

Tzedek, Tzedek Tirdof - A Call for Justice

The seeking of justice is a major principle in the Torah. In fact, our prophets informed us that the temple would stand as long as we build a society based on social justice. Yet shortly after the destruction of the second temple the rabbis of the mishnaic and talmudic periods instituted basic components for Jewish weddings which were decidedly inequitable. The resulting system awarded men the exclusive power to contract marriage, the sole authority to dissolve it, and created an unfair power imbalance in the home. Though some might argue that the institution became problematic only in modern times and that in theory the system was built to protect women from being summarily divorced, even in mishnaic times there are recorded instances of women who were abandoned without a *gett*¹ or *ketubah*² and men who reneged on their agreement to divorce, as well as lists of certain behaviors by women that resulted in the forfeiture of their *ketubah* such as a “loud woman” defined as a woman that speaks inside her house and her neighbors hear her voice³.

Fast forward to the 21st century and the outdated, but still accepted, status quo concerning Jewish marriage and divorce has led to a serious travesty of justice. It is undeniable that our religious institutions regularly practice inequity and perpetuate harm against women through unapologetic adherence to this antiquated system. The systematic abuses perpetrated in the name of *halakha*⁴ and meted out by institutions which are intended to serve the people are a serious breach of social justice.

Midrash Rabbah on Shoftim says it well:

“Rabbi Shimon Ben Gamliel said, “Don’t make a mockery of judgment, for it is one of the three legs of the world.” Why did the sages teach “on three things the world stands: on justice, on truth, and on peace?” Pay attention, for if you bend justice, you shake the foundations of the world, for it is one of its legs.”⁵

Well the foundations of the world have been soundly shaken for far too long. Where is the *mishpat tzedek*⁶ that is meant to prevent perversion of justice? Where is the compassion that our prophets speak of? The introduction to Zechariah in the Living

¹ A halakhically mandated bill of divorce that must be given to the woman by the man in front of a rabbinic court.

² A unilateral marriage contract outlining the rights and responsibilities of the husband including the amount of money to be paid to the wife in case of divorce or death of the husband.

³ See Mishna Ketubot

⁴ Jewish Law

⁵ Dvarim Rabbah 5:1

⁶ righteous justice

Nach states: “The Book of Zechariah begins with a warning to the people of his generation not to commit the same transgressions as their forefathers; otherwise they would suffer the same punishment.” Zechariah 8:16, which is the basis for Rabban Gamliel’s statement above, reads: “These are the things that you should do: Speak the truth to one another and render true and peace-producing justice in your gates.” Perhaps it is time, 2,500 years later to pay heed to the words of the prophet!

Though the perversions of justice in our *beitei din* take many faces, the systemic inequality of men and women concerning divorce is one of the largest perversions of justice today. Regardless of residency, citizenship or social status, multitudes of Jewish women all over the world are denied the basic right to exit an unsatisfactory or even abusive marriage. We even have a word for these women who are forbidden, by accepted halakha, to move on with their lives: Agunot. Every time I read or hear about a *beit din* sending a woman home to an abusive husband to make “shalom bayit”, upholding and supporting extortion demands from a recalcitrant husband, unnecessarily prolonging religious divorce proceedings, or otherwise denying a woman her rightful divorce my heart breaks.

The sorrow and pain quickly turn to anger however -- righteous anger for the travesty of injustice and *chillul hashem*⁷ made in the name of Torah but not based in Torah. How can it be that a Jewish person’s right to individual autonomy is so unimportant that valid means to rectify this growingly horrendous situation have been ignored by halakhic authorities and attempts by the few courageous rabbis to address the problem are deemed contemptible and outside of Torah? In what ethical reality is the *gett* a rabbinically endorsed tool for extortion and control over women? When did the wrestling with the truth that our traditions often exemplify simply fall by the wayside in favor of “keeping the tradition” no matter what the price? Over and over our prophets demanded compassion and justice yet their cries still fall on deaf ears.

Towards the end of BT Shabbat 54b we read:

“Rav, and Rabbi Ḥanina, and Rabbi Yoḥanan, and Rav Ḥaviva taught... Anyone who [has] the capability to protest [the sinful conduct of] the members of his household and did not protest, [he himself is] held accountable for [the sinful conduct of] the members of his household. [If he is in a position to protest the sinful conduct of] the people of his town, [and he fails to do so, he is] held accountable [for the sinful conduct of] the people of his town. [If he is in a position to protest the sinful conduct of] the whole world, [and he fails to do so], he [is] held accountable for [the sins of] the whole world.”

⁷ An act that violates the Torah prohibition of desecrating (chillul) the name (hashem) of God.

If we are to heed the words of these early Amoraim, we have a collective obligation, as members of Jewish society, to do whatever we can to prevent the perversion of justice. This applies even if the perversion of justice is perpetrated by those in positions of power, whose job it is to support and protect us -- especially when the perversion of justice is perpetrated by those in positions of power, whose job it is to support and protect us!

Shayna "Rabba Nechama" Naveh teaches Hebrew & Judaica classes and mentors conversion candidates via zoom. She also helps couples prepare for their wedding and facilitates egalitarian Jewish weddings using what she has coined Kiddushin Hadadiyim/Reciprocal Kiddushin: Jewish weddings with all the lovely traditional pieces but which do not leave the bride at risk for iggun.