



ICJW Bea Zucker Online Bible Study Program

“The Five Books of Moses: Contemporary Issues and Classic Perspectives”

By Dr. Bonna Devora Haberman

49 Ki Tetzei — Virgin Territory

Text

דברים כב

יג כִּי-יִקַּח אִישׁ אִשָּׁה וּבָא אֵלֶיהָ וּשְׁנָאָהּ. יד וְשֵׁם לָהּ עֲלִילַת דְּבָרִים וְהוֹצֵא עֲלֶיהָ שֵׁם רָע וְאָמַר אֶת-הָאִשָּׁה הַזֹּאת לָקַחְתִּי וְאֶקְרַב אֵלֶיהָ וְלֹא-מִצְאֵתִי לָהּ בְּתוּלִים. טו וְלָקַח אָבִי הַנְּעָר וְאָמָה וְהוֹצִיאוּ אֶת-בְּתוּלֵי הַנְּעָר אֶל-זִקְנֵי הָעִיר הַשְּׂעֵרָה. טז וְאָמַר אָבִי הַנְּעָר אֶל-הַזְּקֵנִים אֶת-בְּתִי נָתַתִּי לְאִישׁ הַזֶּה לְאִשָּׁה וּשְׁנָאָהּ. יז וְהִנֵּה-הוּא שֵׁם עֲלִילַת דְּבָרִים לְאִמֹר לֹא-מִצְאֵתִי לְבִתְךָ בְּתוּלִים וְאֵלֶּה בְּתוּלֵי בְּתִי וּפְרָשׁוּ הַשְּׂמֵלָה לְפָנַי זִקְנֵי הָעִיר. יח וְלָקַחוּ זִקְנֵי הָעִיר-הַהִוא אֶת-הָאִישׁ וַיִּסְרוּ אֹתוֹ. יט וְעָנְשׁוּ אֹתוֹ מֵאָה כֶּסֶף וְנָתְנוּ לְאָבִי הַנְּעָרָה כִּי הוֹצִיא שֵׁם רָע עַל בְּתוּלַת יִשְׂרָאֵל וְלוֹ-תִהְיֶה לְאִשָּׁה לֹא-יִוָּכַל לְשַׁלְּחָהּ כָּל-יָמֶיהָ.

כ וְאִם-אָמַת הִיָּה הַדָּבָר הַזֶּה לֹא-נִמְצְאוּ בְּתוּלִים לְנָעֲרָה. כא וְהוֹצִיאוּ אֶת-הַנְּעָר אֶל-פֶּתַח בֵּית-אָבִיהָ וְסָקְלוּהָ אֲנָשֵׁי עִירָה בְּאֲבָנִים וּמָתָה כִּי-עָשְׂתָה נְבִלָה בְּיִשְׂרָאֵל לְזָנוּת בֵּית אָבִיהָ וּבִעֲרַת הָרֵעַ מִקְרָבָךְ.

כב כִּי-יִמְצֵא אִישׁ שׁוֹכֵב עִם-אִשָּׁה בְּעֵלְת-בַּעַל וּמָתוּ גַם-שְׁנֵיהֶם הָאִישׁ הַשׁוֹכֵב עִם-הָאִשָּׁה וְהָאִשָּׁה וּבִעֲרַת הָרֵעַ מִיִּשְׂרָאֵל.

כג כִּי יִהְיֶה נָעֵר בְּתוּלָה מֵאִרְשָׁה לְאִישׁ וּמִצָּאָה אִישׁ בְּעִיר וְשָׁכַב עִמָּהּ. כד וְהוֹצֵאתֶם אֶת-שְׁנֵיהֶם אֶל-שַׁעַר הָעִיר הַהוּא וְסָקַלְתֶּם אֹתָם בְּאֲבָנִים וּמָתוּ אֶת-הַנְּעָר עַל-דְּבַר אֲשֶׁר לֹא-צָעָקָה בְּעִיר וְאֶת-הָאִישׁ עַל-דְּבַר אֲשֶׁר-עָנָה אֶת-אִשְׁתּוֹ רָעוּהוּ וּבִעֲרַת הָרֵעַ מִקְרָבָךְ. {ס} כה וְאִם-בְּשָׂדֵה יִמְצָא הָאִישׁ אֶת-הַנְּעָר הַמֵּאִרְשָׁה וְהַחֲזִיק-בָּהּ הָאִישׁ וְשָׁכַב עִמָּהּ וּמָתָה הָאִישׁ אֲשֶׁר-שָׁכַב עִמָּהּ לְבָדוּ. כו וְלְנָעֵר לֹא-תַעֲשֶׂה דְבַר אֵין לְנָעֵר חֲטָא מוֹת כִּי כִּפְאֲשֶׁר יָקוּם אִישׁ עַל-רָעוּהוּ וּרְצָחוּ נֶפֶשׁ כֵּן הַדָּבָר הַזֶּה. כז כִּי בְּשָׂדֵה מִצָּאָה צָעָקָה הַנְּעָר הַמֵּאִרְשָׁה וְאֵין מוֹשִׁיעַ לָהּ. {ס} כח כִּי-יִמְצָא אִישׁ נָעֵר בְּתוּלָה אֲשֶׁר לֹא-אִרְשָׁה וּתְפֹשָׁה וְשָׁכַב עִמָּהּ וּנְמָצָאוּ. כט וְנָתַן הָאִישׁ הַשׁוֹכֵב עִמָּהּ לְאָבִי הַנְּעָר חֲמִשִּׁים כֶּסֶף וְלוֹ-תִהְיֶה לְאִשָּׁה תַּחַת אֲשֶׁר עָנָה לֹא-יִוָּכַל לְשַׁלְּחָהּ כָּל-יָמֶיהָ.

Devarim 22

13 A man marries a woman and cohabits with her. Then he takes an aversion to her 14 and makes up charges against her and defames her, saying, "I married this woman; but when I approached her, I found that she was not a virgin." 15 In such a case, the young woman's father and mother shall produce the evidence of the young woman's virginity before the elders of the town at the gate. 16 And the young woman's father shall say to the elders, "I gave this man my daughter to spouse, but he has taken an aversion to her; 17 so he has made up charges, saying, 'I did not find your daughter a virgin.' But here is the evidence of my daughter's virginity!" And they shall spread out the cloth before the elders of the town. 18 The elders of that town shall then take the man and flog him, 19 and they shall fine him a hundred [shekels of] silver and give it to the young woman's father; for the man has defamed a virgin in Israel. Moreover, she shall remain his spouse; he shall never have the right to divorce her.

20 But if the charge proves true, the young woman was found not to have been a virgin, 21 then the young woman shall be brought out to the entrance of her father's house, and the men of her town



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shall stone her to death; for she did a shameful thing in Israel, committing fornication while under her father's authority. Thus you will sweep away evil from your midst.

22 If a man is found lying with another man's spouse, both of them — the man and the woman with whom he lay — shall die. Thus you will sweep away evil from Israel.

23 In the case of a virgin who is engaged to a man — if a man comes upon her in town and lies with her, 24 you shall take the two of them out to the gate of that town and stone them to death: the young woman because she did not cry for help in the town, and the man because he violated another man's spouse. Thus you will sweep away evil from your midst. 25 But if the man comes upon the engaged young woman in the open country, and the man lies with her by force, only the man who lay with her shall die, 26 but you shall do nothing to the young woman. The young woman did not incur the death penalty, for this case is like that of a man attacking another and murdering him. 27 He came upon her in the open; though the engaged young woman cried for help, there was no one to save her.

28 If a man comes upon a virgin who is not engaged and he seizes her and lies with her, and they are discovered, 29 the man who lay with her shall pay the young woman's father fifty [shekels of] silver, and she shall be his spouse. Because he has violated her, he can never have the right to divorce her.

Context

Ki Tetzei opens with the rules that constrain a soldier and protect a woman taken captive. The text follows with rules that constrain a man from favoring one spouse over another. The Torah instructs parents whose child is deemed excessively rebellious to take the child to be stoned by the village. A collection of rules teaches community responsibility to return lost animals and possessions, to exercise compassion toward birds, to safeguard against falls from our rooves, to keep varieties of seeds, animals, and fibers separate, to maintain separation from certain nations, to refrain from charging interest, to protect slaves from abuse. Among these rules are interspersed very highly controversial passages in the Torah, including important passages concerning women – clothing, virginity, violation, divorce, levirate marriage. The parasha concludes with the commandment to remember to blot out Amalek, and not to forget.

Explorations

One Shabbat morning many years ago, I was sitting in a modern Orthodox synagogue in Jerusalem. A couple of chairs away from me, along my row, a very young woman was sitting alone, her chumash- Torah text in her lap open to parshat Ki Tetzei, following intently. I witnessed out of the corner of my eye that she sank deeper into her chair as we progressed through the reading, her shoulders curving in, hunching over her book. After we read through the third aliya – the latter part of chapter 22, tears welled in her sad young eyes. Before we reached the passage about providing for the stranger, the orphan, and the widow, she rose awkwardly from her seat, and left. I have not seen her again.



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After the reading, the Torah was rolled shut, neatly closing up the hymen-bloodied sheet and shutting out the scream of the woman in the field. A man duly returned it to the sacred ark amidst heart-felt communal singing of the prayer,

“A tree of life to those who hold fast to it,
and all who cling to it are happy.
Its ways are ways of pleasantness,
and all its paths are peace.
Return us God to You, and we will return.
Renew our days as of old.”

A man delivered the morning homily. He spoke of the beauty of the Torah's commandments with a focus on the humane requirement to leave leftover sheaves in the field for the needy.

The Torah often treats women and our sexuality as a man's possession and offends women's personal autonomy, will and dignity. Such texts evoke very difficult emotions. Passages in our parshat Ki Tetzei provoke, exasperate, make us cringe, feel frustrated and furious, excluded, embarrassed, defensive, wounded and alienated. Often, Jewish leaders and educators skip over, euphemize, apologize for, justify or historicize such texts. There are familiar arguments - what seems to us backward and repressive in our day was enlightened in its time, relative to other cultures. However true that may be, there is no point to claiming that we can smooth away and reconcile ourselves with such difficult passages as we find in our parsha. From the perspective of taking the Torah seriously in relation to our own lives today, as we do in so many other parashot, there is no possibility for us to accept the way that our text relates to women as it is. Allowing such a Torah reading to pass without comment or action causes personal and collective damage - to women, to our communities and to the Jewish People.

Judith Romney Wegner argues that originating in the Torah and elaborated in the Mishna, a woman and her sexual reproductivity is sometimes a chattel, sometimes an autonomous person – depending on her specific status at a specific time in her life. Except for the “legally emancipated daughter”, the widow, and the divorcée, according to patriarchal laws, a woman moves as a possession between the domains of her father and her male spouse.

Our passage focuses on virginity. Most patriarchal cultures value a woman most highly before she has had sex for the first time – when her hymen is intact. The following mishnaic text demonstrates some rabbinic attitudes. In mishnaic tractate *Ketubot*, the sages discuss the monetary compensation for the rape of an unbetrothed woman,

As to the compensation for] blemish: she is regarded as if she were a slave-woman to be sold in the marketplace [to be given in marriage to a favored slave and it is estimated] how much she was worth [as a virgin] and how much she is worth now [the difference is to be paid]. *Ketubot* 3:7



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The sages calculate the value of virginity, one of the damages to be paid for rape, “blemish”-פגם, according to market value: the difference in the sale price of an equivalent woman-slave who is a virgin, and one who is not. The calculation of monetary damage is not completely foreign – every insurance policy has a formula for evaluating amounts for compensation when injury or damage occurs. In general, the mishna assesses monetary values of all physical injuries for both men and women by relating to values on the slave market. Here, however, the concept of “blemish” applied to the *loss of virginity* appropriates to public interest a woman's private sexuality, and not a man's. Furthermore, the beneficiary is not the person who actually suffers the violation; in nearly every case, it is her father. [Ovadiah of Bartenura](#), a popular 15th century commentator on the mishna interprets that even the compensation for the suffering/pain of rape is paid to the father (on Ketubot 3.4). Earlier in the chapter, in accord with Talmudic sources, the Bartenura comments that girls who have been penetrated before the age of three years (!) are considered virgins because their hymen grows back (on 1.1). Women are offensively objectified and violated by this conversation.

Possessing and controlling women's sexuality / fertility is integral to patriarchy. Women are expected to keep their body “intact” by submitting to and adhering to strictures governing sexual behavior. Prophetic narratives assert that purity and honor of the nation depend on women's purity and honor. While a married woman's faithfulness to her one man is as strict a principle as monotheism itself, the Torah does not restrict a married man's sexuality to relations with his spouse. Aside from close family relatives, a married man is generally permitted to have sex with any woman so long as by doing so he does not infringe another man's claim to possess her (her father's or her spouse's). Among the prophets, a woman's (un)faithfulness to her spouse is a central metaphor for the relationship of the Jewish People – symbolized by the woman spouse, with God – symbolized by the male partner (see, for example, Hoshea, Ezekiel 16, Amos 3). Prophets elaborate about woman's unfaithfulness in graphic terms.

Chapter 16 of Ezekiel describes a newborn infant wallowing in the blood of birth by the roadside. The male father-God, adopts and nurtures her until she attains sexual maturity and exquisite beauty. He then espouses her and makes a covenant, and indulges her with fine and expensive materials.

You trusted in your beauty and used your fame to become a prostitute. You lavished your favors on anyone who passed by and your beauty became his. You took some of your garments to make gaudy high places, where you carried on your prostitution. You went to him, and he possessed your beauty. You also took the fine jewelry I gave you, the jewelry made of my gold and silver, and you made for yourself male idols and engaged in prostitution with them. And you took your embroidered clothes to put on them, and you offered my oil and incense before them. Also the food I provided for you—the flour, olive oil and honey I gave you to eat—you offered as fragrant incense before them. (Ez. 16.15-19)



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This passage describes Israel, figured as the woman spouse, betraying the covenant with her divine male partner, fornicating and soliciting sex with passers-by. She uses the finery from her divine spouse for idolatry with brazen insolence.

To a large extent, this and similar passages attribute exaggerated male sexual fears and insecurities to a divine male figure. They perpetuate patriarchy's objectification of women. In heaven as on earth, male power seeks to define and restrict women's roles and lives, to set social and national agendas. Many texts and traditions inscribe and enforce patriarchy with the unstated justification that woman is irrevocably unfaithful and sexually corrupt.

One aim for male insistence on regulating female sexuality is a desire to rule over the process of reproduction, the making of life itself – from which some men feel excluded.

The Western psycho-analytic tradition helps to explain patriarchy's obsession with sexuality and enforcement of cultural differentiation of men's and women's roles, behaviors, and power. Belief in gender essentialism – the view that men and women are born with innately different emotions, capabilities, instincts, behaviors, priorities etc. - is key to justifying and maintaining male dominance. One reason why Sigmund Freud's theories are so popular is that he purports to solve a struggle of male-centered culture with a very difficult material problem. Freud claims to reveal and explain previously unknown bio-*logical* truth about life itself. Whereas maternity is evident and obvious – a woman gestates, births, and suckles her infant, paternity is a momentary and elusive act that leaves no evidence (until the era of DNA testing). Freud proposes that paternity is a *logical deduction* and supports his logic with ancient patriarchal narrative (such as the Oedipus story). He erects the phallus at the core of human sexuality, and renders woman *lack*, *envious*, and *other*.

Unconscious of his own male-centered bias, his theories assert the superiority of male reason and law based on what he deems the instinctive fundamentals of human sexuality and desire. Faced with contrary evidence, in his "New Introductory Lectures" he admits his bafflement at women, "psychology too is unable to solve the riddle of femininity". Obsessed within his own phallogocentric universe, he cannot possibly conceive, "What does a woman want?" (*Sigmund Freud: Life and Work* (Hogarth Press, 1953) by Ernest Jones, Vol. 2, Pt. 3, Ch. 16).

The solipsism and self-contradictions of psycho-analytic theories do not deter Western culture from adopting them, along with many other theories that achieve cultural dominance in spite of their explanatory impotence. One main benefit that commends them to the institutions of power is that they support and perpetuate patriarchal arrangements by rendering women and women's supposed "nature" irrevocably *other*.

Similar analysis applies to our texts in Ki Tetzei that express a desire to assert male dominance and control, to rule over women's sexual blood and potency. Our parasha states the coercive threat to constrain women's sexual behavior and maintain the priorities of the patriarchal regime. Stoning is the outcome of a woman transgressing certain sexual norms.



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But if the charge proves true, the young woman was found not to have been a virgin, then the young woman shall be brought out to the entrance of her father's house, and the men of her town shall stone her to death; for she did a shameful thing in Israel, committing fornication while under her father's authority. Thus you will sweep away evil from your midst. (Devarim 22:21-2)

A place that ought to shelter and protect, the entrance to her father's house becomes the site where the community exposes the daughter to the enforcement of the “father's authority” - this is the core meaning of patriarchy. The man / son with whom she allegedly *fornicated* is absent from the scene. While the woman with whom he had sex dies pitifully, he is guiltless, off the page of the Torah. The man with whom she had sex prepares to take possession, or already possesses a woman and her sexuality by whom he will bear his legitimate line. The text disciplines with brutal force. Later, rabbinic sources restrict the applicability of this violent text to married women.

Having made this fierce indictment of the Torah, we must observe that Judaism is neither unique nor extreme in its responsibility for such patriarchal oppressions. With few exceptions, all human culture needs to be similarly analyzed and indicted with an aim to liberation.

We must also observe that one purpose of our passage is to protect a woman against false and miserable accusations. Beyond our parsha, rabbinic wisdom expresses severe discomfort with the brutality of the Torah text, and gradually transforms *virginity* from surveillance of the physical hymen to a more conceptual status, *unwed*. The sages abandon most of the invasive and intolerable manipulations symbolized by the bloody sheet. Both *de facto*, and *de jure*, they abolish capital punishments in 70 CE.

A further observation relates to the prophetic passages about Israelite infidelity / idolatry. When the (male) sages interpret difficult passages about women's sexuality such as the ones in our parasha, they also subliminally identify with the woman in the metaphoric covenant with the divine. Limiting the brutality of the text is one way that they address their own sense of vulnerability and even suffering during years of exile from their beloved divine partner and homeland.

Questions for Discussion

1. Discuss the extent to which your community and society enforce a double standard with regard to women's and men's sexual behavior? Are virginity and fidelity relevant concepts in your Jewish community? In the general culture of non-Jews in your area? In what ways and for whom is sexuality powerful or submissive? How do people absorb these views, and what is the source and justification for them? How are they reflected in cultural behavior?



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2. In what ways are attitudes about sexuality and behaviors of men and women in your society affiliated with or detached from childbearing?
3. How are personal sexual ethics related to national identity – in the Torah? in your society today?
4. How do you relate to patriarchal aspects of the Torah, particularly where sexual identity determines women's roles and restricts women's behavior? Consider whether you perceive similar patriarchal assumptions in your culture. Do you accept these assumptions – why or why not?

Study Links

About rape in this parsha, please see the seventh installment of my ICJW series on Biblical Women, “[Betrothed Young Woman - On Rape & Murder.](#)”

See this [literature review](#) by Dawn Robinson Rose of Judith Romney Wegner's *Chattel or Person?: The Status of Women in the Mishnah* (Oxford University Press, New York, 1988).

One exemplary interlocutor with Freud is Luce Irigaray. Her book, [Speculum of the Other Woman](#) particularly takes on Freud's lecture about so-called “femininity”.

During initiation to becoming a geisha, a Japanese young woman undergoes a coming-of-age ceremony, *mizuage*. Some suggest that a special patron would pay a large sum, and had the privilege to “take” her virginity. Arthur Golden describes one example of this process, not necessarily accurately, in *Memoirs of a Geisha*. See [this discussion](#) about the controversy about whether a geisha did in fact “sell” her virginity.

See this current video clip about a global project to prevent rape in the field and city, “[No Means No Worldwide Girls Stop Rape.](#)”

In a book that will both enlighten and provoke, Daniel Boyarin offers an alternative to the prevailing Euroamerican warrior/patriarch model of masculinity and recovers the Jewish ideal of the gentle, receptive male. The Western notion of the aggressive, sexually dominant male and the passive female reaches back through Freud to Roman times, but as Boyarin makes clear, such gender roles are not universal. Analyzing ancient and modern texts, he reveals early rabbis--studious, family-oriented--as exemplars of manhood and the prime objects of female desire in traditional Jewish society.

Challenging those who view the “feminized Jew” as a pathological product of the Diaspora or a figment of anti-Semitic imagination, Boyarin argues that the Diaspora produced valuable alternatives to the dominant cultures' overriding gender norms.

See more of [this review](#) of Daniel Boyarin's provocative book, “*Unheroic conduct: The rise of heterosexuality and the invention of the Jewish man.*”

Summary of Issues



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There are passages in the Torah, such as the one in our parasha about a man indicting his woman spouse for pre-marital sexual activity, that relate coercively to women as objects possessed by men. Like most cultures, such passages undergird patriarchal control over women's sexuality and fertility, and ultimately, over her role and life. The rabbinic sages progressively limit the application of fiercely misogynist sexual norms, partly because of their own identification with the woman in a covenant with a male divine.

Methods & Observations

By consciously choosing to center difficult texts, to study and teach them, we propose an important role for text study: social betterment.

Contact

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