

עץ חיים

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ETZ HAYIM

TORAH AND COMMENTARY

THE RABBINICAL ASSEMBLY  
THE UNITED SYNAGOGUE OF CONSERVATIVE JUDAISM



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Etz Hayim: Torah and Commentary  
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<sup>10</sup>When you take the field against your enemies, and the LORD your God delivers them into your power and you take some of them captive, <sup>11</sup>and you see among the captives a beautiful woman and you desire her and would take her to wife, <sup>12</sup>you shall bring her into your house, and she shall trim her hair, pare her nails, <sup>13</sup>and discard her captive's garb. She shall spend a month's time in your house lamenting her father and mother; after that you may come to her and possess her, and she shall be your wife.

כִּי־תִצְאֶה לְמִלְחָמָה עַל־אֹיְבֶיךָ וַיִּנְתְּנֶנּוּ  
יְהוָה אֱלֹהֶיךָ בְיָדְךָ וְשָׁבִיתָ שְׁבוּיִם:  
וְרָאִיתָ בַשְּׁבוּיָה אִשָּׁת יִפְת־תָּאֵר  
וַחֲשַׁקְתָּ בָּהּ וְלָקַחְתָּ לָּךְ לְאִשָּׁה:  
וְהֵבֵאתָהּ אֶל־תּוֹךְ בֵּיתְךָ וְגִלַּחְתָּ אֶת־  
רֹאשָׁהּ וְעָשְׂתָה אֶת־צַפְרֹנֶיהָ: <sup>13</sup> וְהִסִּירָהּ  
אֶת־שְׂמֹלֶת שְׁבוּיָהּ מֵעַלֶיהָ וַיִּשְׁבָּה בְּבֵיתְךָ  
וּבְכַתְּתָהּ אֶת־אָבִיהָ וְאֶת־אִמָּהּ יָרַח יָמִים  
וְאַחַר כֵּן תָּבוֹא אֵלֶיהָ וּבְעֵלְתָהּ וְהָיְתָה

*Moses' Second Discourse, Part 3: The Laws Given in Moab (continued)*

MISCELLANEOUS LAWS (21:10–25:19)

The final laws in Deuteronomy deal with matters regarding individuals, their families, and their neighbors in contrast to the preceding laws, which concern public officials and the nation as a whole. Several laws in this section reflect Deuteronomy's consideration for the welfare of women.

THREE FAMILY LAWS (21:10–21)

MARRIAGE WITH A WOMAN CAPTURED  
IN WAR (vv. 10–14)

Most female captives in the ancient world became slaves, but in some cases a soldier found one whom he desired to take as a wife or concubine, a practice well known from Homeric Greece and early Arabia. In the light of 20:10–18, this law, which permits Israelite marriage with foreign

women, must refer to non-Canaanite women, who are not regarded as posing the same threat to Israel's religious integrity as would Canaanites.

**12. trim her hair, pare her nails** Some traditional commentators see these acts as part of the woman's mourning for her family and countrymen. Others regard them as separate acts intended to make her unappealing so that her captor, who was attracted by her beauty, might change his mind about marrying a pagan woman.

**13. month's time** A customary period of mourning, also observed for Aaron and Moses (see Num. 20:29; Deut. 34:8), and part of Jewish mourning practice to this day.

**lamenting her father and mother** Whom she will never see again. The law recognizes her grief and insists on respect for it.

Throughout this *parashah*, with its diverse assemblage of laws (more than in any other *parashah*), one theme is prominent: the irreducible dignity and worth of a human being. Even the most marginal members of society, such as the criminal or the female war captive, are fashioned in the image of God and are to be treated accordingly.

**10–21.** These three cases are thematically related: A soldier in the heat of battle covets a female prisoner and, under the power of lust, marries her (vv. 10–14); in the end, he will lose feelings of affection for her and for the children he fathers with her (vv. 15–17), and those chil-

dren will grow up disrespectful (vv. 18–21) of their parents (*Sifrei*).

**10. against your enemies** Plural: Not only your military opponent, but also your permanent enemy—the impulse within everyone to throw off the constraints of decency and give in to selfishness, lust, and rage. The Torah helps us win that second battle even as we strive to win the first (Rashi). Were the Torah to forbid soldiers from taking advantage of female prisoners, many would likely do it anyway. Therefore, the Torah accommodates human willfulness, striving to moderate rather than to eradicate the ugly side of human nature (BT Kid. 21b–22a).

<sup>14</sup>Then, should you no longer want her, you must release her outright. You must not sell her for money: since you had your will of her, you must not enslave her.

<sup>15</sup>If a man has two wives, one loved and the other unloved, and both the loved and the unloved have borne him sons, but the first-born is the son of the unloved one—<sup>16</sup>when he wills his property to his sons, he may not treat as first-born the son of the loved one in disregard of the son of the unloved one who is older. <sup>17</sup>Instead, he must accept the first-born, the son of the unloved one, and allot to him a double portion of all he possesses; since he is the first fruit of his vigor, the birthright is his due.

<sup>18</sup>If a man has a wayward and defiant son, who does not heed his father or mother and does not

לָךְ לְאִשָּׁה: <sup>14</sup>וְהָיָה אִם-לֹא חָפְצָת בָּהּ וְשָׁלַחְתָּהּ לְנִפְשָׁהּ וּמָכַר לֹא-תִמְכְּרֶנָּה בַּבֶּסֶף לֹא-תִתְעַמֵּר בָּהּ תַּחַת אֲשֶׁר עָנִיתָהּ: ט

<sup>15</sup>כִּי-תִהְיֶינָּה לְאִישׁ שְׁתֵּי נָשִׁים הָאֶחָת אֲהוּבָה וְהָאֶחָת שְׁנוּאָה וַיִּלְדוּ-לוֹ בָנִים הָאֲהוּבָה וְהַשְּׁנוּאָה וְהָיָה הַבֵּן הַבְּכוֹר לְשִׁנְיָאָה: <sup>16</sup>וְהָיָה בַיּוֹם הַנִּחַלְוֹ אֶת-בְּנָיו אֶת אֲשֶׁר-יְהִיָּה לוֹ לֹא יוּכַל לְבַבֵּר אֶת-בֶּן-הָאֲהוּבָה עַל-פְּנֵי בֶן-הַשְּׁנוּאָה הַבְּכוֹר: <sup>17</sup>כִּי אֶת-הַבְּכוֹר בֶּן-הַשְּׁנוּאָה יַפִּיר לְתַת לוֹ פִּי שְׁנַיִם בְּכָל אֲשֶׁר-יִמְצָא לוֹ כִּי-הוּא רֵאשִׁית אָנֹו לוֹ מִשְׁפֵּט הַבְּכֹרָה: ט

<sup>18</sup>כִּי-יְהִיָּה לְאִישׁ בֶּן סוֹרֵר וּמוֹרֵה אִינְנוּ שְׁמַע בְּקוֹל אָבִיו וּבְקוֹל אִמּוֹ וַיִּסְרוּ אֹתוֹ

**14.** Commencing a sexual relationship imposes obligations on the husband. If he should change his mind about the captive, he must relate to her as a free woman and release her.

THE RIGHT OF THE FIRSTBORN IN  
A POLYGAMOUS FAMILY (vv. 15–17)

In much of the ancient Near East, even before the time of the Torah, the firstborn son had the right to inherit a larger share of his father's estate than the other sons did. This law seeks to protect this right.

**15. loved . . . unloved** Hebrew: *ahuvah* and *s'nu-ab*; literally, "loved" and "hated." Here, they refer to the husband's favorite wife and to any other, whether she is unfavored, the object of indifference, or disliked.

**the first-born** The firstborn of the father, not necessarily that of the mother.

**16.** It appears that the father could divide his

property among his sons as he wished, so long as he did not violate the following prescription.

**17. double portion** Two shares of the estate. In some parts of the ancient Near East, a man's estate was divided into shares equal to one more than the number of his sons. His chief heir received two of these shares and each of the others received one share.

**first fruit of his vigor** A common description of the firstborn, who is proof of his father's potency and a mark of future fertility.

PUNISHMENT OF AN INSUBORDINATE SON  
(vv. 18–21)

In the patriarchal period, the father's authority over his children was absolute, even to the point of his being able to have them executed for wrongdoing. This law respects the parents' right to discipline their son, but it prevents them from having him executed on their own authority. That

**18.** The Sages mitigated the harshness of this law by finding limitations to its applicability in a careful reading of its words. It would apply only in cases where both father and

mother were present, where they shared a common set of values (spoke in the same voice, so that the father's message did not contradict or undermine the mother's). "Does not heed"

HALAKHAH L'MA'ASEH

**21:18–21. wayward and defiant son** The CJLS has prohibited all verbal and physical forms of domestic violence, including child abuse, while detailing the forms of parental discipline acceptable under Jewish law.

obey them even after they discipline him, <sup>19</sup>his father and mother shall take hold of him and bring him out to the elders of his town at the public place of his community. <sup>20</sup>They shall say to the elders of his town, “This son of ours is disloyal and defiant; he does not heed us. He is a glutton and a drunkard.” <sup>21</sup>Thereupon the men of his town shall stone him to death. Thus you will sweep out evil from your midst: all Israel will hear and be afraid.

<sup>22</sup>If a man is guilty of a capital offense and is put to death, and you impale him on a stake, <sup>23</sup>you must not let his corpse remain on the stake

may be done only by the community on the authority of the elders. Ancient Near Eastern laws and documents also mention legal action by parents against misbehaving children. Such insubordination is a grave offense, because respect and obedience toward parents is regarded as the cornerstone of all order and authority, especially in a tribal, patriarchal society like ancient Israel.

**18. father or mother** The Torah requires equal respect for both.

**even after they discipline him** Indicates that the son is a repeated offender. “Discipline” here came to be understood as flogging, which was regarded as a proper and effective means of deterring sons from evil and self-destructive behavior.

**19.** The fact that both parents must agree deprives the father of unilateral authority even to prosecute his son. The requirement that the mother concur in the charge would also prevent a father from falsely charging his firstborn from an unfavored wife to deprive him of his inheritance rights.

**20. a glutton and a drunkard** Examples of insubordination.

**21. thereupon** The Hebrew prefix is simply a conjunction; it does not imply that an execution follows immediately upon the parents’ declaration. First, the elders must conduct a hearing to determine whether the son is truly guilty and incorrigible or whether the parents are merely

וְלֹא יִשְׁמַע אֲלֵיהֶם: <sup>19</sup> וְתִפְּשׂוּ בּוֹ אָבִיו  
וְאִמּוֹ וְהוֹצִיאוּ אֹתוֹ אֶל-זִקְנֵי עִירוֹ וְאֶל-  
שַׁעַר מְקוֹמוֹ: <sup>20</sup> וְאָמְרוּ אֶל-זִקְנֵי עִירוֹ בְּנֵנוּ  
זֶה סוֹרֵר וּמְרֵדָה אֵינָנוּ שֹׁמְעֵם בְּקִלְנוּ זֹלָל  
וְסוֹבָא: <sup>21</sup> וְרָגְמָהוּ כָּל-אֲנָשֵׁי עִירוֹ בְּאֲבָנִים  
וְיָמָת וּבַעֲרַת הָרֶעַם מִקִּרְבּוֹ וְכָל-יִשְׂרָאֵל  
יִשְׁמָעוּ וְיִרְאוּ: ס

שְׁנֵי <sup>22</sup> וְכִי-יִהְיֶה בְּאִישׁ חֲטָא מִשְׁפָּט־מוֹת  
וְהוֹמָת וְתִלִּית אֹתוֹ עַל-עֵץ: <sup>23</sup> לֹא-תִלֵּן

speaking out of frustration and anger. The elders might then seek to mediate between the parents and the son, and would probably order the son’s execution only when all else failed.

**the men of his town** Unlike the normal practice, where the accusers initiate the stoning (17:7), here the parents are not said to participate. This may be out of sensitivity to their feelings, but it also indicates that they do not have the power of life and death over their children and, furthermore, that the people as a whole are outraged by insubordination, because it threatens the stability of the entire community.

#### THE BODY OF AN EXECUTED CRIMINAL

(vv. 22–23)

**22. you impale him on a stake** Literally, “you hang him on a tree” or “on wood.” After execution, the body of a convicted criminal might be hung and exposed, either by impaling (the Assyrian practice) or by some other means of suspension. This verse does not require hanging or otherwise exposing the body, but merely reflects the existence of the practice. Whatever the text means, exposure served to degrade the criminal and warn others against similar conduct and was perhaps originally intended as well to deprive him of proper burial.

**23. you must not let his corpse remain** Denial of burial and exposure of the body to pred-

would imply that the parents tried to teach him and did not ignore or excuse his behavior. Others went even further, stating that this case, like that of the city of idolaters (Deut. 13:13), was only hypothetical; it was included in the Torah to emphasize the importance of children heeding their parents (BT

Sanh. 71a). Ibn Ezra, taking the former view, adds that the son can be charged only if his parents’ behavior has been exemplary. Otherwise, they have no right to bring accusations against him.

**23.** Even for people whose deeds earn them the ultimate punishment, that stigma ends

overnight, but must bury him the same day. For an impaled body is an affront to God: you shall not defile the land that the LORD your God is giving you to possess.

נִבְלָתוֹ עַל-הָעֵץ בְּיַקְבֹּר תִּקְבְּרֶנּוּ בַיּוֹם  
הַזֶּה וְאֵת-אֲדָמְתְּךָ אֲשֶׁר יְהוָה אֱלֹהֶיךָ נָתַן לְךָ  
נַחֲלָה: ס

**22** If you see your fellow's ox or sheep gone astray, do not ignore it; you must take it back to your fellow. <sup>2</sup>If your fellow does not live near you or you do not know who he is, you shall bring it home and it shall remain with you until your fellow claims it; then you

**כב** לֹא-תִרְאֶה אֶת-שׂוֹר אֲחִיךָ אוֹ  
אֶת-שִׂיּוֹ נִדְחִים וְהִתְעַלְמָתָּ מֵהֶם הַשֵּׁב  
תָּשִׁיבָם לְאֲחִיךָ: <sup>2</sup>וְאִם-לֹא קָרוֹב אֲחִיךָ  
אֵלֶיךָ וְלֹא יִדְעָתוֹ וְאִסְפָּתוֹ אֶל-תּוֹךְ בֵּיתְךָ  
וְהָיָה עִמָּךְ עַד דִּרְשׁ אֲחִיךָ אֹתוֹ וְהִשְׁבִּיתוֹ

ators are often mentioned in the Bible as a grievous curse, perhaps because of the folk belief that the unburied find no rest in the netherworld.

**an affront to God** Some explain that the criminal's body may not be maltreated because that would be an offense against God in whose image even the criminal was created. Others claim that *elohim* here does not mean "God" but "spirit," because God is almost never referred to as *elohim* in the laws of Deuteronomy. The clause then would mean that an impaled body is an affront to the spirit of the dead man.

**you shall not defile the land** A dead body is the primary source of ritual impurity in the Bible. If it were left to decompose, its parts eventually would be scattered by birds and animals, spreading the impurity.

#### MISCELLANEOUS DOMESTIC LAWS (22:1–12)

This section consists of nine laws, dealing mostly

with property: domestic animals, clothing, houses, and vineyards.

#### RETURNING LOST ANIMALS (vv. 1–3)

This law and the one in verse 4 require assisting one's fellow who faces difficulty or possible economic loss in certain situations. They paraphrase and supplement Exod. 23:4–5.

**1. your fellow's** Literally, "your brother's." This reminder that the owner of the animal is one's kin counters the temptation to ignore the problem because it would be inconvenient or expensive to return, feed, or lift the animal.

**gone astray** Because much of the population owned livestock, and animals were used for transport, it was common to come upon strays.

**2. you shall bring it home** Literally, "bring it inside your house." In two-story dwellings, especially those in villages, the ground floor frequently served as a stable for cattle.

**until your fellow claims it** According to

with their death. In death the criminal's body must be treated with the same regard as any other dead body. To do otherwise would be to affront God, in whose image even the least

worthy of us is fashioned. Jewish law calls for the burial of the body as soon as is practical, permitting the psychological work of mourning to begin.

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**21:23. bury him the same day** To avoid desecration of the dead, we bury the dead as soon after death as possible. To honor the dead, however, burial may be postponed to enable relatives to attend the funeral or to make it possible to donate the deceased's organs for transplant. It may also be postponed for a legally required autopsy. Burials do not take place on *Shabbat* or festival days.

**22:1. take it back to your fellow** Anyone who finds a lost object or animal without trying to return it to its owner is considered a thief. The finder must make a public announcement seeking the owner and is responsible for the object or animal until it is returned to its rightful owner. The claimant must be able to describe the item's identifying signs or provide evidence of ownership. Lacking identifying marks, lost property found in a public place or appearing to be abandoned (e.g., spilled fruit along a roadside) is considered ownerless (BT BM 25b,28a–b).

shall give it back to him. <sup>3</sup>You shall do the same with his ass; you shall do the same with his garment; and so too shall you do with anything that your fellow loses and you find: you must not remain indifferent.

<sup>4</sup>If you see your fellow's ass or ox fallen on the road, do not ignore it; you must help him raise it.

<sup>5</sup>A woman must not put on man's apparel, nor shall a man wear woman's clothing; for whoever does these things is abhorrent to the LORD your God.

<sup>6</sup>If, along the road, you chance upon a bird's nest, in any tree or on the ground, with fledglings or eggs and the mother sitting over

לו: <sup>3</sup> וְכֵן תַּעֲשֶׂה לְחִמּוֹ וְכֵן תַּעֲשֶׂה לְשִׁמְלָתוֹ וְכֵן תַּעֲשֶׂה לְכָל־אֲבֵדֹת אֲחִיךָ אֲשֶׁר־תֵּאבֵד מִמֶּנּוּ וּמִצָּאֵתָהּ לֹא תוֹכֵל לְהִתְעַלֵּם: ס

<sup>4</sup> לֹא־תִרְאֶה אֶת־חִמּוֹר אֲחִיךָ אֹו שׁוֹר נִפְלִים בְּדֶרֶךְ וְהִתְעַלַּמְתָּ מֵהֶם הֲקָם תִּקֶּים עִמּוֹ: ס

<sup>5</sup> לֹא־יִהְיֶה כְּלִי־גִבּוֹר עַל־אִשָּׁה וְלֹא־יִלְבַּשׁ גִּבּוֹר שִׁמְלַת אִשָּׁה כִּי תוֹעֵבֵת יְהוָה אֱלֹהֶיךָ כָּל־עֲשֵׂה אֱלֹהֶיךָ: פ

<sup>6</sup> כִּי יִקְרָא קֶן־צִפּוֹר | לְפָנֶיךָ בְּדֶרֶךְ בְּכַל־עֵץ | אֹו עַל־הָאָרֶץ אֶפְרָחִים אֹו

later Jewish law, the finder must publicize what was found, and the claimant must prove ownership by describing its identifying marks.

**give it back to him** The law had to anticipate attempts by people to keep what they found. Exod. 22:8 and Lev. 5:20–26 deal with circumstances in which finders refuse to return the property, claiming that it is theirs or that they do not have it. Ancient Near Eastern law collections deal with similar situations.

**3.** This additional list covers the full range of lost property summarized in Exod. 22:8.

#### ASSISTING WITH FALLEN ANIMALS (v. 4)

**4. ass or ox** These were the usual beasts of burden. According to Jewish law, the obligation applies to any animal.

**fallen . . . raise it** The situation is clarified by the wording in Exod. 23:5, “lying under its burden.” A pack animal might collapse or lose its balance under its load. The fastest way to raise it was for two people to lift the load simultaneously, one on each side of the animal. Otherwise the load had to be unpacked and repacked, which also might require two people.

#### NOT WEARING CLOTHING OF THE OPPOSITE SEX (v. 5)

Some think that this commandment is directed against disguising oneself as a member of the opposite sex because this would facilitate mingling and hence fornication. Others think that this rule is directed against transvestism—which is abhorred either because it blurs the sexual differences that God created (see Gen. 1:27; cf. laws of forbidden mixtures in Deut 22:9–11), because it is a perverse means of sexual stimulation and homosexual role-playing, or because it was a part of certain pagan rites and magical practices.

#### NOT CAPTURING A MOTHER BIRD ALONG WITH HER YOUNG (vv. 6–7)

This law is similar to Lev. 22:28. Both laws inculcate human reverence for the parent–child relationship that obtains among animals as well.

**6. the mother together with her young** Hebrew: *em al banim*; a common expression for total, cruel extermination in war. It is used here to make the point that taking a mother bird with its offspring would mark one as ruthless.

## CHAPTER 22

**6–7.** This is one of three specific commandments for which the reward of a long life

is specified (see also Deut. 25:15). Another is the commandment to honor one's parents (5:16). The Talmud tells of a young boy whose father told him to climb a tree to fetch eggs and

#### HALAKHAH L'MA'ASEH

**22:5. man's apparel** The Torah's prohibition on cross-gender dressing (in which a man would try to pass as a woman or a woman as a man) does not prohibit women from wearing long pants or shorts, which the fashion of the times considers as acceptable apparel for both men and women.

the fledglings or on the eggs, do not take the mother together with her young. <sup>7</sup>Let the mother go, and take only the young, in order that you may fare well and have a long life.

<sup>8</sup>When you build a new house, you shall make a parapet for your roof, so that you do not bring bloodguilt on your house if anyone should fall from it.

<sup>9</sup>You shall not sow your vineyard with a second kind of seed, else the crop—from the seed you have sown—and the yield of the vineyard

בַּיְצִים וְהָאֵם רִבְצַת עַל-הָאֶפְרוֹחִים אֹו  
עַל-הַבִּיצִים לֹא-תִקַּח הָאֵם עַל-הַבָּנִים:  
שֶׁלַח תְּשַׁלַּח אֶת-הָאֵם וְאֶת-הַבָּנִים  
תִּקַּח-לָךְ לְמַעַן יֵיטֵב לָךְ וְהָאֶרְצָה  
יָמִים: ס

שלישי <sup>8</sup> כִּי תִבְנֶה בַּיִת חֹדֶשׁ וְעָשִׂיתָ מַעְקָה לְגִגְתְּךָ  
וְלֹא-תִשֹּׂא דָמִים בְּבֵיתְךָ כִּי-יִפֹּל הַנֶּפֶל  
מִמֶּנּוּ: ס

<sup>9</sup> לֹא-תִזְרַע כְּרִמְךָ בְּלֵאִים פֶּן-תִּקְדָּשׁ  
הַמְּלֵאָה הַזֶּרַע אֲשֶׁר תִּזְרַע וּתְבוֹאֵת

**7. Let the mother go** Maimonides states that the mother is chased away to be spared the painful sight of her offspring being taken away. It is not likely, however, that chasing the mother away would spare her pain, because forcible separation from her young and finding them gone later would also be painful. Nor do the comparable laws concerning cattle (Lev. 22:27–28; Deut. 14:21) prevent pain (the mother animal would not know if her calf or kid was sacrificed on the same day or boiled in her milk). What the Torah finds callous are the acts themselves, quite apart from any effect they may have on the mother.

**fare well and have a long life** These clauses echo the reward promised for honoring parents in the Decalogue (5:16), and call attention to the fact that this command is likewise an aspect of respecting a parent.

#### BUILDING A PARAPET (v. 8)

The flat roofs of houses in the ancient Near East were regularly used for drying and storing produce, strolling and socializing, and sleeping in

warm weather. Hence people were in constant danger of falling off unless a protective barrier was there. This law is comparable to Exod. 21:33–34, which holds a person responsible if an animal falls into a pit that was left uncovered. Talmudic law sees it as an example of an obligation to block or remove anything on one’s property that is capable of causing death, such as a pit, a faulty ladder, or a vicious dog.

**8. parapet** A low wall around a roof’s edge.  
**bloodguilt** Because a human life is involved, such criminal negligence would be tantamount to homicide.

#### FORBIDDEN COMBINATIONS OF SEED, PLOW ANIMALS, AND TEXTILES (vv. 9–11)

These three laws supplement similar legislation in Lev. 19:19.

**9. You shall not sow your vineyard** In Lev. 19:19 the wording is, “you shall not sow your field.” This verse broadens the law to include vineyards.

**with a second kind of seed** Literally, “with

to be sure to chase away the mother bird while doing so. While obeying both commandments that promise long life, the boy fell from the ladder and died. The event raised the issue of God’s providence (BT *Hul.* 142a). It led one of the Sages, Elisha ben Abuyah, to despair of God’s goodness and even God’s existence.

Akiva interpreted the promise of long life as referring to “the world to come.” For others, it must have reinforced the reluctance to tie the observance of commandments to specific rewards.

**9–11.** Sovereign decrees of God, for which no reason need be given (Rashi); at times, we

#### HALAKHAH L’MA’ASEH

**22:6–7. do not take the mother together with her young** The compassion demanded for the mother bird here is one of the Torah passages that led the Sages to formulate the general principle that we must avoid causing unnecessary pain to animals (*tza-ar ba-alei hayyim*) (see esp. BT BM 31a–33a). Other biblical verses expressing this value include Deut. 22:10 and 25:4. See Comment to Exod. 23:5.

**22:8. make a parapet for your roof** A parapet must be at least 10 hand-breadths (30 in. [75 cm]) high and strong enough not to collapse if someone leans against it (MT Murderer 11:3).



may not be used. <sup>10</sup>You shall not plow with an ox and an ass together. <sup>11</sup>You shall not wear cloth combining wool and linen.

<sup>12</sup>You shall make tassels on the four corners of the garment with which you cover yourself.

<sup>13</sup>A man marries a woman and cohabits with her. Then he takes an aversion to her <sup>14</sup>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.”

<sup>15</sup>In such a case, the girl’s father and mother

הַפָּרָם: ס <sup>10</sup> לֹא-תַחַרֵּשׁ בְּשׁוֹר-וּבַחֲמֹר  
יַחְדּוֹ: ס <sup>11</sup> לֹא תִלְבַּשׁ שְׁעֵטָנוֹ צִמְרֹ  
וּפְשִׁתִּים יַחְדּוֹ: ס

גְּדִלִים תַּעֲשֶׂה-לָּךְ עַל-אַרְבַּע כַּנְפוֹת  
כְּסוּתֶךָ אֲשֶׁר תִּכְסֶה-בָּהּ: ס

כִּי-יִקַּח אִישׁ אִשָּׁה וּבָא אֵלֶיהָ וְשָׁנְאָהּ:

וְשָׂם לָהּ עֲלִילוֹת דְּבָרִים וְהוֹצִיא עֲלֶיהָ

שֵׁם רָע וְאָמַר אֶת-הָאִשָּׁה הַזֹּאת לָקַחְתִּי

וְאָקֵרֵב אֵלֶיהָ וְלֹא-מָצָאתִי לָהּ בְּתוּלִים:

וְלָקַח אָבִי הַנַּעֲרָה וְהָאִמָּה וְהוֹצִיאוּ

two kinds of seed.” The *halakhab* understands the verse as referring to two kinds of seed in addition to the vineyard grapes. Ramban explained: “The nature and the form [of the mixed seeds] are modified by their drawing nourishment from each other, and it is as if each resultant grain is composed of two species.”

**may not be used** The crop will become forbidden for use. According to talmudic law, it must be burned.

**10.** The ox and the ass are of unequal strength. If yoked together, the stronger one might exhaust the weaker, or one might cause the other to stumble and be injured.

**11.** Literally, “You shall not wear *sha-atnez*, wool and linen together.” The final phrase explains the meaning of *sha-atnez*, a term of non-Hebrew origin. This prohibition applies only to the laity. The priests, when they officiate, do wear garments made of such mixtures (see, e.g., Exod. 28:6,15, 39:2,5). The status of such garments is thus comparable to that of the sacred dedicating oil and the incense used in the sanctuary and may not be made or used by laypeople (see Exod. 30:22–29). All of this led Josephus to suggest that the reason for the prohibition was to keep the laity from wearing the official garb of the priests.

#### TASSELS ON GARMENTS (v. 12)

The requirement of tassels is stated more fully in Num. 15:37–41, where they are called “fringes” (*tzitzit*) and designated as reminders to obey

God’s commandments and to resist temptation, and thereby be holy to God.

**12. tassels** Hebrew: *g’dilim*; literally, “twists,” “braids” (of thread).

**four corners** People in the ancient Near East wore closed skirts and robes, not rectangular poncho-like garments. The four corners mentioned here (literally, “wings” or “extremities”) were probably either the points on scalloped hems or the places at which vertical bands of embroidery met the hems. Both styles, sometimes with tassels attached, can be seen in ancient Near Eastern murals.

#### **the garment with which you cover yourself**

The tassels are to be attached to everyday clothing and worn all day.

#### MARITAL AND SEXUAL MISCONDUCT

(vv. 13–29)

#### PREMARITAL UNCHASTITY (vv. 13–21)

*False Accusation* (vv. 13–19)

**14. makes up charges against her** Better: “he accuses her of misconduct.”

**defames her** He publicizes the charge. By making a public issue of the matter, he causes the consequences to become more serious, because his public accusation defames the girl and her family and could lead to her death.

**I found that she was not a virgin** Literally, “I did not find [evidence of] virginity in her.” That is, she did not bleed (see v. 17).

are bidden to obey God without understanding the purpose of what we do. Many commentators believe that these laws aim to preserve the species distinctions established at Creation (see Gen. 1:11–12,21,24–25). For example,

Hirsch suggests that wool-and-linen clothing (v. 11) represents an improper combining of the animal domain (wool) and the vegetable world (linen), even as verse 5 prohibits blurring the line between men and women.

shall produce the evidence of the girl's virginity before the elders of the town at the gate.<sup>16</sup> And the girl's father shall say to the elders, "I gave this man my daughter to wife, but he has taken an aversion to her; <sup>17</sup>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.<sup>18</sup> The elders of that town shall then take the man and flog him,<sup>19</sup> and they shall fine him a hundred [shekels of] silver and give it to the girl's father; for the man has defamed a virgin in Israel. Moreover, she shall remain his wife; he shall never have the right to divorce her.

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

אֶת־בְּתוּלֵי הַנָּעֵר הַנִּעְרָה אֶל־זִקְנֵי הָעִיר  
הַשְּׁעָרָה: <sup>16</sup> וְאָמַר אָבִי הַנָּעֵר הַנִּעְרָה  
אֶל־הַזְּקֵנִים אֶת־בְּתִי נָתַתִּי לְאִישׁ הַזֶּה  
לְאִשָּׁה וַיִּשְׁנָאָהּ: <sup>17</sup> וְהִנֵּה־הוּא שָׁם  
עֲלִילַת דְּבָרִים לְאֹמֵר לֹא־מָצָאתִי לְבִתִּי  
בְּתוּלִים וְאֵלֶּה בְּתוּלֵי בֵּתִי וּפְרָשׁוּ  
הַשְּׂמֹלָה לְפָנַי זִקְנֵי הָעִיר: <sup>18</sup> וְלָקְחוּ זִקְנֵי  
הָעִיר־הַהוּא אֶת־הָאִישׁ וַיִּסְרוּ אֹתוֹ:  
<sup>19</sup> וְעָנְשׁוּ אֹתוֹ מֵאָה כֶּסֶף וְנָתְנוּ לְאָבִי  
הַנִּעְרָה כִּי הוֹצִיא שֵׁם רָע עַל בְּתוּלַת  
יִשְׂרָאֵל וְלוֹ־תִהְיֶה לְאִשָּׁה לְאִיּוֹבֵל  
לְשִׁלְחָה כָּל־יְמֵיו: ט

וְאִם־אָמַת הִיָּה הַדָּבָר הַזֶּה לֹא־נִמְצָאוּ  
בְּתוּלִים לַנָּעֵר לְנִעְרָה: <sup>21</sup> וְהוֹצִיאוּ אֶת־  
הַנָּעֵר הַנִּעְרָה אֶל־פֶּתַח בֵּית־אָבִיהָ

**15. evidence** A garment or cloth that became spotted with the girl's blood when her hymen was perforated on the wedding night (v. 17). Upon this cloth depends the reputation of the bride's parents, and the bride-price they receive. The custom of saving and even displaying the cloth is well known in the Middle East. Although only the father speaks here, the mother joins him, because it was customary for the mother to keep the cloth after the consummation of the marriage.

**before the elders** In matters of family law, the elders retain jurisdiction.

**16. I gave this man my daughter** This was not merely a formal idiom as it is in modern times, but was meant literally. Marriages were arranged by the parents, and a bride-price was paid to the bride's father.

**17. the cloth** The Hebrew word *simlah* and its variant *salmah* usually refer to an outer garment that sometimes is also used as a cover while sleeping. Here it refers either to a garment worn by the bride on her wedding night or to part of the bedding.

**18–19. flog him . . . fine him** As noted by Maimonides and Abravanel, each element of this unusual multiple punishment corresponds to a part of the husband's offense. He is flogged and thereby degraded, because he defamed the girl and her family. He is fined, because his accusation would have forced her father to return the bride-price. He loses the right to divorce her,

which was probably the aim of his slanderous act. In this way, the father is compensated for the harm attempted against him and the girl is protected against the husband's expelling her, which would relieve her husband from the obligation of supporting her.

**hundred [shekels of] silver** This is taken to be double the bride-price for a virgin, on the assumption that the 50 shekels stipulated in verse 29 is identical to the "bride-price for virgins" mentioned in Exod. 22:16. It is not certain, however, that 50 shekels really was the bride-price for virgins.

**give it to the girl's father** Although the bride was disgraced, the fine is given to her father, because the financial loss caused by the accusation would be his. Furthermore, he was disgraced as well, because the accusation implied that he did not raise a virtuous daughter. Abravanel observes that there would be no point in giving the fine to the bride, because she is under her husband's authority and (according to rabbinic law) he would be able to take it from her.

**defamed a virgin in Israel** This concluding remark reflects the Torah's concern for the general good name of Israelite young women.

*True Accusation* (vv. 20–21)

**21. the entrance of her father's house** An appropriate location for her punishment, because, as this verse states, literally, "she committed for-

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.

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

<sup>23</sup>In the case of a virgin who is engaged to a man—if a man comes upon her in town and

nication while [living] in her father's house." A similar principle is reflected in the Laws of Hammurabi, where a man who breaks into a house is to be executed in front of the breach that he made. Executing the daughter at this location also expresses communal disapproval of the father who failed to raise a chaste daughter.

**the men of her town** Even if she is from a different town than her husband, the execution takes place in the bride's town, because its location must be at the entrance of her father's house.

**stone her** This is the same punishment as that stated for the insubordinate son. See Comment to 13:11.

**shameful thing** Hebrew: *n'valah* (outrage, deplorable act). Often it refers to sexual crimes, such as rape and adultery. It frequently is followed by the words "in Israel," sometimes indicating indignation that the act occurred among Israelites, and sometimes characterizing the act as a violation of Israelite standards. The phrase expresses the importance of sexual morality as a feature of Israel's national character.

**fornication** The use of this term rather than "adultery" suggests that the law refers to intercourse at any time before marriage and is not limited to the period of betrothal.

ADULTERY WITH A MARRIED WOMAN (v. 22)

**22. is found** Meanwhile, Num. 5:11–31 prescribes a ritual procedure for settling the mat-

וּסְקֻלוּהָ אֲנָשִׁי עִירָהּ בְּאֲבָנִים וְיָמְתָהּ  
כִּי־עָשְׂתָהּ נְבִלָה בְּיִשְׂרָאֵל לְזָנוּת בַּיִת  
אָבִיהָ וּבַעֲרַת הָרַע מִקְרָבָהּ: ס  
<sup>22</sup> כִּי־יִמְצָא אִישׁ שֹׁכֵב עִם־אִשְׁהּ בְּעִלְתָּ-  
בַּעַל וּמֵתוּ גַם־שְׁנֵיהֶם הָאִישׁ הַשֹּׁכֵב  
עִם־הָאִשָּׁה וְהָאִשָּׁה וּבַעֲרַת הָרַע  
מִיִּשְׂרָאֵל: ס

<sup>23</sup> כִּי יִהְיֶה נַעַר נֶעְרָה בְּתוּלָה מֵאֶרְשָׁה  
לְאִישׁ וּמִצְאָהּ אִישׁ בָּעִיר וְשָׁכַב עִמָּה:

ter when a husband suspects his wife of infidelity but has no clear evidence of her act.

**both of them . . . shall die** Adultery is also a capital crime in other ancient Near Eastern law collections. Because the latter consider it an offense solely against the woman's husband, however, they permit the husband or the king to spare the wife and her lover or to impose a lesser punishment. The Bible views God as the author of the laws. Because God has forbidden adultery, it is a sin against Him as well as the husband, and therefore, no human has the right to commute the punishment.

**sweep away evil** Because the welfare of the community is endangered by God's anger over the crime, it must act to remove the guilt. According to Lev. 18:20,24ff., adultery defiles the Land and leads to exile.

#### ADULTERY WITH AN ENGAGED VIRGIN

(vv. 23–27)

Once a girl is betrothed by the payment of the bride-price to her family (see 20:7), she is regarded as her fiancé's wife (v. 24), and sexual relations with another man are considered adulterous. The same view is found in Mesopotamian law.

**23. in town** It is necessary to ascertain whether the girl was a consensual partner. The law provides a rule of thumb. If the act took place in town, she is presumed to have been willing, be-

**24.** The reader may balk at the Torah's assumption that the woman's not crying out in-

dicated consent. We know today that intimidation and coerced silence may take many forms.

#### HALAKHAH L'MA'ASEH

**22:23–25. in town . . . in the open country** The Sages understood "town" and "country" metaphorically, distinguishing between instances in which the woman did not object and those in which she objected but was overcome (Sifrei Deut. 243).

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

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

24 וְהוֹצֵאתֶם אֶת־שְׁנֵיהֶם אֶל־שַׁעַר |  
הָעִיר הַהוּא וּסְקַלְתֶּם אֹתָם בְּאֲבָנִים  
וּמָתוּ אֶת־הַנָּעֵר הַנֹּעֵרָה עַל־דְּבַר אֲשֶׁר  
לֹא־צָעָקָה בְּעִיר וְאֶת־הָאִישׁ עַל־דְּבַר  
אֲשֶׁר־עָנָה אֶת־אִשְׁתּוֹ רַעְהוּ וּבַעֲרַתְהוּ הָרַע  
מִקִּרְבְּךָ: ס 25 וְאִם־בְּשׂוּדָה יִמָּצָא הָאִישׁ  
אֶת־הַנָּעֵר הַנֹּעֵרָה הַמְּאֹרְשָׁה וְהַחֲזִיק־בָּהּ  
הָאִישׁ וְשָׁכַב עִמָּהּ וּמָת הָאִישׁ אֲשֶׁר־שָׁכַב  
עִמָּהּ לְבָדּוֹ: 26 וְלֹנֵעַר וְלִנְעֵרָה לֹא־תַעֲשֶׂה  
דְּבָר אֵין לֹנֵעַר לִנְעֵרָה חֲטָא מוֹת כִּי כַּאֲשֶׁר  
יִקוּם אִישׁ עַל־רַעְהוּ וּרְצָחוּ וְנָפֵשׁ בֶּן הַדְּבַר  
הַזֶּה: 27 כִּי בְשׂוּדָה מִצָּאָה צָעָקָה הַנָּעֵר  
הַנֹּעֵרָה הַמְּאֹרְשָׁה וְאֵין מוֹשִׁיעַ לָהּ: ס  
28 כִּי־יִמָּצָא אִישׁ נֹעֵר נֹעֵרָה בְּתוֹלָה אֲשֶׁר  
לֹא־אֹרְשָׁה וּתְפֹשָׁה וְשָׁכַב עִמָּהּ וְנִמְצָאוּ:  
29 וְנָתַן הָאִישׁ הַשֹּׁכֵב עִמָּהּ לְאָבִי הַנָּעֵר  
הַנֹּעֵרָה חֲמִשִּׁים כֶּסֶף וְלוֹ־תְהִיָּה לְאִשָּׁה  
תַּחַת אֲשֶׁר עָנָה לֹא־יִוָּכַל שְׁלַחָה כָּל־  
יָמָיו: ס

cause otherwise she would have called for help and would have been heard. In the open country, however, where there are few passersby, a cry for help probably would have gone unheard; hence she is given the benefit of the doubt and is presumed to have called for help.

**26. you shall do nothing to the girl** This clause is the basis for the talmudic principle that one who commits a wrong under compulsion is not liable.

**like that of a man attacking . . . and murdering** That is, she was a victim, not a participant.

RAPE OF AN UNENGAGED VIRGIN (vv. 28–29)

Intercourse with an unengaged virgin is also disapproved, but it is not a capital crime because it is not adulterous. The main concern of the law in such cases is to protect the girl and her father from the harm they would suffer from her loss of virginity,

namely, the father's loss of a full bride-price and the girl's diminished chances of marriage.

**29. fifty [shekels of] silver** This is often taken to be identical to the "bride-price for virgins" that a seducer must pay to a virgin's father (see Exod. 22:16). But there is no other evidence that the bride-price for virgins was 50 shekels. The 50 shekels paid by the rapist probably represents a combination of an average bride-price (between 10 and 30 shekels, if we take Lev. 27:4–5 as indicating a woman's value) plus punitive damages.

**his wife** According to Exod. 22:16, a seducer must likewise marry the girl, unless her father refuses to give her to him. Talmudic law states that in cases of seduction and rape, the girl as well as the father has the right to refuse the marriage.

**he can never . . . divorce her** Exodus does not impose this restriction on the seducer. The rapist's offense is graver and he is treated more stringently.

#### HALAKHAH L'MA'ASEH

**22:28–29. he seizes her and lies with her** Rape is a crime, punishable under rabbinic law as an offense against the woman and her family. While every sexual relationship should be respectful and by mutual consent, the Torah sees marriage as the ideal setting for sexual relations. Consensual sexual intercourse between singles is censured (Exod. 22:16).

**23** No man shall marry his father's former wife, so as to remove his father's garment.

<sup>2</sup>No one whose testes are crushed or whose member is cut off shall be admitted into the congregation of the LORD.

<sup>3</sup>No one misbegotten shall be admitted into the congregation of the LORD; none of his descendants, even in the tenth generation, shall be admitted into the congregation of the LORD.

<sup>4</sup>No Ammonite or Moabite shall be admitted

**כג** לֹא־יִקַּח אִישׁ אֶת־אִשְׁתּוֹ אָבִיו

וְלֹא יִגְלֶה כְּנָף אָבִיו: ס

לֹא־יָבֵא פְצוּע־דָּכָא וּכְרוֹת שְׂפָכָה

בְּקֹהֶל יְהוָה: ס

לֹא־יָבֵא מִמְזוֹר בְּקֹהֶל יְהוָה גַּם דּוֹר

עֲשִׂירֵי לֹא־יָבֵא לוֹ בְּקֹהֶל יְהוָה: ס

לֹא־יָבֵא עֲמוֹנִי וּמוֹאָבִי בְּקֹהֶל יְהוָה גַּם

#### FORBIDDEN RELATIONSHIPS (23:1–9)

##### FATHER'S FORMER WIFE (v. 1)

**1. father's former wife** This refers to a former wife who is not one's mother. Sexual relations with one's mother are prohibited by Lev. 18:7. Though "former" is not in the Hebrew, it is clearly what the text intends, because it deals with marriage rather than incest. Marriage with one's father's current wife would be legally impossible.

**to remove his father's garment** The idiom "removing someone's garment" is identical to "seeing, or uncovering, someone's nakedness," used in Leviticus for sexual relations. In Leviticus, intercourse with the wife of one's father is condemned, because it is tantamount to "seeing the father's nakedness," meaning that one sees nakedness reserved for his father.

##### RESTRICTED ENTRY INTO THE ASSEMBLY

(vv. 2–9)

Certain people may not become members of the governing assembly and are, therefore, not eligible for full Israelite citizenship. This assembly seems to have been similar to others in the ancient world, such as in Athens (the "ekklesia") and in Mesopotamian cities (the "puhrum"). It existed before the Exodus from Egypt and likely antedated Moses. In the wilderness, it functioned alongside Moses and usually under him; and it

is mentioned sporadically after the settlement in the Promised Land.

##### 2. testes are crushed . . . member is cut off

Two types of emasculation, the first accomplished by destroying the testes, the second by some type of castration. It is not clear whether this law applies to all who have these conditions or only to those who acquired them voluntarily.

**congregation** Hebrew: *kahal*; literally, "gathering." Sometimes it refers to religious gatherings in the sense of a congregation. At other times it means "all Israelites." It also refers to the national governing assembly of the Israelites, i.e., the entire people, or all the adult males, meeting in plenary session—and perhaps even to their representatives acting as an executive committee. This assembly convenes to conduct public business, such as waging war, crowning a king, adjudicating legal cases, and distributing land, as well as engaging in worship.

**3. misbegotten** Hebrew: *mamzer*; its meaning is not certain. Derivation from an Arabic and Ethiopic root meaning "to be foul" (מזר) has been suggested.

**tenth generation** Verse 4 supplements this with "forever," and that is probably the meaning here as well. No descendant of a *mamzer* may ever enter the assembly, no matter how many generations later.

##### 4. Ammonite or Moabite

Transjordanian

#### CHAPTER 23

##### 3. The intention is not to punish an inno-

cent child but to discourage adultery by impressing on potential parents its dire consequences.

#### HALAKHAH L'MA'ASEH

**23:3. misbegotten** Hebrew: *mamzer*. According to Jewish law, this refers only to the offspring of adultery or incest, not to those born out of wedlock (M Yev. 4:13; BT Yev. 49a). The CJLS has adopted evidentiary procedures to render this rule inoperative, because it penalizes children for the sins of their parents, contrary to the teaching of Deut. 24:16.

into the congregation of the LORD; none of their descendants, even in the tenth generation, shall ever be admitted into the congregation of the LORD, <sup>5</sup>because they did not meet you with food and water on your journey after you left Egypt, and because they hired Balaam son of Beor, from Pethor of Aram-naharaim, to curse you.—<sup>6</sup>But the LORD your God refused to heed Balaam; instead, the LORD your God turned the curse into a blessing for you, for the LORD your God loves you.—<sup>7</sup>You shall never concern yourself with their welfare or benefit as long as you live.

<sup>8</sup>You shall not abhor an Edomite, for he is your kinsman. You shall not abhor an Egyptian, for you were a stranger in his land. <sup>9</sup>Children born to them may be admitted into the congregation of the LORD in the third generation.

<sup>10</sup>When you go out as a troop against your

דָּוָר עֲשִׂינִי לֹא־יָבֵא לָהֶם בְּקֹהֶל יְהוָה  
עַד־עוֹלָם: <sup>5</sup>עַל־דִּבְרֵי אֲשֶׁר לֹא־קָדְמוּ  
אֹתְכֶם בְּלֶחֶם וּבַמַּיִם בְּדַרְךְ בְּצֵאתְכֶם  
מִמִּצְרַיִם וְאֲשֶׁר שָׂכַר עָלֶיךָ אֶת־בַּלְעָם  
בֶּן־בְּעוֹר מִפֶּתוֹר אֲרָם נְהָרַיִם לְקַלְלֶךָ:  
<sup>6</sup>וְלֹא־אָבָה יְהוָה אֱלֹהֶיךָ לְשָׁמֹעַ אֶל־  
בַּלְעָם וַיְהַפֵּךְ יְהוָה אֱלֹהֶיךָ לְךָ אֶת־  
הַקְּלָלָה לְבִרְכָה כִּי אָהַבְךָ יְהוָה אֱלֹהֶיךָ:  
<sup>7</sup>לֹא־תִדְרֹשׁ שְׁלָמָם וְטַבְתָּם כָּל־יְמֶיךָ  
לְעוֹלָם: ס

<sup>8</sup>לֹא־תִתְעַב אֲדָמִי כִּי אֶחָיִךְ הוּא \* ס רביעי  
לֹא־תִתְעַב מִצְרִי כִּי־גֵר הָיִיתָ בְּאֶרֶץ:  
<sup>9</sup>בָּנִים אֲשֶׁר־יוֹלְדוּ לָהֶם דָּוָר שְׁלִישִׁי יָבֵא  
לָהֶם בְּקֹהֶל יְהוָה: ס

<sup>10</sup>כִּי־תִצֵּא מִחַנֵּה עַל־אֹיְבֶיךָ וְנִשְׁמַרְתָּ

v. 8. פיסקא באמצע פסוק

neighbors of Israel. Despite their distant kinship with Israel and the respect Israel showed for their territorial rights, these peoples reacted with hostility and indifference when the Israelites passed near their territory on the way to the Promised Land.

**5. they hired** Literally, “he hired.” Refers to Balak, King of Moab (see Num. 22–24).

**Pethor of Aram-naharaim** Pethor is a city in northern Syria. Aram-naharaim, which means “Aram alongside the river [Euphrates],” is the biblical term for eastern Syria and northern Iraq, the area from which the patriarchs migrated to the Promised Land.

**7.** Do not seek their welfare, do nothing for their benefit, and do not establish friendly relations with them. Repay them in kind for their indifference and hostility.

**8. for he is your kinsman** Despite the hostility between Israel and Edom, Edomites are not permanently excluded from the assembly because they are the Israelites’ kin. The Edomites were traced back to Esau, brother of Jacob, as related in Gen. 36.

**for you were a stranger in his land** Despite their enslavement of the Israelites, the Egyptians had provided a haven in a time of famine, for which Israel was to recognize a continuing debt of gratitude.

**9. in the third generation** They may be admitted after two generations of living among Israelites. This implies that all those banned from entering the assembly may live in the land of Israel as resident aliens, and that the grandchildren of Edomites and Egyptians who do so may be admitted to the assembly.

**4.** The sins of Edom and Egypt, who threatened Israel’s physical survival, are deemed less serious than the sins of Ammon and Moab, who tried to lure Israel into unchastity, endangering their souls (*Sifrei*). Why does the text refer back to Moab’s hiring Balaam to curse Is-

rael? Had they only refused Israel’s request for food and water, one might give them the benefit of the doubt that they could not afford hospitality. But their hiring Balaam for much silver and gold (Num. 22:17) proves that hatred, not limited resources, was behind their refusal.

enemies, be on your guard against anything untoward. <sup>11</sup>If anyone among you has been rendered impure by a nocturnal emission, he must leave the camp, and he must not reenter the camp. <sup>12</sup>Toward evening he shall bathe in water, and at sundown he may reenter the camp. <sup>13</sup>Further, there shall be an area for you outside the camp, where you may relieve yourself. <sup>14</sup>With your gear you shall have a spike, and when you have squatted you shall dig a hole with it and cover up your excrement. <sup>15</sup>Since the LORD your God moves about in your camp to protect you and to deliver your enemies to you, let your camp be holy; let Him not find anything unseemly among you and turn away from you.

<sup>16</sup>You shall not turn over to his master a slave

מִכָּל דָּבָר רָע: <sup>11</sup> כִּי־יְהִיָּה בְךָ אִישׁ אֲשֶׁר לֹא־יְהִיָּה טָהוֹר מִקְרָה־לַּיְלָה וַיִּצָּא אֶל־מַחוּץ לַמַּחֲנֶה לֹא יָבֹא אֶל־תּוֹךְ הַמַּחֲנֶה: <sup>12</sup> וְהָיָה לַפְּנֹת־עֶרֶב יֵרַחֵץ בַּמַּיִם וּכְבָּא הַשֶּׁמֶשׁ יָבֹא אֶל־תּוֹךְ הַמַּחֲנֶה: <sup>13</sup> וַיֵּד תְּהִיָּה לְךָ מַחוּץ לַמַּחֲנֶה וַיִּצְאָתָּ שָׁמָּה חוּץ: <sup>14</sup> וַיִּתֵּן תְּהִיָּה לְךָ עַל־אֲזָנְךָ וְהָיָה בְּשִׁבְתְּךָ חוּץ וְחִפְרָתָה בָּהּ וּשְׁבַתָּ וּכְסִיתָ אֶת־צִאָתְךָ: <sup>15</sup> כִּי יְהוָה אֱלֹהֶיךָ מֵתְהַלֵּךְ | בְּקֶרֶב מַחֲנֶךָ לְהַצִּילְךָ וּלְתַתּוֹת אִיְבֹיֶיךָ לְפָנֶיךָ וְהָיָה מַחֲנֶיךָ קָדוֹשׁ וְלֹא־יֵרָאֶה בְךָ עֲרוֹת דָּבָר וְשָׁב מֵאַחֲרֶיךָ: <sup>16</sup> לֹא־תִסְגֹּר עֶבֶד אֶל־אֲדֹנָיו אֲשֶׁר־יִנְצֵל

#### MISCELLANEOUS LAWS (23:10–25:19)

This is the final group of laws in Deuteronomy.

#### THE SANCTITY OF MILITARY CAMP (vv. 10–15)

Impurity is incompatible with the presence of God. Hence, those suffering from an abnormal skin eruption or genital discharge, or defiled by contact with a corpse, must stay away from the residential camp, where God's sanctuary is located. A military camp, in which God is present to fight for Israel, is subject to an even stricter regimen than the residential camp.

**10. anything** Implies that the principle is more comprehensive than the two examples cited (cf. *davar* in v. 15). Thus, those suffering abnormal skin eruptions or genital discharges probably also had to leave the camp (cf. Num. 5:1–4). It seems unlikely and impractical, however, that soldiers defiled by contact with corpses were to be removed from the camp. To judge from Num. 31:19, they were simply kept out of the residential camp for a week after their return from war.

**11. nocturnal emission** An emission of semen. The text mentions only the typical case. An emission in the daytime would doubtless require the same procedure.

**13.** Defecation must take place outside the camp. The Torah nowhere describes human excrement as impure, and it may be objectionable in God's presence simply because it is repugnant.

**area** Hebrew: *yad*; literally, "hand." It may refer here to a "marker," a sign indicating the latrine area.

**outside the camp** According to the War Scroll of later times, found at Qumran, the latrine was to be located 2000 cubits (about 3000 feet [900 m]) from the camp.

**14. spike** Hebrew: *yated*. Usually refers to a tent peg. The text apparently has in mind a pointed implement used to make holes in soil.

**15.** God travels in the camp together with the Israelites. "It is the LORD your God who marches with you to do battle for you" (20:4).

#### ASYLUM FOR ESCAPED SLAVES (vv. 16–17)

Ancient Near Eastern law forbade harboring runaway slaves, and international treaties regularly required allied states to extradite them. In contrast, the Torah here states that escaped slaves may settle wherever they wish in the land of Israel and forbids returning them to their masters or enslaving them in the land. Virtually all commentators hold that this law refers to slaves who have fled to the

**15. let your camp be holy** Israel's success in war depended not on their military prowess but on their carrying out the will of God. They were not fighting solely for land, for wealth, or for power. They were fighting to establish a place where God's plan could be carried out. A

sense of the sacredness of their purpose must animate their military efforts. At the same time, one must reflect on the danger of "holy war," the tendency of too many people to persuade themselves that their will for battle is God's will.

who seeks refuge with you from his master. <sup>17</sup>He shall live with you in any place he may choose among the settlements in your midst, wherever he pleases; you must not ill-treat him.

<sup>18</sup>No Israelite woman shall be a cult prostitute, nor shall any Israelite man be a cult prostitute. <sup>19</sup>You shall not bring the fee of a whore or the pay of a dog into the house of the LORD your God in fulfillment of any vow, for both are abhorrent to the LORD your God.

<sup>20</sup>You shall not deduct interest from loans to your countrymen, whether in money or food or anything else that can be deducted as interest;

land of Israel from foreign countries. The only custom in the ancient world remotely resembling this biblical law is the practice at certain pagan temples of granting asylum to slaves fleeing harsh treatment by their masters. Generally, such asylum protected slaves until they could come to terms with their master or, as a last resort, until they were sold to another master. The Bible, however, regards the whole land of Israel as a sanctuary for escaped slaves, offering permanent asylum.

**17. He shall live . . . wherever he pleases** This is the opposite of an ancient Aramaic treaty requiring extradition of escaped slaves: “You must not say to them: ‘Live quietly in your place . . . live where you are.’”

**you must not ill-treat him** Once settled, he or she would be a resident alien and hence vulnerable to exploitation; hence this admonition. Compare Exod. 22:20: “You must not ill-treat a resident alien.”

#### PROSTITUTION AND OTHER ABHORRENT PRACTICES (vv. 18–19)

**18. no Israelite woman** The law does not ban these professions entirely, but prohibits Israelites from engaging in them. Perhaps it assumes that prostitution cannot be eliminated and seeks only to limit it to foreigners.

**cult prostitute** Hebrew: *k'deshah*. Best translated simply as “prostitute,” synonymous with “whore” in the next verse. Modern scholarship once held that prostitutes were employed in ancient Near Eastern sanctuaries (the “cult”), but scholars now doubt that such prostitution existed.

אֲלֶיךָ מֵעַם אֲדֹנָיו: <sup>17</sup> עִמָּךָ יֵשֵׁב בְּקִרְבְּךָ  
בַּמְּקוֹם אֲשֶׁר-יִבְחַר בְּאֶתֶר שְׁעָרֶיךָ בְּטוֹב  
לוֹ לֹא תוֹנְנוּ: ס

<sup>18</sup> לֹא-תִהְיֶה קְדֻשָּׁה מִבְּנוֹת יִשְׂרָאֵל וְלֹא-  
יִהְיֶה קְדֵשׁ מִבְּנֵי יִשְׂרָאֵל: <sup>19</sup> לֹא-תָבִיא  
אֶתְנֵן זוֹנָה וּמַחִיר פֶּלֶב בֵּית יְהוָה אֱלֹהֶיךָ  
לְכֹל-גֵּדֵר כִּי תוֹעֵבֶת יְהוָה אֱלֹהֶיךָ גַּם-  
שְׁנֵיהֶם:

<sup>20</sup> לֹא-תִשִּׁיךְ לְאָחִיךָ גֶּסֶף גֶּסֶף נֶשֶׁךְ אֶכֶל

**any Israelite man** Although the precise meaning of the masculine noun *kadesh* here is uncertain, it probably refers to a male prostitute, either heterosexual or homosexual.

**19. fee of a whore** The Hebrew word *zonah* is the more common term for “whore.” Fees, including those of whores, were sometimes paid in kind, such as a kid of the flock, instead of cash (Gen. 38:17). Temples, with their throngs of travelers, must have been particularly desirable locations for prostitutes hoping to attract business from worshipers who were carried away by the festive mood of a holiday. Prostitutes working near a temple may have vowed part of their income to it in return for success; hence the need for this prohibition. Income acquired by immoral activity is not acceptable in the Temple.

**pay of a dog** Because the other clauses in verses 18–19 refer to humans, some of them prostitutes, it is often assumed that “dog” might be an epithet for a homosexual male prostitute, who performs in the stance of a dog. Jewish law takes the phrase to mean that the price received for selling a dog may not be given to the Temple. Dogs, though valued for herding, were nevertheless regarded with some disgust. They were only semi-domesticated and, as scavengers and predators, were the only carnivorous animals regularly encountered by Israelites.

#### LENDING AT INTEREST (vv. 20–21)

The Torah regularly deals with charitable loans to countrymen who have fallen on hard times. There is no evidence for a money market of any

**17. you must not ill-treat him** It is not sufficient to assist people when they are in need. We

must also look after their interests, be kind to them, and not hurt their feelings (Maimonides).



<sup>21</sup>but you may deduct interest from loans to foreigners. Do not deduct interest from loans to your countrymen, so that the LORD your God may bless you in all your undertakings in the land that you are about to enter and possess.

<sup>22</sup>When you make a vow to the LORD your God, do not put off fulfilling it, for the LORD your God will require it of you, and you will have incurred guilt; <sup>23</sup>whereas you incur no guilt if you refrain from vowing. <sup>24</sup>You must

נִשְׁפָּךְ כָּל-דָּבָר אֲשֶׁר יִשָּׂא: <sup>21</sup> לַנֹּכְרִי תִשְׁיֶיךָ וּלְאֶחֱיֶיךָ לֹא תִשְׁיֶיךָ לְמַעַן יְבָרְכֶךָ יְהוָה אֱלֹהֶיךָ בְּכֹל מַשְׁלַח יָדְךָ עַל-הָאָרֶץ אֲשֶׁר-אֲתָהּ בָּא-שָׁמָּה לְרִשְׁתָּהּ: <sup>22</sup> כִּי-תִדְּרֹךְ נִדְרֹךְ לַיהוָה אֱלֹהֶיךָ לֹא תִאָּחַר לְשַׁלְּמוֹ כִּי-דָרַשׁ יִדְרָשְׁנוּ יְהוָה אֱלֹהֶיךָ מִעֲמֹךָ וְהָיָה בְּךָ חַטָּא: <sup>23</sup> וְכִי תִחְדָּל לְנַדֵּר לֹא-יִהְיֶה בְּךָ חַטָּא: <sup>24</sup> מוֹצֵא שְׁפָתֶיךָ

significance in ancient Israel or evidence that solvent Israelites commonly borrowed for commercial or other purposes. Exodus 22:24 and Lev. 25:35–37 explicitly refer to the borrower as impoverished. Lending is thus a moral obligation incumbent on those who can afford it, and it is to be done without further increasing the borrower's poverty by requiring interest, which could be ruinous (rates of 20 to 25 percent for silver, and 33½ to 50 percent for grain, were common in the ancient Near East, and higher rates were known).

**20.** The Torah does not differentiate between solvent and poor borrowers.

**or anything else** Such as seed. Exodus and Leviticus mention only loans of money and food. This phrase makes it clear that the prohibition covers all types of loans. A similar generalization, compared to the earlier version of a law, is found in 22:3.

**21. foreigners** Visiting the country for purposes of trade; they borrow to invest in merchandise and make a profit, not to survive poverty. There is no moral imperative either to remit loans made for such purposes or to forgo interest on them. In addition, the obligation of undertaking risky, interest-free loans entails a special duty toward one's countrymen for the sake of maintaining equilibrium in Israelite society. The law does not require assuming the same risk toward

others who do not share the same obligations.

#### TIMELY FULFILLMENT OF VOWS (vv. 22–24)

A person who sought God's aid in achieving a desired goal or relief from distress—the birth of a child, victory in battle, recovery from illness, escape from danger—might promise to do something pleasing to God afterward in gratitude for His assistance.

**22.** Vowing is a purely voluntary activity, by no means required by God, and there is no penalty for not making vows. Once a vow is made, however, delay in fulfilling it is hypocritical and disrespectful.

**do not put off** The text does not specify what constitutes an impermissible delay, perhaps because circumstances might differ in individual cases. It is reasonable to assume that people normally were expected to fulfill a vow during the next pilgrimage festival, but some people may have made special trips to a sanctuary for the purpose.

**God will require it of you** God will hold you responsible and punish you for not fulfilling it.

**you will have incurred guilt** Ecclesiastes 5:5 warns that unfulfilled vows anger God, who will destroy the offender's possessions.

**23.** Implicit in this verse is a teaching that vows are not necessary for securing God's aid or remaining in His favor.

**21.** Charging interest on loans to gentiles was not a matter of racial or ethnic discrimination. Israelites could not charge each other interest, but gentiles could and did charge each other, and a foreigner borrowing money from an Israelite would not expect better terms than

he would get from one of his own people. (In medieval Europe, this freedom to lend at interest, combined with exclusion from any respectable trade, led to the negative stereotyping of the Jew as usurer.)

**24. You must fulfill what has crossed your**

#### HALAKHAH L'MA'ASEH

**23:20–1. interest** See Exod. 22:24 and Lev. 25:36. Even though interest is regularly charged in business, the Torah's ideal of communal solidarity and concern is expressed by Jewish Free Loan Societies in many Jewish communities.

fulfill what has crossed your lips and perform what you have voluntarily vowed to the LORD your God, having made the promise with your own mouth.

<sup>25</sup>When you enter another man's vineyard, you may eat as many grapes as you want, until you are full, but you must not put any in your vessel. <sup>26</sup>When you enter another man's field of standing grain, you may pluck ears with your hand; but you must not put a sickle to your neighbor's grain.

**24** A man takes a wife and possesses her. She fails to please him because he finds something obnoxious about her, and he writes

**24. You must fulfill** A vow is unconditionally binding. The Bible mentions no procedure for annulling a vow, even if it is impossible to keep.

EATING ANOTHER'S UNHARVESTED CROPS  
(vv. 25–26)

Fields and vineyards were laid out in such a way that people often had to pass through those belonging to others. This was not considered trespass. To judge from Exod. 22:4–5, only damaging the field is trespass. When passing another's crops, one who is hungry may pick enough grapes or ears of grain to satisfy hunger but one may not take more than can be eaten on the spot.

**25. vessel** Baggage carried by travelers in which they would keep food and other necessities.

**26. standing grain** When barley and wheat are still standing in the field, not yet ready for harvest, their grains are soft and edible after husking.

**you must not put a sickle** Because a sickle cuts several stalks at once, this could easily yield

תִּשְׁמֹר וְעָשִׂיתָ כַּאֲשֶׁר נִדְרָתָ לַיהוָה  
אֲלֹהֶיךָ נִדְרָה אֲשֶׁר דִּבַּרְתָּ בְּפִיךָ: ס  
כִּי תבֹא בְּכֶרֶם רֵעֶךָ וְאָכַלְתָּ עֲנָבִים  
כַּנִּפְשֶׁךָ שִׁבְעָה וְאֶל־כַּלְיֶיךָ לֹא תִתֵּן: ס  
כִּי תבֹא בְּקִמַּת רֵעֶךָ וְקִטְפַתְּ מִלֵּילֹת  
בְּיָדְךָ וְחֶרְמֶשׂ לֹא תִזְיֵף עַל קִמַּת  
רֵעֶךָ: ס

**כד** כִּי־יִקַּח אִישׁ אִשָּׁה וּבִעְלָהּ וְהָיָה  
אִם־לֹא תִמְצָא־חֵן בְּעֵינָיו כִּי־מִצָּא בָּהּ

more than one can eat on the spot, which is all one is entitled to take.

FORBIDDEN REMARRIAGE (24:1–4)

The laws of divorce are not prescribed in the Torah and were undoubtedly the subject of customary law. What little is known about them comes from indirect references in narratives, prophecies, and laws like this one. This law supplements the customary laws of marriage and divorce in one specific area: A man may not remarry his former wife if she has been married to another man in the interim.

**1. She fails to please him** That is, if she ceases to please him. Motives for divorce, which include suspicious absences from home, wasting or embezzling the husband's property, humiliating him, denying him conjugal rights, and—when it was not punished by the court with death—adultery. Here, failing to please him refers to any conduct the husband finds intolerable. A

**lips** Jewish law takes words seriously, especially promises to God. But it recognizes that people often vow rashly in a burst of enthusiasm, or make sincere commitments that they later find themselves unable to fulfill. For that reason, the Sages devised a procedure for releasing people from their vows. Such people can tell a *beit din* (rabbinical court) that had they known of certain circumstances at the time of the vow, they

would not have vowed as they did. The court may then annul the vow. The *Kol Nidrei* formula on the eve of *Yom Kippur* echoes this procedure.

**25–26.** Later Jewish law restricts permission to harvest workers. Otherwise, according to Rav, if all passers-by could eat, the owner might well be ruined (*Sifrei*). Note also that the verse stresses that this privilege is not to be abused.

her a bill of divorcement, hands it to her, and sends her away from his house; <sup>2</sup>she leaves his household and becomes the wife of another man; <sup>3</sup>then this latter man rejects her, writes her a bill of divorcement, hands it to her, and sends her away from his house; or the man who married her last dies. <sup>4</sup>Then the first husband who divorced her shall not take her to wife again, since she has been defiled—for that would be abhorrent to the LORD. You must not bring sin upon the land that the LORD your God is giving you as a heritage.

<sup>5</sup>When a man has taken a bride, he shall not go out with the army or be assigned to it for any purpose; he shall be exempt one year for the sake of his household, to give happiness to the woman he has married.

עֲרוֹת דָּבָר וְכָתַב לָהּ סֵפֶר כְּרִיתוֹת וְנָתַן  
 בְּיָדָהּ וּשְׁלָחָהּ מִבֵּיתוֹ: <sup>2</sup> וַיֵּצֵאָהּ מִבֵּיתוֹ  
 וְהָלְכָה וְהִיְתָה לְאִישׁ-אַחֵר: <sup>3</sup> וּשְׁנֵאָהּ  
 הָאִישׁ הָאֲחֵרוֹן וְכָתַב לָהּ סֵפֶר כְּרִיתוֹת  
 וְנָתַן בְּיָדָהּ וּשְׁלָחָהּ מִבֵּיתוֹ אוֹ כִּי יָמוּת  
 הָאִישׁ הָאֲחֵרוֹן אֲשֶׁר-לָקְחָהּ לוֹ לְאִשָּׁה:  
<sup>4</sup> לֹא-יִוָּכַל בְּעֵלָהּ הָרִאשׁוֹן אֲשֶׁר-שְׁלָחָהּ  
 לָשׁוּב לְקַחְתָּהּ לְהִיּוֹת לוֹ לְאִשָּׁה אַחֲרָי  
 אֲשֶׁר הִטְמֵאָהּ כִּי-תוֹעֵבָה הוּא לִפְנֵי יְהוָה  
 וְלֹא תַחֲטִי'א אֶת-הָאָרֶץ אֲשֶׁר יְהוָה  
 אֱלֹהֶיךָ נֹתֵן לְךָ נַחֲלָה: ס  
 שִׁי <sup>5</sup> כִּי-יִקַּח אִישׁ אִשָּׁה חֲדָשָׁה לֹא יֵצֵא  
 בַּצָּבָא וְלֹא-יַעֲבֹר עָלָיו לְכַל-דְּבַר נְקִי  
 יְהִיָּה לְבֵיתוֹ שָׁנָה אַחַת וְשִׂמַּח אֶת-  
 אִשְׁתּוֹ אֲשֶׁר-לָקַח: ס

husband could divorce his wife for any reason, however subjective. Divorce here is clearly initiated by the husband, which is the norm in the Bible and elsewhere in the ancient Near East. A number of ancient Near Eastern marriage contracts, however, stipulate that either the husband or the wife may initiate divorce, and similar provisions are known in Palestinian Jewish marriage contracts into the Middle Ages.

**bill of divorcement** A certificate of divorce, now known as a “get” (Aramaic for “legal document,” from a Sumerian term meaning “oblong tablet”). Various ancient Near Eastern documents indicate that the certificate probably was a statement by the husband to the effect that the couple is no longer husband and wife and that she is free to marry whomever she wishes. The term translated as “divorcement” (*k’ritut*) literally means “severance.” Some commentators conjecture that

the term did not originally refer to the severance of the marriage but to the act of cutting the wife’s hem or garment, a ceremonial act of divorce known from Mesopotamia.

**4. shall not take her to wife again** She is disqualified by virtue of her second marriage. Had she not remarried, there would be no objection to the couple’s reunion.

NEW HUSBAND’S MILITARY DEFERRAL (v. 5)

**5. bride** Literally, “new wife.” A man who has just married, whether or not his wife has been married previously, is deferred from military service unless—keeping in mind the previous law—he is marrying his former wife. This qualification is to prevent men from gaining deferral by divorcing and remarrying their wives.

**any purpose** The newlywed is excused even from noncombatant duties.

#### HALAKHAH L’MA’ASEH

**24:1. bill of divorcement** This verse demonstrates that divorce is permitted under Jewish law and that it requires the husband to hand his wife a writ of divorce (a *get*) written specifically for her. The Sages understood this verse to mean that the husband must initiate the Jewish divorce (BT Kid. 5b). Until such a writ is given, both partners remain married, even after a civil divorce. A woman whose husband is missing or legally incompetent or who refuses to grant her a Jewish writ of divorce is traditionally referred to as a chained woman (*agunah*) and is unable to remarry. To prevent this situation, the Conservative Movement has created a *t’nai b’kiddushin* (prenuptial condition), written either as a separate codicil or as part of the Conservative *k’tubbah* (wedding document), which specifies that the groom agrees to provide a *get* if the marriage is dissolved in the civil court. If no such clause was included in the marriage documents or if the man is missing or legally incompetent, the Joint *Beit Din* of the Conservative Movement may nullify the marriage (*hafka-at kiddushin*) in accordance with talmudic precedent (BT Ket. 3a, Git. 33a, 73a), thereby allowing the woman to remarry.

<sup>6</sup>A handmill or an upper millstone shall not be taken in pawn, for that would be taking someone's life in pawn.

<sup>7</sup>If a man is found to have kidnapped a fellow Israelite, enslaving him or selling him, that kidnapper shall die; thus you will sweep out evil from your midst.

<sup>8</sup>In cases of a skin affection be most careful to do exactly as the levitical priests instruct you. Take care to do as I have commanded them.

<sup>9</sup>Remember what the LORD your God did to Miriam on the journey after you left Egypt.

<sup>10</sup>When you make a loan of any sort to your

6 לֹא־יִחַבֵּל רַחִים וְרֹכֵב פִּי־נַפֶּשׁ הוּא חֵבֵל: ס

7 פִּי־יִמְצָא אִישׁ גֹּנֵב נֶפֶשׁ מֵאֲחִיו מִבְּנֵי יִשְׂרָאֵל וְהִתְעַמְרֻבוּ וּמָכְרוּ וּיָמַת הַגֹּנֵב הַהוּא וּבְעֵרַת הָרָע מִקִּרְבְּךָ:

8 הַשֹּׁמֵר בְּנִגְעֵ־הַצָּרַעַת לְשֹׁמֵר מְאֹד וְלַעֲשׂוֹת כְּכֹל־אֲשֶׁר־יֹדוּ אֶתְכֶם הַכֹּהֲנִים הַלְוִיִּם כַּאֲשֶׁר צִוִּיתָם תִּשְׁמְרוּ לַעֲשׂוֹת: ס

9 וְזָכֹר אֶת אֲשֶׁר־עָשָׂה יְהוָה אֱלֹהֶיךָ לְמִרְיָם בְּדַרְךְ בְּצֵאתְכֶם מִמִּצְרָיִם: ס  
10 פִּי־תִשָּׂה בְרֵעֶךָ מִשְׁאֵת\* מְאוּמָה לֹא־

v. 10. א' נחה

*give happiness* The purpose of the law is to ensure that the bride enjoys a year of marital pleasure before her husband risks his life in war.

#### WHAT CREDITORS MAY NOT SEIZE (v. 6)

If a debtor defaulted on a loan, a creditor would seize some of the debtor's possessions, not to satisfy the debt but to press for repayment. Borrowers, however, were usually impoverished and often would have few possessions left apart from clothing and necessary household items. This limited the number of objects creditors could seize. The Torah's laws regarding such seizure ensure that the creditor's right to repayment is subordinated to the survival and dignity of the debtor.

**6. A handmill or an upper millstone** That is, a handmill set or even just its upper stone. A handmill normally was made of basalt, which was hard enough to withstand constant rubbing. Such mills were used to prepare flour for baking bread, the staple of the common person's diet, and were probably found in every home. The lower stone was heavy, sometimes weighing as much as 90 pounds (40 kg), and inconvenient to take away. In such cases, creditors sometimes took only the upper stone, which weighed only 4 or 5 pounds (2 kg) and could not easily be replaced, because basalt was not found naturally in most parts of the country. This would suffice to render the mill useless and induce the debtor to repay the debt as soon as possible.

*taken in pawn someone's life* Seized to compel repayment. That is, something vital, a means of survival. Items necessary for producing food, such as farming tools, as well as food itself and shelter, are often called "life" in Mesopotamian, Egyptian, and postbiblical Jewish literature.

#### KIDNAPING (v. 7)

The same law appears in Exod. 21:16: "He who kidnaps a man—whether he has sold him or is still holding him—shall be put to death." It is clear from both passages that the primary purpose of kidnaping was to enslave the victim, either to the kidnaper or to others. Here in Deuteronomy, kidnaping is a capital crime if the victim is an Israelite, but only if the victim has been enslaved or sold. In Exodus, it is a capital crime no matter who the victim is, and it apparently makes no difference whether the kidnaper has sold or is still holding the victim. Presumably, the law would punish the kidnaping of resident aliens and foreigners in some other way.

**7. enslaving him or selling him** This is a necessary condition for capital punishment to be decreed. Kidnaping that does not end with enslavement or sale is not covered by this law.

#### "LEPROSY" (vv. 8–9)

See Leviticus 13–14.

**9. Miriam** After Miriam and Aaron had spoken against Moses, Miriam was stricken with "leprosy" and was required to remain outside the camp for one week, as related in Num. 12:10–15. The incident may be mentioned here as a cautionary tale. People should not assume "It can't happen to me!" and fail to consult a priest regarding a potentially "leprous" skin infection.

#### SEIZING AND HOLDING PROPERTY (vv. 10–13)

These laws, like the law in verse 6, limit the creditor's freedom in taking and holding certain objects.

countryman, you must not enter his house to seize his pledge. <sup>11</sup>You must remain outside, while the man to whom you made the loan brings the pledge out to you. <sup>12</sup>If he is a needy man, you shall not go to sleep in his pledge; <sup>13</sup>you must return the pledge to him at sundown, that he may sleep in his cloth and bless you; and it will be to your merit before the LORD your God.

<sup>14</sup>You shall not abuse a needy and destitute laborer, whether a fellow countryman or a stranger in one of the communities of your land. <sup>15</sup>You must pay him his wages on the same day, before the sun sets, for he is needy and urgently

תָּבֵא אֶל-בֵּיתוֹ לְעֵבֵט עֲבֹטוֹ: <sup>11</sup> בַּחוּץ תַּעֲמֹד וְהָאִישׁ אֲשֶׁר אָתָּה נֹשֶׂה בּוֹ יוֹצִיא אֵלֶיךָ אֶת-הָעֲבוֹט הַחוּצָה: <sup>12</sup> וְאִם-אִישׁ עָנִי הוּא לֹא תִשָּׁב בְּעֵבֹטוֹ: <sup>13</sup> הַשֶּׁב תָּשִׁיב לוֹ אֶת-הָעֲבוֹט כִּבְּאֵ הַשֶּׁמֶשׁ וְשָׁב בְּשִׁלְמָתוֹ וּבִבְרַכָּךָ וְלָךְ תִּתְּיָה צְדָקָה לְפָנָי יְהוָה אֱלֹהֶיךָ: ס

לֹא-תַעֲשֶׂק שָׂכִיר עָנִי וְאֶבְיוֹן מֵאֲחֵיךָ <sup>14</sup> שְׂבִיעִי אוֹ מִגֵּרְךָ אֲשֶׁר בְּאַרְצֶךָ בְּשַׁעֲרֶיךָ: <sup>15</sup> בְּיוֹמוֹ תִתֶּן שָׂכָרוֹ וְלֹא-תָבוֹא עָלָיו הַשֶּׁמֶשׁ כִּי עָנִי הוּא וְאֵלָיו הוּא נֹשֵׂא אֶת-נַפְשׁוֹ

**10.** The creditor may not enter the debtor's home to seize property. The debtor and his family would be humiliated, and the confrontation could lead to a quarrel. Similarly, the Laws of Hammurabi penalize a creditor who seizes grain from a debtor without his consent.

**12. needy man** This refers to someone who is absolutely destitute, to the point that he or she owns nothing but a wrap in which to sleep at night. Many debtors were in such straits.

**go to sleep in his pledge** Nightclothes were often seized from debtors, as indicated in Exod. 22:25–26. The creditor is not to go to sleep at night with the debtor's pledge in his or her possession.

**13. return the pledge . . . at sundown** You must return it each evening, and he or she will return it to you in the morning.

**bless you** The debtor will express gratitude by calling on God to bless you, i.e., to reward you with prosperity.

**it will be to your merit** The promise and the

related warning in Exod. 22:26 (see also Deut. 24:15) rest on the conviction that God is the ultimate patron of the powerless. They cannot personally reward those who are kind to them or punish those who mistreat them, but they have recourse to God, who will heed their wishes.

#### TIMELY PAYMENT OF WAGES (vv. 14–15)

Essentially the same law appears in Lev. 19:13, where it applies to all laborers. Here, it focuses on poor laborers, both Israelites and aliens.

**14.** Laborers must be paid their wages on the day they do their work. Employers should be sensitive to the fact that laborers live on a day-to-day basis and cannot wait for their pay.

**laborer** Literally, “a hired man.” One hired for a particular job, not a resident employee or servant who receives room and board.

**15. urgently depends on it** The laborer has his or her heart set on it, and is counting on it. It would be cruel to make such a person wait.

## CHAPTER 24

**10.** Once again, we encounter the theme of the innate dignity of people on society's margins. The dignity of a poor person who has had to pawn his or her last few items of clothing must be respected. The creditor cannot invade the debtor's home but must wait outside as if

a supplicant. In contrast, today's society has many ways of humiliating poor people even while ostensibly helping them.

**14–15.** In a dispute between a powerful employer and a vulnerable hired worker, God is on the side of the weak and vulnerable. To exploit or oppress a worker because one has the power to do so is to offend God.

#### HALAKHAH L'MA'ASEH

**24:11. remain outside** The home remains the borrower's despite the pledged object within it. The lender has no legal right to enter the house without permission and, conversely, has the positive duty to respect the borrower's privacy and dignity.

**24:15. on the same day** From this verse, the Sages determined that an employer must pay employees on time, as agreed on when the work was contracted (BT BM 111a–112a).

depends on it; else he will cry to the LORD against you and you will incur guilt.

<sup>16</sup>Parents shall not be put to death for children, nor children be put to death for parents: a person shall be put to death only for his own crime.

<sup>17</sup>You shall not subvert the rights of the stranger or the fatherless; you shall not take a widow's garment in pawn. <sup>18</sup>Remember that you were a slave in Egypt and that the LORD your God redeemed you from there; therefore do I enjoin you to observe this commandment.

<sup>19</sup>When you reap the harvest in your field and overlook a sheaf in the field, do not turn back to get it; it shall go to the stranger, the fatherless, and the widow—in order that the LORD your God may bless you in all your undertakings.

<sup>20</sup>When you beat down the fruit of your olive

וְלֹא-יִקְרָא עָלֶיךָ אֶל-יְהוָה וְהָיָה בְךָ חָטָא: ס

לֹא-יוֹמְתוּ אָבוֹת עַל-בָּנִים וּבָנִים לֹא-יוֹמְתוּ עַל-אָבוֹת אִישׁ בְּחָטְאוֹ יוֹמְתוֹ: ס

לֹא תִטֶּה מִשְׁפַּט גֵּר יְתוֹם וְלֹא תִחַבֵּל בְּגַד אֶלְמָנָה: <sup>18</sup> וְזָכַרְתָּ כִּי עֶבֶד הָיִיתָ בְּמִצְרַיִם וַיִּפְדֶּךָ יְהוָה אֱלֹהֶיךָ מִשָּׁם עַל-כֵּן אֲנֹכִי מְצַוְךָ לַעֲשׂוֹת אֶת-הַדְּבָר הַזֶּה: ס

כִּי תִקְצֹר קְצִירְךָ בַשָּׂדֶה וְשָׁכַחְתָּ עִמָּךְ בַּשָּׂדֶה לֹא תָשׁוּב לִקְחָתוֹ לְגֵר לִיתוֹם וְלֹא לְאֶלְמָנָה יְהִיָּה לְמַעַן יְבָרְכֶךָ יְהוָה אֱלֹהֶיךָ בְּכָל מַעֲשֵׂה יָדֶיךָ:

<sup>20</sup> כִּי תַחַבֵּט זֵיתֶךָ לֹא תִפְאֵר אַחֲרֶיךָ לְגֵר

#### TRANSGENERATIONAL PUNISHMENT (v. 16)

**16.** The punishment meted out by God to descendants of an offender (see 5:9) is solely a divine prerogative. Human authorities may not act likewise. Ancient Near Eastern law at times viewed members of a man's family as extensions of his personality, rather than as individuals in their own right. Thus if a man harmed a member of another's family, he was punished by the same harm being done to a member of his own family, often the corresponding member. Also, an offender's family might be punished along with him. There is no explicit prohibition of this in the law codes of the ancient Near East before Deuteronomy.

#### ALIENS, THE FATHERLESS, AND WIDOWS (vv. 17–18)

Concern for the welfare of resident aliens, the fatherless, and widows is a recurrent theme in the Bible. The welfare of the fatherless and widows is commonly mentioned in ancient Near Eastern wisdom literature and texts about the activities of kings, whose special duty it was to protect them.

Biblical law requires every Israelite to avoid wronging them and to be concerned with their welfare.

**17. the stranger or the fatherless** The alien is disadvantaged in court, being neither a fully integrated member of society nor the equal of the adversary or the judges. Those who are fatherless may have no adult male with sufficient experience and eloquence to represent them adequately.

**widow's garment** Although other debtors' garments may be seized and must be returned at night, if necessary, the garments of a widow may not be taken at all to compel payment of a loan.

#### GLEANINGS FOR THE POOR (vv. 19–22)

The law in verses 19–22 contains further measures for the welfare of aliens, widows, and orphans.

**19. bless you** For giving up that which is yours.

**20. beat down** Olives were harvested by beating the branches with long poles, a method illustrated in Greek vase paintings and still used in recent times in Israel.

**19.** This is the rare *mitzvah* that cannot be performed on purpose. One cannot choose to forget or overlook a sheaf of grain. True, landowners who feel they have enough are more likely to leave fruit or grain behind; and those, however comfortable, who feel insecure in

their wealth are more likely to comb the fields for every last sheaf. Tales are told of sages who rejoiced when they realized that they inadvertently had left some grain behind, at last fulfilling this *mitzvah*.

trees, do not go over them again; that shall go to the stranger, the fatherless, and the widow. <sup>21</sup>When you gather the grapes of your vineyard, do not pick it over again; that shall go to the stranger, the fatherless, and the widow. <sup>22</sup>Always remember that you were a slave in the land of Egypt; therefore do I enjoin you to observe this commandment.

לִיתוֹם וְלֹאֲלִמְנָה יִהְיֶה: <sup>21</sup> כִּי תִבְצֹר  
בְּרִמְךָ לֹא תַעֲלַל אַחֲרֶיךָ לִגְר לִיתוֹם  
וְלֹאֲלִמְנָה יִהְיֶה: <sup>22</sup> וְזָכַרְתָּ בִּי-עֶבֶד הָיִיתָ  
בְּאֶרֶץ מִצְרַיִם עַל-כֵּן אֲנֹכִי מִצְוֶה לַעֲשׂוֹת  
אֶת-הַדְּבָר הַזֶּה: ס

**25** When there is a dispute between men and they go to law, and a decision is rendered declaring the one in the right and the other in the wrong—<sup>2</sup>if the guilty one is to be flogged, the magistrate shall have him lie down and be given lashes in his presence, by count, as his guilt warrants. <sup>3</sup>He may be given up to forty lashes, but not more, lest being flogged further, to excess, your brother be degraded before your eyes.

**כה** כִּי-יִהְיֶה רִיב בֵּין אַנְשִׁים וְנִגְשׂוּ  
אֶל-הַמְּשַׁפֵּט וּשְׁפֹטוֹם וְהִצְדִּיקוּ אֶת-  
הַצְּדִיק וְהִרְשִׁיעוּ אֶת-הַרְשָׁע: <sup>2</sup> וְהָיָה  
אִם-בֶּן הַבּוֹת הַרְשָׁע וְהַפִּילוּ הַשְּׁפֹט  
וְהִכְהוּ לִפְנָיו כְּדֵי רִשְׁעוֹ בְּמִסְפָּר:  
<sup>3</sup> אַרְבָּעִים יִכְּנוּ לֹא יִסִּיף פֶּן-יִסִּיף לְהַכְתּוֹ  
עַל-אֵלָה מִכָּה רַבָּה וְנִקְלָה אַחֲרָיָה  
לַעֲיִנְיָךְ: ס

**do not go over them again** To knock down any remaining olives.

**21. do not pick it over again** To harvest the clusters that were immature the first time around.

#### LIMITS ON FLOGGING (25:1–3)

This law prohibits excessive punishment of an offender who has been sentenced to flogging.

**1. a decision is rendered** Literally, “they render a decision.” Apparently, more than one judge was to hear the case.

**2.** Flogging generally was used to discipline workers and children. Here it is imposed by the court, as in 22:18, which prescribes flogging for a man who libels his bride. It is not known what other offenses the court might have punished this way. In Mesopotamia, it was imposed—sometimes with additional punishments—for such offenses as destroying a neighbor’s house, encroaching on a neighbor’s land, selling a person whom one has seized because of a debt, defrauding creditors, stealing, and changing brands on sheep. In an Egyptian contract, one party agreed to be flogged if he failed to fulfill his contractual prom-

ise. It is likely that Deuteronomy has offenses such as these in mind.

**the magistrate** Presumably, the judge who supervises the flogging is one of those who hears the case, perhaps the head judge of the court.

**given lashes** The Hebrew word could refer either to whipping or to beating with a staff.

**in his presence** The judge supervises the flogging to make sure that the flogger delivers the correct number of strokes, neither too many nor too few. The Laws of Hammurabi also prescribe flogging in the presence of the court.

**by count** Someone is to call out each lash to make certain that the flogger does not lose count.

**as his guilt warrants** Depending on the offense. In certain ancient Near Eastern law codes, different offenses merit differing numbers of blows, ranging from 5 to 100.

**3. forty lashes, but not more** Never is the punishment to exceed 40 blows. The same number is also found in the Middle Assyrian Code. To avoid exceeding 40 lashes by accident, talmudic law limits the number to 39. It also prescribes that all floggings, however severe the offense, consist in principle of 39 strokes. The number is re-

#### CHAPTER 25

**3. lest . . . your brother be degraded** Al-

though he was convicted of a crime and punished, he is still *ahikha*—your brother and fellow Israelite—and, therefore, deserving of your

<sup>4</sup>You shall not muzzle an ox while it is threshing.

<sup>5</sup>When brothers dwell together and one of them dies and leaves no son, the wife of the deceased shall not be married to a stranger, outside the family. Her husband's brother shall unite with her: he shall take her as his wife and perform the levir's duty. <sup>6</sup>The first son that she bears shall be accounted to the dead brother, that his name may not be blotted out in Israel.

duced if the offender is found to be physically incapable of bearing the full <sup>39</sup>.

**be degraded** Because the flogging itself is degrading, the concern must be that excessive flogging would lead to something even more degrading. Perhaps the person being flogged would humiliate himself further by crying or begging hysterically for mercy, or by soiling himself from fright or the severity of the beating.

**before your eyes** Thereby adding to his humiliation.

#### NOT MUZZLING A THRESHING OX (v. 4)

**4.** Threshing was normally done by animals, usually oxen, that either trampled the stalks with their hooves or pulled a threshing sledge—a board with sharp studs on the bottom—over the stalks. The animal naturally would stop and eat some of the grain when hungry (an Egyptian relief shows one doing so). The farmer might seek to prevent this, either to save the grain or to keep the animal working. Deuteronomy forbids such behavior.

#### LEVIRATE MARRIAGE (vv. 5–10)

If a married man dies childless, his brother is to take the widow as his wife and father a child who will be considered the son of the deceased man. This is known as “levirate marriage,” from the Latin *levir* (husband's brother). In Hebrew, it is called *yibbum*, from the noun *yavam*, which also means “husband's brother.” If the brother refuses, he must submit to a procedure that will stigmatize him.

**5. together** The precise force of this word is unclear. It could mean that the brothers are living on the same family estate, either because their father is still alive or because they have not yet di-

4 לֹא-תַחֲסֹם שׁוֹר בְּדִישׁוֹ: ס

5 כִּי-יִשְׁבוּ אָחִים יַחְדָּו וּמֵת אֶחָד מֵהֶם וּבֶן אֵינֶנּוּ לֹא-תִהְיֶה אִשְׁת־הַמֵּת הַחוּצָה לְאִישׁ זָר יִבְמָה יָבֵא עָלֶיהָ וּלְקַחָהּ לוֹ לְאִשָּׁה וּיִבְמָה: 6 וְהָיָה הַבְּכוֹר אֲשֶׁר תֵּלֵד יִקּוּם עַל-שֵׁם אָחִיו הַמֵּת

vided the estate after his death. It could also mean that they are living in the same vicinity.

**leaves no son** The parallel law (Num. 27:1–11) implies that the name of a man without sons can also be perpetuated if he has daughters to inherit his property, obviating the need for levirate marriage. In a legal passage like Deut. 25, however, the text probably would have mentioned daughters explicitly had it meant to include them.

**Her husband's brother shall unite with her**

Various attempts have been made to reconcile this law with Lev. 18:16 and 20:21, which prohibit sexual relations with one's brother's wife. The talmudic view is that the prohibition in Leviticus and the law in this verse are, respectively, a generality and an exception. This view is supported by Hittite laws that place the prohibition of relations with one's brother's wife and the levirate law side by side, thus making it clear that the latter is an exception to the former.

**take her as his wife** The purpose of the levirate could theoretically be satisfied by a temporary sexual union; but in the Bible, sexual union and childrearing require a marital relationship that is intended to be permanent.

**6. accounted to the dead brother** That is, he will be considered the son of the deceased man and will inherit his property. It seems likely that the son of the levirate marriage would take the deceased man's name as his patronym.

**that his name may not be blotted out** Reflects the beliefs that death does not put an absolute end to an individual's existence, and that keeping one's name present on earth can assist the spirit of the dead to attain enduring nearness to the living.

consideration (BT Mak. 23a). Punishment that degrades criminals (implying that we no longer see them as a “brother” or sister) will only alienate them further from society, making

them more likely to repeat their criminal behavior.

**6.** The underlying idea is that a man's name should not disappear forever if he dies



<sup>7</sup>But if the man does not want to marry his brother's widow, his brother's widow shall appear before the elders in the gate and declare, "My husband's brother refuses to establish a name in Israel for his brother; he will not perform the duty of a levir."<sup>8</sup>The elders of his town shall then summon him and talk to him. If he insists, saying, "I do not want to marry her,"<sup>9</sup>his brother's widow shall go up to him in the presence of the elders, pull the sandal off his foot, spit in his face, and make this declaration: Thus shall be done to the man who will not build up his brother's house!<sup>10</sup>And he shall go in Israel by the name of "the family of the unsandaled one."

<sup>11</sup>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

וְלֹא־יִמְחָה שְׁמוֹ מִיִּשְׂרָאֵל: <sup>7</sup>וְאִם־לֹא יִחַפֵּן הָאִישׁ לְקַחַת אֶת־יְבִמְתּוֹ וְעַל־תָּהּ יְבִמְתּוֹ הַשְּׂעֵרָה אֶל־הַזְּקֵנִים וְאָמְרָה מֵאִיִּן\* יְבָמִי לְהָקִים לְאָחִיו שֵׁם בְּיִשְׂרָאֵל לֹא אָבָה יְבָמִי: <sup>8</sup>וְקָרְאוּ־לוֹ זְקֵנֵי־עִירוֹ וְדָבְרוּ אֵלָיו וְעָמְדוּ וְאָמְרוּ לֹא חָפְצָתִי לְקַחְתָּהּ: <sup>9</sup>וְנִגְשָׁה יְבִמְתּוֹ אֵלָיו לְעֵינָיו הַזְּקֵנִים וְחָלְצָה נַעֲלָו מֵעַל רַגְלוֹ וְיָרְקָה בַּפְּנָיו וְעָנְתָהּ וְאָמְרָה כִּכָּה יַעֲשֶׂה לְאִישׁ אֲשֶׁר לֹא־יִבְנֶה אֶת־בַּיִת אָחִיו: <sup>10</sup>וְנִקְרָא שְׁמוֹ בְּיִשְׂרָאֵל בֵּית חָלוּץ הַנֶּעֱלָ: ט

<sup>11</sup>כִּי־יִנְצוּ אָנָשִׁים יַחְדָּו אִישׁ וְאָחִיו וְקָרְבָה אִשְׁת׃ הָאָחִיד לְהַצִּיל אֶת־אִישָׁהּ מִיַּד מִכָּהוּ וְשָׁלְחָה יָדָהּ וְהִחֲזִיקָה

ו. ז. י. תיר י' בכתב היד שלנו

**7. the man does not want to marry** Many considerations might lead a man to refuse levirate marriage. He might not care for his brother's wife, he might feel that she had brought his brother bad luck, or he might think that with his brother dead and heirless he could himself inherit a larger share of their father's estate. If already married, he might not want to create a rival for his wife, or he might calculate that supporting an extra wife and a child not to be considered his own would diminish the estate that he could leave for his own children.

**the elders in the gate** Here again, as in 21:19 and 22:15, the elders have jurisdiction in matters concerning the family.

**name** Here, virtually synonymous with "offspring," a child who would bear the dead man's name as a patronym.

**9. pull the sandal off** It is common for legal transactions to be accompanied by symbolic acts. Bedouin use a formula similar to this act in their

divorce proceedings: "She was my slipper; I have cast her off." The ceremony here could likewise symbolize renunciation of marriage, in this case in advance. If the sandal were removed by unfastening, the act could stand for release of the bond tying the widow to the levir.

**spit in his face** Ancient authorities debated whether this means literally to spit in his face or to spit on the ground in front of him. In either case, the purpose of the act is to humiliate the levir for refusing to perform a duty that is important for his dead brother.

**build up his brother's house** Provide him with children.

**10. family of the unsandaled one** Literally, "house of the unsandaled one." The punishment suits the man's behavior. Because he refused to build up his brother's house, the nickname degrades his own house; because he refused to protect his brother's name from obliteration, he acquires a derogatory nickname.

leaving no children. We find echoes of this sentiment today in the emotionally powerful custom of naming a child after a deceased relative (among *S'fardim*, after a living relative), whose name thus lives on. It may also be a way of ensuring that the widow is left with a tangible re-

minder of her first marriage, a source of support in her old age.

**9.** To discourage sexual attraction between brothers and sisters-in-law, later Jewish law expressed a clear preference for *halitzah* (the ritual of the sandal) rather than levirate marriage.

and seizes him by his genitals, <sup>12</sup>you shall cut off her hand; show no pity.

<sup>13</sup>You shall not have in your pouch alternate weights, larger and smaller. <sup>14</sup>You shall not have in your house alternate measures, a larger and a smaller. <sup>15</sup>You must have completely honest weights and completely honest measures, if you are to endure long on the soil that the LORD your God is giving you. <sup>16</sup>For everyone who does those things, everyone who deals dishonestly, is abhorrent to the LORD your God.

<sup>17</sup>Remember what Amalek did to you on your

IMPROPER INTERVENTION IN A FIGHT  
(vv. 11–12)

**12. cut off her hand** In the ancient Near East, it was common to inflict punishment on the part of the body with which an offense was committed. The reason for such a severe punishment is not clear. Some think it may be because of her injuring the man's genitals and threatening his ability to father children, as is stated explicitly in the Middle Assyrian laws.

**show no pity** This clause is used in cases where one might be tempted to be lenient, in this case because the woman's motive—the defense of her husband—was honorable.

HONEST WEIGHTS AND MEASURES (vv. 13–16)

Only honest weights and measures are permitted. The importance of this principle, so crucial for the justice and stability of commerce within a society, was widely emphasized in the ancient Near East.

**13. You shall not have** Not only may one not use deceptive weights and measures, one may not even possess them.

**pouch** Where merchants carried their weights.

**alternate weights** Literally, “stone and stone.” The weights in question were used on balance scales to determine the weight of money and commodities. The standard weight was the shekel, ap-

בַּמְבָּשׁוֹ: <sup>12</sup>וְקָצַתָּהּ אֶת־כַּפְּפָהּ לֹא תַחֲסֹס עֵינֶיךָ: ס

<sup>13</sup>לֹא־יִהְיֶה לְךָ בְּכִיסֶּךָ אֶבֶן וְאֶבֶן גְּדוֹלָה וְקִטְנָה: ס <sup>14</sup>לֹא־יִהְיֶה לְךָ בְּבֵיתְךָ אֵיפָה וְאֵיפָה גְּדוֹלָה וְקִטְנָה: <sup>15</sup>אֶבֶן שְׁלֵמָה וְצֶדֶק יִהְיֶה לְךָ אֵיפָה שְׁלֵמָה וְצֶדֶק יִהְיֶה לְךָ לְמַעַן יֵאָרִיכוּ יָמֶיךָ עַל הָאָדָמָה אֲשֶׁר־יְהוָה אֱלֹהֶיךָ נָתַן לְךָ: <sup>16</sup>כִּי תוֹעֲבַת יְהוָה אֱלֹהֶיךָ כָּל־עֲשֵׂה אֵלָה כָּל־עֲשֵׂה עוֹל: פ

מַפְטִיר <sup>17</sup>זָכוֹר אֶת אֲשֶׁר־עָשָׂה לְךָ עַמְלֶק בְּדֶרֶךְ

proximately 0.4 ounce (11 g), although it varied in different periods. One may not use the large weight to receive more or the small weight to give less. Ancient Babylonian writings contain many accounts about the violation of this norm. Numerous stone and metal weights of the standard shekel and its fractions and multiples have been found in archaeological excavations.

**14. alternate measures** Literally, “alternate *ephah* measures.” The *ephah* (standing here for all measures) was not a measuring device but a unit of capacity of pottery containers used for grain; see Comment to Exod. 16:36. The size and weight of such large containers made it difficult for buyers or sellers of grain to carry their own jars from place to place to verify the amounts involved in a sale.

**15. completely honest** Literally, “complete and honest.” In Hebrew, the words appear at the beginning of the verse, where they serve as a contrast to verse 14 and gain an emphatic sense: “only completely honest weights.”

**if you are to endure long** Long life, for the individual or the nation, is the reward granted by God for obedience to His laws.

REMEMBERING AMALEKITE AGGRESSION  
(vv. 17–19)

The Amalekites were a nomadic group living in

**12. cut off her hand** That is, “leave her with diminished financial resources” (*Ha-amek Davar*). The Sages shrank from taking this punishment literally; they substituted a monetary fine for mutilation.

**16. your God** The Jew who cheats in busi-

ness may no longer call upon “my God.” Such behavior is detestable in God's sight. God will no longer tolerate being associated with that person (Hirsch).

**17.** The text mentions the predations of Amalek right after discussing just weights and

journey, after you left Egypt—<sup>18</sup>how, undeterred by fear of God, he surprised you on the march, when you were famished and weary, and cut down all the stragglers in your rear. <sup>19</sup>Therefore, when the LORD your God grants you safety from all your enemies around you, in the land that the LORD your God is giving you as a hereditary portion, you shall blot out the memory of Amalek from under heaven. Do not forget!

בַּצֵּאתְכֶם מִמִּצְרַיִם: <sup>18</sup> אֲשֶׁר קָרָךְ בַּדֶּרֶךְ וַיִּזְנֶב בְּךָ כָּל־הַנְּחָשָׁלִים אַחֲרֶיךָ וְאֵתָה עִיף וַיִּגַע וְלֹא יָרָא אֱלֹהִים: <sup>19</sup> וְהָיָה בְּהַנִּיחַ יְהוָה אֱלֹהֶיךָ לְךָ מִכָּל־אֲבִיבֵיךָ מִסָּבִיב בְּאֶרֶץ אֲשֶׁר יְהוָה־אֱלֹהֶיךָ נָתַן לְךָ נַחֲלָה לְרִשְׁתָּהּ תִּמְחָה אֶת־זְכֹר עַמְּלֶךָ מִתַּחַת הַשָּׁמַיִם לֹא תִשְׁכַּח: פ

the Sinai desert and the part of the Negeb that was south of the territory of Judah. Nothing is known of them from sources outside the Bible. Israel's experience with them must have been particularly bitter to have led to the resolve to wipe them out. The account in Exod. 17:8–16 offers no explanation for that determination, but Deuteronomy does: The Amalekites staged a sneak attack on the defenseless weak lagging at the rear of the migrating Israelites, an attack that showed Amalek to be uncommonly ruthless, lacking in even the most elementary decency. Conceivably, the Israelites thought that the Amalekites had genocidal intentions, and regarded the command to annihilate them as measure-for-measure punishment.

**17.** The exhortation to remember is echoed by “Do not forget” in verse 19.

**what Amalek did to you** There is no indication of what prompted the Amalekites to attack. It has been conjectured that they saw the Israelites as a potential threat to their control of the oases and pasturelands in the Sinai and the Negeb. In view of the Amalekites' later character as marauders, however, it is just as likely that their attack

was a plundering raid on a target of opportunity.

**18. undeterred by fear of God** The Amalekites are not expected to fear *YHVH*, the God of Israel, whom they do not recognize. That is why the term used here is “fear of God” (*elohim*, the more general term for the deity), meaning fear of the divine. The Bible knows that non-Israelite religions also teach that the gods punish sin; and when it refers to pagans who are or are not heedful of that belief, it uses the more general term “God” (see Gen. 20:11). The Amalekites lacked the basic principles of morality common to all religions.

**stragglers** Those traveling at the rear would include the sick and weak who could not keep up with the others. Anyone with elementary decency would avoid attacking them.

**19. when God grants you safety** Once Israel is securely settled in the Land, with no threat left to its existence, it is to turn its attention to Amalek.

**blot out the memory** That is, blot out their name, wipe them out. The Israelites are not being commanded here to eradicate all recollection of the Amalekites. Indeed, they are commanded to remember forever what the Amalekites did.

measures, to warn us that when people cheat each other, the national bonds of unity, loyalty, and mutual trust are strained and the nation becomes vulnerable to Amalek (Tanḥ.).

**undeterred by fear of God** Literally, “not fearing God.” In Hebrew, this phrase follows “you were famished and weary”; to whom does it refer? To Amalek? Or to the stragglers who had lost faith—thus becoming vulnerable to Amalek? If the former, “fearing God” means having empathy for the powerless who are at your mercy (as the Egyptian midwives who “feared God” spared Israelite babies in Exod. 1:17).

**18. surprised you** Hebrew: *korkha*, which the Midrash relates to the word for “cold” (*kor*). The Israelites, leaving Egypt on the way to Sinai, had been confident and enthusiastic. The real sin of Amalek was that he robbed them of their idealism, teaching them that the world could be an unreliable and dangerous place.

**19.** The commandment to blot out the name and the memory of the wicked may be thematically related to the commandment earlier in the chapter to perpetuate the name of the man who died childless.

HALAKHAH L'MA'ASEH

**25:19. blot out . . . Amalek** This verse is the source for the custom of drowning out the name of Haman (by tradition a descendent of Amalek) with raucous noise during the reading of *M'gillat Ester* on *Purim*.

# הַפְטָרָה חֲמִישִׁית דְּנַחֲמָתָא

## FIFTH HAFTARAH OF CONSOLATION HAFTARAH FOR KI TETZEI

ISAIAH 54:1–10

*(Recite on the 5th Shabbat after the 9th of Av, coinciding with the reading of Ki Tetzei. If two weeks ago the third Haftarah of Consolation was pre-empted by Rosh Hodesh, then that haftarah is now added to this one—following the order in the Book of Isaiah. That is, recite this passage first, then continue with the third Haftarah of Consolation on pages 1085–1087 before making the final benedictions. On the Seven Haftarot of Consolation, see p. 1032.)*

This *haftarah* contains a cluster of promises and assurances to Zion and its inhabitants. The prophet addressed them to the destroyed city and nation sometime after Cyrus the Mede conquered Babylon and allowed subject populations, including the Judeans, to renew their ancient heritages (538 B.C.E.). Because Zion soon will be rebuilt and repopulated, and because the time of shame and desolation has passed, the prophet urges a personified Zion to rejoice. The divine signature, “said the LORD your Redeemer” (Isa. 54:8), provides assurance. Further testimony of assurance comes when the new covenant (*b’rit*) of reconciliation with the people is compared to God’s ancient pact with Noah after the Flood. Just as that ancient oath promised the end of universal destruction, so Zion now is promised the end of divine punishment. Here again a divine signature closes a prophecy, this time referring to God as “the LORD, who takes you back in love” (v. 10).

Figures of assurance dominate the prophet’s style. The people are promised “kindness everlasting [*hesed olam*]” (v. 8) and that neither “my loyalty [*hesed*]” “Nor My covenant [*b’rit*] of friendship” (v. 10) will be shaken. Such tokens of assurance are reinforced by a series of dramatic imperatives (“shout,” “enlarge,” “come”) and by the Hebrew particle *lo* (no, not). Thus, the negative state of Zion “who bore no [*lo*] child” and

“did not [*lo*] travail” (v. 1) is reversed by the promise that it will “not [*lo*] be shamed” or “disgraced” and that it will “remember no [*lo*] more / The shame” of its past (v. 4). The concluding section reinforces this counterpoint with the statement that God’s loyalty (*hesed*) shall “never [*lo*] move from you” (v. 10).

Another stylistic strategy in this *haftarah* is the use of comparisons. The prophet begins by comparing the exilic loss and national restoration of Israel with changes in a marriage; God will take back fair Zion just as a once-angry husband will restore the bride of his youth. The simile derives from an old prophetic tradition in which God’s relationship to His people is likened to that of a groom and his bride. The prophet’s emphasis on kindness everlasting and love (v. 8) thus recalls the vows in Hos. 2:21–22 and so likewise must depict Covenant renewal.

The marriage motif allows the prophet to focus on the dynamics of love and rejection, and of anger and its assuagement. God is presented as a faithful bridegroom who is able to overcome betrayal and anger. The *haftarah* dramatizes this with two cases of unilateral divine commitment: (a) God’s oath to Noah and his descendants (v. 9) models God’s everlasting stability, assuring no further anger or destruction. This transfer of a primordial covenantal guarantee to the sphere of current affairs is striking. (b) The prophet uses natural imagery to highlight God’s future steadfastness with Israel: “For the mountains may move / And the hills be shaken, / But my loyalty shall never move from you” (v. 10). Through the analogy of the Flood, we sense how deeply the Exile was felt to be a rupture in the divine order; and through the analogy of nature, we learn how disconsolate and without hope the people of Zion had been.

## 54 Shout, O barren one,

You who bore no child!  
 Shout aloud for joy,  
 You who did not travail!  
 For the children of the wife forlorn  
 Shall outnumber those of the espoused  
 —said the LORD.

<sup>2</sup>Enlarge the site of your tent,  
 Extend the size of your dwelling,  
 Do not stint!  
 Lengthen the ropes, and drive the pegs firm.  
<sup>3</sup>For you shall spread out to the right and the  
 left;  
 Your offspring shall dispossess nations  
 And shall people the desolate towns.

<sup>4</sup>Fear not, you shall not be shamed;  
 Do not cringe, you shall not be disgraced.  
 For you shall forget  
 The reproach of your youth,  
 And remember no more  
 The shame of your widowhood.  
<sup>5</sup>For He who made you will espouse you—  
 His name is “LORD of Hosts.”  
 The Holy One of Israel will redeem you—  
 He is called “God of all the Earth.”

<sup>6</sup>The LORD has called you back  
 As a wife forlorn and forsaken.  
 Can one cast off the wife of his youth?  
 —said your God.

<sup>7</sup>For a little while I forsook you,  
 But with vast love I will bring you back.

## נד רני עקרה

לֹא יֵלְדָה  
 פְּצְחֵי רְנָה וְצִהְלִי  
 לֹא-חָלָה  
 פִּי-רְבִים בְּנֵי-שׁוּמְמָה  
 מִבְּנֵי בְעוּלָה  
 אָמַר יְהוָה:

<sup>2</sup>הֲרַחֲבִי אֶמְקוֹם אֹהֶלְךָ  
 וִירִיעוֹת מִשְׁפְּנוֹתֶיךָ יִטּוּ  
 אֶל-תַּחֲשֻׁכֵי  
 הָאָרֶץ מִיַּתְרֶיךָ וּיִתְדוּן חֻזְקִי:  
<sup>3</sup>כִּי-יִמִּין וּשְׂמֹאל\* תִּפְרָצִי  
 וְזָרַעְךָ גּוֹיִם יִירָשׁ  
 וְעָרִים נְשֻׁמוֹת יוֹשִׁיבוּ:

<sup>4</sup>אֶל-תִּירְאִי כִּי-לֹא תִבוֹשִׁי  
 וְאֶל-תִּפְלָמִי כִּי לֹא תִחַפְּיִי  
 כִּי בָשַׁת עַל-זִמְיֶךָ  
 תִּשְׁכַּח  
 וְחַרְפַּת אִלְמְנוֹתֶיךָ  
 לֹא תִזְכְּרִי-עוֹד:  
<sup>5</sup>כִּי בְעַלְיֶךָ עֲשִׂיךָ  
 יְהוָה צְבָאוֹת שְׁמוֹ  
 וְגֵאֲלֶךָ קְדוֹשׁ יִשְׂרָאֵל  
 אֱלֹהֵי כָל-הָאָרֶץ יִקְרָא:

<sup>6</sup>כִּי-כָאִשָּׁה עֲזוּבָה וְעֲצוּבַת רוּחַ  
 קָרָאךָ יְהוָה  
 וְאִשָּׁת נְעוּרִים כִּי תִמְאַס׃  
 אָמַר אֱלֹהֶיךָ:  
<sup>7</sup>בְּרַגַע קָטָן עֲזַבְתִּיךָ  
 וּבְרַחֲמִים גְּדוּלִים אֶקְבְּצֶךָ:

ו. 3. מלא ו'

**Isaiah 54:6. wife of his youth** This recalls other reflexes of the marriage motif (see Hos. 2:17; Jer. 2:2; Ezek. 23:8,19–20).

<sup>8</sup>In slight anger, for a moment,  
I hid My face from you;  
But with kindness everlasting  
I will take you back in love  
—said the LORD your Redeemer.

<sup>9</sup>For this to Me is like the waters of Noah:  
As I swore that the waters of Noah  
Nevermore would flood the earth,  
So I swear that I will not  
Be angry with you or rebuke you.  
<sup>10</sup>For the mountains may move  
And the hills be shaken,  
But my loyalty shall never move from you,  
Nor My covenant of friendship be shaken  
—said the LORD, who takes you back in love.

<sup>8</sup>בְּשַׁצֵּף קֶצֶף  
הִסְתַּרְתִּי פָנַי רָגַע מִפְּנֶיךָ  
וּבְחֶסֶד עוֹלָם  
רָחַמְתִּיךָ

אָמַר גְּאֻלְךָ יְהוָה: ס  
<sup>9</sup>כִּי־יָמִי נָח זֹאת לִי  
אֲשֶׁר נִשְׁבַּעְתִּי מֵעַבְרֵי מִי־נָח  
עוֹד עַל־הָאָרֶץ  
כִּן נִשְׁבַּעְתִּי  
מִקְצֵף עָלֶיךָ וּמִגְּעָר־כָּבֶד:  
<sup>10</sup>כִּי הַהָרִים יִמְוָשׁוּ  
וְהַגְּבָעוֹת תִּמוּטְנָה  
וְחֶסְדִּי מֵאַתָּה לֹא־יִמוּשׁ  
וּבְרִית שְׁלוֹמִי לֹא תִמוּט  
אָמַר מִרְחֻמֶיךָ יְהוָה: \* ס

**8–10. kindness . . . loyalty** Hebrew: *hesed*, translated in more than one way. In verse 8 it alludes to God's response as bound to the Covenant (see Hos. 2:21 and Jer. 2:2). In verse 10 it conveys commitment (see 2 Sam. 7:15; Ps. 89:34).

Through *hesed* one deals faithfully or keeps faith with another. It is used to describe both divine-human and interpersonal relationships (see Deut. 5:10; 1 Sam. 20:8).

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