

Learning from Torah's Worst Passage *Shabbat Ki Tetzei 5777*

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What kind of a rabbi asks parents to read a section of Torah containing rules for stoning a wayward, defiant child? Perhaps the rabbi knows that the children of these parents are not slothful, drunken gluttons. Still, the passage is horrifying.

However, I have learned to look at this instruction from an opposite angle. In the Ancient Near East, a father had absolute, unchecked authority over his children. He could kill his children for no reason at all, legally. This passage limits that terrible paternal prerogative. First, the father and the mother have to agree that the child's behavior is so despicable as to warrant putting him to death. Second, they must publicly declare the insolence of their son before he is killed. We have no evidence that it ever happened.

Instead, this passage has the effect of prohibiting a father from killing his child in private. If we consider child abuse deaths in our own society, we know that they don't take place in public, and they aren't typically carried out with the consent of both parents. The law cannot prevent all violent child abuse, but it can and the Torah does make it a despicable crime, transforming a societal norm into grave transgression.

This summer, at the Shalom Hartman institute in Jerusalem, I studied this troubling passage with a magnificent scholar, Avital Hochstein. She introduced me to ancient rabbinic texts, grappling with the same troubling section of Torah. Our sages were as scandalized as we are by the notion that parents would have their own child stoned to death. They didn't know that the passage initially corrected prevailing practice in a world that was already ancient and unknown to rabbis who lived 2000 years ago. Therefore, the rabbis went to great lengths to ensure that the Deuteronomy passage could never be enforced.

First, they point out that a young child cannot be held accountable for his actions. On the other hand, a full-blown adult is no longer under the control of his parents, who therefore can't initiate this hideous process. So what is the age at which a child could be subjected to it? The rabbis go into great detail, not appropriate for a family show, to limit the population of sons liable for this

hideous legal process. They make up a nonexistent stage in the sexual development of a young man to assure that no boy actually fits the criteria.ⁱ

Next, they consider the parents who are eligible to bring up their son on these heinous charges. They must be legally married. If one of the parents has died, or is disabled, the despicable process is not available.ⁱⁱ The father and mother must also be in agreement that the child should be put to death,ⁱⁱⁱ a most unlikely prospect.

And what of the legal process? The rabbis insist that the son must be warned in front of three judges, at which point he is lashed for his crimes. Then, only if he repeats his crime, “he is judged by a [unanimous] court of twenty-three. And he is not stoned until the original three [judges] are present.”^{iv}

We should not be surprised, then, that our Sages wrote that “there never was and there never will be” a wayward and defiant son, liable for death by stoning.^v The same rabbis ask the obvious follow-up question: “Then why is it written?” They answer, “Study and receive the reward.”^{vi}

The response is cryptic. If we think about it, though, the sages are telling us: Pay attention to what the text is really saying. Torah commands exactly the opposite of what its words seem to say: Parents may not put their child to death because of bad behavior. More generally, Avital Hochstein teaches, this passage exemplifies the Jewish imperative to establish mechanisms to look out for the weakest people in society. Just as Torah enacts a procedure to prevent children from being executed, so must we adopt approaches that protect other vulnerable human beings in our midst.

Tonight, our minds instantly turn to the tens of thousands of storm-tossed souls rendered homeless by Hurricane Harvey. My mind is focused on cousins Carol and Cedric, who were rescued by boat from their home of over fifty years. On three generations of a family very dear to mine, the Rutmans in Beaumont, a city of over 100,000 people with no running water. On Houston’s Congregation Beth Israel, where I grew up, its flooded sanctuary and mechanical rooms and its overwhelmed rabbis. On my friend Seth, his wife Sarah, and their two preschool aged kids, who sent photos of water that filled their kitchen to the countertops. The family had returned to that home not long ago, after it was flooded on Memorial Day two years ago.

When I spoke with Seth, though, he asked me not to be concerned about him, Sarah, or their kids. They already found an apartment. They have resources,

including insurance, that will ease their return them to comfort. Seth asked me instead to turn my attention, and the concern of our congregation, to those who can't afford groceries or cleaning supplies, new furniture, or even a roof over their heads. Rabbi Lyon of Congregation Beth Israel did not ask folks around the country to help repair the synagogue. Instead, he appealed for donations of gift cards, a request I passed along to our community, so that the less financially secure among the displaced may purchase urgently-needed items.

The fortunate among the displaced on the Texas coast have spoken clearly: Be there for those whose needs are greater than our own. As Torah teaches, we must cast our concern on the weakest people in our society.

And who could be more vulnerable than the immigrants known as "Dreamers?" These young people, brought to this country by their parents when they were very small, have grown up knowing America as their only home. And yet, they are not in the United States legally.

The United States does have a mechanism to protect these endangered human beings in our midst. As of this March, over 240,000 "Dreamers" had taken advantage of Deferred Action for Childhood Arrivals, or DACA, a program that President Obama established by Executive Order. Eligibility is limited to those who came to the U.S. under the age of 16 and have continuously resided in this country since 2007. They must be in school, have graduated from high school, possess a G.E.D., or have been honorably discharged from our U.S. Armed Forces. They are ineligible if they have been convicted of any felony or significant misdemeanor. They must pass a background check.

President Trump has expressed sympathy with the "Dreamers." He has not ended DACA. However, a heartless group of state Attorneys General, including Arkansas' own Leslie Rutledge, have issued an ultimatum to the President: He has until this coming Tuesday, September 5, to rescind DACA, or they will pursue a law suit to force him to do so.

Tonight, America's weakest citizens do include children whose parents are so abusive as to be deadly. Thankfully, our nation has established laws to criminalize that abuse, like the Torah and ancient rabbis in ages past. Tonight, our nation's most vulnerable residents are low-income victims of Hurricane Harvey and the floods it unleashed on the Texas coast. Tonight, the United States' most threatened inhabitants are young people who, as soon as Tuesday, could face deportation from the only home they have ever known.

Let us learn from what seems to be the very worst passage in Torah. Sometimes, the law has to go out of its way to protect the weakest persons in society. Let us do what we can or more to support the needy in Houston, Beaumont, Port Arthur, Corpus Christi, Port Aransas, Rockport, Victoria, and more Texas coastal communities than I can name. Let us support a legal effort, even an executive order that many believe to be constitutionally questionable, to protect young immigrants. Then, we may be said to have observed the mitzvah the rabbis derive from this awful section of Torah: “Study and receive the reward.”

Amen.

ⁱ B. Sanhedrin 68b-69a, interpreted by Avital Hochstein.

ⁱⁱ Sifre Deuteronomy MS Vatican 32.

ⁱⁱⁱ M. Sanhedrin 8:4.

^{iv} Ibid.

^v Tosefta Sanhedrin 11.

^{vi} Ibid.