

# IT'S HIS CALL

by Rabbi Raymond Beyda

*"Do not be after the majority to do bad" [Shemot 23:2]*

The portion of Mishpatim contains a wide variety of commandments dealing with laws between man and man regarding lending, charity and damages. Criminal law is also a subject of many of the laws taught to our people in the Parasha. Judges are instructed as to how to meet out justice in matters of crime and punishment.

An interesting situation arises in regard to the verse cited, which instructs the courts to follow the majority in deciding its verdict. Concerning matters where the court has the power to inflict the death penalty on a guilty party, the rule is that if the entire ruling body votes to convict, the accused is acquitted. The Torah demands that the case involve a side that wants to convict and one that wants to save the accused and so unanimity -even to convict -is ruled an acquittal.

The Ohr Hahayim Hakadosh zt'l -Rabenu Hayim Ben Attar -asks, "What should a judge do if he is last to cast his vote, where all those who preceded him voted to convict and he feels the accused is NOT guilty? If he votes his vote as he feels the truth of the matter i.e. not guilty, he will be overruled by the overwhelming majority and the person who he feels is innocent will be convicted. If, however, he votes to convict, even though he feels the party is guiltless, the vote will be unanimous against the defendant and the Torah rule will require an acquittal. By voting guilty he will acquit the man and by voting innocent he will give the court the power to execute. Should he vote to achieve the RESULT he believes is right or should he vote, as he believes -- although the outcome would be opposite what he thinks is the correct verdict? How should he vote?"

Ohr Hayim says he must vote the way he feels is true without regard to the practical result, which will result from his vote. "Do not go after the majority to do bad and don't calculate the outcome because G-d is the Lord."

We might have thought it would be better to vote in a way that would save the innocent party from the "injustice" our colleagues were going to inflict upon him erroneously. The Torah, however, expects a person to be totally honest and follow the truth in all that one does without regard to our calculations. A Jew must believe that if one is supposed to live G-d will find a way to save that person and if one is supposed to die there are many messengers available to G-d to bring about the correct result. In fact, there is nothing one can do to change Hashem's Heavenly verdict for life or for death.

The King Hizkiyahu saw in prophetic vision that his offspring would be wicked and lead the Jewish people towards forbidden idol worship. He decided he would prevent tragedy from befalling his people by not marrying and by not doing the misvah of piru urbu—having children. Hashem decreed a judgment of death upon the well-intentioned King. When the prophet Yeshayahu came to rebuke Hizkiyahu he explained his position. The Prophet said to him, "Do not mix in the business of Heaven." He had a Torah commandment to perform and it is not his concern as to the outcome.

The lesson is clear. Our G-d has given us a set of guidelines by which we must live in His holy Torah. Our concern is to study and to understand what Hashem wants us to do and then we must do our best to observe the commandments. Calculating as to the good or bad results of our observance of misvot is beyond the scope of our duties. We are expected to do our job trusting that G-d knows what is best and no harm can come from our commitment to Torah only blessing and good.

Shabbat Shalom

### **TABLE TALK -QUESTION FROM THE PARASHA**

*"One who strikes one's father or one's mother shall surely die -by choking... and one who curses one's father or one's mother shall surely die - by stoning." [Shemot 21,15]*

How come one who curses one's parent suffers the more stringent death of stoning than the one who strikes one's parent who is killed by the less stringent method of choking?

The Vilna Gaon says the sin of hitting is less severe because a physical blow heals but hurt caused by hash words never goes away, therefore, the punishment for verbal abuse is more severe than that for physical abuse.

Rabbi Yehonatan Eibshitz says that one who hits a parent is behaving in a way that demonstrates the person's lack of belief in G-d's watchfulness. That person feels he or she can behave as he or she wishes without consequences. The punishment is severe -death - because the behavior expresses feelings of heresy. However, he one who curses invokes the use of G-d's name, -- demonstrating our Lord's power over human matters. The one who curses with G-d's name invokes Hashem's assistance to achieve his or her evil purpose. This is much more serious than plain heresy and is, therefore, punished accordingly.

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