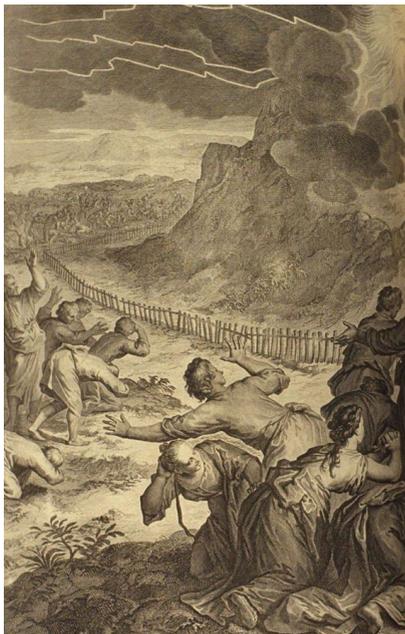


## **Coercion, Choice, Power and Consent Purim and Sexuality**

**Rabbi Jeffrey Fox - Rosh Yeshiva, Maharat**



### **Introduction:**

There are certain foundational rabbinic texts and images that take on a new, and sometimes alarming, meaning when read with twenty-first century eyes. It is important to relate to the texts of the Rabbis with great respect and even reverence. However, we must also be able to be honest when the rabbinic idiom no longer resonates. We will begin with a key Midrash about the nature of revelation which is often read and re-read around Purim and Shavuot. We will then move to a text about appropriate (and inappropriate) physical relationships between husband and wife.

The classic rabbinic read of the Song of Songs presents the relationship between God and the Jewish People as lover and beloved. That imagery is laced through the Midrash and the liturgy. At one level, that metaphor is beautiful, moving and inspirational. However, given the reality of abuse in marital relationships and the dangers associated with human sexuality, a piece of those images can be scary. We sing every Friday night about the connection of the lover and their beloved – לכה דודי לקראת כלה – but what happens when the lived partnership breaks down into a relationship of anger or, God forbid, violence. How might those people experience Kabbalat Shabbat?

Sexuality and power are connected in ways that often make us uncomfortable. As a society, we now understand that consent can only be honestly granted in the absence of an extreme power imbalance. An ideal relationship of intimacy requires equality, through which both partners can express their emotional and physical needs. For this reason, CEO's may not date their employees, professors may not be in relationships with their students and Rabbis may not date their congregants. Recognizing this problem of the power imbalance highlights the impropriety of the president of the United States engaging in a sexual encounter with their intern.

In this article, I claim that the Rabbis, in one Midrash, understood that the revelatory power of the voice of God can be coercive. While there is something great and awesome about the moment of Sinai, there is also something deeply suspect about a relationship built on coercion. A coercive covenant between God and the Jewish People would represent a deep problem for subsequent generations' relationship with God. The rabbis also express a concern that the relationship between husband and wife may lead to one dominating the

other. In comparing two particular Rabbinic approaches to Sinai and Sex, we can appreciate the deep wisdom that these ancient texts have to share with us in the twenty first century.

### Revelation as Coercion:

The Talmud Bavli [Shabbat 88a](#) picks up on an awkward formulation of a verse describing the encampment of the Jewish People at Sinai. The pasuk says:

And they camped at the underneath of the mountain ([Exodus 19:17](#)).

וַיִּתְּצְבוּ בְּתַחְתֵּית הַהָר שְׁמוֹת יִט׃ז

What does it mean to say that we were camped “בְּתַחְתֵּית” (at the underneath) the mountain? The rabbis teach us:

אמר רב אבדימי בר חמא בר חסא: מלמד שכפה הקדוש ברוך הוא עליהם את ההר כגיגית, ואמר להם: אם אתם מקבלים התורה מוטב, ואם לאו שם תהא קבורתכם

Rav Avdimi bar Chama bar Chasa said, “This teaches that the Holy Blessed One hung the mountain over them like a barrel and said to them, ‘If you accept the Torah, Good! If not, there will be your burial place.’”

In this text, the great revelation at Mt. Sinai is imagined not to be a moment of free will and national commitment to God but rather deeply coercive<sup>1</sup>, a description that contains a certain kind of psychological truth. The Jewish People, having just left Egypt and witnessed the miracles of the plagues, the crossing of the sea and the Manna, could not possibly have rejected the gift of Torah that God was offering. This slave-nation, standing at the foot of the mountain, really had no choice but to say yes to God.

It is interesting to note that the end of the Book of Joshua (chapter 24) appears to attempt to remedy this problem. Joshua gathers the people in Shechem and enacts a re-covenanting ceremony. In this awesome scene, Joshua offers a choice. The Navi says:

(טו) וְאִם רַע בְּעֵינֵיכֶם לַעֲבֹד אֶת יְהוָה בְּחַרוּ לָכֶם הַיּוֹם אֶת מִי תַעֲבֹדוּן אִם אֶת אֱלֹהִים אֲשֶׁר עֲבָדוּ אֲבוֹתֵיכֶם אֲשֶׁר בַּעֲבֹר מֵעֵבֶר הִנְהָר וְאִם אֶת אֱלֹהֵי הָאֲמֹרִי אֲשֶׁר אַתֶּם יֹשְׁבִים בְּאֶרֶצָם וְאֲנִי וּבֵיתִי נֹעֲבָד אֶת יְהוָה: פ (טז) וַיַּעַן הָעָם וַיֹּאמְרוּ חֲלִילָה לָנוּ מֵעַזֹּב אֶת יְהוָה לַעֲבֹד אֱלֹהִים אֲחֵרִים: (יהושע פרק כד)

... (15) But if serving the LORD seems undesirable to you, then choose for yourselves this day whom you will serve, whether the gods your ancestors served beyond the Euphrates, or the gods of the Amorites, in whose land you are living. But as for me and my household, we will serve the LORD.” (16) Then the people answered, “Far be it from us to forsake the LORD to serve other gods! ([Joshua 24](#))

<sup>1</sup> See *Tosafot s.v. kafa aleihen har ki-gigit* where they ask the question of how we can think of the events of Sinai as coercive if the Jewish People famously opted in with their recitation of *naaseh v'nishma*. For more classic commentaries who address this question see also: Ramban, Ritva and Ran on the *daf*. The *Maharsha*, *Pnei Yehoshua*, *Tzelach* and *Sefat Emet* on Shas all deal with slight variations of the same question.



Joshua allows the Jewish People to make an active choice to be a part of the covenant. After the seven years of war, followed by seven years of land distribution, Joshua aims to bring the People close to God of their own free will; to fix the coercive reality of Sinai .

The Gemara in [Shabbat 88a](#) goes on to quote a question against Rav Avdimi bar Chama bar Chasa's claim.

אמר רב אחא בר יעקב: מכאן מודעא רבה לאורייתא.

Rav Acha bar Yaakov said, "This is a great challenge [to the authority – *moda'a*] of the Torah."

The term "מודעא" (literally: announcement) refers to the ability of someone who perceives themselves as being forced to sell something to claim that the sale is null and void. Any contract entered under duress is not enforceable. If the covenant between God and the Jewish People as represented by our commitment to observe the Torah and its laws was entered under duress, then the entire relationship is suspect. Here the Rabbis understand that the commitment needed to live a life of Torah cannot be forced, but to be sincere, must be a free-will decision<sup>2</sup>.

In the final stage of this Midrash, the Rabbis seek a narrative to anchor a free-will entry into the covenant. Instead of going to Chapter 24 of Joshua, they turn all the way to chapter nine of the Book of Esther:

אמר רבא: אף על פי כן, הדור קבלוה בימי אחשוורוש.

דכתיב (אסתר ט:כז) קיימו וקבלו [וקבלו] היהודים, קיימו מה שקיבלו כבר.

Rava said, "Even so, they re-received her (Torah) in the time of Achashverosh. As it is written *The Jews fulfilled and accepted* ([Esther 9:27](#)), They fulfilled [of their own free will] that which they had already received [against their will].

Here, Rava turns to the Book of Esther to find a narrative in which he can claim definitively that the Jewish People opted into the covenant of their own choice. But why not look to Joshua? One of the main features of the Book of Esther is God's apparent silence. While the careful reader can sense the Divine hand behind the scenes, God's name is absent. God is not an active part of the story, even if God's hand can be felt.

Rava intuited something very deep. The presence of God's miracles within the flow of history limits human free will. The more that God is public and the laws of nature bend to the divine will, the less we can make real free-will decisions. Sinai is perhaps the most powerful instance of God breaking into nature; therefore human beings experience that moment as though a "barrel is held over our head." Rava could not look to Joshua, or any normative prophetic work, for that matter, because public miracles still limit our choices.

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<sup>2</sup> See *Midrash Tanchuma, Parashat Noach 3* for what appears to be the first attempt to answer deal with some of the broader challenges raised by this text

Therefore, the only Biblical book that can serve as a remedy to the coercive nature of God at Sinai is the book in which God is hidden – the Book of Esther. The Rabbis in this Midrash struggle with the psychological reality of the coercive nature of the revelation at Sinai. The Jewish People can only be properly understood to engage in a meaningful relationship with God if we were able to consent to the commitments of the covenant. Rava reminds us that God's silence allows us to show our commitment through the fulfillment of God's words in the Torah.

Rava, in the Gemara's treatment of the absence of Hallel on Purim, makes a technical claim that can be understood as an existential description of the Jewish People. In contrasting the redemption from Egypt with the salvation from Achashverosh and Haman, Rava says (Bavli Megila 14a):

רבא אמר בשלמא התם (תהלים קיג, א) הללו עבדי ה' ולא עבדי פרעה

אלא הכא הללו עבדי ה' ולא עבדי אחשוורוש אכתי עבדי אחשוורוש אנן

Rava said, Granted there [that hallel is recited on Pesach] “Give praise, O servants of the Lord” ([Psalms 113:1](#)); and not servants of Pharaoh. But here [on Purim] “Give praise, O servants of the Lord,” and not servants of Achashverosh? [No] We are still enslaved to Achashverosh.

Rava uses the reality of being under the rulership of a foreign king to explain why Hallel ought not be recited on Purim. Note that Achashverosh is long gone when Rava says, “We are still enslaved to Achashverosh”. I argue that, in addition to an assertion about political sovereignty, he also makes a deeper theological claim about the nature of our access to the divine. From the time of Mordechai and Esther until this very day, we all live in a world that lacks the benefit of prophecy. Instead, each of us must toil to understand the divine will through the lens of the Torah and Halakha.

It is Rava in both passages who notes that a fundamental turn in the relationship between the Jewish People and God took place at the time of the Book of Esther. On the one hand, God became silent, and that silence leads to a limiting of divine praise through Hallel. On the other hand, God's silence provides us with the opportunity to opt into a deeper relationship with the Creator of the World. The divine silence of Purim serves as a corrective for the divine coercion of Sinai<sup>3</sup>.

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<sup>3</sup> The Maharal in the introduction to his commentary on Megilat Esther, Or Chadash, take this imagery to an extreme place. He writes: וְעוֹד בְּשִׁבְלֵי כַךְ הָיָה כּוֹפֵה עֲלֵיהֶם הִרְכִּיזָה כְּדֵי שִׁהְיוּ אֲנוּסִים, שֶׁהָיָה מֵאַנְסוֹת אוֹתָם, עַל קִבְלַת הַתּוֹרָה, וְכִיּוֹן שֶׁהָיוּ יִשְׂרָאֵל אֲנוּסִים, וּבְמֵאַנְסוֹת כְּתִיב לֹא יוּכַל שְׁלָחָהּ כָּל יְמֵיו (דְּבָרִים כִּב:כט) וְכֵן לֹא יִפְרֹד יִשְׂרָאֵל מִן הַשָּׁמַיִם לְעוֹלָם – *And for this reason God held the mountain over their head like a barrel so that they would be forced, for he forced them to receive the Torah. And since the Israelites were forced, and in the context of rape the Torah says “And he can not send her away all the days of his life” (Deut. 22:29) so too, Israel can never be separated from God, may He be blessed.* While this is clearly meant as a metaphor, the Maharal makes a direct equation between the coercion of Sinai and sexual coercion, rape. I understand the power of the imagery, but there is something deeply disturbing about using the laws of rape in this manner. For an elaboration on this passage see Rav Moshe Shapiro's essays on Purim in Afikei Mayyim on Channukah and Purim (the first essay on Purim, page שטט, footnote 3).



## Coercion in the Marital Bedroom:

The Rabbis of the Talmud did not shy away from direct, honest and modest conversation about sexuality in the Talmud. Just as they debated torts and property law, revelation, the laws of marriage and divorce, they also left us with a mosaic of texts about human intimacy. The next text that we are going to study comes from Bavli [Nedarim 20b](#). The context of the excerpt is the Gemara's most extended treatment of the laws of Sex. A few introductory comments are in order.

First, the laws of sexuality are always framed within a marital context. The Rabbis' notion of sex is only between a man and wife; all other sexual encounters were forbidden. Today, we are embedded in a dominant culture in which that is clearly not the case. While I am supportive of sex-positive attitudes, I am deeply troubled by the hyper-sexualized nature of the public sphere in American life.

The availability of pornography has deleterious effects on men's understanding of what sex is supposed to look and feel like. The industry is built on the objectification of women in ways that go far beyond what might be found in any Jewish text. That fact does not relieve our tradition from its own critique, but we must be honest about the world we inhabit.

Second, the text that we are going to look at follows a statement From Rabbi Yochanan that emphasizes a kind of playfulness within the marital bedroom:

כל מה שאדם רוצה לעשות באשתו עושה

Anything that a man wants to do with his wife, he may do

On the one hand, we sense that Rabbi Yochanan invites meaningful exploration and passion between husband and wife . On the other hand, a clear directionality is built into this phrase: the man is permitted to do what he pleases. The statement concludes:

משל לבשר הבא מבית הטבח רצה לאכלו במלח אוכלו, צלי אוכלו, מבושל אוכלו, שלוק אוכלו

An allegory to meat that comes from the butcher – If he wants to eat it with salt, he may eat it that way. If he wants to eat it roasted, he may eat it. If he wants to eat it cooked, he may eat it cooked. If he wants to eat it boiled, he may eat it boiled.

This part of the statement is deeply troubling and is followed by both Rabbi Yehuda ha-Nasi and the Amora Rav telling a woman who expressed discomfort with a certain sexual position that the Torah permits the man to engage in sexual behavior as he wishes. I reject the assumption that that men ought to be in full control of the sexual relationship within marriage. That is simply not an acceptable way to speak about women (or men). The Rabbis in this section are reflecting the norms of their time in ways that should make us all feel uncomfortable. No one should, in any circumstance, force another person to engage in sexual acts that are not desired. That is true for married couples as well as any two people.

With those two introductory comments, and a soberer approach to the realities of rabbinic ideas about sexuality, let us move to the text that redeems Rabbi Yochana, Rabbi Yehuda

ha-Nasi and Rav. The Gemara goes on to quote a statement from the Amora Rebbi Levi. He begins by quoting a verse from Ezekiel:

וְבָרוּתִי מִקֶּמֶם הַמְרֻדִים וְהַפּוֹשְׁעִים בִּי (יחזקאל כ:לח)

And I will purge out from among you the rebels,

and those that transgress against Me ([Ezekiel 20:38](#)).

In explaining who are the “rebels” and those who “transgress” against God, Rebbi Levi lists nine character traits that, if they describe the parental relationship, may lead to rebellious offspring and are clearly understood to be problematic. From this list, we can work backward and understand the ideal relationship that the Rabbis want to see between husband and wife. Here is the complete list:

בני אימה, בני אנוסה, בני שנואה, בני נידוי, בני תמורה, בני מריבה,

בני שכרות, בני גרושת הלב, בני ערבוביא, בני חצופה.

[1] Children of fear [*eima*] [2] children of a woman who was raped [*anusat*] [3] children of a hated woman [*senua*] [4] children of ostracism [*niddui*] [5] children of substitution [*temura*] [6] children of strife [*meriva*] [7] children of drunkenness [*shikhruif*] [8] children of a woman who was divorced in the heart [*gerushat halev*] [9] children of mixture [*irbuveya*] [10] children of a shameless woman [*hatzufa*].

When taken as a group, this list of negative dynamics paints a very specific picture of the ideal marital relationship. Any type of coercion clearly reflects poorly on the marital relationship. Children born of fear, strife or, God forbid, rape are understood to come from a negative home.

Not only is coercion rejected, but so is a sexual relationship that occurs when one or both partners is drunk, when the husband intends to divorce his wife, or when he is thinking of another woman. Again we see that the Rabbis much prefer that the spousal relationship be one of equality, love and respect.

R. Levi's far-reaching approach concludes a lengthy discussion about appropriate sexual interactions between husband and wife. The Talmud provides a clear progression away from dominance and coercion and towards equality and consent.

### Conclusion:

Some basic patterns emerge when the Midrash on [Shabbat 88a](#) about the problematics of coercive revelation is compared to the Halakha in [Nedarim 20b](#) outlining a move from dominance to consent within the marital bedroom. Since the relationship between God and the Jewish People can be seen as lover and beloved, the Rabbis teach us that, in both settings, consent is a central feature. The Jewish People could not be coerced to receive the Torah, just as a wife may not be coerced to engage in sexual behaviors to which she does not grant her own consent.



This connection shows the Rabbis as spiritually attuned and emotionally in sync with many of the claims of the 21st century. A relationship that is not one of equality can never reach a state of unity that God seeks with His people or that we seek with our partner. There are serious problems for a society when the person in the highest office of the land describes grabbing women's bodies.

So what does this parallel mean for people engaged in a sexual relationship outside the context of marriage? The Rabbis suggest that, without consent, sex is abusive. In addition, a power imbalance eliminates the possibility of true consent. The Rabbinic commitment to consent must be adhered to in any relational context.

We must do what we can to build a religious life in which people make serious, committed decisions to live a life of Torah and Mitzvot. The exact parameters of that life might look very different in various settings, but if we can cultivate the desire to opt-in, we will grow a committed core of Jews. The same is true for those people who are seeking physical intimacy. When those relationships are built on trust and equality, they have the ability to be long lasting and meaningful. Consent is a prerequisite for *kedusha*.

With God's help may we all be blessed to hear the commanding voice of Sinai and find the voice of a loved one with whom we can choose to live a life of commitment.