

## Ramban's Eishet Yefat To'ar: A Paradigm for Teshuvah

### Parashat Ki Tetze

The assertion that Chazal were skeptical of the institution of Eishet Yefat To'ar, a female captive taken by a Jew as a wife, could rightly be classified as an understatement. In various formulations, ranging from the celebrated "*Dibrab Torah K'Neged Yeitzer HaRa*"<sup>1</sup> referenced by the Talmud in Kiddushin<sup>2</sup> and cited by Rashi,<sup>3</sup> to Ben Azai's linkage of Yefat To'ar, on the principle of "*Averiah Goreret Aveirah*," to the emergence of a "*Ben Sorer U'Moreh*,"<sup>4</sup> the Rabbinic tradition unequivocally expressed its profound discomfort with the notion of forcible seizure of a woman on the battlefield.

If one rejects the view of Rav in the Bavli,<sup>5</sup> which was accepted by Rambam,<sup>6</sup> that one may immediately engage in a single act of intimate relations with this woman, and opts for the Yerushalmi's view,<sup>7</sup> as Ramban did,<sup>8</sup> that even one act of intimacy is contingent upon adherence to the numerous protocols prescribed in the opening passage of our Parashah, certain primal aspects of the Torah's dispensation may indeed be mitigated. Nevertheless, the difference remains largely of degree, and not of kind.

Plainly speaking, Chazal's reticence and sense of foreboding regarding the outcome of such activity is fully understandable. Both the ethic and the aspiration of "*Ki Hashbem Elobecha Mithaleich BeKerev Machanecha... VeHayah Machanecha Kadosh*,"<sup>9</sup> to say nothing of the broader vision of "*Kedoshim Tihiyu*,"<sup>10</sup> are left deeply wanting in the case of a Yefat To'ar.

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<sup>1</sup> See Rav Baruch HaLevi Epstein's essay on this puzzling concept (Devarim 21:11:72), for his assertion that the Torah only made concessions to human frailty in the heated context of war. This conclusion is highly debatable for reasons beyond the scope of this essay. For just one notable source that would run counter to Rav Epstein's premise, see Ramban Devarim 23:10 s.v. *ViNishmarta MiKol Davar Ra*.

<sup>2</sup> Talmud Bavli Masechet Kiddushin 22a. The imagery employed by the Gemara, comparing the leniency of Yefat To'ar to consumption of properly slaughtered meat, as opposed to Basar Temutot Neveilot (meat from carcasses), is both highly provocative with respect to the general license to consume meat, as well as validating of Ramban's instinct to link these two realms of carnal pleasure in his essay on holiness (VaYikra 19:1 s.v. *Kedoshim Tihiyu*), as well as Rambam's linkage of the gustatory and coital realm in Sefer Kedushah.

<sup>3</sup> Rashi Devarim 21:11 s.v. *VeLakachta Lecha Le'Ishah*

<sup>4</sup> See Devarim Rabbah 6:4. Rashi s.v. *VeLakachta Lecha Le'Ishah* cites a more widely known Midrash Tanchuma, which follows a similar logic with a slight variation, linking *Yefat To'ar* to *Isha Senu'ab*, a hated wife, and only then, *Ben Sorer U'Moreh*. The point is precisely the same in either case.

<sup>5</sup> Talmud Bavli Kiddushin 21b.

<sup>6</sup> Rambam Mishneh Torah Hilkhos Melachim Chapter 8. In fairness to Rambam, he did mandate that one not perform the act on the battlefield itself in a uniquely brutal fashion, but rather with a certain modicum of dignity, *VaHaveita El Toch Beitecha*; in any event, the extremely troubling nature of the act remains.

<sup>7</sup> Talmud Yerushalmi Makkot 2:6

<sup>8</sup> Ramban Devarim 21:13 s.v. *Ve'Achar Kein Tavo Eileha UVe'altah*.

<sup>9</sup> Devarim 23:15. See Ramban's essay referenced in Footnote 1 for his expression of this ethic.

<sup>10</sup> VaYikra 19:2

And yet, “*Divrei Torah Ani'im BiMikoman Va-Ashirin BiMakom Acher,*”<sup>11</sup> It seems that a certain aspect of the Yefat To'ar protocol, however undesirable the institution, *per se*, remains, may shed some light on the Teshuvah season in which we are now fully engaged.

## II.

The Torah's mandate, following bringing the captive woman into one's home, to allow for a maximum of a thirty day period of weeping, “*UVacheta Et Aviha Ve'Et Imah Yerach Yamim*”<sup>12</sup> was interpreted in highly divergent ways by the various Mefarshim.

Rashi,<sup>13</sup> consistent with his general approach to the protocols of Yefat To'ar, and reflective of the aforementioned disdain for the institution, assumes that the weeping is, like the shearing of the hair, elongation of the nails, and disrobement of finery, an attempt to deter a future marriage between the captor and captive, in so far as the weeping will make the captive woman even more undesirable.

In contrast, Ibn Ezra<sup>14</sup> assumes that the weeping was meant in the sense of mourning, presuming that the captive's parents were actually killed in war. This view was categorically rejected by Seforno,<sup>15</sup> as there would be no reason for the captive woman's parents to be killed in a *Milchemet Reshut*, a non-obligatory war, which is the context of the Yefat To'ar protocol.

A third approach is suggested by Rambam,<sup>16</sup> who maintains that the weeping is actually a form of mourning, not for the literal death of the captive's parents, but for the cultural and social displacement that she suffers. The Torah had compassion for the terrible plight of this woman, and gave her a period of time in which she could attempt to process both her physical and spiritual dislocation. Indeed, even as Rambam utterly rejects the possibility that the captive may be converted against her will, and, after twelve months, should she be unwilling to accept the tenets and practice of Judaism, she must be emancipated, she will nevertheless no longer be permitted to engage in any idolatrous practices.

Remarkably, according to Rambam, despite the Torah's profound antipathy towards any form of paganism, in doctrine as well as in practice, the Torah still had compassion for the immediate and jarring nature of the transition imposed upon the captive woman.

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<sup>11</sup> Talmud Yerushalmi Rosh HaShanah 17a.

<sup>12</sup> Devarim 21:13.

<sup>13</sup> Ad loc. s.v. *UVacheta Et Aviha Ve'Et Imah*

<sup>14</sup> Ad loc. s.v. *UVacheta Et Aviha Ve'Et Imah*

<sup>15</sup> Seforno Devarim 21:13 s.v. *UVacheta et al.*

<sup>16</sup> Hilchot Melachim Chapter 8, Moreh Nevuchim 3:41.

Indeed, it is Rambam's view<sup>17</sup> that the Rabbinic expansion of the Torah level mandate of a single day of mourning into a thirty day period, in recognition of the suffering of the mourner, is indeed rooted in the halakha of *Yefat To'ar*.

### III.

Unlike Rambam, who deemed the notion of compulsory conversion a halachic impossibility, Ramban deemed it to be a core aspect of the *Yefat To'ar* protocol. As such, Ramban adopted yet another view of the thirty day period of mourning. In contrast to Rambam, who saw it as a humanistic measure reflecting the Torah's compassion for the brutal transition imposed upon this captive, Ramban<sup>18</sup> deems it a theological necessity. For, if the captive woman is not prepared to voluntarily convert, a thirty day period is required to 'uproot the idolatry from her heart and from her mouth,' and further, 'to extinguish the [kindled] coal' of displacement and separation from her mother and father.

In other words, since, according to Ramban, volition will not be required for this woman's conversion and subsequent marriage to a Jewish man, a dramatic measure is necessary to ensure that, at a minimum, she is no longer an active idolater, nor does she continue to identify with a culture or family rooted in idolatry. Subsequent to this thirty day purgation of previous bonds, both theological and personal, Ramban asserts her marriage need not be conceived as a coercive one, in an ongoing sense, despite its undeniably coercive origins.

For Rambam, then, thirty days is sufficient for a bereft and grief-stricken woman to find some measure of solace before determining, for herself, her future path. She will then consider whether to join her captor, in faith and in marriage, or to eventually leave his home, even if she may never return to the idolatry of her youth.

For Ramban, in contrast, the thirty day period is not a respite, but a revolution; it is not a convalescence, but a transformation. Apparently, Ramban believed that it was possible for a person to literally be transformed in one month's time, to have bonds, both familial as well as theological, irreversibly severed, and in their place, new ones formed. If Chazal did indeed equate standard conversion to rebirth, as expressed in the phrase, "*Geir SheNitgayeir KeKatan SheNolad Dami*," Ramban's paradigm of the *Eshet Yefat To'ar* can certainly be described in the same language.<sup>19</sup>

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<sup>17</sup> Hilchot Aveil 6:1. Rambam's language here is entirely consistent with his conceptualization of *Yefat To'ar*: "*MiChlal SheHa'Aveil Mitzta'eir Kol Sheloshim Yom*," "This implies that a mourner is in discomfort for all of thirty days." No reference is made to the mourning being related to a death, per se, but simply that a person who is in mourning (in the case of *Yefat To'ar*, over her previous existence) experiences *Tza'ar* for thirty days.

<sup>18</sup> Ramban Devarim 21:13 s.v. *Ve'Al Da'ati*

<sup>19</sup> My presentation emphasizes the clear differences between Rambam and Ramban's approach. It should be noted, however, that towards the end of Ramban's essay, he does introduce the notion of the thirty-day period being one of consolation for the captive woman. Nevertheless, on balance, the theme of consolation is at most a minor motif in

#### IV.

Ramban's Eishet Yefat To'ar, with its conception of a month of transformation, lays down the gauntlet for all of us in Chodesh Elul. If we would doubt for a moment that a month is sufficient to engage in a wholesale reformation of character, and further, a reconfiguration of our inner worlds and all that we hold dear, then we must think again. Indeed, Ramban's precise language in the context of Yefat To'ar regarding the uprooting of idolatry from her mouth and from her heart, "*La'Akor Sheim Avodah Zarah MiPiha UMiLibab*", "To uproot the name of idolatry from her mouth and from her heart," directly mirrors Ramban's formulation of the Mitzvah of Teshuva.

In his celebrated essay on the passage in Nitzavim<sup>20</sup>, "*Ki HaMitzvah HaZot... Ki Karov Eilecha HaDavar Me'od BeFicha U'Vilvavecha La'Asoto*," "For this commandment... it is very close to you, in your mouth and your heart to perform it." Ramban<sup>21</sup> asserts that the specific Mitzvah in question, HaMitzvah HaZot, is Teshuvah.

Indeed, just as was the case with the Yefat To'ar, with respect to removing idolatry, Ramban identifies both the outward component of the Mitzvah, the Vidui ('*BeFicha*,' 'In your mouth'), as well as the inner resolution to not merely withdraw from sin but recommit to Torah in its entirety, ('*BiLvavecha*,' 'In your heart').<sup>22</sup> The sweeping scope of the Kabbalah BaLeiv of committing to Torah now, and in the future, further mirrors the Yefat To'ar's actual conversion.

There is little doubt that Ramban's direct parallel of the process undertaken by the Yefat To'ar and the standard penitent sets the bar for our Teshuvah process very high. And yet, despite this daunting standard, we should not despair of attaining the full measure of what Teshuvah has to offer. For there remains a profound contrast between the Yefat To'ar and each one of us, even within the Ramban's scheme.

In the case of the Yefat To'ar, the transformation she must undergo in a thirty day period is, in a very concrete sense, wholly unnatural, imposed upon her by another person's desires and the ravages of war. But for us, the Mitzvah of Teshuvah, and the spiritual opportunity it constitutes, could not be more natural. As Ramban would have it, *Ki Karov Eilecha HaDavar Me'od*: there is no Mitzvah which

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Ramban's presentation, compared to the clear necessity of uprooting her idolatrous roots prior to her compulsory conversion and subsequent marriage.

<sup>20</sup> Devarim 30:11-14.

<sup>21</sup> Devarim 30: 11 s.v. *Ki HaMitzvah HaZot*

<sup>22</sup> Ramban's dual scheme of Teshuvah-Vidui is mostly familiar from Rambam's similar scheme, as interpreted by the Rav. See Rambam Hilchot Teshuvah 1:1, 2:2. What is fascinating is that the Kiyum BaLeiv of Rambam appears to differ slightly from that of Ramban. For Rambam, the inner component is focused on abandoning a specific sin, regretting it, and resolving, internally, not to recidivate. For Ramban, the Kiyum BaLeiv is defined by recommitment to the Torah in its entirety, "*VeYashuvu BeLibam El Hashem ViYikablu Aleihem HaYom HaTorah La'Asotah LeDorot*," "And they shall return in their hearts to Hashem, and they shall accept upon themselves, today, to keep the Torah for all generations."

is more internally driven, and more liberating, than the process of returning to our Creator, and our own best selves.