

MISHPATIM (EXODUS 21:1-24:18)

Voting ‘Against’ G-d", or, "Whose Torah IS This Anyway?!

2010 · Rabbi Yerachmiel Sepowitz

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How does G-d feel about His "intellectual property?" Does He maintain "ownership" over the Torah?

The Talmud (Bava Metzia, 59b) records a fascinating dispute between Rabbi Eliezer and his colleagues. It seems that there was a disagreement as to whether a particular type of oven was susceptible to ritual impurity. Rabbi Eliezer maintained that it was not, while the rest of the Sages ruled that it was.

Rabbi Eliezer presented logical argument after logical argument to support his view, but to no avail. The Rabbis disagreed. Rabbi Eliezer, a holy man, decided to miraculously defy nature in order to bring home his point. "If I am right," he declared, "let the carob tree prove it!"

Without further ado, the carob tree was uprooted and flew through the air with the greatest of ease. The Sages were unimpressed. A river flowing upstream and the trembling walls of the study house did nothing to change their view. Finally, Rabbi Eliezer pulled his "Heaven Card." "If I am right, let the Heavens prove it!"

A heavenly voice boomed in reprimand of the Sages: "Why are you arguing with Rabbi Eliezer, when the Law, in fact, is always in accordance with his opinion?!"

Well, that should have ended the argument. After all, the Master of the World, the Author of the Torah, the Originator of all Jewish Law, has just declared that Rabbi Eliezer is the man! Would the Sages finally acquiesce to Rabbi Eliezer's opinion?

They wouldn't budge. Rabbi Joshua stood up and quoted from Deuteronomy (30:12) "*It (the Torah) is not in Heaven!*"

How could Rabbi Joshua say such a thing? How dare he ignore a miraculous message from G-d in support of Rabbi Eliezer? His behavior seems almost heretical!

The Talmud goes on to explain what Rabbi Joshua meant. This week's Torah Portion goes into great detail about the rules of judgment. An essential component of deciding the law is that, "*...a case must be decided on the basis of the majority.*" (Exodus, 23:2)

Rabbi Joshua was saying, "You gave us Your Torah on Mount Sinai. We do not accept the rulings of voices from Heaven because You already wrote in Your Torah, '*...a case must be decided on the basis of the majority.*' The majority of the Sages of Israel have ruled against Rabbi Eliezer. He is in the minority, and therefore his opinion is rejected!"

Pretty gutsy, no? By saying that Rabbi Eliezer is wrong, he seems to be saying, G-d forbid, that G-d Himself is wrong!

It is important to understand that among the Sages of Israel, we are not discussing Right vs. Wrong. The Talmud is replete with different valid approaches to understanding Torah. Rabbi Eliezer had one valid approach. His peers had another valid approach. But a Torah society cannot function with a cacophony of valid opinions. There has to be a bottom line. The Torah provides that bottom line. The bottom line is majority rule.

Rabbi Eliezer engaged in other disputes. For example, the Torah permits an eight-day-old boy to be circumcised on Shabbos. It is normally forbidden to cause a wound on the Sabbath. However, the Law of Bris overrides the Law of the Sabbath. Rabbi Akiva takes the position that only the Bris may be done on the Sabbath, while all preparations must be done before. Rabbi Eliezer, on the other hand, would permit a knife to be manufactured and carried through the streets on Shabbos. If Rabbi Eliezer were alive today, he would, no doubt, permit a Mohel to get into his car on a Saturday morning and drive to a Bris.

If a Mohel, in accordance with Rabbi Eliezer's opinion, drove to a Bris on a Saturday, he would be judged to be a Sabbath desecrator, and, as such, disqualified to serve as a Mohel even on a weekday! Rabbi Eliezer, for all his greatness, scholarship, and piety, was outvoted by the majority. We are not permitted to follow his ruling.

This concept begs the following question. Do we ALWAYS follow the majority? What about the fact that most Jews today violate the Sabbath? Do we now, G-d Forbid, remove Shabbos from the canon of Jewish practice? What about intermarriage? How about killing pre-born children? Should we assume that once the majority of Jews decide that a particular activity is acceptable, that we should delete it from the Torah?! Should we, perhaps, endorse the decision of the majority of "Palestinians" that it's ok to wantonly kill and maim as many Jews as possible?!

Obviously, the Torah's endorsement of majority rule only goes so far. We accept the opinion of the majority of those authorities WHO ARE ENTITLED TO AN OPINION.

Above we quoted the verse, "*A case must be decided on the basis of the majority.*" However, that's not the whole verse. The beginning of the verse is. "*Do not follow the majority to do that which is wrong...*" Just because the majority of people have an opinion, that doesn't make it right.

So how do we know what to do? How do we know when to follow the majority and when to ignore them?

Sometimes it's simple. "*Do not follow the majority to do that which is wrong...*" If the Torah says one thing, and the masses say another, ignore them. They're wrong. The Torah says so.

Torah is an unbroken chain of Tradition. One doesn't become a Sage just because he decides he wants to be one. The Torah leaders of every generation learned from, and were accepted by, the leaders of the previous generation. Rabbi Yisroel Belsky studied for many years under the great Torah scholar Rabbi Yaakov Kamenetzky. One day someone came to Rabbi Kamenetzky with a question. He gestured in the direction of his student. "He'll answer your question," said the Sage. The mantle of Torah leadership had been passed on to the next generation.

Rabbi Akiva had a Tradition of Torah scholarship from his mentors, and Rabbi Eliezer had a Tradition from his. Both views had validity.

There is no shortage, unfortunately, of self-appointed experts in Jewish Law and thought. However, the Torah is telling us to follow those who are experts in the appropriate system of Torah study.

I've often wondered about this Talmudic narrative of the debate between Rabbi Eliezer and the Sages. What did G-d want to happen in the end? After all, His "opinion" was in support of Rabbi Eliezer. Was he "disappointed" at being outvoted?

Not at all. The Talmud quotes Elijah the Prophet. Elijah was asked what G-d's reaction to the vote was. "He laughed," said Elijah, "and said, 'My children have defeated Me.'"

On the one hand, G-d "agreed" with Rabbi Eliezer's approach. On the other hand, He WANTED, based upon the concept of majority rule, to be overruled.

Why are there so many disputes in the Talmud? Why even bother with majority rule? Why doesn't G-d just spell out, clearly and succinctly, what He wants the final ruling to be? After all, if the Torah is all about doing G-d's will, why doesn't He make it clear for us?

The answer, I believe, can be found in the writings of Rabbi Elazar Shach, of Blessed Memory. Rabbi Shach teaches us how to “think like G-d.” He quotes King Solomon’s advice that, “*If you will seek it like silver, and search for it like hidden treasure, you will understand the fear of G-d and find knowledge of G-d.*” (Proverbs, 2:4-5)

Torah knowledge was not meant to be handed to us on a silver platter. We’re supposed to SEARCH for that silver so that we will truly appreciate its value.

If someone strives and toils in the study of Torah, with no compromises and no agenda other than acquiring Divine understanding, he will “*find knowledge of G-d.*” And once he achieves that lofty level, he becomes worthy of being counted among the Sages of Israel who are granted, by G-d, the right (and obligation!) to offer his opinion in matters of dispute in Jewish Law. And, under certain situations, as we see in “Sages vs. Rabbi Eliezer,” he may even manage to “outvote” G-d!

There are no shortcuts to greatness in Torah. One must work very hard, with piety and humility, to understand the teachings of the previous generation, who in turn, learned from the previous generation, all the way back to Mount Sinai.

The Sages of the Talmud, whose only interest was the Truth of Torah, reached a level of understanding that qualified them to discern the “*knowledge of G-d.*” They, the majority of Torah scholars, articulated to the world, what the true will of G-d is.

Do you want to know G-d? Study His Torah!

Have a great Shabbos. Rabbi Yerachmiel Seplovitz

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