

Parshat Mishpatim:
Carrying the Torah's Progressive Spirit into the Future
Rabbanit Michal Kohane
Class of 2020

There is only one passage in the Written Law where the Torah discusses a man's obligations towards his wife, and it can be found in this week's parasha, Parashat Mishpatim (Shemot 21:10):

10 אם-אִחֶרֶת, יָקַח-לוֹ--שְׂאֵרָה כְּסוּתָהּ
 (k'suta), and her conjugal rights (onata), shall he not diminish.

Just last week, we were at Sinai. The mountain was smoking; the shofar sounded, and we could actually see the voices! Moses brought down the Ten Commandments and we all answered "na'ase venishma" - we will do and we will listen. What an amazing experience! This week, as if in a natural continuation - symbolized by the connecting letter "vav" in its opening, the 18th weekly parasha includes many detailed mitzvot. It begins with the laws of *eved ivri* – a Hebrew servant, and the verse above describes the obligations towards a female maidservant. The understanding follows that if receiving these, is the right of a maidservant, how much more so is a man obligated towards his wife.

Commentators differ in their translations and insights about the meaning of the three requirements mentioned in the verse:

Onkelos, Rashi and the Rambam understand *she'era* to be her food and sustenance; *k'suta* – her clothing, and *onata* – sexual relations. Ibn Ezra, however, explains that while *onata* might come from *ona* – sexual "time", it can also be derived from *ma'on* - a dwelling place, thus implying housing, shelter. The Rashbam, Rashi's grandson, agrees with Ibn Ezra's reading of "housing" and thinks that the Torah would not have to mention sexual relations because that is "obvious". Ramban is the most surprising since he thinks that all three have to do with the connectedness between husband and wife: *she'era* – from *she'er basar*, close relative; *k'suta* – hinting at the bedspread, and *onata* – their relations. Accordingly, there is no need to mention food and clothing as that goes without saying.

I'm always touched by the sages' lack of shyness as well as openness as they playfully share different personal stories about intimacy. Well known is the following (Babylonian Talmud, Brachot, 62:a):

רב כהנא על גנג תותיה פורייה דרב שמעיה דשח ושחק ועשה צרכיו אמר ליה דמי פומיה דאבא כדלא שריף תבשילא א"ל כהנא הכא את פוק דלאו אורח ארעא אמר לו תורה היא וללמוד אני צריך	Rav Kahana entered and lay beneath Rav's bed. He heard Rav chatting and laughing with his wife, and seeing to his needs (having relations with her). Rav Kahana said to Rav: The mouth of Abba, Rav, is like one whom has never eaten a cooked dish (his behavior was lustful). Rav said to him: Kahana, are you here? Get out, as this is an undesirable mode of behavior. Rav Kahana said to him: It is Torah, and I must learn.
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But let us not mistake being playful for being lightheaded. The seriousness with which the sages regarded their marital relationships and the treatment of women is striking, especially on the backdrop of the ancient world when society was largely patriarchal, as we're told in Megilat Esther: (Esther 1:22)

להיות כל איש שורר בביתו For every man was to be a ruler in his home

At a time and place in history when women's status was extremely low, the Torah appears as a progressive manuscript, which places restrictions on the husband as a "ruler". The Talmudic sages just added to those. For example, we find: (Sota 3:8)

האיש נמכר בגנבתו, ואין האשה נמכרת
 בגנבתה in her theft

In the case of stoning:

האיש נסקל ערום, ואין האשה נסקלת ערומה A man is stoned naked, and a woman is not stoned naked (there).

And more.

In all monetary matters, a woman is equal to a man. Our Torah portion which deals with monetary compensation, opens with the words: (Shemot 21:1)

These are the laws you shall place **in front of them** ואלה המשפטים אשר תשים לפניהם

The Talmud explains “In front of them” – in front of men and women alike (Talmud, Kidushin 35:1) as it says:

Scripture put man and woman on equal footing (literally: “evened out” man and woman). השווה הכתוב בין איש ואשה

This is also true regarding capital punishment and all negative (“do not do”) commandments in the Torah. It all comes down to the creation story, when man and woman were created - equally - in G-d’s image: (Bereishit 1:27).

And G-d created the human in His image; in the image of G-d He created him; male and female He created them ויברא אלהים את האדם בצלמו, בצלם אלהים ברא אותו, זכר ונקבה ברא אותם

If anything, the Talmud instructs a man in “a great principle that safeguards the rights of the women of Israel” (19th century Rav Hirsch about Talmud, Ktubot 48a):

She rises to his (higher) status in life but does not fall from hers to match his (if it’s lower). עולה עימו ואינה יורדת עימו

One additional reminder to the critical presence of a woman’s voice in a man’s life. Here’s G-d’s appearance in Abraham’s tent with His clear instruction to our patriarch (Bereishit 21:12):

All Sarah says to you, heed her voice. כל אשר תאמר אליך שרה, שמע בקלה

G-d could have said: in matters of child rearing, home, or any other specific arena, do listen, while in all other areas of life, you’re the “man”, but instead He opted to say - all.

Thus, the Torah’s ideal expresses a delicate balance and equality between men and women, which could have been maintained for almost 2000 years when the focus of Jewish life was the home; most people did not travel outside of their birth area, and life was contained in the immediate community. This was reflected in volumes and volumes of halacha, largely dealing with the topics of family and neighborly relationships.

However, the last two hundred years, following the Enlightenment and Emancipation, have seen a major, unprecedented, objective shift outward. We are no longer people of a shtetl, closed by the ghetto’s walls, but that of Facebook and LinkedIn, active participants in a big, wide, well-connected world. Globally, perhaps the most visible mark of this new era is the miraculous establishment of the State of Israel. These shifts call on us to draw on our tradition and revive this voice, as we forge a path into the future.

How do we apply, not only the precise letter of the law, but its spirit as well? How do we continue the journey we began at Sinai, and carry the Torah’s core values forward, specifically as applied to the Torah’s attitude towards the relationship between man and woman? How do we answer these new questions from a place of trust, respect and love? That is the task at hand.



Rabbanit Michal Kohane was a long-time leader and educator in Northern California, serving as rabbi, Federation executive director and more. Most recently she was the Rosh Kehila of the Prospect Heights Shul in Brooklyn. Rabbanit Michal holds a BA in Studies of Israel and Education, an MS in Jewish Studies, an MA in Clinical Psychology, and holds a PsyD in organizational psychology. Rabbanit Michal’s first novel, Hachug (“Extracurricular”) was published in Israel by Steimatzky and she writes a weekly Torah blog. Now back in Israel where she grew up, she continues to be a scholar in residence in Israel and abroad