

Zera Shimshon

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Chapter II: Noach (Gen. 6:9–11:32)

Essay 6. Strict justice for the wicked

מדרש על פסוק "וַיִּזְכֹּר אֱלֹהִים אֶת־נֹחַ": כְּתִיב "צְדָקָתְךָ כַּהֲרִי־אֵל מִשְׁפָּטְךָ תִּהְיוֹם רַבָּה". ר' ישמעאל אומר רשעים הללו שלא קבלו התורה שנתנה מהררי אל, מדקדק עמָהם עד תהום רבה ע"כ.

There is a midrash on the verse, “G-d remembered Noah”¹:

It is written: “Your beneficence is like the high mountains; Your justice like the great deep; man and beast You deliver, O L-rd.”² Rabbi Yishmael said: To the righteous who accepted the Torah which was revealed on the high mountains, You showed righteousness [i.e., love], reaching unto the high mountains. But as for these wicked, who did not accept the Torah which was revealed on the high mountains, You deal strictly with them, even to the great deep.

- Gen. Rabbah 33:1

והקשה הבעל נחל איתן שאדרבא לא דקדק עמָהם שדנם בהנך כדאמרין דין ארבע מיתות לא בטלו. מי שנתחייב הנך טובע במים וכו', וזהו עון אשת איש. והם היו חייבים גם כן סקילה על עון משכב זכור, ומי שנתחייב שתי מיתות נידון בהמורה. והנה לו להקב"ה לדונם במיתה המורה שבע על חטאתם אם איתא שדקדק עמָהם, ופירץ שם דאתניא כחד לישנא דאיתא בגמרא שכל מיתת בני נח היא הנך. וזהו דקאמר בשביל רשעים הללו לא רצו לקבל התורה לא יצאו מקלל בני נח ונידונו בתהום רבה דהיינו הנך שאם היו מקבלים את התורה היו חייבים סקילה עכ"ל ועיי"ש.

The author of the *Nachal Eitan*³ questioned that to the contrary, He wasn't strict with them, for they are uniformly judged for execution by strangulation when they may receive a stricter penalty, as it is said:

But doesn't Rav Yosef say, and so the school of Chizkiya taught: From the day that the Temple was destroyed, although the Sanhedrin ceased [to exist], [the]

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¹ Gen. 8:1.

² Ps. 36:7.

³ Yehuda ben Yosef Peretz, *Perach Levanon and Nachal Eitan* (Berlin 1712).

four [types of court-imposed] capital punishment have not ceased. [The Gemara asks]: Have they [really] not ceased? But they have ceased [as court-imposed capital punishment is no longer given]. Rather, [the intention is that] **the halacha of [the] four [types of court-imposed] capital punishment has not ceased** [to be applicable].

[How so?] One who is liable for stoning, either falls from a roof or an animal mauls him [and breaks his bones]. One who is liable for burning, either he falls into a fire or a snake bites him [as a snakebite causes a burning sensation]. One who is liable to slaying [through decapitation by the sword], either is turned over to the authorities [and they execute him with a sword], or robbers come upon him [and murder him]. **One who would be liable to strangling, drowns in water.**

- Sanhedrin 37b

This death penalty of strangling is the punishment for the transgression of adultery with a married woman. [The people of the generation of Noah] were also liable for stoning for the transgression of homosexuality, and one who is liable for two death penalties, as he violated two different capital transgressions, is sentenced to the more severe form of execution, i.e., stoning.⁴ The Holy One, Blessed be He, should judge them with a severe death sevenfold for their sins,⁵ if so that He were strict with them.

[The *Nachal Eitan*]'s solution was that they followed one term, i.e., uniformly, as is brought in the Gemara, that all of the deaths of the descendants of Noah are by strangling.⁶ This is said because these wicked people didn't want to accept the Torah, so they didn't escape from the characterization of the descendants of Noah. Thus, they are judged to the great deep, for if they had accepted the Torah, they would have been liable for execution by stoning. See there, in the *Nachal Eitan*.

וְהָיָה בְּנֹדָאֵי אֲשֶׁר הִפְרִיזוּ לֹא יִתְכַוֵּן, חֲדָא שְׁלִפֵי הַנְּרָאָה פְּנוּנָת ר' יִשְׁמַעֵאל הִיא לֹא מֵר שְׁהִקְב"ה הַתְּמִיר עֲלֵיהֶם וּלְפִי זֶה הִנֵּה מִשְׁמַע שְׁהִקְל עֲלֵיהֶם. וְעוֹד שְׁהִמְדַּרְשׁ הִנֵּה הֵם דְּבָרֵי ר' יִשְׁמַעֵאל וְר' יִשְׁמַעֵאל לֹא סְבִירָא לֵיה דְּמִיתָת בְּגִי נֵם הוּא בְּהַנְּקָה. וְאִדְרָבָא בְּסִנְהֶדְרִין (דָּף ג' ע"ב) תִּנָּא קִמָּא דְּהִתֵּם תִּנָּא דְּבֵי מְנַשָּׁה הוּא דְּסְבִירָא לֵיה הִכִּי. וְר' יִשְׁמַעֵאל פְּלִיג עֲלֵיה בְּפִירוּשׁ הַפְּסוּק "שִׁפְךָ דָּם הָאֲדָם בְּאָדָם" וְכו' נְעִי"ש.

Here, of course, this interpretation is not possible, since apparently Rabbi Yishmael's intention in our Midrash is to say that G-d made it worse for them in this world, but according to this view of the *Nachal Eitan*, it meant that He was lenient with them in this world. Further,

⁴ Mishnah Sanhedrin 9:4; Sanhedrin 81a.

⁵ Lev. 26:28.

⁶ Sanhedrin 57b.

this Midrash gives the words of Rabbi Yishmael, and Rabbi Yishmael does not agree that the death of Noah's descendants is uniformly by strangulation. Rather, in tractate Sanhedrin, on page 56b, there is a *Baraita* that the rabbis believe that beheading was the capital punishment for descendants of Noah, based on the rabbis' understanding of the verse "Whoever sheds a person's blood, by a person shall that one's blood be shed."⁷ I.e., blood would flow through beheading. However, on **page 57b, the first Tanna, who is the Tanna of the school of Menashe, was in accordance with this understanding that all death penalties stated with regard to the descendants of Noah are referring to strangulation. He interpreted the verse above, "Whoever sheds a person's blood, in a person shall that one's blood be shed." That is, the school of Menashe read the verse as supporting strangulation, that the blood would remain in the killer's body, whereas other rabbis read the verse as supporting beheading, that another person would behead the killer, shedding his blood. **Rabbi Yishmael disagreed with [the first Tanna] in the explanation of the verse, "Whoever sheds human blood, by human [hands] shall that one's blood be shed,"** as Rabbi Yishmael used this verse not to teach strangulation, but to teach that the descendants of Noah were even liable for killing a fetus.**

וימה שנגרעה בזה הוא דאמרינו בפרק ג' דכתובות דין ארבע מיתות לא בטלו, ופירש שם הריטב"א ונ"ל, פירוש באותם שנוטלים דינם בעולם הזה כי בנדאי יש כמה רוצחים שמתים בשלוחה והשקט שנידונים לעולם הבא עכ"ל. וכן פתבו התוספות בסנהדרין (דף מ"ז ע"א ד"ה ואמאי כיון דמקטיל וכו'), דהא דתנו אנשי עיר הנדחת אין להם חלק לעולם הבא. הגי מילי דלא איקטיל אכל אם דנו אותם והרגום יש להם חלק וכו' עכ"ל.

It appears by this that, as it is said in the third chapter of tractate Ketubot (30a), the *halacha* of [the] four [types of court-imposed] capital punishment has not ceased. The Ritva⁸ explains there, and this is his language: This application of death at the hands of Heaven, i.e., one who is liable for stoning either falls from a roof or is mauled by an animal, refers to those who take their judgment in this world, because there are certainly some murderers who die in peace and quiet, and who are judged in the World-to-Come.

Similarly, the Tosafot wrote on tractate Sanhedrin, "Why does the Gemara then say in the chapter entitled 'Cheilek' ["a portion"], that the inhabitants of an Israelite city who became idolators do not receive a portion in the World-to-Come?⁹ Because it is referring to a case where they were not put to death [so they are punished after death]. But where they judged them and sentenced them to death [and executed them], they do receive a portion [in the World-to-Come]."¹⁰

⁷ Gen. 9:6.

⁸ Yom Tov ben Avraham Asevilli (c. 1260s – c. 1320s), Spanish commentator on the Talmud.

⁹ Mishnah Sanhedrin 10:4; Sanhedrin 11b.

¹⁰ Tosafot on Sanhedrin 47a.

נמצא שְׁפִשְׁנוּעֵשָׂה הַדִּין הָרְאוּי לָהֶם לְרִשְׁעֵים בְּעוֹלָם הַזֶּה יֵשׁ לָהֶם חֵלֶק לְעוֹלָם הַבָּא אָבֵל כְּשֵׁלֹא נַעֲשֶׂה הַדִּין הָרְאוּי לָהֶם בְּעוֹלָם הַזֶּה אִזְּ אֵין לָהֶם חֵלֶק לְעוֹלָם הַבָּא. וּמַעֲמָה לְפִי שְׁאָמַר הַכְּתוּב "לֹא־יָדוֹן רוּחִי בְּאָדָם לְעֹלָם", לֹא דִין וְלֹא רוּחַ, שְׁאִינָם קָמִים בְּתַחֲנוּת הַמַּתִּים. לְכֹן דִּקְדַּק עֲמָהֶם לְתַת לָהֶם מִיתָה קְלָה תַּחַת מִיתָה חֲמוּרָה כְּדִי שְׁלֹא יִקְבְּלוּ עַלְשֵׁם הָרְאוּי לָהֶם בְּעוֹלָם הַזֶּה וּכְדִי שְׁלֹא יִזְכּוּ לְעוֹלָם הַבָּא.

It's found that when the justice they deserve is done to the wicked in this world, they have a portion in the World-to-Come, but when the justice they deserve is not done in this world, then they have no portion in the World-to-Come.

Now, according to what the Scripture says, “My spirit shall not abide [יָדוֹן] [*yadon*] in man forever,”¹¹ neither [will they stand in] judgment [דִּין] [*din*] nor [shall their] souls [be restored to them],”¹² for they won't be properly judged in this world, and they won't rise with the resurrection of the dead in the World-to-Come. Therefore, He was careful with them, to give them a light death instead of a severe death, so that they would not receive their deserved punishment in this world, and so that they would not be rewarded in the World-to-Come.

Thus, G-d is strict with the wicked, as the Midrash says. If it appears that He is lenient with them, allowing them to enjoy a ripe old age in this world, or even if they die by the hands of Heaven but with a milder penalty than they deserved, it is so that they can be punished by being denied a part in the World-to-Come.

וְאִם תֹּאמַר אִם כֵּן, רְאוּיִים הֵם לִידוֹן, וְלָמָּה אָמְרוּ לֹא דִין וְלֹא רוּחַ. וְעוֹד קָשָׁה אִיד תִּיִסַּק אַדְעָתִין שְׁיִחְיוּ לְעוֹלָם הַבָּא וְהָא לֹא הָיָה לָהֶם שׁוּם דְּבָר טוֹב, וּמִכָּל שְׁכֹן לְדַבְּרֵי רַשׁ"י שְׁפִירֵשׁ הַתָּם בְּסִנְהֶדְרִין, שְׁאִין עוֹמְדִים בְּדִין וְאִין לָהֶם רוּחַ לְהִיּוֹת עִם הַצַּדִּיקִים שְׁיִשׁ לָהֶם חֵלֶק עַכ"ל.

If you will say: If so, this isn't right, for it's proper for them to be judged in this world, and why did they say in the Gemara neither [will they stand in] judgment [דִּין] [*din*] nor [shall their] souls [be restored to them].

Another difficulty is how does it even enter your mind that they would have a World-to-Come, for they did no good deed. I.e., even if G-d were to judge them strictly in this world, why should they deserve a portion in the World-to-Come, if they never did any good in their lives?

In any case, Rashi explained there in Sanhedrin, that that they don't stand in judgment and that they don't have the soul to be with the righteous, who do have a portion in the World-to-Come.

¹¹ Gen. 6:3.

¹² Sanhedrin 107b.

וַיֹּזֶן לֵאמֹר דְּהוֹאִיל שְׁהִקֵּב ה' הַשְּׁפִיעַ לָהֶם רוּב טוֹבָה לְפִי שְׁהִנֵּה זֶן אֵת הָעוֹלָם בְּאוֹתָן הַשָּׁנִים בְּחֶסֶדוֹ הַגָּדוֹל, הִנֵּה סִלְקָא דְעֵתָא לֵאמֹר שְׁיִקוּמוּ לְעוֹלָם הַבָּא הוֹאִיל שְׁהִי בְּעוֹלָם בְּשַׁעַת הַחֶסֶד וַיֹּזֶן לָהֶם טַעֲנָה לְהַשִּׁיב שְׁאֵם הִנֵּה הַקֵּב ה' שׁוֹלֵחַ לָהֶם יִסּוּרִין אֲפֻשֶׁר שְׁהִי שְׁבִים. קָא מִשְׁמַע לֵן שְׁלֵא תוֹעִיל לָהֶם כָּלֵל, לְפִי שְׁהוּא לֹא נָתַן לָהֶם הַיִּסּוּרִין לְפִי שְׁלֵא קִבְלוּ הַתּוֹרָה, שְׁהַתּוֹרָה נִיתְּנָה עַל יְדֵי יִסּוּרִין וּכְשֵׁאִין תּוֹרָה אִין יִסּוּרִין. וּמִשּׁוּם הַכִּי דְקִדְקָ עִמָּהֶם שְׁאֵר עַל פִּי שְׁנִיתָן לָהֶם עוֹנָשׁ קַל מִחֲמַת הַטַּעֲנוֹת שְׁהִי עֲלֵיהֶם עִם כֹּל זֶה הַחֲמִיר עֲלֵיהֶם שְׁלֵא יִזְכוּ לְעוֹלָם הַבָּא.

It can be said that since the Holy One, Blessed be He, had given abundantly to them a great deal of favor, in that He had sustained the world in those years with His great kindness, it might enter your mind to say that they will rise to the World-to-Come. Because they were in the world at the time of kindness, perhaps they have a claim to argue that if the Holy One, Blessed be He, sends them suffering, it's possible that they would return with the resurrection of the dead.

We learn from this that it won't help them at all, because He did not give them suffering, because they did not accept the Torah. The Torah is given with suffering, and when there is no Torah, there is no suffering. Because of this, He wasn't strict with them, that even though a light punishment was given to them because of the claims against them, nevertheless it was made worse for them, in that they would not merit the World-to-Come.

אֵלָא דְקֻשְׁיָה עַל פְּשֻׁט הַכְּתוּב דְּמַהוּ "וַיִּזְכֹּר אֱלֹהִים אֶת-נֹחַ" וּבִשְׁבִיל זֶה "וַיַּעֲבֹר אֱלֹהִים רוּחַ" וְכוּ'. וְאִי לֹא הִנֵּה נֹחַ עַד אֵימָתַי הִנֵּה מִמֵּתִין לְחַדָּשׁ הָעוֹלָם. וְנִקְדִים לִיתָן טַעַם עַל פְּסוּק "וַיִּגְבְּרוּ הַמַּיִם עַל-הָאָרֶץ חֲמִשִּׁים וּמֵאֵת יוֹם". לְמָה דְנִקְא מֵאָה נְחֻמָּשִׁים יוֹם? וְנִודַע שְׁחֲמִשִּׁים וּמֵאֵת יוֹם הֵם מְלַבֵּד "אַרְבָּעִים יוֹם וְאַרְבָּעִים לַיְלָה" שֶׁל יְרִידַת הַגְּשָׁמִים וּבִין כּוֹלָם הֵם מֵאָה וְחֲשָׁעִים יוֹם. וְאִמְרוּ בְּמִדְרָשׁ שְׁהָאַרְבָּעִים יוֹם אֵלוּ הֵם כְּנֻגַד אַרְבָּעִים יוֹם שֶׁל יְצִירַת הַגְּלִד שְׁחֲטָאוּ בְּהוֹלִדַת מְזֻזָרִים בְּעוֹלָם.

Rather, there is a question on the plain meaning of the Scripture, for what is the meaning of this “G-d remembered Noah and all the beasts and all the cattle that were with him in the ark,” and because of this, “G-d caused a wind to blow across the earth, and the waters subsided.”¹³ If not for Noah, how long would [mankind] be waiting to renew the world?

Let's start to give a reason for the verse, “And the waters had swelled on the earth 150 days.”¹⁴ Why specifically 150 days? It's known that the 150 days are separate from the “forty days and forty nights”¹⁵ of the rains falling, and between them all are 190 days. It says in the Midrash, that these 40 days of rainfall corresponded to the 40 days of the formation of an embryo, for they sinned by bringing forth *mamzerim* in the world, i.e., children born out of adultery or incest.¹⁶

¹³ Gen. 8:1.

¹⁴ Gen. 7:24.

¹⁵ Gen. 7:4.

¹⁶ Gen. Rabbah 32:5.

ואם כן נוכל לומר שאף ימי תגברת המים רומזים לזה, ומן הדין הנה שיתגברו המים כמנן תשעה חדשים שהם מאתים ושבעים יום, פי דרף אשה לישא עוברת תשעה חדשים שלמים, דילדת לתשעה אינה יולדת למקוטעים, ועוד פי המוציא זרע לבטלה נקרא רע כדכתיב "ויהי ער בכור" וכו' ואף הם השחיתו דרכם והיה להם ליענש במדה זאת. אבל הקב"ה זכר זכות גם וכלייהוה וכו' ולומר נזכר להם שיש חיות ובהמות שיוולדות פחות מתשעה חדשים, ויש נמי מן הנשים היוולדות לשבעה חדשים. והיוולדת לשבעה יולדת למקוטעים, לכן העביר כעסו רק במאה ותשעים יום שהוא כמנן ששה חודשים ועשרה ימים שהוא שליש [השני] וחלק המועט של החדש, והוא כנגד עביר הנולד.

If so, we can say that even the days of the increase of the water allude to this, and the judgment was that the water would increase as many as nine months, which are 270 days, because a woman normally carries her fetus nine complete months. A woman who gives birth at nine months does not give birth after an incomplete number of months, i.e., she carries for a full nine months.¹⁷

Moreover, one who spills his seed in vain is called “evil,” as it is written, “But Er, first-born of Judah, was displeasing to the L-rd, and the L-rd took his life,”¹⁸ and they corrupted their way and they had to be punished to that extent. But the Holy One, Blessed be He, remembered the merit of Noah and all the animals, etc. That is, He reminded them that there are animals and beasts that give birth in less than nine months, and there are some women who give birth at seven months. If a woman gives birth in her seventh month, she may give birth early, before the seventh month is complete.¹⁹ Therefore, His anger passed after only 190 days, which is like six months and ten days, which is the completion of the [second] trimester²⁰ and a small part of the month, which corresponds to having a child.

והענין הוא שלפי האמת אין מקום לומר שארבעים יום של ירידת הגשמים יהיו כנגד הארבעים יום של יצירת הנולד, שהרי באותו הזמן היו מתעברות ויוולדות באותו יום עצמו או לשלושה ימים כדאימא בויקרא רבה על פסוק ו"אם הפהו המשיח יחטא לאשמת העם" ועיי"ש.

The matter is that, according to the truth, there is no reason to say that the forty days of the rains falling would correspond to the forty days of the creation of a child. That is because at that time, before the Flood, nature was different, and they would conceive and give birth on the same day or after three days, as is written in Lev. Rabbah 5:1 on the verse, “If it is the anointed priest who has incurred guilt, so that blame falls upon the people, he shall offer for the sin of which he is guilty a bull of the herd without blemish as a sin offering to the L-rd.”²¹

¹⁷ Niddah 38b.

¹⁸ Gen. 38:7.

¹⁹ Rosh Hashanah 11a.

²⁰ The first edition read “the first trimester” (שליש הראשון).

²¹ Lev. 4:3.

אֵלָא שְׁצָרִיף לומר שְׁהֵלף בְּזָה לְפִי מְנַהֵג הָעוֹלָם שִׁיְהִיָּה אַחַר הַמַּבּוּל, וְאִם כֵּן "וַיִּזְכֹּר אֱלֹהִים אֶת-נֹחַ" דְּכֹנְתָה שְׁהֵלף אַחַר מְנַהֵג הָעוֹלָם, שְׁהִצְדִּיקִים גְּמוּרִים נוֹלְדִים לְשִׁבְעָה חֳדָשִׁים כְּמוֹ שְׁמַצִּינוּ בְּמִשָּׁה וּשְׁמוּאֵל פֶּרֶץ וְנֹרַח וְאַחֲרֵיהֶם. וְאֶפְשָׁר שְׁנַח נְמִי דוֹכְתִּיָּהוּ, וּמְכַל שְׁכֵן שְׁנַח הָיָה מְבַחֲנֵת מִשָּׁה מְמַשׁ כְּדֵאִתָּא בְּכַתְבֵי הָאָר"י זִלְה"ה דְּכַתִּיב "כִּי-מָצָאתָ חֵן בְּעֵינַי" וְעֵי"ש.

Rather, it's necessary to say that He followed this according to what the nature of the world would be after the Flood. If so, "G-d remembered Noah" corresponds that He went after the nature of the world, that the completely righteous were born at seven months, as we find with Moses, and Samuel, Perez, and Zerah, and others.

It's possible that Noah was also in his proper place, and regardless, that Noah was from Moses' aspect exactly, as it is brought in the writings of the Arizal, may he be remembered for eternal life, according to what he wrote on the verse, "for you have truly gained My favor."²² That is, in *Sha'ar HaGilgulim* 34:1, Rabbi Chaim Vital recorded the Arizal's teaching that Moses was a gilgul of Noah.

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²² Ex. 33:17.