

CONSPIRING WITNESSES: THE CONSPIRACY

by Rabbi Osher Chaim Levene

The Mitzvah:

Where the testimony of false witnesses given in court is refuted - demonstrating how they were not at the scene of the purported crime - they are then sentenced to the identical punishment that was to have been meted out onto the intended victim (Devarim 19:15-20).

The principle for *aidem zomemim*, "conspiring witnesses" is they are sentenced according to what they "conspired" to do - rather than what they "did" (Rashi, Devarim 19:19). Where the would-be victim has not yet been executed as a result of their false testimony, nevertheless they are still killed because of their scheme. But if the victim has already been punished [on account of them], then they are not disciplined (Makkos 5b).

Is this not unjust? Why should the "conspiracy" of evil result in a harsher punishment to when the evil has been perpetrated?

The Maharal's brilliant analysis of this mitzvah gives us a novel perspective into the nature of justice (Be'er Hagolah 2).

However hard mankind tries, the dispensation of full justice in the world forever eludes him. In truth, the only qualified Supreme Judge is G-d, the One who determines hearts, the One to whom all secrets are known. He is the Dayan HaEmes, "the True Judge". Whether or not mankind is privy to the universal picture, he can take solace from the fact that it is G-d Who is governing the workings of this world. (Accordingly, the proclamation on hearing bad tidings is Baruch Dayan HaEmes, "blessed is the True Judge").

It is His responsibility to pass judgment, not ours.

Admittedly, there will be occasions where G-d permits - or even demands - our partnership in this endeavor. Even so, mankind's authority is limited. The capital punishment by a human court is reserved for the instance when one "directly" takes another life through an "action" - but not complicity such as through false testimony.

The function of the Jewish court's remit is not to punish the wicked per se. Instead, its objective is "to root out evil" (Devarim 17:7). Included in this category is that of wicked, conspiring "thoughts" where this did not achieve its malicious objective in the realm of action

Where the conspiracy has had a devastating impact - such as the execution of the victim - we can

be rest assured that G-d will give the false witnesses their comeuppance. The involvement of the human court is to reprimand false witnesses for the evil of their "thoughts" which has not left any mark or impression. This, too, has to be rooted out.

The Maharal compares this to a stone or ball thrown at a surface. Where the target absorbs the impact, then it comes to rest; the ball's energy having dissipated. However when the surface is strong and unyielding, like a wall, the result is that the ball rebounds. Ironically, it returns in the direction of the thrower. The force and energy exerted by the perpetrator is, then, redirected back at him - with more-or-less the same intensity unleashed by the thrower.

The evil energy of the conspiring witnesses' "thoughts", which has not been absorbed in damage directed at the intended victim, reflects back at them in all its fury. They themselves are the natural targets for the malevolent thought they have set free. And in an example of poetic justice, their fate is executed by their own design.

While true justice is beyond man, nevertheless the desire and yearning to root out evil is not.

Our thoughts are powerful tools. We want them to make their mark in this world - in a good and positive manner as we are aware of how dangerous evil is - especially where it is lurking within man, such as in his thoughts. This evil has to be uprooted. The course material is presented by Osher Chaim Levene, author of "Set in Stone: The Meaning of Mitzvah Observance" (Targum/Feldheim), a writer and educator in London.