

The Spirit of Change
Parashat Naso
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If someone were to want to bring back the Sotah ceremony today—that's the ceremony described in today's Torah portion (Numbers 5:11-31) in which a man who suspects his wife of adultery can bring her to the central shrine and force her to drink a beverage whose effects are designed to reveal—in physically disfiguring ways—whether she's guilty or not, we just might have several objections to it.

First of all, it's entirely one-sided. There is no mention in our Torah of what a woman can do if she suspects her *husband* of infidelity. In fact, there is no sense in the text that there would be anything wrong with that behavior in the first place.

Second, the ceremony is a trial by ordeal—a form of truth finding that we've long since rejected.

Third, and most obvious, it's a ceremony that intentionally makes use of humiliation, which again we have long since rejected as inappropriate to be used as a tool by judicial authorities. In fact, we've rejected it entirely. According to Jewish tradition, humiliating someone is akin to shedding his or her blood: that's how seriously we take it and that's how seriously we condemn it.

And so the Sotah ritual, though enshrined in our holiest of texts, the Torah, is from another age. We wouldn't want to bring it back.

Now, there are so many interesting topics in Parashat Naso. Among the various topics that I've spoken about over the years, I can't recall ever before speaking about the Sotah ritual. Why do so today? Why speak about a topic that's so distasteful?

There was an effort this past week to pass an amendment to the U.S. Constitution defining marriage as between one man and one woman. Now, let's leave aside the well-documented fact that no one expected this measure to pass. It's hard to ignore that, but let's leave that aside.



This was a proposal to enshrine in the Constitution something about the nature of marriage—something that one could assume in the 1800s, even in the early 1900s, but which has obviously become open to question today. It's precisely because not everyone today agrees that the only civil unions that should be recognized as marriages are those between men and women that it was thought important and worthwhile to insert it into the Constitution. This is an effort to prevent—or, put more precisely, to reverse—the legal evolution of a social institution.

In the Jewish tradition, we know something about legal evolution. In every generation, Jewish law has evolved. Even the most basic practices have changed. Abraham is described as eating food that was later forbidden by Jewish law. Moses enters into a marriage that would later be forbidden by Jewish law. Certain practices that were forbidden to the Israelites, such as collecting a debt during the sabbatical year, were later permitted.

In particular, the nature of marriage has evolved considerably over time. In the Biblical period, as I'm sure everyone here realizes, although women were required to be monogamous, it was common for men to have more than one wife at a time. *Really* traditional marriage, then, is between one man and *several* women. It took quite a long time for this to change. It wasn't until the beginning of the eleventh century that Rabbeinu Gershon forbade polygamy for European, Ashkenazi Jews. That was radical! So radical that Sephardi Jews rejected it; they continued to practice polygamy through the twentieth century.

Marriages were entered into and were terminated very differently in the Biblical period than later in history. It was permitted to betroth someone who was under age. The ketubah didn't yet exist (that was a legal innovation of Shimon ben Shetach), and there were apparently few financial consequences—to the husband, at least—of divorce.

Already by the Talmudic period, eighteen hundred years ago, the rabbis were, if not ashamed by the Sotah ritual, convinced that it had no place in their world. And so they legislated it out of existence, in much the same way that they legislated out of existence other practices that they came to see as inappropriate. No sooner would they allow a suspicious husband to carry out the Sotah ritual—no matter how wrought up with jealousy he was—than they would permit the stoning of a disobedient child at the city gates (as the Torah also permits).

With successive generations, additional changes in the nature of marriage occurred.

Jewish law has evolved because although there are basic principles set forth in the Torah, how these principles are to be applied in any given age, in any given circumstance, are open to interpretation. That's not to say that anything goes, or that every change is appropriate. There is a *process* for Jewish legal development that the system depends upon. Judaism from its inception has empowered the rabbinic leaders of each generation to develop and to advance Jewish law. The point is, though, that, notwithstanding what the Torah says, either explicitly or implicitly, it is unrealistic to expect the law to remain static, for it to remain unchanged. That's true in general, and it's true in the specific case of the laws of marriage

I don't want to give anyone the wrong idea. Within Jewish law, it is still the case that marriage consists of a union between a man and a woman. *But that may be changing*, at least within our movement. Rabbinic leaders in the Conservative movement are pondering the question whether it is time to alter this traditional understanding.

Incidentally, by looking at the way that this issue has been dealt with within the three largest movements in American Jewish life, we can learn something about the distinctions among them. Reform Judaism has had no difficulty authorizing the full acceptance of gay and lesbian unions. When Reform leaders came to believe that it was time to offer certain rights and privileges to gays and lesbians that had previously been offered only to heterosexuals, it did not hesitate to alter Reform rituals and norms to be fully accepting. But this came about because the Reform movement has no particular loyalty to traditional Jewish law, raising questions as to the nature of the continuity between traditional Jewish practice and the movement's norms. Orthodoxy, on the other hand, has been far less willing to defer to moral values that it sees as extrinsic to the Torah—values such as egalitarianism or the freedom to have and to express a sexual orientation different from those sanctified in our tradition. It has therefore steadfastly refused to consider a change in this area. Only the Conservative Movement, which on the one hand is loyal to traditional Jewish practice and yet also open to legal evolution based on evolving moral and religious understandings, is struggling with these issues. The Conservative Movement long ago declared its support for full civil and political rights for homosexuals, but it has continued to grapple with questions having to do with the nature of homosexual love and its proper expression.

This time next year, it may be that religiously sanctioned gay commitment ceremonies will become more common within our movement. It may even be the case that unions between two men or between two women will be recognized as

marriages within the Conservative movement. We have already witnessed an evolution of understanding within the American legal system here in Massachusetts. The evolution within Jewish law may very well be grounded in principles similar to those that recently guided the justices of the Supreme Judicial Court. In their decision (*Goodridge*, p.5) the Court ruled that marriage is a civil right shared by two adults, which should be made available to two individuals, regardless of gender.

Why does the drive to enshrine in the U. S. Constitution a definition of marriage as exclusively between a man and a woman remind me of the Sotah ritual? There was nothing in the proposed legislation about public humiliation. There was nothing there that favors one gender over the other.

And yet, I cannot help but feel that there is something beneath the surface that is *mean-spirited* about the effort, and that's what reminds me of the Sotah ritual. The Bible tells us that the Sotah ritual arose out of a *ruach kin'ah*—a spirit of jealousy. The offering itself is called a *minchat k'naot*, a jealousy offering. The recent legislative effort isn't just an effort to further a particular theoretical perspective regarding the nature of marriage, namely, that it should be between one man and one woman. That's certainly defensible. People can certainly hold different opinions about whether it is a good idea or a bad idea for the definition of marriage to be broadened. And people certainly have the right to try to persuade others to share their political beliefs.

But this effort is not arising in a vacuum. It's arising within a society that has long vilified—even persecuted—homosexuals; a society in which homosexuals have been mocked and disdained; a society in which homosexuals have been among the most vulnerable members of society, forced to live secret lives. Ours has been a society that has actively suppressed their happiness.

I saw a charming, entertaining play the other night, by that wittiest of playwrights, Oscar Wilde. Wilde was imprisoned for being a homosexual, and ultimately died prematurely on account of health problems contracted while in prison. The contrast between the light-hearted banter on stage and his own cruel fate could not have been greater.

Ours is not a society in which homosexuals have threatened marriage; to the contrary, ours is a society in which the institution of marriage has been used as an instrument to discriminate against and therefore mar the happiness of homosexuals.

I happen not to think that *Brokeback Mountain* was a great movie—but it sure was an important one. It illustrated very simply just how miserable it can be to have to suppress one's sexual orientation.

I know too many gay couples happily raising loving children to imagine that anyone truly believes that gay marriage is a threat to the institution of marriage. To assert that, I believe, is cynically to exploit prejudice and fear to further one's political objectives.

The Sotah ritual may have disappeared, but I'm afraid that the impulses that gave rise to it may be still with us today.

I don't know where marriage as an institution—either within our nation, or within the Jewish people—is heading. I certainly hope it won't disappear. I certainly hope that it will continue to be an important societal institution. I for one am glad that it has evolved: I'm glad that (at least according to civil law) women now have the right to divorce their husbands, which they didn't in Biblical times. I'm glad that monogamy is the norm, which it certainly wasn't in Biblical times. And I hope marriage will continue to evolve.

However marriage evolves, I hope that it will evolve with respect for the innate divinity within each of us, with respect for each and every human being, regardless of gender or sexual orientation. And I hope that it evolves not out of *ruach kin'ah*, a spirit of jealousy, but rather inspired by *ruach elokim*, the spirit of God.

Amen.