages in the Midrash view the words ועשית הישר והטוב, as Moses, at this point, introducing a new concept in, especially, inter-personal relationships, the concept known as לפנים משורת הדין, “over and beyond the requirements of the law.” Up until now Moses had exhorted the people to be law-abiding, both in their ritual lives and in their relationships with their fellow man. Now, he asks them to do more than that. An Israelite, deserving of that title, is expected to seek out opportunities to demonstrate his concern for his fellow by voluntarily giving of himself or of his material wealth. The parameters are left open.

The guidelines for such conduct over and beyond the strict requirement of justice are the knowledge that the Creator, by definition, is doing so all the time, and has even created a quasi legal instrument called teshuvah, repentance, enabling His creatures to escape the dreadful consequences of their failures that they would have to look forward to, had G'd not afforded them the opportunity to turn the clock back by repenting, and thus rehabilitating themselves. A practical example of this kind of self-restraint is not to take revenge or emphasize one's righteousness compared to one's fellow who had demonstrated total insensitivity to such considerations.

A comparison with Leviticus 19,18:

לֹא-תִקֹּם וְלֹא-תִטּוֹר אֶת-בְּנֵי עַמֶּךָ וְאֶהְבֵּתָ לְרֵעֶךָ כְּמֹדֶךָ אֲנִי יְהוָה:

You shall not take vengeance or bear a grudge against your countrymen. Love your fellow as yourself: I am the LORD.

“do not take revenge and do not bear a grudge.” What was phrased there as a prohibition, or other legal restraints of unacceptable behaviour even when provoked, such as not even to curse a deaf person, Moses expands to initiatives of doing good, as something to be sought out as proof that we the creatures try to emulate the virtues of the Creator.

So....

Is it more important for us to exercise our rights at every possible opportunity, sometimes to the detriment of others, or should we sometimes exercise our wisdom, compassion and decency to seek compromise. There is no blanket answer for this question, but by defining “the good and the just in the eyes of God”, we have been given the freedom to judge each situation separately as it makes itself known, and use our best judgement to find the best solution, using common sense and reason, as well as the word of law.

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