



BETROTHED YOUNG WOMAN – ON RAPE & MURDER

Background

Among the biblical legal texts that deal with the status of women in relationships and society is a description of the fate of an engaged woman who is raped. This Deuteronomic text is not a specific narrative about a biblical character nor about an identified personality; it is about "everywoman," that is, the general case of any woman who, in similar circumstances, is the victim of sexual assault.

Biblical Sources

כב כִּי-יִמְצָא אִישׁ שֹׁכֵב עִם-אִשָּׁה בְּעִלְת-בַּעַל וּמֵתוּ גַם-שְׁנֵיהֶם--הָאִישׁ הַשֹּׁכֵב עִם-הָאִשָּׁה וְהָאִשָּׁה; וּבְעִרְתָּ הָרָע מִיִּשְׂרָאֵל.

כג כִּי יִהְיֶה נֶעֱרַךְ בְּתוּלָה מֵאֲרֻשָּׁה לְאִישׁ; וּמִצָּאָה אִישׁ בְּעִיר וְשֹׁכֵב עִמָּהּ. כִּד וְהוֹצֵאתֶם אֶת-שְׁנֵיהֶם אֶל-שַׁעַר הָעִיר הַהוּא וְסָקַלְתֶּם אֹתָם בָּאֲבָנִים וּמֵתוּ--אֶת-הַנֶּעֱרַךְ עַל-דִּבְרֵי אִשָּׁר לֹא-צָעֲקָה בְּעִיר וְאֶת-הָאִישׁ עַל-דִּבְרֵי אִשָּׁר-עָנָה אֶת-אִשְׁתּוֹ רַעוּהוּ; וּבְעִרְתָּ הָרָע מִקִּרְבְּךָ.

כה וְאִם-בַּשָּׂדֶה יִמְצָא הָאִישׁ אֶת-הַנֶּעֱרַךְ הַמֵּאֲרֻשָּׁה וְהִזְזִיק-בָּהּ הָאִישׁ וְשֹׁכֵב עִמָּהּ: וּמֵת הָאִישׁ אֲשֶׁר-שֹׁכֵב עִמָּהּ-- לְבָדוֹ. כו וְלִנְעָר לֹא-תַעֲשֶׂה דְבָר אֵין לְנֶעֱר חֹטֵא מוֹת: כִּי כֹאשֶׁר יִקּוּם אִישׁ עַל-רַעוּהוּ וְרָצַחוּ נֶפֶשׁ--כֵּן הַדָּבָר הַזֶּה.

כח כִּי-יִמְצָא אִישׁ נֶעֱרַךְ בְּתוּלָה אֲשֶׁר לֹא-אֲרֻשָּׁה וְתַפְשָׁה וְשֹׁכֵב עִמָּהּ; וְנִמְצָאוּ. כט וְנָתַן הָאִישׁ הַשֹּׁכֵב עִמָּהּ לְאָבִי הַנֶּעֱר--חֲמִשִּׁים כֶּסֶף; וְלֹא-תִהְיֶה לְאִשָּׁה תַּחַת אֲשֶׁר עָנָה--לֹא-יִוָּכַל שְׁלִיחָה כָּל-יְמֵיו: (דְּבָרִים כב)

23 In the case of a virgin young woman 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 young woman 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. (Deuteronomy 22)

Talmudic Reference

Incest and murder [may not be performed in order to save one's life], - even as Rabbi's dictum.

For it has been taught [in a Tannaitic source]: Rabbi said, "For as when a person rises against his/her neighbor, and slays him/her, even so is this matter." But what do we learn from this [comparison with] the murderer? Thus,

this [text] comes to illumine and is itself illumined.

The murderer is compared to a betrothed maiden: just as a betrothed maiden must be saved at the cost of his life, so in the case of a murderer, s/he [the victim] must be saved at the cost of his/her [the assailant's] life.

And [the case of] a betrothed maiden is compared to a [case of a] murderer: just as [in the case of] a murderer- s/he [the assailant] must be slain rather than transgress.

So also [in the case of] the betrothed maiden- s/he [the assailant] must be slain rather than transgress.](Sanhedrin 74a)

How do these texts treat the particular vulnerability and violation of rape?

Questions for Discussion

The biblical text draws a mortal distinction between the case of a betrothed young woman who is assaulted in the city and one assaulted in the open country. Why is the woman considered culpable in the city, whereas in the open country, perhaps in a field, the woman is not culpable? What assumptions does the text make about society in the city? To what extent are these assumptions tenable or valid in your community?

Another important distinction in the text is between a woman who is engaged to be married and a woman who is not. The engaged woman is considered as if married and the offense of sexual relations with another man is, therefore, grave. However, the text proposes that a woman who is not engaged marry her assailant on account of the sex act -whereby the man forfeits his option to divorce her forever. How do you interpret this legal prescription, as oppression or protection? Why?

What is the connection between rape and murder, according to the biblical and the talmudic text? How is the case of rape like or unlike murder? How do our societies legislate and practice in relation to the severity of the violation?

Links for Inquiry

Concerning crying out for help in the city, consider the infamous incident of the rape and murder of Kitty Genovese and what came to be termed "the bystander effect", http://psychcentral.com/psypsycho/Kitty_Genovese

For a review of *VIRGIN OR VAMP: HOW THE PRESS COVERS SEX CRIMES* BY HELEN BENEDICT (OXFORD UNIVERSITY PRESS, 1992) about media coverage of sexual assault, <http://archives.cjr.org/year/92/6/books-rape.asp>

According to the U.S. Department of Justice, "One of every four rapes takes place in a public area or in a parking garage." For a summary of mostly American statistics, see Coalition Educating About Sexual Endangerment, CEASE, <http://oak.cats.ohiou.edu/~ad361896/anne/cease/rapestatisticspage.html>

Relevant to the marriage of the rape victim with her assailant, consider post-

rape trauma,

<http://www.ojp.usdoj.gov/ovc/publications/infores/student/postram.htm>

Concerning the institutionalization of rape in particularly vulnerable conditions in society, <http://www.ontheissuesmagazine.com/w98chesler.html>

Summary of Issues

The extent to which communities and societies protect people against violation and respond in moments of crisis is an indication of their ethical standard. According to the Torah, the city is understood to be a "civilized" realm where people are assured of their personal security by their neighbors. By contrast, the unpopulated realm is where there is no protection. Population, therefore, is meant to be an assurance of safety because of the tacit obligation to intervene to save people-at-risk.

Though biblical and talmudic texts distinguish between woman victims according to marital status, rape, in all circumstances is a supreme act of violation. The association of rape with murder is a profound acknowledgment of the severity of the assault. These texts draw attention to the physical vulnerability of all people and challenge contemporary practices that neglect responsibility for basic physical security in our societies.

Methodology Matters

The relation between biblical society and our society is complex. One of the purposes of the Oral Torah is to render biblical texts, the Written Torah, in forms that are meaningful to the sages. Interpreting the biblical text today in the rabbinic tradition, contemporary Jewry is similarly responsible to make interpretive decisions that are relevant and meaningful to today's contexts. This challenging process involves negotiating values and navigating the processes of social change with connection and commitment to Torah.

Contact

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