

Didactic Introduction – article from today’s Dallas Morning News: ‘Explorers’ Kin Venturing Forth’

A) Sefer Devarim, chapter 21, verses 18 – 21

- 1) Deep reading of the biblical text
  - a) Second half of verse 18 – may be a second stage
  - b) Verses 19 and 20 – may be a third stage
  - c) Note that the agreement of both father and mother is necessary
  - d) The parents do not have the authority to execute their son, but only the court
- 2) Rabbinic interpretation: the rabbis were extremely bothered by the moral/legal difficulties of this law; it does not jive with other laws and values
  - a) Three major approaches, one of which is “It never was and never will be, rather why was it written? To study and to benefit’ (Babylonian Talmud, Tractate Sanhedrin, chapter 8)
    - (I) The legal mechanism – interpretation that made the law impossible to apply
      - The boy must eat a tremendous quantity of meat and drink a tremendous quantity of wine at once
      - The boy must have done the above in the presence of two witnesses, and the parents must have disciplined him in the presence of two witnesses and he must have declared in their presence his defiance
      - His parents must have indistinguishable voices, and must be the same height and must look exactly the same
    - (II) ‘To study and to benefit’, as per the second half of verse 21
    - (III) Not all law is meant to be enforced
    - (IV) The values behind law may not always be straight-forwardedly derived

B) Sefer Devarim chapter 21, verses 15 – 17

- 1) The principle that declares that the first born son receives a double inheritance is a well known principle, although Sefer Breishit gives very significant examples to the contrary
- 2) Here we are taught that the principle is not to be violated even under extenuating circumstances.
- 3) This might be as much about the unloved wife as it is about the sons.

C) Sefer Devarim chapter 21, verses 10 – 14

- 1) Last few words of verse 11 may not be part of the intention of the soldier but rather an introduction to the law, and this makes the whole thing much clearer
  - a) “And you desire her” is a reference to the ancient and not so ancient norm of battlefield rape
  - b) The Torah forbids battlefield rape, and rather commands ‘take her to wife’ in the following fashion ...
- 2) Take her home and see her in other circumstances in which she may not seem so beautiful or desirable to you
  - a) ‘Into your house’ implies that the man is already married; he now will see what it is like to have two women in the same household.
  - b) Trimming the hair and paring the nails may be to limit her beauty
  - c) Discarding her captive’s garb – the women may have gotten all dressed up during war in order to be enticing and not be killed
  - d) Let her mourn and cry, out of consideration for her emotional state and in order to reduce her allure to you.
  - e) Let a month’s time pass, and perhaps the lust will abate.

- 3) 'Possess her' in verse 13 means intimacy.
  - 4) Verse 14 is a kind of fine; you could have taken her as a servant, but that opportunity is lost by having intimacy with her. You risk losing everything by trying to marry her. This should make one think twice about it.
  - 5) Rabbinic interpretation – Babylonian Talmud, Tractate Kidushim page 21b
 

“The Torah legislated here only in response to the evil impulse, that if the Holy One Blessed by He would not allow this marriage, he would take her in any case”

    - a) The law here is a concession to human weakness; it is the lesser of two evils.
    - b) The law does not fully reflect the Torah’s ultimate values, but rather is the best possible outcome given the sociological and psychological reality.
    - c) The Torah cannot legislate beyond the capacity of those who received it to live up to its standards; it takes into account not only the ideal but also present reality.
    - d) Clearly according to the rabbis the Torah would rather that a man neither commit battlefield rape nor marry the female captive; that is, the Torah looks forward to the day when its’ concession will be superfluous and will be transcended.
    - e) A similar example that we may have talked about in the past – meat eating: the Torah allows it but seems to hold vegetarianism up as an ideal.
- D) Overview of the three sets of verses
- 1) Can we find any connection between the three cases we have studied today?
  - 2) Rabbinic Interpretation: Midrash Tanchuma, paraphrased in Rashi’s Commentary on our verses
 

“If he marries the Beautiful Female Captive in the end he will detest her, as it says afterward: ‘if a man has two wives, one loved and the other unloved ...’ and then he will father from her a Stubborn and Rebellious Son; that is why these matters were juxtaposed.”

    - a) The midrash reflects the Talmudic distaste that we saw above for a marriage of lust conceived on the battlefield.
    - b) Such marriages will probably not create a happy and harmonious home atmosphere, and then the children are at risk as well.
    - c) We may have here not only opposition to marriages of lust, but to bigamy in general: If we look at verses 15 – 17 on their own, they may be read as implying that very often, bigamy – even when the second wife was not brought home from the battlefield - creates a situation in which one woman is unloved
    - d) And the midrash is then telling us that that situation in and of itself may lead to a Stubborn and Rebellious Son.
- E) Bigamy and Polygamy in the stories of the Bible
- 1) Avraham, Sara and Hagar – Breishit chapter 16, verses 1 – 12; chapter 21, verses 9 – 11
  - 2) Ya’acov, Rachel, and Leah and the maidservants – Breishit chapter 29, verses 30 – 34; chapter 30, verses 1 – 8; Breishit chapter 37, verses 1 – 4, 18
  - 3) Elkanah, Penina and Hana – First Book of Shmuel chapter 1, verses 1 – 8
  - 4) King David and his many wives – Second Book of Shmuel chapter 13, verses 1 – 2, 11 – 16; *ibid*, *ibid*, verses 20 – 22, 28 – 29; *ibid*, chapter 15, verse 1, First Book of Kings chapter 1, verses 5 - 6
  - 5) King Solomon and his many wives – First Book of Kings chapter 11, verses 1 – 9
  - 6) Perhaps the Bible is trying to tell us something?
- F) The ideal of monogamy in the creation story
- 1) Breishit chapter 1, verses 27 – 28
  - 2) Breishit chapter 2, verse 18, 22 – 24
- G) Bigamy and Polygamy in the laws of the Torah
- 1) Shmot chapter 21, verses 7 – 11
  - 2) Sefer Vayikra chapter 18, verse 17 - 18
  - 3) Sefer Devarim chapter 17, verses 16 – 17

H) All this brings us back to where we began

- 1) Bigamy and Polygamy may be like the Beautiful Female Captive: permitted by the Torah but not recommended at all.
  - a) There were good reasons in ancient times for polygamy
    - (I) Prevailing custom
    - (II) Male sexual desire
    - (III) More women than men; gives women a chance to bear children and raise a family
    - (IV) Protection and support for woman in a patriarchal system
- 2) Jewish custom and law slowly came around to limit and eventually abolish polygamy
- 3) But monogamy is still in our day often practiced in the breach
  - a) Mistresses in foreign lands, like in the article
  - b) Serial polygamy
  - c) Same destabilizing effects as in biblical times
  - d) Our society has a long way to go

Distribute my article on the parsha – One Man and One Woman

## מסכתות קטנות מסכת אבות דרבי נתן נוסחא ב פרק ב

מנין שעשה איוב סייג לדבריו שנאמר איש תם וישר וירא אלהים וסר מרע (איוב א' א') וכן היה איוב אומר הרחק מן הכיעור ומן הדומה לו. וכן הוא אומר ברית כרתי לעיני ומה אתבונן על בתולה (שם ל"א א') ומה אם בתולה (שהיא מותרת) [שאדם מותר] להשיאה לו ולבנו ולבן בנו ולבן אחותו והיא מותרת להנשא לכל אדם שתחפוץ לא הייתי מסתכל בה ק"ו על אשת איש. ר' יהודה בן בתירא אומר דורש היה איוב בינו ובין עצמו ומה חלק אלוה ממעל [ונחלת שדי ממרומים] אילו היה ראוי לאדה"ר להנתן לו עשרה נשים היה נותנו לו ולא היה ראוי להנתן לו אלא אשה אחת בלבד אף אני די אשתי די חלקי: ד"א ברית כרתי לעיני מה אם בתולה שהיא מותרת להנשא לכל מי שתרצה אילו נמצאתי מסתכל בה כאילו נמצאתי מסתכל באשת איש:

Pesachim page 113 Rav Asi

Baba Kama 60b Rav Yitzchak bar Nafcha

Yevamot 37b sages temporarily having a second wife

Yoma 18b same

Sources