

PARASHAT KI TETZE

Deuteronomy 21:10–25:19

Parashat Ki Tetze contains a mixture of seventy-two commandments, dealing with such diverse subjects as the treatment of captives, defiant children, lost animals, birds' nests, roof railings, divorce, rights of aliens, loans, vows, protection of works, parental guilt, charity for the poor, regulations for inheritance, and fair weights and measures. The portion concludes with a warning to remember how the Amalekites attacked the weary Israelites in the desert.

OUR TARGUM

· 1 ·

Moses sets out rules for the fair treatment of women captives. If they are taken as wives and then divorced, they are to be set free.

The rights of inheritance for the firstborn apply although a father may have multiple wives and many other children.

A disloyal and defiant son who does not obey his parents is to be brought for judgment before the town elders. If he is guilty, they are to stone him to death. A person put to death must be buried on the same day.

· 2 ·

If a neighbor's animal or garment is lost, it must be returned when it is found. If an animal has

fallen on the road, it must be helped. One must not remain indifferent.

Men and women must not dress in each other's clothing.

If a bird's nest with fledglings or eggs is found, the mother bird must not be taken with her young.

Railings must be placed on roofs.

A vineyard must not be sown with a second kind of seed. One may not plow with an ox and ass together nor muzzle an ox while it is threshing. One may not wear garments mixed with the fibers of wool and linen. *Tzitzit*, or "fringes," are to be worn on the four corners of garments.

If a man marries a woman and later charges she was not a virgin, but her parents prove her virginity with stained sheets from the wedding night, the man is to be punished and fined for ruining the reputation of the woman. He may not divorce her. However, if the charges are true,

she is to be stoned for bringing shame on the people of Israel.

The penalty for adultery is death. If a man has sex in a city with a woman engaged to another man, both are to be put to death—she because she did not cry out for help; he because he violated her. If, however, he rapes her in an open field, only he shall be put to death for he is like a murderer. If a man lies with a virgin who is not engaged and they are discovered, he is to marry her and he may never divorce her.

• 3 •

A man is not permitted to marry his father's former wife. Children of adulterous or incestuous relationships, along with Ammonites or Moabites, are not to be admitted to the people of Israel. Edomites, however, are to be considered as brothers and sisters.

All human waste is to be disposed of outside the camp.

Slaves seeking refuge must be taken in and treated kindly. Israelites are forbidden to become cult prostitutes, nor can money from whoring be used as gifts to the sanctuary.

• 4 •

It is forbidden to take interest from other Israelites but permissible to do so from foreigners. Promises must be fulfilled.

When entering your neighbor's vineyard or fields as a laborer, you may eat grapes and pluck ears of corn with your hands, but you may not place grapes in a container or cut grain with a sickle.

A man may not remarry a woman he has divorced, who then married another man who divorced her or died.

A newly married man is exempt from army service for one year.

When a loan is made to a neighbor, it is forbidden to enter his house to claim his pledge. If he is needy, the pledge must be returned to him at sundown. Abuse of needy, destitute laborers is forbidden. Wages should be paid by sundown of each day.

Uphold the rights of the stranger. Do not take a widow's garment as a pawn. Leave all sheaves overlooked during the harvest for the stranger, the fatherless, and the widow. Do not shake your olive tree twice or pick your vineyard a second



time. Instead, allow the needy to eat what is left after the harvest.

· 5 ·

When a court renders a decision, the punishment of the guilty party is to be carried out before the innocent party. The punishment is not to exceed forty lashes.

When brothers live together and one of them dies leaving no son, it is the duty of a living brother to marry his brother's widow and to

father a child in his brother's name. If the brother refuses, the widow may publicly declare: "He refuses to build up his brother's house."

You must employ honest weights and measures in all business dealings. Those who deal dishonestly are hateful to God.

Finally, Moses reminds the people how Amalek attacked the weak and weary Israelites on their journey through the desert. "Remember Amalek," he warns. "Blot out the memory of Amalek from under heaven."

THEMES

Parashat Ki Tetze contains two important themes:

1. A warning against indifference.
2. Marriage and divorce.

PEREK ALEF: *You Shall Not Remain Indifferent*

Parashat Ki Tetze contains seventy-two commandments, the largest number in any Torah portion. Among these are the obligation to return lost property and the responsibility to help those in need.

Regarding lost property, the Torah commands us to return anything we find that belongs to another person, be it an ox, a sheep, a garment—anything that may have been lost. The Torah adds the warning, "You must not remain indifferent." (Deuteronomy 22:1–3)

The Torah is also quite clear concerning the obligation to aid someone in need. Our responsibility is to help others with their burden. If, for example, while traveling along a road, we come upon the fallen ox or donkey of a friend, the Torah says, "Do not ignore it; you must help him raise it."

What obligations, however, do we have if the lost property belongs to an enemy or the animal in distress belongs to someone we dislike?

In a parallel passage found in *Parashat Mishpatim* (see Exodus 23:4–5), Moses makes it clear that the lost property of enemies must be returned and an animal in distress belonging to an enemy must be helped. Are we then to assume that the Torah teaches that we have the same

ethical responsibility to both friends and enemies when it comes to returning lost property or offering help? Would not such a command contradict normal human emotions?

Early rabbinic interpreters insist that, whether the lost item belongs to one's enemy or friend, it must be returned. Furthermore, if the person finding the property makes a profit with it before returning it to the owner, that profit belongs to the owner and must be paid back when the lost property is restored. If the property cannot be returned and its care costs money, the owner must pay the amount when the property is restored. (*Baba Metzia* 26a–30a)

The status of lost property

Some found articles become the property of the finder immediately, and others have to be advertised.

The following become the property of the finder: scattered fruits, scattered coins, small sheaves of corn lying in a public road, cakes of pressed figs, bakers' loaves, strings of fish, pieces of meat, fleeces of wool in their natural state. . . .

The following found articles must be advertised so that the owner may repossess them: fruit in a vessel or an empty vessel; money in a purse or an empty purse; heaps of fruit; heaps of

coins; three coins, one on top of the other; small sheaves lying on private property; homemade loaves of bread; fleeces of wool that had been removed from a workshop. . . . If someone finds something in a store, it belongs to him; but, if he finds it between the counter and the storekeeper's seat, it belongs to the storekeeper. (Mishnah Baba Metzia 2:1, 2, 4)

For example, rabbinic interpreters tell of a man who, passing the door of Rabbi Hanina ben Dosa, accidentally left some of his hens. "We must not eat their eggs," Rabbi Hanina told his family. However, the eggs and hens quickly multiplied, and there was no place to keep them. So Rabbi Hanina sold them and purchased goats. Sometime later, the man who had accidentally left his hens returned, asking about them. Rabbi Hanina inquired if he had some identification to prove his ownership. He did. Rabbi Hanina immediately gave him the goats.

They also tell of Rabbi Pinchas ben Yair who was once visited by men who brought with them two measures of barley. They deposited the barley with him and then apparently forgot about it. Rabbi Pinchas sowed the barley for several years, harvesting it and storing it. When, after seven years, the men returned, Rabbi Pinchas told them: "Take your storehouses filled with grain." (*Ta'anit* 25a; *Deuteronomy Rabbah* 3:5)



Leibowitz

Both incidents above emphasize not only the ethical responsibility of returning to others what they have lost but also the principle that the person finding lost property should not profit from it. In her discussion of both rabbinic stories, modern commentator Nehama Leibowitz points out an additional ethical dimension. "The mitzvah of restoring lost property . . . involves, not only the passive taking charge of the article until the owner claims it, but also an active concern with safeguarding a neighbor's possessions so that they remain intact and constitute something

worth restoring." Jewish law is clear about the obligation of returning that which has been lost. The finder must care for the property, may not profit from it, and, if it is invested, owes all earnings when it is restored. (*Studies in Devarim*, p. 214)

The issue of returning lost property raises other important considerations about the way human beings deal with one another and the trust required to make human society secure. Bachya ben Joseph ibn Pakuda argues that such ethical concerns relate to other matters raised by the Torah. Restoring property, says Bachya, is a fulfillment of the Torah's instruction to "love your neighbor as yourself." (Leviticus 19:18) Property is an extension of each individual. It is like the limb of one's body. Loving one's neighbors means taking care of all that is important to them as you would want them to safeguard all that is important to you. Returning lost property is a demonstration of love and concern for one's neighbors. (See Abraham Chill, *The Mitzvot*, pp. 452-454.)

Aharon Halevi in his *Sefer ha-Hinuch* extends Bachya's view, arguing that the commandment to return lost property is "fundamental" and that "all society depends upon it." It is not just a matter of one person taking care of another's possessions or of "loving" another. What is important here is the critical matter of "trust" among human beings. A society depends upon the faith people place in one another. Without people feeling that they can rely upon one another—that others are looking out for what belongs to me and that I must look out for what belongs to them—society collapses into suspicion, selfishness, and bitter contention. Whether people return or keep lost articles, says Halevi, is a significant indication of a society's health. (538)

You shall return it

A man once visited Rabbi Aaron of Chernobyl and told him about his nightmares. In one dream he picked up a wallet containing a fortune. When he pursued its owner in the crowd, he could not find him. With the funds he found he grew wealthy. On the other hand, the man who had lost the money fell on terrible

misfortune, losing his businesses and the trust of others. He died leaving his wife and children in poverty, with no one to support them and no one to finance the education of his children.

The man who had prospered told Rabbi Aaron of Chernobyl that he suffered from terrible recurring dreams about taking the wallet and being responsible for the harm its loss had brought upon others. He pleaded for the rabbi to advise him what to do.

The rabbi commanded him to find the family of the man, to give them half of what he had accumulated, and to see to it that the man's children were educated. When he did so, his recurring nightmares ceased. (S.Y. Zevin, A Treasury of Chasidic Tales, pp. 561-563)

What about returning that which you may have to go out of your way to rescue? If you have restored lost property once to its owner, must you do so again if you find it? What if the lost property belongs to an enemy? What if you find an enemy's property in danger? What obligations do you have?



Ramban (Nachmanides)

Nachmanides makes it clear that the mitzvah of returning lost property supersedes any inconvenience to the finder. The finder is obligated to announce the discovery of the lost item so that others will know he possesses it, and the loser's anxiety will be shortened.

Carrying out the mitzvah of restoring lost property applies to friends, strangers, and even to enemies. If one encounters a person whose property is in danger—a donkey who has fallen while carrying a heavy load, a runaway animal, or a broken vehicle—one's ethical responsibility is to help save the property. This applies also to the property of an enemy. Nachmanides puts it this way: "Assist others. Remember the bond of humanity between you and forget the hatred." (Comments on Deuteronomy 22:1-2)



Benno Jacob

Benno Jacob builds upon Nachmanides' interpretation. He explains that "when you see the animal of your enemy fallen on the road, it is natural for you to think, 'I will ignore it. I will not lend a helping hand. After all, why should I do a good deed for someone who hates me and has treated me badly?' But the Torah teaches us to overcome our hatred and to do everything possible to be of help."

Jacob sees the act of helping an enemy as a means of arriving at reconciliation. First, one sees the fallen animal and understands that help must be given. One is likely to say, "I'll help to relieve the pain of the animal." Yet, once involved, words of concern for the animal are exchanged. This leads to other words and finally to forgiveness between those who are angry with each other. In this way, the mitzvah of turning aside to aid an animal brings about renewed trust and friendship. (Comment on Exodus 23:4-5)



Peli

You must not remain indifferent

From the moment one notices an animal gone astray or an object lost by someone, one may not "hide oneself." Whether he is busy with something else or whether he chooses to get involved, a person is in fact involved and duty-bound to bring the object to his home, keeping it there safely until it can be returned to its owner. . . . While some legal systems require returning or handing over found property to the authorities, none enjoins the finder from ignoring the lost object in the first place. (Pinchas H. Peli, Jerusalem Post, September 7, 1985)

People often value possessions as much as life itself. Therefore, when they lose something that has a special distinction, they are likely to feel great pain as if a life has been lost. Those finding the lost object and failing to return it are contributing to the distress and mental anguish of others. (Rabbi Menachem ben Benjamin Recanati, 13th century, Italy, as found in Abraham Chill, The Mitzvot, p. 454)



Rambam (Maimonides)

Moses Maimonides comments: We are forbidden to shut our eyes to lost property; we must pick it up and return it to its owner. This prohibition is what is meant by the words: "You must not remain indifferent." (Sefer ha-Mitzvot, Positive Commandments #269)



Malbim

Nehama Leibowitz, basing her interpretation on that of Malbim, suggests that the command to turn aside and help an enemy whose property is in danger is an example of how the Torah deals with the real world. It does not present a world where all people get along with one another or rush to care for one another's property. Instead, it "takes into account the grim reality that people do not achieve the desired observance of 'you shall not hate others in your heart.'"

Leibowitz stresses that the Torah "lays down rules of behavior even for such an admittedly immoral situation where two people are hostile to each other, enjoining such acts of assistance as relieving the ass of an enemy of its burden and the returning of his lost property. These small deeds of goodwill," Leibowitz concludes, "would, it is hoped, eventually lead to the removal of hatred. . . ." Indeed, as Leibowitz

makes clear, the rabbinic commentators of the Talmud state the moral standard to be followed and the reason for it. "If you are faced with the situation of your friend requiring help with his animal and also your enemy, your first duty is to aid your enemy. For in this way we train and discipline our instincts." (*Studies in Shemot*, World Zionist Organization, Jerusalem, 1980, pp. 428–434; *Baba Metzia* 32b)

After the Torah clarifies the duty to return lost property or to keep it safe until it can be restored to its owner, it concludes with the words *lo tuchal le-hitalem*, or "you must not remain indifferent." Many interpreters point out that this phrase may also be translated literally as "you shall not hide" or "you shall not act as if you were blind."

This powerful phrase puts forth the ethical demand of Torah. Upon encountering a lost object, a fallen animal in pain under its burden, the property of friends or enemies in danger, one's duty is to help. We are not permitted to look the other way, to pass by without paying attention, or to continue with our business as usual. Hiding the truth from ourselves and not acting to help others is immoral. Indifference is intolerable. Responsible caring is at the heart of Jewish ethics.

PEREK BET: *Marriage and Divorce*

Parashat Ki Tetze discusses both the institution of marriage and the process of divorce. In the Torah, men choose their wives and have the right to divorce them. If a wife lies about being a virgin at the time of marriage, she may be stoned to death. If a woman "fails to please her husband because he finds something obnoxious about her," he may divorce her. There are few hints that affection is the basis of marriage relationships; there is no indication of mutuality or equal rights for women in choosing a husband or seeking a divorce. (See Genesis 24:67.)

In interpreting the Torah's description of marriage and divorce, the commentators raise significant questions. They inquire about the purpose of marriage, explore its emotional and legal consequences, and examine the appropriate conditions and rituals for divorce. As with other sub-

jects, it is the interpreters who, over the centuries, unlock new understandings and initiate new rituals. In doing so, they adapt the commandments of Torah to new conditions of society and to new moral sensibilities. Marriage and divorce are important examples of such dynamic change and evolution within Jewish tradition.

After describing the creation of heaven and earth, the Torah reports that God comments, "It is not good for man to be alone. I will make a fitting helper for him." In answer to loneliness, God creates woman and declares: "A man will leave his father and mother and cling to his wife so that they become one flesh." Within this early description, the Torah advances the view that marriage provides mutual support, total trust, caring, and companionship. Husband and wife are "helpers" to each other; they are to be inseparable—"one flesh"—both physically and spiritually. Together they form a sacred new world through which they create a family. (Genesis 2:18–24)

Early rabbinic commentators stress the importance of marriage. Rabbi Akiba remarks that "a man who does not marry impairs the divine image," meaning that love and marriage are the will of God. Rabbi Jacob teaches that "he who does not have a wife lives without joy, without blessing, without a helper, without goodness, and without atonement. Some add, without Torah and moral protection." Rabba ben Ulla adds, "without peace." (*Genesis Rabbah* 17:2; *Yevamot* 62a–63b)

The author of the mystical commentary the *Zohar* underscores the centrality of marriage by claiming that, since finishing the creation of the world, God has been busy with creating "new worlds" by bringing together bridegrooms and brides. Since marriage perpetuates life and fills it with love, nothing has greater value. Marriage, concludes the author of the *Zohar*, keeps God in the world because God's Presence dwells in the love between husband and wife. (*Zohar* 1:89a; 3:59a)

While the Torah makes reference to "a man marrying a woman," it does not describe any ceremony or ritual. Later rabbinic tradition defines three aspects of the marriage ritual: *shedu-chin*, or "engagement"; *erusin*, or "betrothal";

and *nisuin*, or "marriage vows." Originally, these three rituals were celebrated at different times. Later, *erusin* and *nisuin* were merged into the wedding ceremony called *kiddushin*, or "holiness."

Just before the wedding ceremony a *ketubah*, or "written agreement" between husband and wife, is signed. The *ketubah* functioned throughout the centuries as a prenuptial agreement, spelling out the obligations assumed by the husband in marriage. These included support, food, clothing, shelter, and sexual relations. It also specified fixed financial arrangements should the couple divorce. Many Jews continue to use the ancient formulas for their *ketubah*; others choose a *ketubah* that is more egalitarian in its language, making clear the mutual responsibilities and commitments of husband and wife.

After signing the *ketubah*, the bride and groom are led to the *chupah*, or "wedding canopy," symbolizing the Jewish home they are about to establish. Beneath the *chupah*, the *birchat erusin*, or "betrothal blessing," is recited, including the blessing, "Be praised, O God, who sanctifies Your people Israel through the celebration of *chupah* and marriage." The groom then places a wedding ring of precious value, but without jewels, upon the bride's finger and says to her: "With this ring be consecrated to me as my wife in accordance with the law of Moses and the people of Israel." Among Reform, Conservative, and Reconstructionist Jews, brides often exchange a ring and a similar vow with their bridegrooms.

The exchange of rings is followed by the recitation of the *sheva berachot*, or "seven wedding blessings." These thank God for the creation of man and woman and the desire to perpetuate life; ask God to provide bride and groom with the happiness of Adam and Eve in the Garden of Eden; and express the hope that the rejoicing of bride and groom will soon be heard in the Land of Israel. The rabbi then presents the couple with their *ketubah*, and the ceremony is concluded by breaking a glass. According to some rabbis, breaking the glass commemorates the destruction of the Jerusalem Temple in 70 C.E. Others say that the ritual is meant to remind the bride and groom that they have obligations to

the “shattered” within society, the poor, hungry, homeless, and helpless. Still others see in the ritual a symbolic expression of the triumph of truth, hope, and love over the persecution and suffering of the Jews throughout the ages.

All the prayers and rituals of *kiddushin* are meant to uplift and celebrate the love shared by bride and groom. However, the marriage ceremony is not only a public acknowledgment of their special love relationship, but it also marks the establishment of a Jewish home, which guarantees the Jewish future. Through their commitments to celebrate Shabbat and holy days, to maintain their Jewish community and the welfare of their people throughout the world, and to elevate their relationship through Jewish study and charity, bride and groom strengthen the Jewish people. Rabbinic interpreters understood that marriage was not only an institution through which human satisfaction might be achieved, but they praised it as one of the “most important ingredients of the magic potion that has strengthened the Jew to survive.” (Trude Weiss-Rosmarin, quoted in *A Modern Treasury of Jewish Thoughts*, p. 149)

Despite such regard for the institution of marriage, however, rabbinic commentators were realists. They knew that some partnerships between husband and wife begin in rapture and happiness but end in disappointment and bitterness. Rabbi Akiba observes that “if a husband and wife are worthy, then God dwells between them. If they are not worthy, fire will consume them.” Akiba, whose marriage to Rachel was one of passion, sacrifice, mutual support, and respect, may have been speaking from his own experience. He and Rachel endured hardship in order for him to acquire a Jewish education. Their devotion to each other was a model for their students. Akiba observed that without such shared priorities, without trust and an affection that accommodates differences, marriage turns into a battleground—into a consuming fire. (*Sotah* 17a)

Because Jewish tradition does not rule out incompatibility between husband and wife, it accepts the tragedy and necessity of divorce. “Many marry,” comments a rabbinic teacher, “some succeed, some come to grief.” Others express the matter of compatibility in a powerful image.

“When love is strong, a husband and wife can make their bed on the edge of a sword’s blade. When love diminishes in strength, a wide, soft bed is never large enough.” Couples may marry with great expectations, feeling that they share enthusiasms, mutual passion, and a will to create a home and family. Yet, with all their good intentions, differences surface. Stress from work and unresolved tensions often lead to great unhappiness and a decision to divorce. (*Numbers Rabbah* 9:4; *Sanhedrin* 7a)

The Torah treats divorce as an occurrence that must be regulated by law and the traditions of the community. The Torah says, “If a wife fails to please her husband, if he finds something obnoxious about her, he may write her a *sefer keritut*, or a *get*, as it is called in the Talmud, a “document of divorce.” (Deuteronomy 24:1) Rabbinic commentators insist that a wife also has the right to initiate divorce if she is unhappy with her spouse. Grounds for initiating divorce by either husband or wife may be sexual or social incompatibility, distasteful feelings in the presence of the other person, infertility, one spouse’s refusal to have children, a refusal to work or provide support, mental illness, a chronic disease that makes sharing physical intimacy impossible, unfaithfulness, conversion to another religion, abandonment, or abuse. (See Isaac Klein, *A Guide to Jewish Religious Practice*, Jewish Theological Seminary, distributed by Ktav, New York, 1979, chap. XXXIII, pp. 466–473.)

While the Torah speaks only of the husband giving his wife a “document of divorce,” later rabbinic tradition defines the process of the divorce proceedings: The husband arranges for a *sofer*, or “scribe,” to write a *get*, a document especially for the wife that includes the declaration: “I release you . . . to go and be married to any man you may desire. . . .” The *get* is given to the wife by the husband before two witnesses who sign it. Where distance separates a couple, the husband may send the *get* to his wife through an agent authorized by him to present it. For a divorce to be valid, both parties must agree willingly, without pressure, to give and to accept it. (*Shulchan Aruch* 140–141)

Despite the realistic acceptance of the necessity of divorce, Jewish interpreters underscore the

tragedy it represents. "If a man divorces his wife," they teach, "even the altar of the Temple sheds tears." Rabbi Yochanan is more harsh in his judgment: "Whoever divorces his wife is hated by God!" Undoubtedly such commentators saw in divorce not only the sad defeat of all the hopes of bride and groom but also a severe blow to the vitality and future of the Jewish community. (*Gittin* 90b; *Avot de-Rabbi Natan* 30)

No marriage is without its periods of satisfaction and frustration. A medieval rabbi has observed that "the honeymoon lasts for a month, the troubles for a lifetime." Jewish tradition wisely counsels that husband and wife facing irreconcilable differences should seek counseling and the mending of their love. Marriage expert, author, and psychologist Dr. Aaron T. Beck writes that "mates need to cooperate, compromise, and follow through with joint decisions. They have to be resilient, accepting, and forgiving. They need to be tolerant of each other's flaws, mistakes, and peculiarities." Beck concludes that as these "virtues" are developed over time, "the marriage develops and matures." (*Love Is Never Enough*, Harper and Row Publishers, Inc., New York, 1988, p. 4)

With major changes in the roles of men and women in the workplace and in marriage, the mutual commitment to work at such maturation of love is critical. As a part of that process, Jewish tradition can play an important role. Celebrating sacred times and seasons together can bond a couple, as can shared commitments to enhance the community through volunteer service and charity. Love suffocates when it is not shared. It evolves into mutual satisfaction, support, and fulfillment when its power is allowed to flower in all our relationships.

The talmudic rabbis comment that "it is as hard to arrange and sustain a good marriage as it was for God to divide the Red Sea before the escaping Israelites." The recognition that love

between husband and wife is truly an unfathomable mystery and a delicate gift is at the heart of Jewish tradition's view of marriage and divorce. To build their relationship into blessings remains the challenge of every husband and wife.

QUESTIONS FOR STUDY AND DISCUSSION

1. The Torah and nearly all of the commentators place great emphasis upon restoring lost property. Why is this important to the stability of a society? Are there other commandments that are equally critical?
2. Do you agree with those commentators who argue that when we reach out to help our enemies, it is likely we will end up as friends? Can you cite some examples from your own experience or from history?
3. If you were writing a *ketubah* today, what would you have a bride and groom pledge to do in their marriage to assure its success? If you were putting together a modern *get*, what would the divorce document say?
4. Commenting on the significance of Jewish commitment and practice as a means of strengthening a marriage, Benjamin Kaplan writes: "A religiously motivated home can bring a sense of belonging . . . it can be the major buffer in easing the tensions that beset couples . . . it can absorb the shocks and tempers . . . in this frightfully competitive society." (*The Jew and His Family*, Louisiana State University Press, Baton Rouge, 1967, p. 189) Do you agree? What advice would you give couples about Jewish celebrations in their homes and involvement in their Jewish community?