



Parashat Mishpatim 5771 - #173

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On the Parashah...
"After the Majority" (23:2)
Minority and Majority Opinion
[Sefer Am Ve-Artzo vol. 1, #11]

Question: The Torah scholars and great authorities of Israel who support the position of Gush Emunim (the movement to settle all of the historical Land of Israel) are the minority of Rabbis in contrast to those who are opposed. If so, shouldn't we follow the general principle of Jewish Law that majority rules?

Answer: I will deal with the essence of the question without discussing whether it is in fact the reality. After all, our Rabbi, Ha-Rav Tzvi Yehudah, was well known for his declaration that the majority of the world's Torah giants did not oppose Zionism. Once, one of the students at the Yeshiva said that he would not dare make such a statement in the vicinity of the Holy Ark. The student's words made their way to the ears of our Rabbi. Our Rabbi immediately ran to the Yeshiva, opened up the Holy Ark containing the Torah Scrolls and said, "Whoever says that the majority of Torah giants opposed Zionism is a liar. The truth should be told that Zionism was a new movement, and most of the leading Rabbis were uncertain as to how to relate to it. Most of those who did take a stand were actually in favor of Zionism."

The halachic authorities have written that the principle that we follow the majority only applies if all authorities sit together and there is give-and-take between them, and not if each one of them states his opinion on his own and we count up their opinions. The reasoning here is that, perhaps, if the majority heard the opinion of the minority and had give-and-take with them, they would be convinced (Shut Ha-Rashba quoted in Beit Yosef, Choshen Mishpat, end of chap. 13). "Because we do not say majority rules except when a majority of them argue face-to-face" (Sedei Chemed, vol. 3, pg. 149), "When all of the judges are gathered together in one place like the Sanhedrin" (Get Pashut, kelali, klal #1, and see Shut She'eilat David in Makor Beit Av - ma'amar #2, Mishnat Hora'ah by Mahartz Chayot chap. 4-5, Sdei Chemed - kelalim ma'arechet yud klal #35, Minchat Chinuch, mitzvah 78 #1 and Chazon Ish - Kilayim siman 1).

Despite this idea, the authorities mention the issue of deciding based on "the majority of wisdom" (i.e. greater knowledge and expertise in a particular area of Halachah), and there are

even those who say that we follow a "majority of wisdom" over a "majority of number" (Likutei Ha-Ramban, Sanhedrin chap. 4 in the name of the Rahag). One must distinguish between "the majority of wisdom" for each authority based on his area of expertise: there are Rabbis whose expertise is monetary laws, and there are Rabbis whose expertise is in Kashrut, etc... Maran Ha-Rav Avraham Yitzhak Ha-Cohain Kook's expertise was in the area of the workings of Klal Yisrael relating the rebuilding of our Nation and our Land, the beginning of the Redemption, and in understanding the Master of the Universe's direction of our history. He investigated, clarified, arranged, and constructed a complete method of understanding, whose scope and depth is far above all of the Sages of the generation of Acharonim (later authorities).

For example, Ha-Rav Joseph Soloveitchik, with all of his brilliance, did not construct an all-compassing method of understanding, and all of his teachings were, in essence, about the phenomenon of the religious individual. He did not present a philosophy of communal faith: The Rav only discussed the religious experience of the individual as opposed to the communal religious experience, which includes understanding Hashem's role in guiding the history of the Nation of Israel.

All that was said above is equally applicable in relation to students who did not sufficiently learn Torah, and came to create all sorts of lies about Maran Ha-Rav Kook. They forged documents in his name, and placed in his mouth the opposite of what he said. The proper way to understand his teachings is through his son, our Rabbi, Ha-Rav Tzvi Yehudah, who even in his youth, his father said of him, "...with gratitude of G-d, he is nearly one with me, he who is accustomed to remain faithful to my opinion and hears the conversation of my soul (Igrot Ha-Re'eiyah vol. 1, p. 121).

Based on the decisions of Rabbi Akiva as to the Messianism of Bar Kochba, the Rambam ruled, "He and all the Sages of his generation considered him to be the Messianic King" (Rambam, Hilchot Melachim 11:3), even though we find Sages who disagreed with his position (Sanhedrin 93b and see Jerusalem Talmud Ta'anit 4:5, Eichah Rabbah 2:2). How then did the Rambam write: "Rabbi Akiva and all the Sages of his generation"? Rather it was clear to him, that in all matters pertaining to the vision of Redemption and the resurrection of Israel and its Land, Rabbi Akiva was the expert; that is, he possessed "the majority of wisdom." Therefore, even though the majority disagreed with him, he was defined by Halachah as "all the Sages of his generation" (see Rambam, Hilchot Ta'anit 5:3 where there is a similar understanding.

Rav Aviner on... Should Rabbis Intervene in Politics?

[Be-Ahavah U-Emunah – Yitro 5771 - translated by R. Blumberg]

Question: Is it proper that rabbis engage in politics? Maybe their job is to engage in Torah study and in exalting the individual in his private life, which obviously will bring great blessing to the nation. Maybe they shouldn't be engaging in general communal matters, let alone weighty, controversial questions affecting the public, when they receive their salaries from the state.

Answer: Indeed there is such an approach which argues: "Render unto Caesar the things which are Caesar's, and unto G-d the things that are G-d's." The government will deal with state matters in this world, and the clergy will deal with matters of the soul and the World-to-

Come. This is the well-known Christian approach, advanced by Jesus to our Sages the "Pharisees".

The problem is that, in the meantime, we as individuals live in this world, in this country, and we intend to remain here for a long time, as long as G-d, in His kindness, lets us. And the problem is that precisely by means of what happens in this world, we arrive in the World-to-Come. (Mesilat Yescharim chapter 1).

The problem is that our ideal is not just heaven but also earth, following the precedent of Avraham, who was commanded, "Go forth to your land" (Bereshit 12:1). Likewise, Moshe was commanded by G-d, "You have remained near this mountain too long. Turn around and head towards the Amorite highlands.... See! I have placed the land before you" (Devarim 1:6, 8). This is the special quality of our Torah. There is not only a Torah for the individual, but a Torah for public affairs, as well. More precisely, there is both the Torah of the public and a Torah of the individual. Or, even more precisely, there is a Torah of the individual that derives from the public Torah.

What, after all, is "politics"? It is a Greek word meaning, "the conduct of the city". And in its expanded meaning, it connotes the conduct of the nation, of the country.

Therefore, not only are rabbis permitted to engage in this -- they are obligated to. They bear spiritual responsibility not just for the individual but for the community.

Obviously, the issue here is not the political details and technicalities, but political philosophy. As an example, a rabbi does not deal with medicine, but with medical ethics. He is not an economist, but he deals with business ethics. He is not a military commander, but he defines the legitimate use of weaponry.

The rabbi engages in politics in the sense of guiding the nation and the country, the purview of men of the spirit. The politicians themselves have a narrow perspective. They lack the tools to solve general problems touching on the historic, ethical, and spiritual. That is the task of Torah scholars.

Towards that end, the rabbis have to be familiar with the facts and the problems. They have to know the institutions involved, be able to make value judgments, and to know when historic processes are taking place. In a word, they have to be pedagogues of the nation.

Obviously, even the political technocrats have to be honest people dealing faithfully with the needs of the public -- they can't be sunk in the deep mire of unethical political back-scratching. Yet even if they are faithful public servants, they cannot rise up to the exalted role of fashioning a society the way a Torah scholar can. The Torah scholar can be classified as an idealist-realist. Therefore, men of the spirit were always involved in politics, starting with the prophets, and on through the sages. In other words, rabbis must know the reality well, they must establish what the goal is, and they must sketch out a plan. This is called educating the nation.

With this comes an answer to the question: what should rabbis who receive a salary from the state do if government institutions order them to remain silent on political matters?

It's very simple. They should continue to talk, as our prophets did, as well as our Sages down through the generations, even in the exile.

There was the case of Rabbi Menasha of Ilya who expressed sharp criticism of the Russian regime for its "Cantonist" decree, by which ten-year-old Jewish children were drafted into the army for twenty-five years under the aegis of the czar's "Russification" program. Jewish communal leaders pronounced that because he was an official rabbi of the community, receiving a salary, he was not allowed to express himself in this matter. That great Torah scholar, a disciple-contemporary of the Vilna Gaon, responded, "If so, I quit this minute. I am no longer your official rabbi. I want no salary, and I shall say everything I want and must say."

That is how our rabbis should conduct themselves now. It is also very logical and essential. A rabbi's influence does not depend on his official appointment. He can't force anything on anyone. He only teaches Torah, and only to those minds and hearts that want to hear it. If so, his quitting does not mean that he will stop talking and influencing, but only that he will stop receiving money for it. What emerges is that if he agrees to remain silent for the sake of money, he can no longer be classified as one who "hates profit", and that constitutes a

substantial flaw. By such means, obviously, he will lose the public trust, which will view its spiritual leaders as filtering their words in a filter of silver.

Therefore, if a nightmare ever comes true of rabbis being forbidden to speak out on public issues, they will have no choice but to resign and support themselves through other holy works. Then they will be able to express themselves freely.

Obviously, there may well be rabbis who will not speak out on public matters because they do not understand them, and they are certainly right in remaining silent, because they don't understand.

What a shame they don't understand, however, since such issues are part of their duty. Likewise, rabbis can also make mistakes. Indeed, rabbis must study each issue in depth before commenting, but that does not exempt them from the duty of studying and understanding. Rabbis may also have trouble drawing the line between public issues and the technical side of politics, and that is an error as well.

Generally, however, rabbis are definitely required to involve themselves in politics, and that, despite their receiving a public salary. Rather, the very fact that they receive a salary intensifies their duty to worry about the country.

We are quite familiar with the approach according to which religion should be kept separate from the state, and should shirk its responsibility to rectify injustice. In that regard Karl Marx said, "Religion is the sigh of the oppressed creature, the heart of a heartless world"; and, "The aim of religion is to anesthetize the people's political consciousness, to describe to them an illusory world transcending the contentment that can be found here. It accustoms man to a world without a soul."

Yet that is not our way. When Rabbenu, Ha-Rav Tzvi Yehuda Kook was asked whether it was good for rabbis to intervene in politics, he responded, "It's very good! According to the Torah, they are obligated to intervene. If they don't, they're traitors! The Torah says, 'Fear no man' (Devarim 1:17)." (from the introduction to the book, "Bama'aracha Ha-tziburit").

Another time when people argued that things he had said had stirred up a public debate, and that rabbis shouldn't engage in politics, he responded: 'I don't ask anybody's permission. Whatever is truth and justice I am obligated to publicize, in accordance with the Torah. The politics of the Jewish People constitutes Torah. It is holy.'

Kitzur Tefilat Amecha - #28-29

[adapted for middle-schoolers by Rabbi Shmuel Jablon from Rav Aviner's three-volume commentary on the siddur "Tefilat Amecha"]

#28

After reciting all of the Tehillim in Psukei Dezimra we now say "Baruch Hashem Le-Olam Amen Ve-Amen." We believe that Hashem is blessed and is the source of blessing forever. We then say that He is blessed from Tzion. Hashem's blessings are especially revealed in Yerushalayim and throughout Eretz Yisrael. He is blessed as the G-d of Yisrael, as Hashem has a special relationship with us. And once we have this special relationship, and this special relationship is in Eretz Yisrael, then His glory will fill the entire world.

#29

We say Shirat haYam towards the end of Psukei Dezimra. We try to feel as if we are crossing the Yam Suf. We remember this awesome miracle that occurred. As we know, the sea did not split automatically. We needed to actually walk into the sea. We needed to be moser nefesh - be willing to sacrifice ourselves for Hashem. Only once we showed great emunah - faith- that Hashem would do this miracle did He actually do it. Every Jew reached, for that moment, the level of being a prophet. When we said "Zeh Keli – This is my G-d" we actually were able to point and identify what we saw. Since we were moser nefesh we merited an

incredible connection with Hashem. We don't want that connection to go away. We say "We raise up and glorify Hashem." That is the purpose of our entire lives and the lives of all Klal Yisrael forever. We want to raise the honor of Hashem in this world.

Family Matters - Ha-Rav writes weekly for

the parashah sheet "Rosh Yehudi" on family relationships

Respect for Young Children

A young child is weak both physically and spiritually, and it is possible that he is offended when someone points out his weakness. Do not forget that he has other qualities which adults lack. A child has an incredible ability to learn. It is difficult for adults to learn new things or to change our behavior. We tend to stubbornly tow the familiar line. But a child has the ability to learn and change. We must express our respect for these talents.

The fact that a child is physically weak means that we do not have to be overly worried. For example, he does not have to finish everything on his plate...

As a child develops, he will grow physically and spiritually. But as a child, he is weak and has yet to over his outer and inner enemies. He has yet to overcome his inclinations and feelings, and control them.

When a child is still weak, we must create rings of protection around him, in order that nothing bothers him. This stage comes before educating him.

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