

Women Who Get Caught In Ancient Bar Fights

Parshat Ki Teitzei

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29 August 5780/9 Elul 5780

כִּי־יִנְצוּ אַנְשִׁים יַחַדְדוּ אִישׁ וְאֶחָיו וְקָרְבָה אִשְׁתׁ הָאֶחָד לְהִצִּיל אֶת־אִשְׁהָ מִיַּד מְכַהוֹ וְשָׁלְחָה יָדָהּ וְהִחֲזִיקָהּ בְּמַבְשָׁיו: וְקָצְתָה אֶת־כַּפָּה לֹא תַחֲסוּ עֵינֶיךָ:

If two men get into a fight with each other, and the wife of one comes up to save her husband from his antagonist and puts out her hand and seizes him by his genitals, you shall cut off her hand; show no pity. Deuteronomy 25:11-12

**Who is harmed? What's the Harm? Why the punishment?
Remember your initial reactions.**

This sounds kinda familiar, no?

וְכִי־יִנְצוּ אַנְשִׁים יָמִים וְנִגְפוּ אִשָּׁה הָרָה וַיֵּצְאוּ יְלֵדֶיהָ וְלֹא יְהִי אָסוֹן עָבוֹשׁ יַעֲנֶה שׁ כְּאִשֶּׁר יִשִּׁית עָלֶיהָ בְּעַל הָאִשָּׁה וְנָתַן בְּפִלְלִים: וְאִם־אָסוֹן יְהִי וְנִתְּתָה נַפְשׁ תַּחַת נַפְשׁ: עַיִן תַּחַת עַיִן שֵׁן תַּחַת שֵׁן יָד תַּחַת יָד רֶגֶל תַּחַת רֶגֶל: כֹּוֹיָהּ תַּחַת כֹּוֹיָהּ פָּצַע תַּחַת פָּצַע חֲבוּרָה תַּחַת חֲבוּרָה:

If men fight, and hurt a woman with child, so that she gives birth prematurely, yet no harm follows, he shall surely be punished accordingly as the woman's husband imposes on him; and he shall pay as the judges determine. But if any harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise. Exodus 21:22-25

It's About Reproductive Harm... for men and women

The passage immediately follows the codification of levirate marriage, which says if a man dies childless, his brother is to carry on his brother's name by having a child with the widowed wife... This fact of life raises a question: how far can a woman go to preserve her husband's life to avoid the potential problems in levirate marriage? Immediately following is the passage which describes a woman trying to save her husband's life... Since she attempted to preserve her husband's life by improperly touching another man, her right to levirate marriage under the Law must be cut off and she shall not be pitied. In this way the principle of talion (equal punishment) is upheld as both the man and the woman only lose the potential of a future child.

hermeneutics.stackexchange.com/questions/5137/what-is-the-meaning-of-deuteronomy-2511-12

It's About Humiliation

"kaph" refers euphemistically, not to the actual female genitalia, but to the groin area as a whole and the verb for "cut off" is to be translated as "trimmed/shaved." If this is the case, it would be suggesting that the punishment for publicly shaming a man by attempting to damage his reproductive organ (upon which the very sign of the Covenant, circumcision, was borne) would be the public shaming of the offending wife of his opponent by symbolically desecrating her reproductive organ. This is due to the fact that the shaving of hair in Israel was most often a sign of mourning, humiliation or punishment. see: J. Walsh, *"You Shall Cut Off Her ... Palm? A Re-Examination of Deuteronomy 25:11-12"*, Journal of Semitic Studies 49/1, 2004, pp. 47-58.

Well this is weird. Let's change the subject.

What is implied? If the rodef (pursuer) was warned and continues to pursue his intended victim, even though he did not acknowledge the warning, since he continues his pursuit he should be killed. If it is possible to save the pursued by damaging one of the limbs of the rodef, one should. Thus, if one can strike him with an arrow, a stone or a sword, and cut off his hand, break his leg, blind him or in another way prevent him from achieving his objective, one should do so. If there is no way to be precise in one's aim and save the person being pursued without killing the rodef, one should kill him, even though he has not yet killed his victim. This is implied by Deuteronomy 25:11-12, which states: "If a man is fighting with his brother, and the wife of one... grabs the attacker by his private parts, you must cut off her hand; you may not show pity."
-Mishneh Torah, Murderer and the Preservation of Life 1:7

An Ancient Rorschach Test

Jewish law -- both in the Torah and in rabbinic tradition -- rely heavily on case law. Larger principles are intuited from the sometimes exceedingly particular intricacies of a case. Of course -- in order for principles derived from case law to work, the jurists need clarity on what the case is about. If there is not agreement about the harm done, who was harmed, or in the rationale of the punishment, interpretation and subsequent laws will vary wildly. What is much clearer in subsequent interpretation is what is at stake for the interpreter. Their reading of eccentric case law reflects their fears, experience, and sense of justice more accurately than any objective truth about the case itself. -Rabbi Sarah Bassin