

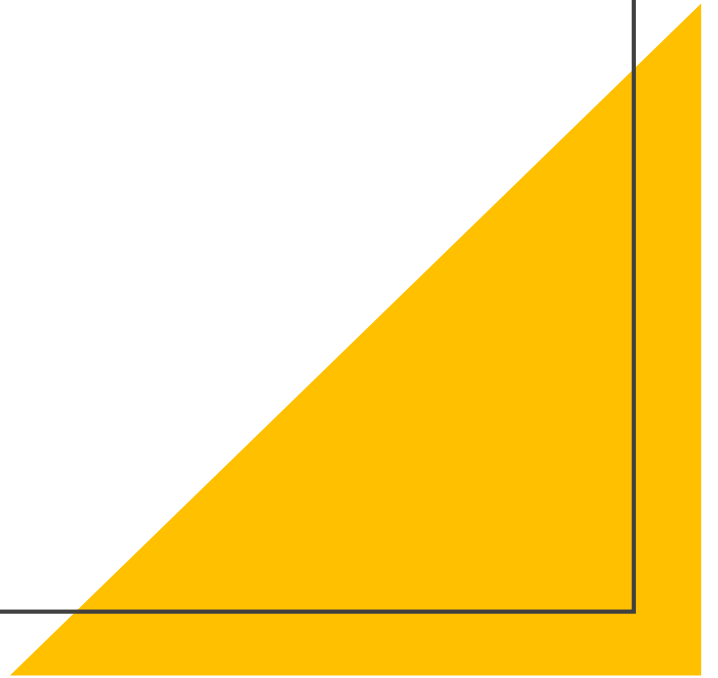


After the Ten Commandments: The Laws of the Covenant Code

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Torah in Motion, 2022

The female
“slave”



Troubling
assumptions
that we have
to make
re society
3000+ years
ago

A man has a right to marry off his daughter before the age of majority.

A man has a right to “sell” his daughter.

Women generally got married around puberty (or perhaps by puberty).



The female “slave”

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תֵצֵא כְצֵאת הָעֶבְדִּים. אִם רָעָה
בְּעֵינָיו אֲדֹנָיָה אֲשֶׁר לֹא [לוֹ] יַעֲדָה
וְהִפְדָּה לְעַם נְכָרִי לֹא יִמְשַׁל
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חֲנֻם אֵין כְּסָף.

When a man sells his daughter as a slave, **she shall not go free as male slaves do**. If she proves to be displeasing to her master, who designated her for himself, he must let her be redeemed; **he shall not have the right to sell her to outsiders, since he broke faith with her**. And if he designated her for his son, he shall deal with her as is the practice with free maidens. If he marries another, he must not withhold from this one **her food, her clothing, or her onah**. If he fails her in **these three ways**, she shall go free, without payment.

לא תצא כְּצֵאת הָעֶבְדִּים: Issue 1

“She shall
not go free
as male
slaves do”:
Luzzatto

והנה הדבר מובן
מאליו שלא בא
הכתוב להחמיר על
הבת אלא להקל
ושאם נשלמו שש
שנים קודם שתביא
סימנים היא יוצאה
בשש

It is self-evident that
Scripture is not
imposing a
stringency on the
daughter, but is
being lenient, for if
six years elapse
before she shows
signs [of puberty],
she goes forth free
after six.

“She shall not go free as male slaves do”:

Rashi

עובדת שש, או עד יובל, או
עד סימנין, וכל הקודם קודם
לחירותה ...

או אינו אלא: לא תצא כצאת
העבדים – עבדים בשש
וביובל? תלמוד לומר ...

She shall serve either six years or until the Jubilee, or until she shows signs of incipient puberty. Whichever of these periods comes first brings her freedom first.

Or perhaps this is not so, but, "She shall not go free as male slaves do," means [she shall not go free] at the end of six years or at the Jubilee? Scripture, however, states

The female “slave”


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“She shall
not go free
as male
slaves do”:
Rashbam

אלא יקחנה לו
לאשה, כמו
שמפרש
והולך

Rather he [the
purchaser]
should take her
as a wife, as the
text continues
to explain.



Issue 2: לַעַם נִכְרִי לֹא יִמְשַׁל
לְמַכְרָה בְּבִגְדוֹ בָּהּ

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“He shall not
have the right
to sell her . . .
since he broke
faith with
her”:
Rashbam

אם רעה –
ומכוערת היא
בעיני אדוניה,
אשר אינו רוצה
לייעדה לו
לאשה. . . .

IF SHE PROVES TO
BE DISPLEASING:
and unattractive,
TO HER MASTER,
such that he does
not want to take
her for his wife...

“He shall not have the right to sell her . . . since he broke faith with her”:
Rashbam
(cont.)

בבגדו בה – מאחר
שהוא בוגד בה
שאינו מייעדה,
כדכתיב במלאכי
באשת נעורים:
אשר אתה בגדתה
בה והיא חברתך
ואשת בריתך

SINCE HE BROKE FAITH WITH HER: In other words, since he broke faith with her by not taking her for his wife. ["Breaking faith" means failing to fulfil one's responsibility towards a (potential) wife,] as it says in Malachi (2:14), "the wife of your youth with whom you have broken faith though she is your partner and covenanted spouse."

“He shall not
have the right
to sell her to
עם נכרי
[outsiders]
since he broke
faith with
her”

רש"י: לעם נכרי לא
ימשל למכרה – אינו
רשאי למכרה לאחר,
לא האדון, ולא האב.

אונקלוס: לגבר אחר
לית ליה רשו לזבונה

Rashi: לעם נכרי לא
ימשל למכרה means
that neither the
master nor the father
has a right to sell her
to another person.

Onkelos: He shall not
have the right to sell
her to another man.

“He shall not have the right to sell her to עם נכרי [outsiders]”: Ibn Ezra

ויאמר המתרגם ארמית: כי לעם
נכרי – לאיש נכרי. ויאמר הגאון,
כי כמוהו: הגוי גם צדיק
(בראשית כ'ד'). ובאלה עמודי
התורה נתלה המהביל להחליף
מלה במלה וספרו ראוי
להשרף.

Onkelos wrote that עם נכרי means another man. Saadyah Gaon said that another example like this is “will You kill even a גוי who is righteous.” On these two Torah giants, the “writer of foolishness” based himself, allowing himself to emend biblical texts His book deserves to be burned.

“He shall not have the right to sell her to עם נכרי [outsiders]”: Ibn Ezra (cont.)

ואני אומר כלל: כי יש לנו בתורה
מקומות ידועים ששמום חכמינו
אסמכתא והעיקר ידעוהו . . .
היה להם בקבלה שלא יוכל אדם
למכור בתו פעמים . . .
והמתרגם זה הפסוק לאות
ולזכר ופשוטו כמשמעו.

I will say as a principle: There are places in the Torah where our Sages offered [an “interpretation” that is really just] a mnemonic device. They [of course] knew what the text really means. . . . They had an oral tradition that a daughter could not be resold. . . . Onkelos translated here as a mnemonic device [to remember the oral tradition]. But the *peshat* conforms to the literal meaning.

“He shall not have the right to sell her to עם נכרי [outsiders]”: Ibn Ezra (cont.)

וכן הוא, כי הישראלי ימכור עצמו
לגר תושב גם לישראלי, ויש לו
ממשלת למכור בתו רק
לישראלי, לא לעם נכרי. וזה
הכתוב, ואם הוא מאוחר, הוא
דבק עם: וכי ימכור איש את בתו
לאמה.

And this is the [*peshat*] meaning: An Israelite is allowed to sell *himself* as a slave either to another Israelite or to a resident alien. But he can sell *his daughter* only to another Israelite, but not to a foreigner [עם נכרי]. This phrase [לעם נכרי] is the continuation of the phrase “When a man sells his daughter,” even though it is not contiguous.

“Even though it is not contiguous . . .”

וְכִי יִמְכַר אִישׁ אֶת בִּתּוֹ לְאִמָּה לֹא תֵצֵא
כְּצֵאת הָעֶבְדִּים. אִם רָעָה בְּעֵינֵי אֲדֹנָיהָ
אֲשֶׁר לֹא [לוֹ] יַעֲדָה וְהִפְדָּה לְעַם נְכָרִי
לֹא יִמְשַׁל לְמִכְרָהּ בְּבִגְדוֹ בָּהּ

When a man sells his daughter as a slave, she shall not go free as male slaves do. If she proves to be displeasing to her master, who designated her for himself, he must let her be redeemed; he shall not have the right to sell her to a non-Israelite [עַם נְכָרִי].

Another example of asmakhta (according to ibn Ezra): Num 27

וְאִל בְּנֵי יִשְׂרָאֵל תִּדְבֹר לֵאמֹר אִישׁ כִּי
יָמוּת וּבֵן אֵין לוֹ וְהֵעֲבַרְתֶּם אֶת נַחֲלָתוֹ
לְבִתּוֹ.

וְאִם אֵין לוֹ בֵּת וּנְתַתֶּם אֶת נַחֲלָתוֹ לְאָחָיו.

וְאִם אֵין לוֹ אָחִים וּנְתַתֶּם אֶת נַחֲלָתוֹ לְאָחֵי
אָבִיו.

וְאִם אֵין אָחִים לְאָבִיו וּנְתַתֶּם אֶת נַחֲלָתוֹ
לְשֵׂארוֹ הַקָּרֵב אֵלָיו מִמִּשְׁפַּחָתוֹ וְיָרַשׁ אֹתָהּ

If a man dies without leaving a son,
you shall transfer his property to his
daughter.

If he has no daughter, you shall
assign his property to his brothers.

If he has no brothers, you shall
assign his property to his father's
brothers.

If his father had no brothers, you
shall assign his property to his
nearest relative in his own clan, and
he shall inherit it.'

Baba Batra 111b

מנהני מילי דתנו רבנן (במדבר כז, יא)
שארן זן אשתו במלמד שהבעל יורש את
אשתו

יכול אף היא תירשנו תלמוד לומר
(במדבר כז, יא) וירש אותה הוא יורש
אותה ואין היא יורשת אותו
והא קראי לאו הכי כתיבי

And how do we know that a husband inherits his wife's estate? As the rabbis taught: שארן refers to his wife: thus we know that a husband inherits his wife's estate.

Would we then say that she also inherits his estate? That is why the text says וירש אותה. He inherits from her; she does not inherit from him.

But that's not what the verse means!

Ibn Ezra (here in Exodus) on that verse in Numbers

ואני אומר כלל: כי יש לנו בתורה מקומות
ידועים ששמום חכמינו אסמכתא והעיקר
ידעוהו. כמו: וירש אותה (במדבר כ"ז: י"א),

כי היה ידוע בהעתקתם שהאיש יורש את
אשתו, ודרשו זה הפסוק להיות כמו זכר, כי
כל ישראל ידע פירוש הפסוק שהוא כמשמעו
ופשוטו

Let me say as a general principle: there are well-known places in the Torah which the rabbis made as *asmakhta*, but they [of course] knew the true meaning. For example: וַיִּרֶשׁ אֶתָּהּ.

It was known through their tradition that a man inherits his wife's estate; the rabbis made a *derashah* on this verse [to this effect] as a mnemonic device. [The rabbis did not worry that someone might consider this the true meaning of the verse, since] all of Israel knows that the interpretation of the verse follows the simple sense and plain meaning.