

The Way the World Works
Parashat Ki Tetzei
August 31, 2012

As I sat, this past Wednesday night, waiting to give testimony before the Montgomery County Democratic Party Central Committee Ballot Initiative Hearing Task Force (try saying that ten times really quickly), where I had been asked to share a religious perspective in favor of the marriage equality, same-sex marriage referendum, I thought about this week's Torah portion. There were a blizzard of ballot initiatives – maybe not like California, perhaps, but more than I ever recall being there in Maryland elections before this. There were well-known items on the Dream Act and Marriage Equality, there was a complicated and hard to follow issue of labor rights for the county police, there was something on drinking on the road to Damascus, or even in restaurants there, and there were details about redistricting and judicial appointments.

All in all, it sounded a lot like Parashat Ki Tetzei. For this week, we have before us as well a bewildering array of regulations and initiatives. The portion covers construction codes and military conscription, the estate tax and banking procedures, cross dressing and returning lost property, business ethics and agricultural practices, kindness to animals and draft deferment for newlyweds. It conveys a sense of precisely what is fair, in love and in war.

Out of this diverse but deeply profound moral code, there emerge three areas that I would like to touch on this evening – one briefly. Those three areas: First: labor law. Second, passages which seem to... well, I don't have

any other way of putting this... they seem to legitimize rape, a phrase much in the news these days and which I will dwell on in some length. And finally, fact-checking, which I am going to relate to, well, issues of truth and basic science.

Labor Law. *Lo T'asok Sachir Oni v'Evyon, Mei'achecha o Migeircha asher B'sha'arecha.* You shall not abuse a needy and destitute laborer, whether a fellow Israelite or a stranger in one of the communities of your land. You must pay out wages on the same day, before the sun sets, for the worker is needy and urgently depends on it; else a cry to the Eternal will be issued and you will incur guilt." On this eve of Labor Day weekend, when Jewish and Christian congregations and other faith traditions are coming together for Labor on the Bimah or Labor on the Pulpit, Jews United for Justice continues its annual campaign to remind us that Monday is about more than a backyard barbecue. While I originally intended to focus solely on this campaign tonight, this year JUFJ is calling attention to the issue of paid sick days for restaurant workers, some of whom feel forced to show up, work hard, and handle food when they otherwise should be at home recovering, because 90% of waiters, waitresses, chefs and short-order cooks do not have a basic right which most of us both have and take for granted. More information about the Labor on the Bimah campaign, including petition information, is available on the lobby table outside. Please take the time, during the oneg or later at your leisure, to look over this material, and consider lending your voice to this campaign.

I turn now to passages in the portion which seem to legitimize rape.

“*Ki Tetzei L’Milchama Al Oyvecha...* when you go forth to war against your enemy,” reads the opening law in our portion, and you take captives, and you see among the captives a woman who...catches your eye... you are to take her into your home, but give her thirty days to make herself look pretty, and trim her nails, and mourn the rest of her family before you finally force yourself upon her. And if you do that, you have to marry her, and can never divorce her.

What to do with such a law? My instinct has always been to seek refuge in the comparative approach. Do you know how much more advanced this is than the laws of other societies of the time? I actually think this is correct: this regulation is meant to acknowledge the human – male -- heat and passion of the moment, to cool it down, to discourage this behavior. Discourage. But it still seems to find a way... to legitimize this relationship.

And there is no heat of battle excuse later in the chapter at all. “*Ki yimtza ish na’ara, betulah...* if a man comes upon a virgin who is not engaged, and seizes her and lies with her, and they are discovered, the man who lay with her shall pay the girl’s father fifty shekels of silver, and she shall be his wife... but he can never have the right to divorce her.” From the man’s point of view this seems to be “pay to play,” with no say for the woman! A horrid law by our standards today, and yes, it, too, seems to...not approve of but... legitimize rape.

And so with those English words in my mind I approach a different kind of “labor,” the question of pregnancy, and reproductive freedom, and issues which have come up in the news in recent days. I am speaking, of course, about Representative Todd Akin’s comments from a week or so ago.

[Let me be clear about one thing. Even though we do not live in Missouri, it is not appropriate, nor do I mean to imply, that someone should or should not vote for a particular person. Now, and on Yom Kippur when I tackle the Dream Act and Same Sex Marriage, speaking about *moral issues* and addressing public policy through the lens of religious values and spiritual inspiration is not only appropriate, but, in my understanding of our tradition, actually required. It is just that we should have no expectation that public policy in a secular society should be *dictated by* religious views; influenced or inspired by people of faith with religious motives, yes. A faith that matters at all walks with us into the world. But in a democracy, influence and inspiration compete in a market place of ideas; they are not imposed just because of the truth-claims of a sacred-source.]

However someone living in Missouri would choose to vote, Akin’s words in this matter were outright offensive. The worst part, from my point of view, was the aspect of his remarks that seem to be garnering the least amount of attention.

Todd Akin said, of course, that in cases of “legitimate rape,” the female body has a way to kind of... take care of the matter itself. To use more elevated

language, he was making the assertion that when coercion is real, conception is rare.

Akin's words raise at least three issues, two of which are politically potent but, in some ways, are intellectually irrelevant. Or at least red herrings.

The first issue was this whole question of exemptions to a proposed prohibition on abortion. And here, while I disagree with the prohibition altogether, I never expected a different stance. If you believe that abortion is murder, then the murder is directed towards a victim, and the question is an absolute right or wrong, and circumstances may be unfortunate but would not matter. If it is murder – which I do not accept -- it is not about punishment, or making a woman suffer for her behavior. Once an anti-abortion activist concedes that circumstances matter, well, then they have ceded the main point. They have moved from an absolutist position to a utilitarian one; they have admitted that consequences count. They are now dancing on my dance floor and I can deal with the whole thing differently. So I am not surprised by the position of no exceptions, although, as I have argued elsewhere, Jewish law takes a profoundly different approach even to the same question.

The second fuss over Akin's remarks centered on his use of the phrase "legitimate" with the word rape. And here, I actually think he just misspoke. I am more bothered by the passages in our own portion, and the history of silencing the voice, and stifling the will of a woman, than I am by a man who clearly *meant* to use legitimate as a measure of coercion and not a justification

of it. This characterization may be as unfair as the way President Obama's words about "you didn't build that" have been distorted, when clearly he meant "you didn't act alone."

But the third issue raised by Akin, well, that takes us to the third point I wanted to raise from the weekly portion, the question, which arises in light of the political speeches over the past days and in the coming week as well, of fact checking.

In the midst of yet another problematic discussion of women and their status, we find the phrase "*v'im emet haya hadavar hazeh...*and if the charge proves true..." Facts matter. Truth exists. Investigation happens; the scientific method is how we arrive at reliable conclusion.

Hello? He said what? That conception rarely occurs based on the circumstances and intent? The Talmud dealt with such absurd wishful thinking long ago, on the same topic, in fact. It said that if the world worked the way we would want it to, then no pregnancies would ever result from adultery, but "*olam k'minhago holeich*, the world works the way it works."

To not know that, to not get that...*that* is the real issue here for me. Or at least, moving beyond the profound disagreement about the roles of women and men in the world and all other issues of reproductive freedom, that is what I found so shocking about Todd Aiken's remarks.

Last night, too, we heard a mocking of science, or at best a willful disregard. You think that flooding subway systems in New York or crops not growing where you expect or stronger storms anywhere near a coast *won't* impact my family? Huh?

The world works the way it works, and we have to work with that. Workers get sick; do you want them handling your food? Actions have outcomes; do you want to ignore facts because it does not fit into your moral theory of behavior or your idealized vision of how a business should run? We are intertwined and enmeshed, as a community and as creatures on this planet. What we learn from this portion, what we learn from life, is that we are obliged to do the best we can, in the individual circumstances and diverse situations we face.

You didn't learn everything you need to know in kindergarten. There are a lot of ballot questions. And there are a lot of different moral dilemmas. We may disagree in our conclusions, but we are obliged to engage.

Pull up a chair. Life's complicated. Start studying.

Shabbat Shalom.