

Moses continues reiterating laws and instructions, which in this parashah range from guidelines for ethical warfare, family life, and burying the dead, to rules concerning the treatment of animals, and laws governing labor and financial transactions. The common thread is once again ethical behavior toward all of creation. Even in light of the undeniably patriarchal slant regarding the treatment of women, the laws set down in our Torah and later discussed and codified by our Talmud sages are without a doubt an innovative attempt to create a code of ethics intended to safeguard the welfare of women. It is a tragic fact that women in war and in peace have always been fair game for men. This mentality still persists today, as evidenced by the reports coming daily out of Ukraine and parts of Africa and Asia, and sadly also, by the news concerning the draconian anti-abortion laws now being enacted in parts of the USA – all grim reminders that true equality for women is still an elusive goal. The Torah imposes a unique set of restrictions designed to preserve at least a modicum of dignity for women captured in war. “... and you see among the captives a beautiful woman and you desire her, you may take her for yourself as a wife. You shall bring her into your home, and she shall shave her head and let her nails grow. And she shall remove the garment of her captivity from upon herself, and stay in your house, and weep for her father and her mother for a full month. After that, you may be intimate with her and possess her, and she will be a wife for you.” (21:11-13) Although rape is outlawed and provisions are established to allow captive women to acclimate to their new situation, the woman still has no say in the matter. It is ultimately a man’s world, even with his basest instincts regulated. Rashi offers much commentary on this subject, teaching that having her let her fingernails grow, shave her head, and change her clothes, along with forcing the man to see her in his house weeping for her lost family, are all measures designed to render the woman so unattractive that her captor will change his mind about marrying her and allow her to go free. “And it will be, if you do not desire her, then you shall send her away wherever she wishes, but you shall not sell her for money. You shall not keep her as a servant, because you have afflicted her.” (21:14) He then links this to the next verses, which govern the apportionment of inheritances to the sons of “hated”, i.e. less favored wives, remarking that “Scripture informs you that eventually you will despise her.” It is noteworthy that he even seems to draw a parallel between this and the next verses, which mandate the death penalty for the “wayward and rebellious son, who does not obey his father and mother.” (21: 18-21). He cites excerpts from Babylonian Talmud Tractate Sanhedrin, including 89a: “There are four transgressors condemned to be executed whose verdicts require a proclamation to inform the public: One who instigates others to engage in idol worship, the stubborn and rebellious son, the rebellious elder, and conspiring witnesses.” Later commentators remark that this suggests that the rebellious son could likely be the offspring of a captive woman whose husband eventually despises her. For us today, this seems quite plausible. There is ample evidence that tension between parents negatively affects their children. A child may take sides, and sometimes in solidarity or out of revenge, will act out in negative ways. Of course neither Rashi nor the sages of the Talmud viewed the rebellious son from the vantage point of modern psychology. Their objective was far simpler, namely, to nip negative influences in the bud in order to minimize temptation. Chapter 22 takes up the topic of the “despised” wife, whose husband, in an attempt to reject her after the marriage night, unjustly accuses her of not being a virgin. Those of us who participate in the “Daf Yomi” program, reading a page of Talmud every day, are right now in the thickets of Tractate Ketubot (marriage contracts). This very theme has just been discussed at length (Ketubot 46), with the dual penalty of a fine paid to the father of the woman, plus flogging for the husband who slanders his wife, but upholding the Torah’s penalty of death by stoning at the hands of the “men of the city” (22:21) should the wife be guilty. Yes, once again the woman’s sentence is more severe, despite the fact that this discussion even cites the wayward and rebellious son to justify “chastising,” i.e., flogging the husband whose false charges have put his innocent wife in mortal danger. Rashi furthers this inequality with his comment on 22:15-16 “Then the girl’s father and mother shall obtain evidence of the girl’s virginity, and take it out to the elders of the city, to the gate. And the girl’s father shall say to the elders, ‘I gave my daughter to this man as a wife, and he despised her.’”: “[The father, but not the mother]. This teaches that a woman is not permitted to speak in the presence of her husband [in the presence of others]. It is somewhat offset by explanations in both the Jerusalem and the Babylonian Talmud regarding “spreading the garment before the elders of the city,” (22:17) which is not to be taken literally, but rather, as a metaphor for thoroughly investigating the matter and cross-examining all witnesses. Yes, throughout history both captivity and rejection have been tragic reality for countless innocent women. The mitigating provisions in our Torah and Talmud are the first small steps toward a more equitable future, but it is up to us all to continue the journey with diligence – and we still have far to go.

Shabbat shalom!