

Unit 7 Marriage

Nevi'im Reproduction as an aspect of contributing to God's Plan for the world.

Note: R. Lichtenstein cites the same verse in Yeshayahu in his presentation on Tzedaka (see Unit 4 of that series.)¹ Why would the same verse be relevant to both topics, and how does it uniquely relate to each in its own right?

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| <p><u>ישעיהו פרק מה</u> (יח) כִּי לֹה אָמַר יְיָ בּוֹרָא הַשָּׁמַיִם הוּא הַאֱלֹהִים יָצַר הָאָרֶץ וְעָשָׂהּ הוּא כּוֹנְנָהּ לֹא־תִהְיֶה בְרָעָה לְשִׁבְתָּ יִצְרָה אֲנִי יְיָ וְאֵין עוֹד:</p> | <p><u>Yeshayahu 45:18</u> For thus Saith the LORD Who Created the heavens, He Is God; Who Formed the earth and Made it, He Established it, He Created it not a waste, <u>He Formed it to be inhabited:</u> I Am the LORD, and there is none else.</p> |
| <p><u>משנה גיטין ד:ה</u> מִי שֶׁחָצִיו עֶבֶד וְחָצִיו בֵּן חוֹרִין:²</p> | <p><u>Mishna Gittin 4:5 (41a-b)</u> One who is half a slave and half free.⁸</p> |

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http://www.yutorah.org/lectures/lecture.cfm/749383/Rabbi_Dr_Aharon_Lichtenstein/Jewish_Philanthropy%E2%80%94Whither# p. 195.

http://www.yutorah.org/lectures/lecture.cfm/725299/Rabbi_Dr-Aharon_Lichtenstein/Of_Marriage-Relationship_and_Relations# p. 6.

² This is a case that is more hypothetical than real. It is intended to test the limits of various Halachic principles, as well as formulate others, rather than offer a rule of thumb regarding how to adjudicate such a specific case. The assumption is that the slave was originally jointly owned by two masters. Subsequently, one of the masters freed his interest in the slave while the other retained his 50% ownership.

The bible provides a situation according to commentators where a similar case is considered:

VaYikra 19:20

And whosoever lieth carnally with a woman, that is a bondmaid, designated for a man, and not at all redeemed, nor was freedom given her; there shall be inquisition; they shall not be put to death, because she was not free.

RaShI s.v. Necherefet LaIsh

She has been designated and set aside for a particular husband...And the text is dealing with a non-Jewish handmaiden who is partially a handmaiden and partially a free woman (coming about because initially she was jointly owned, and at this point, only one of her masters has given her freedom from servitude). She is betrothed to a Jewish slave, who is permitted to marry a non-Jewish handmaiden. (However, the difficulty is that only “half” of her can marry such an individual, since her other freed “half” no longer qualifies as a non-Jewish handmaiden, but rather a free Jewish woman. Consequently, like the servant discussed in the Mishna in Gittin, she is in “limbo.”)

⁸ See fn. 2.

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| <p>1) עובד את רבו³ יום אחד ואת עצמו⁴ יום אחד דברי בית הלל.</p> <p>2) אמרו לו בית שמאי: תקנתם את רבו,⁵ ואת עצמו לא תקנתם.⁶</p> <p>לישא שפחה אי אפשר שכבר חציו בן חורין; בת חורין אי אפשר שכבר חציו עבד.</p> <p>יבטל?</p> <p><u>והלא לא נברא העולם אלא לפריה ורבייה, שנאמר (ישעיה מ"ה) "לא תהו בראה לשבת יצרה".</u></p> <p><u>רש"י (גיטין מא): לא תהו בראה – יוצר הארץ לא על תהו להיות ריקנית, ברא אותה,</u></p> <p>כי אם לשבת להיות בה יישוב יצרה.</p> <p>אלא מפני תקון העולם, כופין את רבו⁷ ועושה אותו בן חורין, וכותב שטר על חצי דמיו.</p> <p>1') וחזרו בית הלל להורות כדברי בית שמאי:</p> | <p>1) He works for his master⁹ and for himself¹⁰ alternate days. This was the ruling of Beit Hillel.</p> <p>2) Beit Shammai said: You have made matters right for the master but not for the slave. It is impossible for him to marry a female slave because he is already half free. It is impossible for him to marry a free woman because he is half a slave. Shall he remain unmarried?</p> <p><u>But was not the world made to be populated, at it says, (Yeshayahu 45) "He Created it not a waste; He Formed it to be inhabited."</u></p> <p><i>RaShI s.v. Lo Tohu Bera'a</i></p> <p><i>The Creator of the earth not for a waste to be empty Did He Create it, but rather that it be populated, in order for there to be upon it settlement, Did He Form it.</i></p> <p>In order to "repair the world" (i.e., prevent abuses), therefore his master¹¹ is compelled to liberate him and he (the servant) gives him a bond for half his purchase price.</p> <p>1') Beit Hillel thereupon retracted their opinion and ruled like Beit Shammai.</p> |
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³ I.e., the master who has not given him his freedom.

⁴ I.e., since the other master has given him his freedom, he can at least in part work for himself.

⁵ The master who retains the 50% interest receives a return on his investment.

⁶ Since he is unable to legally marry anyone, he is doomed to a life of loneliness and personal lack of fulfillment.

⁷ The one who remains his master controlling 50% of him.

⁹ See fn. 3.

¹⁰ See fn. 4.

¹¹ See fn. 7.

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| <p><u>תלמוד בבלי מסכת מגילה דף כז עמוד א</u> תא שמע:</p> <p>דאמר רבי יוחנן משום רבי מאיר:</p> <p>"אין מוכרין ספר תורה¹² אלא (1) ללמוד תורה, (2) ולישא אשה"¹³.</p> <p>שמע מינה: תורה בתורה שפיר דמי.¹⁴</p> <p>- דלמא שאני (1) תלמוד, שהתלמוד מביא לידי מעשה.¹⁵</p> <p>(2) <u>אשה נמי – לא תהו בראה לשבת יצרה</u>,</p> <p>אבל תורה בתורה - לא.</p> | <p>Megilla 27a Come and hear:</p> <p>Since R. Yochanan said in the name of R. Meir:</p> <p>“A man should not sell a Sefer Tora¹⁶ save in order to 1) study the Tora and to 2) marry a wife.”¹⁷</p> <p>From this we may conclude (may we not) that there is no objection against buying one Sefer Tora with the proceeds of another?¹⁸</p> <p>— Perhaps 1) Tora study comes under a different rule, since study leads on to practice.¹⁹</p> <p>2) <u>In order to marry also (selling a Tora is permitted because it says), “He created it not a waste, he formed it to be inhabited,”</u></p> <p>but to buy a Sefer Tora with the proceeds of another is still not permitted.</p> |
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Questions for thought and discussion:

1. Just because God’s Plan for the world is for it to be inhabited, why should that impact how a particular person decides to live his life in terms of having children? Can’t such a responsibility be borne by others, particularly if they want children and this individual may not? Put another way, why can’t this Divine Plan be accomplished by some individuals having many children, while others have few if any?
2. The argument for the slave’s remaining master to free him is in order to allow him to marry and thereby fulfill “LaShevet.” Would such a source per force insist that the only basis for marriage is reproduction? Would under such circumstances insistence be made that once

¹² As in the case of the slave who is still partially owned, it is atypical for someone to consider selling a Sefer Tora. The case is used as a hypothetical to also test principles as well as develop new ones, rather than address an actual real situation.

¹³ I.e., if the only way he can achieve these two ends is by obtaining money via the sale of a Sefer Tora that he presently owns.

¹⁴ Doesn’t buying another Sefer Tora from the proceeds of selling one fall under the rubric of Tora study—it is at least theoretically possible to use a Sefer Tora not only for ritualistic reading, but also for simply studying its contents.

¹⁵ In order to know what to do, it is insufficient to simply study the Chumash which is the contents of a Sefer Tora, but it would be necessary to study the Oral Law as well as the Codes, which the acquisition of another Sefer Tora would not serve to address.

¹⁶ See fn. 12.

¹⁷ See fn. 13.

¹⁸ See fn. 14.

¹⁹ See fn. 15.

- the servant is freed, he must marry only someone with whom he has the potential to have children?
3. The juxtaposition of Tora study and marriage as the bases for selling a Sefer Tora suggests what about these two activities? Could it be said that they are related to one another in some way?

Practical applications of the sources:

1. How might the sense that when one has children, he is contributing to a Divine Plan for the world, as opposed to simply raising a family for the satisfaction of himself and his partner, change the way that one brings up his children; looks upon the children of others?