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Captivity in Jewish Texts:
An exploration of biblical and rabbinic sources

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Table of Contents

Introduction

In his introduction to Carnal Israel, Daniel Boyarin defines "cultural poetics" as,

> [A] practice that respects the literariness of literary texts (that is, as texts that are marked by rhetorical complexity and for which that surface formal feature is significant for their interpretation), while attempting at the same time to understand how they function within a larger socio-cultural system of practices.[1]

This type of approach to Jewish text is precisely what makes text study an exciting and enriching experience. Rabbinic texts are complex documents, comprised of story, law, and argument. In studying these texts, I do not understand them to be historical documents or completely fictional compositions. Like Boyarin, I do think that they reflect a historical context that impacts how the rabbis think and what they choose to articulate. I also see these sources as edited, literary documents. The legal and narrative rabbinic texts most likely changed over the years and the redacted text we have today is no doubt an incomplete compilation of the oral tradition that circulated for hundreds of years. Therefore, to study rabbinic sources is to interact with texts that possess built in tensions. While they do not serve as documents of historical evidence, they do tell us something about a certain historical period. While the stories of the sages we read did not necessarily happen as they are told, they still teach us a tremendous amount about the rabbis and their values. It is with all of this in mind, that I approached the texts for this thesis.

In deciding to focus on captivity in rabbinic texts, I was guided by three things. The first was a desire to add something unique to scholarship in the field. I wanted to investigate an area that has received little attention thus far and bring it into the larger discussion about rabbinic texts. Additionally, I have continued to be interested in how the rabbis treat people of marginal status and how their attitudes toward such groups are conveyed through the text. I hoped to look at gender and other categories of identity as they related to and enhanced the messages of the

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[1] Daniel Boyarin. Carnal Israel: Reading Sex in Talmudic Culture. (Berkeley: University of California Press, 1993) 14.

text. Another guiding thought was to find a subject matter in which I found contemporary interest to have a textual grounding in an issue I may want to research later. I do not think there is an easy parallel to be made between the rabbinic period and today but the treatment of captives and ransom still need attention. For the purposes of this project, I did not investigate any contemporary similarities.

The first step in my research was to gather texts on captivity. At first, I decided to limit my search to the Mishnah and the Babylonian Talmud, with a few additions from the Tosefta and the Palestinian Talmud. Through the Bar Ilan database as well as a concordance, I was able to identify a large amount of texts on the subject, some of which fit into the purview of this project. I then categorized the texts by the perspective they took on captivity. Among the rabbinic texts, the headings under which most of the texts fell were the status of a freed female captive and *pidyon shvuyim*- the redemption of captives. My search for sources was quite narrow, looking only for treatment of the captive or captivity as opposed to jails or other related topics. The research for the biblical text was different. There is a limited amount of text on the actual experience of captivity in the Tanakh, although it is used as a metaphor in some of the prophetic works. In order to elucidate the texts and have a richer understanding of the biblical ideas on captivity, I studied non-Talmudic rabbinic sources such as commentaries and midrash. Therefore, chapter one brings a variety of rabbinic voices to bear on the biblical text.

I had three goals with this thesis. The first was to bring the varied texts on captivity into an organized whole. Because the texts are scattered throughout many sources, I wanted to create an easier way to reference at least one group of texts on the subject of captivity. I knew this method would allow me to investigate how the various texts treat similar issues such as status, power, and gender. Another reason for this goal was the ability to analyze the biblical and

rabbinic texts side by side so the reader could have access to a biblical and rabbinic understanding of captivity. The second goal was to draw conclusions as to what the biblical and rabbinic sources say about captivity. By accomplishing my first goal, I could begin to see parallels and distinctions among the texts on a particular subject. In working on this piece of the project, I found it difficult to draw broad conclusions that would find support in the majority of texts. I was able to gather more accurate understandings of captivity reflected by the texts in each of the three chapters. The biblical treatment of captivity reflects a different worldview than that of the rabbinic texts. Within the rabbinic texts, it was apparent that conclusions could best be drawn at the end of each category of those texts. The texts in each chapter make statements about captivity that pertain particularly to that unit. Therefore, instead of making a series of general arguments about captivity at the end of the paper, I treat each chapter as a discreet unit.

The final goal was to show how the rabbinic treatment of captivity exposes the interests and concerns of the rabbis. Because of the way I entered into the study of rabbinic texts (as I described in the beginning), I found that discussions and considerations of varying aspects of captivity told me something about the rabbis themselves as well as the subject matter. For example, in looking at the manner in which the rabbis categorize the captive, I could gain insight into how they perceived the captive within the larger social structure. This type of analysis reveals what is important to the rabbis, such as status.

Through my research and analysis, I found that one theme throughout the texts was power. Captivity is a nexus where the issues of identity, law, community, and power meet in Jewish texts. Marriage, familial obligation, and status are key issues in the rabbinic imagination and they all take a place in establishing the implications of captivity. As I stated above, there is no one single conclusion to be drawn about captivity from all the texts I present, but the

negotiation of power among individuals and within the society at large is evident in many of the texts. Related to the issue of power is the matter of who the rabbis understand to be full subjects and how this impacts rulings on captivity. This paper attempts to highlight the manifestations of power and other meta-issues in the texts' specific considerations of captivity.

Chapter 1

Captivity in the Torah

Before exploring captivity in rabbinic texts, we can turn to a few examples of captivity in the Torah. There are two texts in particular that allow us to understand captivity in a biblical context. In these early texts, Israelites and non-Israelites play the roles of both captives and captors. While there is no strongly developed legal system around captivity as it appears in the Torah, we can still see certain rules and values that pertain to captivity as portrayed in biblical texts.

Our first example of captivity in the Torah is Genesis 14:10-17:

> Now the Valley of Siddim was studded with tar pits, and when the kings of Sodom and Gomorrah fled, some tumbled into them, and the rest fled to the hills. So they took all the possessions of [the kings of] Sodom and Gomorrah and their food, and they went off; and as they went off they took Lot, Abram's brother's son, with his possessions; he was a resident of Sodom. A fugitive then came and told Abram the Hebrew, who was living by the oak trees of Mamre the Amorite, brother of Eshkol and Aner, who were allied to Abram by treaty. Hearing that his kinsman had been taken captive, Abram mustered his retainers, born into his household, 318 of them, going in pursuit as far as Dan. At night he deployed himself and his forces against them and defeated them pursuing them as far as Hobah, north of Damascus. He then brought back all the possessions; his nephew Lot, too, and his possessions; [he restored] the women, too, and [the other] people.[2]

While Abram cannot be called an "Israelite," there is a distinction between him and the other tribes who he would come up against in war. Lot, while different even than Abram in terms of identity, is a close relative of Abram. In this sense, there are two categories of people in the text- that which Abram and Lot belong to and the groups against which they fight. In this text, Lot is taken captive by foreign enemies and is redeemed by a family member (Abram). The roles of Abram and the foreign enemies find close parallels in the Talmud, as we will see in later chapters. Most often, the rabbis address situations of Jewish captives, non-Jewish captors, and

[2] Unless otherwise noted, all translations of biblical texts are from: JPS Hebrew-Enlish Tanakh. Philadelphia: The Jewish Publicaton Society, 2003.

Jewish redeemers. However, there are aspects of captivity that appear exclusively in the biblical text. The Torah describes captivity in military language, placing it in the context of wars between kings. Lot is taken captive in battle and is redeemed through battle. In this Genesis text, the redemption can be seen explicitly as a heroic act and a sign of might. These associations are conveyed in the biblical description in a way not found in the rabbinic texts.

There is also a value transmitted by this story that persists through the Talmudic texts. Immediately upon hearing of Lot's fate, Abram takes action. There is no decision making process described in the text, and Abram's response to rescue Lot seems like a reflex. This serves as a point of comparison between biblical and rabbinic thought, because the rabbis consider redemption of the captive to be a high priority for the individual and community. Abram enacts this idea, even though there is no specific legal discussion about his obligation. The biblical message supports in action what the rabbis will later articulate in both the halakhic language of the Mishnah as well as the Talmudic aggadot- that rescuing a family or community member from captivity is of great importance.

The most explicit consideration of captivity in the Torah is found in Deuteronomy 21:10-14:

> When you take the field against your enemies and Adonai your God delivers them into your power and you take some of them captive, and you see among the captives a beautiful woman and you desire her and would take her to wife, you shall bring her into your house, and she shall trim her hair, pare her nails, and discard her captive's garb. She shall spend a month's time in your house lamenting her father and mother; after that you may come to her and possess her, and she shall be your wife. Then, should you no longer want her, you must release her outright. You must not sell her for money; since you had your will of her, you must not enslave her.

This law considers a scenario in which the Israelites are the captors and the non-Israelites are the captives. Similar to an earlier observation, this characteristic is a distinguishing factor between the biblical framing of captivity and the rabbinic. In the Talmud, the rabbis generally deal with

instances of Jews in captivity, most likely due to their historical reality. The Bible imagines the Israelites in a position of power whereby they would be able to win in battle against other tribes, providing the circumstances under which they could take captives.

Again, the text refers to captives taken in the context of a military victory. While initially the text is referencing a communal experience (war), it continues with guidelines for an individual relationship. This is similar to the arrangement of Genesis 14:10-17, because Abram and Lot's relationship is situated in a war among tribes. This Deuteronomy text describes a generic relationship to provide a framework for a relationship that could be a reality in ancient wartime. The dynamic between the individual and communal nature of captivity appears again in the rabbinic discussions of the appropriate behaviors and actions associated with captivity.

The captive woman is called a *yefat toar* in the Hebrew- literally "beautiful of form." This phrase is only used a few times in the Tanakh to describe specific women. The first time the phrase appears is in Genesis 29:17 to describe Rachel: "Leah's eyes were weak, but Rachel was beautiful of form and of face."[3] Another usage of this phrase is found in Samuel 1 25:3. The text states, "The man's name was Nabal, and his wife's name Abigail. The woman was intelligent and beautiful, but the man, a Calebite, was a hard man and an evildoer." A third time we see *yefat toar* is Esther 2:7 right after the text introduces Mordechai: "He was foster father to Hadassah-that is, Esther- his uncle's daughter, for she had neither father nor mother. The maiden was shapely and beautiful..." This phrase is used to describe three very different women who all receive praise in the biblical text. Unlike our Deuteronomy text, when *yefat toar* is used elsewhere, it is in relation to a particular individual. The *yefat toar* in Deuteronomy is not necessarily held in high esteem and she is spoken about as a generic woman. This contradiction

[3] Translation from: Tamara Cohn Eskenazi and Andrea L. Weiss, eds. The Torah: A Women's Commentary. New York: URJ Press, 2008.

in the usage of the term in Tanakh reflects the tension embedded within the passage itself. The *yefat toar* is not easily defined just as the rules surrounding her captivity are not easily delineated.

In "Deuteronomy 21:10-14: The Beautiful Captive Woman," Pearl Elman writes, "The biblical text, read without later commentary, can be construed as being non-judgemental. It seems to outline the procedure without condemning it. However, in post-biblical sources there is displeasure expressed about the idea of an Israelite soldier marrying a captive."[4] Reading the texts alone and with commentary provides insight into the multiple attitudes on captivity embedded in the biblical text. In looking at the biblical text by itself, we can see a set of laws describing the parameters for the treatment of a female captive. The biblical text takes up two general issues- the female captive's mourning and the captor's sexual relationship with the captive. The captor has the ability to choose a captive woman and "take her," but certain rules apply to the following time period. The law allows the woman time for mourning, undisturbed by her captor before she is made available to him. While she does get to assume a certain amount of agency through the mourning rites, her circumstances and the use of her body are not under her control. The texts treats the woman in two different roles- the woman as a survivor of battle and the woman as someone taken captive by a more powerful people. The first part of her identity is honored in the text by allowing her to mourn her family. However, as a captive she is not considered a full subject with the right to refuse sexual intercourse. Her body remains available regardless of her consent.

Reading our text with commentary, broadens the possibilities of what the text is telling us about captivity and its participants. We will first consider the issue of the month-long mourning

[4] Pearl Elman. "Deuteronomy 21:10-14: The Beautiful Captive Woman." Women in Judaism: A Multidisciplinary Journal 1.1 (1997). jps.library.utoronto.ca/index.php/wjudaism.

period. David Stern in "The Captive Woman: Hellenization, Greco-Roman Erotic Narrative, and Rabbinic Literature" says the following about the commentary of the tannaitic midrashim on these rituals:

> Two different approaches to the meaning of the passage emerge in the course of the commentary. One approach reads the passage as an injunction designed to protect the hapless captive woman and prevent her abuse and exploitation by her captor, the conquering Israelite. The other interpretation sees it as a law designed to protect the *Israelite* from being seduced by the beautiful captive woman and thereby abused by *her*.[5]

These two approaches are also reflected in the work of Nahmanides. In his Torah commentary, Nahmanides addresses the mourning rituals in detail. First, he states the following:

> Therefore I say that these are all regulations of mourning, all connected with the expression, "and she shall bewail her father and mother." Thus he commanded that she shall shave her head, similar to what is written of Job [when he heard of the death of his children], and he shaved his head, and so also, cut off thy hair, [and case it away, and take up a lamentation]. So, too, the cutting of nails is a form of mourning like the shaving of the head. He states, "and she shall put the raiment of her captivity from off her," that is to say, she shall don the garments of mourning, and she shall remain in thy house like a widow and not go outside at all, and she shall bewail her father and her mother, doing all this a full month, for such is the custom of mourners.[6]

Nahmanides offers a variety of proof texts for these being rituals of mourning in which the captive woman is allowed to and supposed to engage. Counter to Elman's statement about post-biblical texts, Nahmanides does not seem to judge the situation at hand, but tries to understand the text more precisely. Nahmanides further complicates a simplified reading of the text by demonstrating that the non-Israelite captive takes on Israelite mourning rituals. While her identity within the biblical text is that of a non-Israelite captive woman, she mourns according to the rules of free Israelite mourning rituals, as shown by the proof texts. Read through this lens, the biblical text affirms a captive's right to mourn in an appropriate manner.

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[5] David Stern. "The Captive Woman: Hellenization, Greco-Roman Erotic Narrative, and Rabbinic Literature." Poetics Today 19.1 (1998): 100.

[6] Ramban Nachmanides: Commentary on the Torah. Trans. C. B. Chavel. New York: Shilo Publishing House, Inc., 1976.

Nahmanides offers another piece of commentary based on the midrashic literature on this text:

> And in the opinion of our Rabbis who say that all [these regulations] were intended to mar her beauty [the sense of the verses is as follows]: He commanded that she remove her beautiful garments, for [among] the heathens- accursed ones- their daughters adorned themselves in wartime in order to entice [the enemy] after them. She is to shave her head, which is considered a great disgrace, and pare her nails, for the custom of women is to let them grow and paint them with forms of stibium or other tints.

This opinion seems to run counter to the one we just saw from Ramban and exposes the judgemental quality of which Elman speaks. The rabbis here understand the laws to exist precisely because the captive is a non-Israelite woman. Her beauty, dress, and body all symbolize her dangerous "otherness" and these laws serve to counter that. The actions required by the biblical text are meant to be an affront to her non-Israelite (read "heathen") customs. As Stern stated earlier, this thread of thinking is found in the tannaitic midrashim. In the Sifre, Akiba comments on the instruction that she should take her captive's clothing off. Akiba says,

> This indicates that the captor must divest her of her attractive raiment and clothe her in widow's weeds, for these accursed nations make their daughters adorn themselves in time of war in order to cause their foes to go awhoring (lehaznot) after them.[7]

With this statement, Akiba understands the captive woman to be powerful and dangerous, someone who would exert a strong but terrible influence over an Israelite man. These rituals are to serve as an antidote to the captive's perceived power. As Stern writes, "So the Torah (according to Akiba) tells us: Make the woman as ugly and unattractive as possible, submit her to a lengthy period of testing, and do everything possible to extinguish the Jew's desire for her."[8] The rituals are meant to protect the captor as opposed to the captive. The Sifre gives an additional reason for the month-long period:

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[7] Sifre: A Tannaitic Commentary on the Book of Deuteronomy. Trans. Reuven Hammer. New Haven: Yale University Press, 1986. Piska 213.
[8] Stern 105.

> R. Eliezer says: *A full month*- literally. And what is the reason for all this (procedure)? So that an Israelite woman would rejoice while the captive one is in tears; the Israelite woman would wear her adornments while this one is stripped of them.[9]

The captive woman is in relationship with the larger Israelite community as well. Her downtrodden state allows celebration among the Israelite women. The issue is not only a man's sexual desire for a foreign woman; her position vis a vis other women is also a concern. There is also a possibility that the Israelite women will appear more desirable next to the captive. In this reading, even Israelite women can gain at the expense of the captive's condition. Read with these commentaries, the rituals described do not offer her a way to appropriately mourn her family. Instead, they serve as an expression of dislike and distrust of non-Israelite women.

The other major issue in the Deuteronomy text is the sexual behavior of the captor. The language of the text makes it difficult to discern what the exact rules are for sexual intercourse between the captive and captor. The first way to understand *l'kachta l'cha l'isha* in Deut. 21:11 is that the captor is allowed to bring the captive directly to his home for sex. Maimonides supports this reading, stating "For although the soldier may be overcome by his desire which he is unable to suppress or to restrain, he must take the object of his lust to a private place, 'into the inner of his house' (Deut. 21:12), and he is not permitted to force her in camp."[10] Although he cannot rape her on the battlefield, he may bring her home for the same purposes. A different reading of the text would demonstrate that a man can only have sex with the captive after she mourns her father and mother for a month. Based on her study of rabbinic sources, Elman supports this latter reading. She argues that, "Biblically, it seems the captive woman, by virtue of being captive, has no choice but to go home with her captor. He is only allowed to have

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[9] Piska 213.
[10] Moses Maimonides. The Guide for the Perplexed. Trans. M. Friedlander. New York: Pardes Publishing House, Inc., 1946.

intercourse with her after a period of thirty days during which time she stays in his house. Clearly, immediate rape is not allowed."[11]

Even if the captor is not allowed to touch the captive until after the month-long period, the biblical text does not require the captive's consent to sex at any point, emphasizing her powerlessness as the captive. The last verse of the text says that the captor cannot sell the captive *tachat asher inita-* translated above as "since you had your will of her." By looking at other uses of the word in their biblical context, Elman demonstrates that the word can be accurately translated as "rape," and always denotes some form of sexual violence. Therefore, she concludes "...although there is not specific mention of rape in Deut. 21:14, the word *initah* implies that the woman' consent (if any) to intercourse was due to her circumstances."

The phrase just under consideration appears in the context of Deut. 21:14. The Hebrew states:

> *V'haya im lo chafatzta bah v'shilachtah l'nafsha u'machor lo timcrena bakesef lo* ***titameir*** *bah tachat asher inita.*
> Then, should you no longer want her, you must release her outright. You must not sell her for money: since you had your will of her, you must not enslave her.

There are several translations of the work *titameir*, which show the range of possible messages being communicated by the text. This grammatical form of the Hebrew root *amar* means "to deal tyrannically with." The Targums of Onkelos and Jonathan Ben Uzziel translates *titameir bah* as "afflicted her."[12] Rashi says that the word should be interpreted as "make use of her" and the JPS translation provided above understands it as "enslaves her." [13] The translations are similar, but they carry different weight. In the Targums' translation, "afflicted her," there is less

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[11] Elman 8.
[12] The Targums of Onkelos and Jonathan Ben Uzziel on the Pentateuch. Trans. J. W. Etheridge. New Jersey: Gorgias Press, 2005.
[13] The Pentateuch and Rashi's Commentary: A Linear Translation in English. Trans. Abraham Ben Isaiah and Benjamin Sharfman. New York: S.S. & R. Publishing Company, Inc., 1950.

of a sense of violence than "enslave" or "deal tyrannically" implies. Rashi's commentary is closer to these two translations because it emphasizes the type of objectification that the text seems to mitigate against with this negative commandment. Verse 14 complicates an analysis of the text because we have both the recognition of the possibility of rape as well as a limit on the captor's use of his own power. If he does not want her, the text states that he must release her immediately. But until her captor decides that he is no longer interested, she must remain. The challenge in understanding the meaning of the text is in the juxtaposition of the release requirement with circumstances that would likely involve rape before that release happens. The text portrays a tension by establishing limits on the captor's behavior while still allowing him to exercise a great amount of power over her, including possible sexual violence.

Maimonides' commentary on this Deuteronomy text focuses on the non-Israelite identity of the captive. He states, "[A soldier] may engage in sexual relations with a woman while she is still a gentile if his natural inclination overcomes him."[14] Further on he comments:

> [Relations with] a *yefat toar* are only permitted while she is in captivity as [the verse] states 'If you see...among the prisoners. [This license is permitted] whether the woman is a virgin or not, even if she is married, for the gentiles' marriages are not recognized.[15]

As a non-Israelite woman, her marital status is not relevant to Maimonides' ruling on the appropriate behavior for the captor. The factors that would normally forbid this type of sexual relationship do not apply in this situation. The captive is a woman who has been taken in the context of war and her identity (as married or a virgin) is not considered in deciding the captor's behavior. She is also the site for the man to indulge his "evil inclination" with impunity. Captivity serves as a place for the suspension of more rigid laws that would mitigate against this type of sexual behavior in daily life.

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[14] Moses Maimonides. Mishneh Torah: Hilchot Melachim U'milchamoteihem. Trans. Eliyahu Touger. (New York: Moznaim Publishing Corporation, 2001) 572.
[15] Ibid. 574.

In his analysis of the passage, David Resnick argues that, "this case presents the best of universalist Biblical humanism as it seeks to manage a worst case scenario: controlling how a conquering male must act towards a desired, conquered, female other."[16] Beyond the moral implications of the text, which are challenging, Resnick broadens the scope of this analysis by pointing out issues that exist beyond the details of this particular scenario. The second half of his statement suggests a larger consideration of power. The situation in Deut. 21:10-14 is one of an Israelite man and a foreign woman, and the text attempts to establish where the power lays and the limits of that power. This text identifies captivity as a relationship of power, which assigns the majority of agency to one person- the captor. Captivity is not unique in showing an imbalance of power, but it demonstrates one biblical manifestation of this type of relationship complicated by nationality and gender.

Another rabbinic source, Leviticus Rabbah 22:10, presents a view of the captive and sexuality which references the text from Deuteronomy 21. This text does not explore the biblical narrative in depth, but it creates a link between the analysis thus far and the continuation of our study of captivity in rabbinic sources. The text outlines a list showing that for every action God forbids, God permits something. The following is the piece of text on relationships that are permitted and forbidden:

R. Abba and R. Jonathan in the name of R. Levi said: I have, [says God], permitted you more things than I have forbidden you. I have forbidden you the blood of a menstruant but have permitted you the blood of virginity. I have forbidden you to take a married woman but have permitted you a captive woman. To counterbalance the prohibition of marrying a brother's wife I have permitted you the widow of a dead brother. To compensate for the prohibition of marrying a woman and her sister while brother are alive, I have permitted them to you after the death of one of them.

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[16] David Resnick. "A Case Study in Jewish Moral Education: (Non-)rape of the Beautiful Captive." Journal of Moral Education 33.3 (2004): 308.

This text offers a rabbinic viewpoint that understands the captive woman as unambiguously "kosher." The forbidden things are those that God does not want us to do- the forbidden people are those that God does not want us in relationship with. The captive woman, from Deut. 21, is allowed to her Israelite captor under certain conditions. However, like the other rabbinic sources we have looked at, there are complexities here that prevent easy conclusions.

The text does not necessarily make a statement on the actual person, but on the circumstances surrounding the relationship. The surrounding statements make this clear. In ruling on the permissibility of "taking" a brother's wife, the text says it is permissible when she is a widow, but not while the brother is alive.[17] Whether or not the woman is permitted is based on her surrounding circumstances, not on her. So too, is the situation with the captive. Her circumstances make her more available to a man than the circumstances of a married woman. Therefore, the text cannot be read as a "positive" or "negative" portrayal of the captive woman. Instead, it is a statement that on how a man can relate to a woman in this category- the freed captive. This way of looking at women as belonging to specific "categories," therefore making them permitted or forbidden, is explored in the following chapter.

These biblical sources and commentaries demonstrate a complex picture of the biblical attitude toward captivity. In the biblical text, captivity arises as in the context of war and we see different configurations of captor, captive, and redeemer. Two components of captivity that will continue through the rabbinic sources are introduced by the Genesis and Deuteronomy texts The first is the importance of redeeming captives. The second is the way in which texts on captivity portray broader ideas about gender, ethnicity, and power. Overall, the biblical texts introduces the positions of and relationship between captives, captors, and communities that the rabbis engage in later sources.

[17] A man is only allowed to marry his brother's widow if he died childless.

Chapter 2

The Impact of Captivity on Status

Status is about how a person or category of people fit into the larger social structure of a society. In Chattel or Person?: The Status of Women in the Mishnah, Judith Romney Wegner focuses specifically on women's status in the Mishnah. As she demonstrates, a conversation about status needs a foundational understanding of what it means to be a person. She defines personhood as "the legal status defined by the complex of an individual's powers, rights, and duties in society."[18] The rabbis of the Mishnah seek to create clear taxonomies that impose order on their society that may not always be (and usually is not) orderly. Therefore, to understand what it means to be any type of person, we need to look at their status. In the case of a female captive, her limited powers and rights circumscribe the extent to which she can function as a full person in the rabbinic imagination. Like gender, "captive" status for a woman thwarts her ability to live as a complete subject.

In Oxen, Women, or Citzens?: Slaves in the System of the Mishnah, Paul Flesher looks at slaves in the Mishnah in a similar way to how I am looking at the captive. He understands "slave" to be a category of person in the Mishnah that can be compared to other categories-namely, oxen, women, and citizens. He argues that the Mishnah defines a slave by his position in the larger structure of society. What makes a slave can best be understood in relationship to other categories of people, most specifically the householder.[19] A similar argument can be made about the captive in the Mishnah. The complication in our texts is that the subject is both captive and female and so her status is compromised on two levels; that is, she is different from the

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[18] Judith Romney Wegner. Chattel or Person?: The Status of Women in the Mishnah. (New York: Oxford University Press, 1988) 10.
[19] Paul Virgil McCracken Flesher. Oxen, Women, Or Citizens?: Slaves in the System of the Mishnah. (Atlanta: Scholars Press, 1988) 1.

normative male based on her identity as a captive and a woman.[20] However, a great deal can be gleaned from viewing the female captive's status in the context of other women's status. Flesher argues that,

> ...[T]he key to understanding the slave's position in the classification system is comparison, specifically, comparison of the category of slave to equivalent categories. An equivalent category is one that constitutes a species in the same genus. The most important equivalent categories are those mentioned in the title: oxen, women, and citizens.[21]

Flesher writes the following in relationship to the freed slave:

> ... [T]he freedman constitutes a free Israelite who is limited by his past as a bondman." There are thus two sides to the freedman's description. On the one hand, the freedman belongs to the same category as other Israelites: an adult male freedman enters the Israelite category of householder, a freedwoman enters one of the classes of Israelite women, and the minor ex-slave enters the appropriate category of minors. From this perspective, then, the freedman is like a native, freeborn Israelite. On the other hand, within those categories, the freedman is set apart by a permanent after-effect of slavery."[22]

To what extent can this same argument be made about the captive? The rabbis' ideas, put forth in the texts that follow, consider the captive after she has been redeemed. While there is discussion of what may or may not have happened during her captivity, the issue of status is raised after she is out of captivity and living in normal society again. Even though she is free, she is still referred to as a *shvuyah*- a captive. She is permanently marked by her experience of captivity in terms of her status. Therefore, she is not completely free. She is still bound by the assumptions of what happens to a woman in captivity and she is assigned a specific category. Like the slave who has been freed, she is "set apart" due to a "permanent after-effect" of captivity.

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[20] The captive here is one who has been redeemed. Her status is in question after she comes out of captivity.
[21] Flesher 7.
[22] Ibid. 139.

Ketubah

The following two mishnayot position the female captive within the general category of "women" in a larger social structure. The immediate literary context provides the "equivalent categories" of women:

> M. Ketubot 1:2:
> A virgin- her ketubah is 200 (*zuz*), and the widow- a *maneh*. A virgin [who becomes] a widow, a divorcee, or one who has done *halitzah* while betrothed, their ketubah is 200 (*zuz*), and they can have a virginity claim [brought against them].[23] The female proselyte, the female captive, or the female slave who was redeemed, converted or freed, younger than three years and day old-their ketubah is 200 (*zuz*), and they can have a claim of virginity [filed against them].[24]

> M. Ketubot 1:4:
> A virgin [who becomes] a widow, divorcee, or one who does *halitzah* at [the time of consummation of] marriage-their ketubah is a *maneh* and they cannot have a virginity claim [brought against them]. A female proselyte, a female captive, or a female slave who was redeemed, converted or set free, older than three years and a day old- their ketubah is a *maneh*, and they cannot have a claim of virginity [filed against them].

Before looking at the content of the law in the Mishnah, I want to examine the category of captive in the context of the other six women mentioned. The Mishnah's concern is order. The rabbis created this text as a type of law code and the project of the Mishnah is to categorize people, places, and experiences. Women- their sexuality, bodies, and differences- provoke uneasiness in the rabbis because of their lack of knowledge about them. When it comes to women, the rabbis invest in these categories as a way to tend to the anxiety they have about the Other. These particular mishnayot look at women in terms of their relationship to sex and marriage and experiences that affect status. M. Ket. 1:2 and 1:4 discuss ketubah amounts and

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[23]A virginity claim is defined as follows: "The claim made by a man who married a woman under the assumption that she was a virgin and composed her marriage contract accordingly, but discovered when consummating the marriage that she was not a virgin. The husband may make this claim in order to reduce the financial obligation he accepted in the marriage contract, or his purpose may be to nullify the marriage as having been entered into under false premises." Adin Steinsaltz. The Talmud, The Steinsaltz Edition: A Reference Guide. (New York: Random House, 1989) 197-8.

[24] Translations of rabbinic texts are my own unless otherwise noted.

virginity claims pertaining to specific categories of women. The specifics of these legalities are important because they position the captive in a certain legal category that has financial bearing on her life and the life of her family. Marriage is a primary vehicle for maintaining or gaining social status, particularly for women.

The first issue at hand in these two mishnayot is the ketubah amount assigned to different women. The beginning of each mishnah references a virgin who becomes a widow, divorcee, or one who has done *halitzah*, distinguishing these virgins from "regular virgins" whose ketubah amount is set at 200 *zuz* without question. The second half of the mishnah mentions a female proselyte, captive, and slave, which are three other categories of women who have had an experience that places them well outside the realm of "normative" women. The standard ketubah rate is 200 *zuz* for a virgin, according to m. Ket. 1:2. In that mishnah, a woman's presumed status as a virgin allows this amount for her ketubah even after she becomes a widow, divorcee, or undergoes *halitzah* at betrothal. The other non-standard categories of women-the proselyte, the captive, and the slave are all in the same category, legally speaking, as the first specific group of "virgins" in that they too receive 200 *zuz* for their ketubah when freed under the age of three. In m. Ket. 1:4, the ketubah price is lower- a *maneh*- for all the women. The difference here is that the virgin becomes a widow, divorcee, or undergoes *halitzah* at the time of marriage and the proselyte, captive, and slave are freed after the age of three.

The issue for both groups of women is the timing of their change in status. The captive's status is affected by the age at which she is redeemed. Even within the category of captive, the woman's status can change , altering her (and her family's) financial opportunity.
In these mishnayot, the establishment of the captive's status is not an individual affair because it is directly affected by when she is taken captive and when she is redeemed. These are both

actions that do not place her as subject; she is not able to affect her own status. The captor(s) and the redeemer(s) are the groups that actually determine what her value will be in a marriage contract. The rabbis do seem to want to protect her "worth" by creating situations under which her family can claim the 200 *zuz* on her behalf, but that protection is limited.

The second distinction between the two mishnayot is the permissibility of the virginity claim. In m. Ket. 1:2, all of the women can have a claim concerning their virginity brought against them, while in 1:4 they cannot. This rule works like the ketubah amounts in that it applies equally to all the women in that mishnah. The same circumstances that set a woman's ketubah amount also establish whether or not her husband can bring such a claim. Like the issue of the ketubah amount, the way in which the rabbis apply the rule of the virginity claim shows the captive to be just one of several types of marginalized women who experience the same legal treatment. This reinforces her position as a non-normative entity in the rabbinic imagination at the same time that is places her in a group of women who are all assigned the same status with regard to marriageability.

Testimony

The issue of women's testimony is broad, but these texts focus on the captive:

M. Ketubot 2.5
The woman who said: "I was a married woman and now I am a divorced woman"- she is believed, because the mouth that forbids is the mouth that permits.[25] If there are witnesses that she was a married woman, and she says: "I am a divorced woman," she is not believed. [If] she said, "I was taken captive but I am clean"[26]- she is believed, because the mouth that forbids is the mouth that permits. If there are witnesses that she was taken captive, and she says: "I am clean"- she is not believed. If, after she is married [to a

[25] A halakhic concept that says if a person offers information that we would not otherwise have known, any consequences from the first part of that statement are canceled out.
[26] "I was a captive (among Gentiles) but I am pure." Translation from: Marcus Jastrow, A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature, (Brooklyn: Judaica Press, 2004) 1513.

priest][27], the witnesses came [to testify that she was taken captive]- behold she is not divorced.

M. Ketubot 2:6
Two women were taken captive, this one says: "I was taken captive but I am clean," and this [other] one says: "I was taken captive, but I am clean"- they are not believed. But when they give testimony for each other- behold they are believed.

The theme of these two mishnayot is the validity of a woman's testimony regarding her marital status or availability. Similar to the previous mishnayot, the discussion of the captive occurs in conjunction with other categories of women, both married and divorced. The mishnah answers the question of whether or not a woman's testimony on her own behalf will be acceptable. In m. Ket. 2:5, this testimony is acceptable in certain contexts, depending on what other information she offers. However, if there are witnesses, her testimony is not accepted. M. Ket. 2:6 allows for women to offer testimony on each other's behalf, but not on their own behalf. The mishnayot offer manifestations of the rabbinic principle that a person is *nogea b'dvar* when one testifies on one's own behalf. This notion is being brought to bear on the specific situation of female captives.

Wegner looks at texts about women's testimony in virginity suits. She cites m. Ket. 1:6-7 as examples of rabbinic acceptance of a women's testimony on her own behalf. About this, Wegner says, "In these cases the Mishnah' s framers permit a woman's testimony only because they cannot otherwise get at the truth. But the significant point is that all sages view the woman as intrinsically capable of giving truthful and intelligent testimony."[28] In the continuation of this argument, Wegner looks at m. Ket. 2:5-6 and demonstrates this same acceptance from the rabbis. She argues that the rabbis allow the woman's testimony in 2:5 because she is offering self-incriminating information which she could have kept to herself. When there are other witnesses,

[27] Pinhas Kehati. Mishna'ot. Jerusalem: Chemed Publishing, 2003. This is significant because priests are not allowed to marry certain women, including women who have had sexual intercourse in captivity.
[28] Wegner 122.

the rabbis assume she may be lying on her own behalf. In 2:6, the rabbis accept a woman's testimony on another woman's behalf because "in that instance the witness has nothing to gain for herself. Her testimony is seen as entirely altruistic, supporting another's claim; hence the sages accept it at face value."[29] Extending this argument further, these mishnayot show that even a female captive is capable of offering truthful testimony, according to the rabbis.

The next mishnah is also about a captive woman's testimony:

M. Eduyot 3:6
[A priest's wife who became] a captive [and was redeemed] can eat of the terumah[30]; [these are] the words of Rabbi Dosa. The sages say: There is a female captive who does eat the terumah, and one who does not eat it. How [does this work]? The woman who says: I was taken captive, but I am clean[31]- she does eat, because the mouth that forbids is the mouth that permits; If there are witnesses when she is taken captive, but she says: I am clean-she is not believed.

The rabbis apply the same principle to this situation that they applied to the woman in m. Ket. 2:5- the mouth that forbids is the mouth that permits. This mishnah adds a new dimension to the previous issues because the woman in question is the wife of a priest. The situation is more specific and possesses a certain amount of importance due to the woman's position as a priest's wife. While there are conditions under which the rabbis will accept her testimony, once her testimony is deemed valid the acceptance is complete. She is accorded the same status as she had before her captivity. As a priest's wife she ate terumah and as a redeemed captive she eats terumah- in this case, there is no "permanent after-effect" of captivity. As long as her testimony is accepted, her status is stable.

An aggadah in b. Ket. 23a offers one instance of the laws on testimony being applied:

There were some women captives who came to Nehardea. The father of Samuel appointed a guardian for them. Samuel said to his father, "Up until now who was their guardian?" His father replied, "If they were your daughters, would you treat them with

[29] Wegner 123.
[30] The wife of a priest who is captured and redeemed (Kehati)
[31] I did not have sex with a non-Jew (Kehati)

> disrespect?" The conversation was like "an error uttered by a ruler" (Eccl. 10:5).[32] and Samuel's daughters were taken captive and were taken to the land of Israel. They left their captors out of sight and went into the beit midrash of Rabbi Hanina. Each said, "I was taken captive, but I am pure." He declared them eligible to marry [priests]. Later, their captors came. Rabbi Hanina said, "They are obviously daughters of a scholar." It came out that they were the daughters of Samuel. R. Hanina said to R. Shemen bar Abba, "Go see to your kinswomen." He said to R. Hanina, "Are there witnesses [to their captivity] abroad?" [He said,] "They aren't here now."[33]

This is a story of women who seem to know the laws about the testimony of a captive woman. The text illustrates a case in which the women are able to make the system work in their favor, while questions remain. The reader does not know what the women's sexual status is and the text does not offer a clear answer. In an analysis of this text, Dvora Weisberg asks what the text means by "Go see to your kinswomen." She states: The commentaries assume R. Hanina is advising Shemen to marry one of the women. Shemen's response, 'Are there witnesses abroad' can be understood as a delicate suggestion that a delay in marriage might be desirable, indicating that Shemen is not convinced of his kinswomen's virtue."[34] Rabbi Hanina's reply does not offer an answer either. Hanina could be saying that the testimony of the captors is not relevant because they are not present. He could be saying that the women's testimony is enough and he believes them up front. On the other hand, Hanina might be saying that even if they are no longer virgins, there is no evidence to the contrary and, therefore, the women can be considered virgins in any marriage arrangements. The rabbis do not take an explicit stand on accepting a woman's testimony, leaving us with an unresolved tension between the mishnaic law and the narrative presented.

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[32] "The words that escaped the lips of Samuel had bad results." Isidore Epstein, ed. Soncino Hebrew/English Babylonian Talmud. Brooklyn: Soncino Press, 1990.
[33] Dvora Weisberg, "Desirable but Dangerous: Rabbis' Daughters in the Babylonian Talmud." HUCA 75 (2004): 152-3.
[34] Ibid. 153.

The next mishnah adds a challenge to this issue because a man's testimony is suspect. The topic on which his testimony is questioned, though, is the status of a woman:

> **M. Qiddushin 3:8**
> [The one who says] "I betrothed my daughter, I betrothed her and I accepted a *get* for her when she was a minor," and behold now she is a minor- he is believed. [If he says] "I betrothed her and I accepted a *get* for her when she was a minor," and behold now she is an adult-he is not believed. [If he says] "She was taken captive and I redeemed her," whether she is a minor or an adult-he is not believed. One who said at the time of his death: "I have sons"-he is believed; [the one who said] "I have brothers"- he is not believed. The one who betroths his daughter[35]- the one who is of age is not [taken into consideration] at all.[36]

This mishnah challenges the notion that it is specifically a woman's testimony that is a problem for the rabbis. A man's claim about her status is suspect as well. The text does not provide a clear reason as to why the man's testimony is not believed in the second situation, but the problem is lack of ability to prove beyond doubt that her status is as he says. The rabbis do not care for ambiguity and there is a chance that the man could be lying. There is no way to confirm it if she is already an adult because the betrothal and divorce could have taken place when she was already an adult. If she is still a minor, there is no room for doubt. In this instance, the rabbis are erring on the side of caution. While this mishnah demonstrates that a man's testimony can be as suspect as a woman's, it also emphasizes just how invested the rabbis are in the accurate determination of a woman's status.

Sexuality

The next texts under consideration are more explicitly about marginalized women's sexuality:

> **M. Ketubot 3.1**
> These are the minor women who [even though they are unfit for marriage] receive [money from] the fine [imposed on the man who raped them]:[37] The one who has sex

[35] Without specifying which daughter.
[36] Jacob Neusner. The Mishnah: A New Translation. (New Haven: Yale University Press, 1988) 494.
[37] Kehati.

with a *mamzeret*, a *n'tinah*, a *Kuti* woman:[38] the one who has sex with the female proselyte, the female captive, the female slave who have been redeemed, converted or freed, at an age that is less than three years and a day [and maintain their status as virgins][39]; The one who has sex with his sister, with his father's sister, with his mother's sister, with his wife's sister, with his brother's wife, with his father's brother's wife, with a woman in a state of ritual impurity - they have a fine; even though they are cut off from the community [the relatives mentioned above],[40] they are not [put to] death by the *beit din*.

M. Ketubot 3.2

These do not get [the money from] the fine [imposed on the man who raped them]: The one who has sex with a female proselyte, with a female captive, or a female slave who were ransomed and converted and freed, older than three years old and a day. Rabbi Yehudah says: A female captive- behold she is in a state of purity, even though she is grown.[41] The one who has sex with his daughter, his daughter's daughter, his son's daughter, his wife's daughter, his wife's son's daughter, his wife's daughter's daughter- they do not have a fine, because he is liable for the death penalty, that his life is in the hands of the beit din; and anyone who is liable for the death penalty does not have to pay money, as it is said: "(If) there is no calamity, the perpetrator will be punished."[42]

In these mishnayot, the captive appears alongside the "usual suspects," the proselyte and the slave. But the rabbis have now placed sex with a female captive in the same mishnah with three low-status women: a *mamzeret*, *n'tinah*, and *Kuti*. These mishnayot differ from m. Ket. 1:2 and 1:4 because the captive is positioned differently. In the earlier texts, the captive's status was considered alongside women with a more acceptable status (i.e. Israelite women who may have been divorced, widowed, etc.). Here, that is not the case. Sex with a *Kuti* woman is specifically undesirable to the rabbis. Simcha Fishbane analyzes rabbinic texts on *Kuti* women and the conclusions he draws shed light on the type of women the rabbis see themselves to be considering in m. Ket. 3:1 and 3:2. A *Kuti* woman, according to the rabbis, is of "doubtful

[38] A *mamzeret* is a child born of a forbidden union; a *n'tinah* is a descendant of Gibeonites, and a *Kuti* woman is from the Samaritan sect.
[39] As laid out in m. Ket. 1.2
[40] As stated in Leviticus 19 and 20 (Kehati).
[41] Retains her status as a virgin.
[42] Exodus 21.22

status" and "genealogically impaired" and, therefore cannot intermarry with Israelites.[43] The rabbis distrust Samaritans and do not believe that they follow the laws of ritual purity stringently.[44] Fishbane analyzes the position of the *Kutim* within a larger rubric of "deviancy." He defines deviancy as "any social behavior which departs from that regarded as 'normal' or socially acceptable within a society or social context."[45] Applying Fishbane's work to this analysis, the captive woman is spoken about in the same breath as deviants in rabbinic society.

The mishnayot talk about the behavior that would impose a fine on the man, which includes raping a former captive. At first glance, one may see sympathy for the girl in the rabbis' fine system; at least she is receiving some compensation for the injustice done to her by this man. Simultaneously, though, the text asserts the criminal nature of sex with a captive. Her body, even when taken by force, is a vehicle through which a man can experience punishment. The sexuality of the captive is marginal *and* dangerous, according to these mishnayot. Not only does the captive woman's imagined sexuality put her in an undesirable category, it could also lead a man down a path of trouble for which he will have to suffer a monetary consequence. The text conveys a message that this denigration of status affects her as well as others with whom she may be involved.

The other subject of 3:1 and 3:2 is the incestuous unions that also result in a fine. There is a disturbing symmetry in the language of the first and second halves of the mishnayot because it shows the conceptual closeness of these two subjects in the rabbinic mind. Even though the forbidden sexual relationships bring about a monetary punishment, they were also forbidden in the context of living a holy life in Leviticus 18 and 19. Throughout the Tanakh and rabbinic

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[43] Simcha Fishbane, Deviancy in Early Rabbinic Literature: A Collection of Socio-Anthropological Essays. (Leiden: Brill, 2007) 137.
[44] Ibid, 133.
[45] Ibid, ix.

texts, these are the most abominable sexual acts in which one can engage. They run completely counter to any notion of holiness. The rabbis do not seem to be making this strong of a statement about the captive woman, but it casts a dark shadow on the subject of her sexuality and status.

In 3:2, Rabbi Yehudah makes a statement that challenges most of the rabbinic assumptions we have seen in regards to the captive. He says that even though a girl may have been ransomed after she was 3 years and a day old, she is still regarded as a virgin. This minority voice challenges the majority statement that captivity must affect a girl's status from a young age, allowing her to maintain her status even as a redeemed captive.

A glaring issue running through many of these texts and in these mishnayot in particular is the way in which a captive woman's sexual status is treated. Captivity creates a power imbalance beyond the normal gender differential and that power most likely includes violence. When the rabbis speak about a woman who is "unclean" from her captivity, there is a good chance that her "uncleanness" arose from rape. While the rabbinic language is not as loaded as that, the rabbis do recognize that captive women are coerced into having sex with their captors.

The following Talmudic text also addresses captive women's sexuality:

B. Yevamot 35a

> For it was taught: Proselytes, captives, or slaves who are redeemed, or embraced the Jewish faith or were emancipated, must wait three months [before remarriage]; says R. Judah. R. Jose permits immediate betrothal and marriage. Rabbah said: What is R. Jose's reason? He is of the opinion that a woman who plays the harlot makes use of an absorbent in order to prevent conception. Said Abaye to him: This is intelligible in the case of a proselyte; as her intention is to embrace the Jewish faith she is careful in order to know the distinction between the seed that was sown in holiness and the seed that was sown in unholiness. It is also [intelligible in the case of] a captive and a slave; since on hearing from their masters they exercise care.[46]

Again, the captive's sexuality is discussed along with that of the proselyte and the slave. The rabbis are concerned about permitting a man to marry one of these women soon after their

[46] Epstein.

release from captivity due to their assumed sexual activity and concern for establishing the paternity of any child that may have been conceived.[47] Here the text labels them as harlots, women whose sexuality is a negative, unrestrained force. A direct correlation is made by the rabbis between harlotry and captivity, betraying a "blame the victim" mentality. Abaye's response also exposes an illogical assumption that a captive can control conception. While the Mishnah also understood a captive's status to be bound up in her sexual status, the above Gemara crystallizes that idea explicitly. Here too, though, there is a minority voice, which challenges the Gemara from within the text. Abaye offers reasons why the proselyte, the slave, and the captive would all use "contraception"- the captive because she would be "careful" if she had just received news that she would be liberated. Abaye does not understand the captive woman to be without any type of sexual control. Abaye's response suggests that a woman in captivity is not automatically understood to be "unclean," allowing her a less compromised status. This stance would allow a captive woman to enter the marriage process with fewer limitations.

The Status of her Status

All of the above texts portray a complicated picture of the relationship between captivity and status. One of the most important complications in this picture is the minority opinion. The minority opinions and complexities in all of these texts work to deconstruct the very text of which they are part. In his critical biblical scholarship, David Clines demonstrates how a deconstructionist reading of a text allows for its ambiguities and contradictions, showing that challenges to the text from within highlight the cracks in the coherence of an argument.[48] Using

[47] The Mishnah also imposes a three month waiting period on widows and divorcees to determine paternity.
[48] David Clines. "Deconstructing the Book of Job." The Bible as Rhetoric: Studies in Biblical Persuasion and Credibility. Ed. Martin Warner. (New York: Routledge, 1990) 65.

his ideas in this analysis gives power to the voices that speak against the majority while seeing the complications even within the majority opinion itself.

The inclusion of the minority opinion in the redacted text demonstrates a more nuanced view of women and their sexuality on the part of the rabbis than a simple reading of the majority opinion might indicate. While the Mishnah and Talmud may position the captive woman as being of lower status than other women, the texts do not establish simplistic guidelines for determining the status of the captive. Reading a minority voice after that of the *tanna kamma*, forces the reader to question the initial assumption immediately. Therefore, the impact of captivity on status remains unresolved. Yet the unresolved nature of the text and the multivocal quality of the rabbinic sources shows the Mishnah and Talmud leaving space for varied perspectives on the issue of captivity and status.

Chapter Three

Pidyon Shvuyim: Redemption of Captives

Pidyon Shvuyim is a post-biblical halakhic category, which appears throughout the Mishnah. As we saw earlier, the act of *pidyon shvuyim* is present in the Bible, but it is not framed as a mitzvah with a particular set of rules. One of the reasons that this becomes an important concept for the post-biblical Jewish community is the historical reality of the rabbinic period. Yvonne Friedman in "Charity Begins at Home?" provides a historical context for the subject:

> Postbiblical Jewish tradition, in Mishnaic and Talmudic times especially, marked the ransom of captives as a meritorious deed of charity, *charity par excellence*. After losing their sovereignty, the Jewish people could neither employ military force to prevent captivity nor exchange captives as part of a treaty between polities. But Jews were often caught in the middle of others' wars and were therefore in need of ransom."[49]

This mishnah deals with the funds for redeeming captives:

> M. Sheqalim 2:5 (partial):
> A surplus [of money] for captives is [for] captives. A surplus [of money] for a [single] captive is [for] that same captive.

This mishnah is concerned with what can be done with surplus money from the *sheqel* collection. The focus of the mishnah is not captives, *per se*, but leftover monies from public funds and offerings. The mishnah stipulates the appropriate use of such leftovers for several categories. There are slight variations in the construction of each stipulation, but the statement about money for the poor is exactly parallel to the situation for the captive: "A surplus [of money] for poor people is [for] poor people. A surplus [of money] for a [single] poor person is [for] a [single] poor person." The mishnah points out that the money cannot be used randomly- that people contributed to a fund with a certain understanding of where their money would be going and it

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[49]Yvonne Friedman, "Charity Begins at Home?: Ransoming Captives in Jewish, Christian and Muslim Tradition." Studia Hebraica 6 (2006): 55.

must remain within that general area (or specific area, as is the case with captives). In a sense, this is a mishnaic formulation of directed giving.

The next mishnaic text addresses captivity in the context of the captive's status as slave or free person:

> M. Gittin 4:4
> [If] a slave was taken captive and others redeemed him, if [he was redeemed] as a slave- he [continues] as a slave [for the one who redeemed him].[50] if [he was redeemed] as a free person- he is not a slave [for anyone].[51] Rabban Shimon ben Gamliel says: whether [he is a slave] or [he is free]- he [continues] as a slave. A slave whose master mortgaged him to others but [his original master] freed him- the letter of the law does not obligate the slave at all, but for the sake of *tikkun olam* they force his master to make him free, and he [the slave] writes a document for his price/value. Rabban Shimon ben Gamliel says: only he who frees him writes [the document].[52]

The issue here is a slave's status in a situation where he is captured and redeemed. The *tanna kamma* establishes that a slave maintains his previous status.[53] For R. Shimon ben Gamliel, his status depends upon who redeems him, which introduces the idea that the redeemer has a bearing on the process. Redemption of the captive is not only about the captive but also about the identity of the redeemer. The mishah also complicates the issue of captivity in general because this mishnah is about a slave who becomes a captive, so there are two layers of "freedom" to consider. The first is the freedom from captivity, while the second is freedom from being a slave. The primary identity of the subject here is "slave" while an additional, but temporary status is conferred upon him as "captive." Yet, the two identities are not mutually exclusive as the process of being taken captive and redeemed may affect his status as "slave."

B. Gittin 37b contains the Gemara on this mishnah which addresses the issue of status within the context of redemption. Initially, the Gemara has two main concerns. The first is

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[50] Kehati.
[51] Ibid.
[52] Neusner.
[53] The tanna kamma is the anonymous voice of the mishnah.

whether or not the captive was redeemed as a slave or as a free person. The second question is whether or not the original slave owner had given up hope of finding the slave before the slave was redeemed which would have made the slave public property. Abaye and Raba try to understand what type of situation the mishnah is dealing with. Abaye's argument is:

> The case indeed is one in which [the master] has not yet given up hopes. If then [he is ransomed] as a free man, he is no longer enslaved either to the first master or to the second; to the second, because he ransomed him as a free man, to the first because [if people know that he is to go back to slavery] perhaps they will refrain from ransoming him.[54]

Epstein state that this last statement is meant to indicate "that there is some merit in restoring slaves to freedom." This is one way in which captivity and the slave's status are connected.

The next piece of Gemara looks the statement of Gamliel in the mishnah: "whether [he is a slave] or [he is free]- he [continues] as a slave." The Gemara states that this was said "[since] he holds that, as it is a religious duty to ransom free men, so it is a religious duty to ransom slaves."[55] The Gemara again addresses status and redemption from captivity, but on a broader scale. As we saw earlier, the rabbis place a high value on redeeming captives and according to the Gemara's understanding of Gamliel's statement, it is important regardless of status. The Gemara proposes another reason for Gamliel's statement:

> ...[A]dopting in this the view [also] held by Hezekiah, who said: Why was it laid down that in either case he should go back to slavery? So that slaves should not go and throw themselves into the hands of robber bands and so liberate themselves from their masters.[56]

This reason demonstrates a possible irony embedded with the mishnah because, without Gamliel's statement, a slave could free himself through captivity if he is redeemed as a free person. The slave's status is such that he could actually find liberation through captivity.

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[54] Epstein.
[55] Ibid.
[56] Ibid.

A final issue raised by this Gemara deals with the slave's owner. In responding to Gamliel's statement, Raba said that the situation is one in which the original owner has given up hope of finding him and if he is ransomed as a slave by someone else, he is then enslaved to that person. Further on the Gemara asks the following:

> Now on the view of Raba that the case referred to is where [the owner] has given up hope and that the slave [if ransomed as a slave becomes enslaved] to the second master, [we have to ask], from whom does the second master acquire him? [You must say], From the brigands. Is the brigand his rightful owner? Yes, he was his owner in respect of his labor.[57]

In this case, even the determination of a slave's owner is bound up with his experience of captivity but his status here remains the same. He maintains his slave status even with respect to the captor- he is actually the captor's slave while in captivity. While someone may eventually redeem him, he will still be a slave- just with a new owner. The slave's status is not affected by captivity or release from it, but captivity can determine to whom he is enslaved. This Gemara is a strong example of the rabbis' concern with status coming to bear on the details of the act of redeeming captives.

The following mishnah outlines several key stipulations in the process of redeeming a captive:

> M. Gittin 4:6
> The one who sells his slave to a non-Jew or to [someone] outside the land of Israel-he [the slave] goes out a free person. There is no redeeming of captives for more than their value[58] for the sake of *tikkun olam*. And there is no assisting the captives to escape for the sake of *tikkun olam*. Rabban Shimon ben Gamliel says: for the ordinance of the captives. There is no buying scrolls, *tfilin*, or *mezuzot* from the non-Jews [worth] more than their value, for the sake of *tikkun olam*.

Like mishnayot analyzed in the previous chapter, the captives in this mishnah are spoken about immediately following the slave. There are two crucial points made in this mishnah: first, a

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[57] Epstein.
[58] Because if the non-Jews see Jews redeeming captives for me, they will increase the redemption price (Kehati).

captive can only be redeemed for a certain amount, namely the "market value" of that individual and second, captives should not be assisted to escape. In a footnote, Epstein remarks that the reason for the first is "so that the captors should not demand excessive ransoms" and the second "lest captors might put their captives in chains and otherwise maltreat them."[59]

On these two statutes, Ya'akov Blidstein in "The Redemption of Captives in Halakhic Tradition" writes:

> We have, therefore, the classical characteristics of a typical piece of halakhic-ethical legislation: (a) the denial of the right of the individual to utilize his power and his private resources as he wishes, so as to prevent broader public harm, and (b) a rejection of a positive act that bears within itself the prospect of future dangers graver than the positive value of the good deed at the present time.[60]

Blidstein brings up several issues, including the tension between the individual and the community. From a modern standpoint, it is unthinkable to prevent a person from using any and all her resources to free a loved one from captivity. Because of the structure of modern society, the collective does not normally get to tell an individual how to spend her money, especially in a case where there is someone in danger.[61] However, the mishnah is centuries away from this individualism and there is a larger concern for the Jewish minority among a non-Jewish, powerful majority. The captors are those from the latter group. Therefore, the mishnah wants to stem the possibility of a broader danger that could appear in the future should one individual be allowed to do whatever he/she wished. Blidstein sees even the Talmud as asking "whether the enactment restricts both the public and *the private individual*, since it creates a *policy* that does

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[59] Epstein.
[60] Ya'akov Blidstein, "The Redemption of Captives in Halakhic Tradition: Problems and Policy. Organizing Rescue: National Jewish Solidarity in the Modern Period. Eds. Selwyn Ilan Troen and Benjamin Pinkus. (London: Frank Cass, 1988) 23-4.
[61] There are instances in which the police will encourage a family not to pay the ransom to kidnappers.

not permit of transgression, or whether the enactment lays down a public standard only, while the private individual remains free to act as he see fit."[62]

On the piece of mishnah that states that one can only redeem a captive for his value, the Gemara asks "does this...relate to the burden which may be imposed on the community or to the possibility that the activities [of the bandits] may be stimulated?"[63] While Epstein and Blidstein see the answer as being the latter, the Talmud also considers the issue of financial burden. The Mishnah could be protecting the community against bankruptcy. However, even this option privileges the community over the individual. The rabbis of the Mishnah could be sanctioning the possibility that the community cannot come up with funds beyond the "value" of the captive. The Talmud also considers the other option - that there is a future danger imposed on the community if too high a ransom price is paid. After posing the question the Gemara brings another text to bear on this issue: "Levi b. Darga ransomed his daughter for thirteen thousand *dinari* of gold." This excessive payment suggests that an individual can still choose to pay a high ransom, despite the rabbinic concerns.

Two mishnayot from Ketubot connect the issues of marital obligation and redeeming a captive:

> M. Ketubot 4:8
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> [If a husband] did not write for [his wife in the ketubah]: "If you are captured, I will redeem you and bring you to me to [be my] wife"; or with the wife of a priest [he did not write]: "I will return you to your home town"- he is obligated[64], because it is the common practice.
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> M.Ketubot 4:9
>
> [If a man's wife] is captured- he is obligated to redeem her. And if he said: "Here is her get [and the money for] her ketubah, let her redeem herself- he is not permitted [to do so].

[62] Blidstein 24.
[63] Gittin 45a.
[64] He is obligated to do so anyway (Kehati).

[If] she is sick- he is obligated to get her medical attention. [But if] he says: "Here is her get [and the money for] her ketubah, let her heal herself- he is permitted [to do so].[65]

These two mishnayot demonstrate that redeeming a captive spouse is an inherent part of the marriage agreement. The ketubah is meant to be an explicit agreement about what each party is responsible for. However there are certain things considered "common practice," including a husband redeeming his wife from captivity. While this offers information on the expectations of a husband, it also provides a sense of the frequency of Jewish women being taken into captivity. Marriage is often spoken of as an economic arrangement (which it is) but 4:9 tells us that there is more to a marriage than that. A husband is obligated to redeem his wife- not just provide the funds. While this mishnah is explicitly about redemption of the captives it also provides information on the expectations of marriages.

An aggadic text in b. Gittin 45a challenges and complicates the notion of a husband's obligation to redeem his wife:

> The daughters of Rav Nahman used to stir the kettle with their bare hands. This was troubling to Rav Ilish. [He said to himself]: It is written, "I have found only one man among a thousand, and not a single woman have I found" (Eccl 7:28)- but what about the daughters of Rav Nahman!
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> It happened that the daughters of Rav Nahman were taken captive and Rav Ilish was taken captive with them. One day, Rav Ilish was sitting with a man who understood the language of birds. A raven came by and cried out. [Rav Ilish] said to [the man], "What is he saying?" He said, "Run Ilish, run Ilish." He said, "Ravens are liars and I will not listen to him." A dove came by and cried out. He said to him, "What is he saying?" He said, "Run Ilish, run Ilish." He said, "The community of Israel is compared to a dove; I infer from this that a miracle will be performed for me."
>
> Rav Ilish said to himself, "I will go check up on the daughters of Rav Nahman. If they remained faithful, I will take them with me." He said to himself, "Women discuss all of their affairs in the outhouse." He stood outside the outhouse and heard them saying, "These captors are our husbands just as the men of Nehardea were our husbands. Let us tell our captors to move away from here, so our husbands won't hear that we are here and come and rescue us." Rav Ilish and the man who understood the language of birds fled. A miracle was performed for Rav Ilish and he was able to cross the river and escape pursuit; they found the other man and killed him.

[65] In the case of a woman being sick.

When Rav Nahman's daughters returned to Nehardea, Rav Ilish said, "They stir the pot through witchcraft."[66]

Within the context of the surrounding Gemara, this aggadah could be here to make a statement about escaping captivity. Rav Ilish's escapes is a successful example of fleeing captivity without assistance, which is in accordance with m. Gittin 4:6.[67] However, as Dvora Weisberg points out in "Desirable but Dangerous: Rabbis' daughters in the Talmud," "if the redactors of the Bavli wanted to convey these messages, they did not need to tell the story of Rav Nahman's daughters."[68] The story, therefore, serves to make additional points. R. Ilish goes to see if the women have "retained their virtue" and that becomes a condition for him to bring them back. While the mishnayot thus far have placed a high priority upon redeeming captives, it is not unconditional in this text. And, of course, the captives here are women, which already confers upon them lower status and higher suspicion about their sexual activity. According to Weisberg, "we might read this story as an expression of rabbinic anxiety about resuming marital relations with a wife who has been a captive."[69]

Another issue is what the women say among themselves. First, it seems that for these women, husbands are interchangeable. Their husbands are objectified by the women's conversation in the way that women are often positioned as objects or property in much of rabbinic literature. This challenges the status quo in general. Secondly, they know the law that their husbands must come and redeem them and they do not want to be redeemed. The women are stating they do not want to be the object of redemption while their husbands act as the subjects. Instead, they plan to direct the captors to take them further away so that they do not

[66] Dvora Weisberg. "Desirable but Dangerous: Rabbis' Daughters in the Babylonian Talmud." HUCA 75 (2004): 149.
[67] Ibid 150.
[68] Ibid.
[69] Ibid.

have to return with their husbands. These women are knowledgeable about the law and demonstrate power in their ability to manipulate the situation.

On first glance, this seems be in conflict with the mishnah that says husbands must redeem their wives. However, this aggadah points out that the mishnah says nothing about the wife as a subject in the process. This piece of Talmud offers one possible way to fill in the silenced wife's voice. Another interesting thing is how captivity is transformed by the women's words. While captivity is usually framed as a negative experience, these women reframe it as liberation from one set of husbands. Of course, they will then be in relationship with the captors, and that may not mean liberation. But the women are not begging to be ransomed- they are trying to escape from the ransomers. This is a subversive commentary on the position of women in captivity as well as the mishnah's outlined male obligations.

Another mishnah explicitly connects gender and redemption from captivity:

M. Horayot 3:7

> The man takes precedence over the woman in the matter of the saving of life and in the matter of returning property. But a woman takes precedence over a man in the matter of [providing] clothing and redemption from captivity. When both of them are standing in danger of defilement, the man takes precedence over the woman.

While the statement on captivity is surrounded by situations in which the man takes precedence, on the issue at hand- redemption from captivity- a woman takes precedence. Perhaps the rabbis understood the dangers for a woman in captivity. If the woman in captivity were somebody's wife, her husband would be concerned for her sexual status and the likelihood of rape by her captors. The statement by the mishnah that women are to be redeemed connects to the marital obligations of a husband to his wife that were mentioned earlier. She also takes precedence in the provision of clothes. It is significant that the mishnaic law offers some protection to women even when there are men around to be concerned with. However, she takes a back seat on the

issues of life and defilement. Men get priority when it comes to life or death, lost property, and the possibility of defilement. Do these issues stand as more important because they are aligned with men? Or are they aligned with men because they are more important?

There is another attendant question to the issue of redeeming captives and that is what to do when there are multiple captives to be redeemed. The following mishnah responds to this question:

> M. Baba Metzia 2:11
>
> [If a person finds] his [own] lost object and his father's lost object - his [own] lost object precedes.[70] [If a person finds] his [own] lost object and his teacher's lost object- his [own] precedes; [If a person finds] his father's lost object and his teacher's lost object- that [belonging to] his teacher precedes, because his father brings him into this world, but his teacher for teaches him wisdom brings him to life in the world to come; but if his father is a sage- that [belonging to] his father precedes. [If] his father and his teacher were carrying burdens- he relieves his teacher [of the burden] and afterwards relieves his father. [If] his father and his teacher were in captivity- he redeems his teacher, and afterwards redeems his father; but if his father was a sage- he redeems his father and afterwards redeems his teacher.

This mishnah is another example of redeeming a captive being discussed not for its own sake as much as in service to a larger concept. The focus of the mishnah is lost objects and what to do with them. The piece here on captivity is structured in a parallel form to the ideas that come immediately before. The larger question here is the relationship between a person and his teacher and a person and his father. There is an interest in showing honor to both parties, but the mishnah needs to prioritize one over the other in these imagined situations. So, too, with captivity, the honor of the teacher is established as superior to the honor of a father, unless that father is also a sage.

To a modern reader, getting one's father or teacher out of captivity could seem a more pressing issue than returning lost objects. But the mishnah here is not concerned with the

[70] Jacob Neusner says in his translation that this is discussing whose object a person looks for first, but Kehati says the question is whose item a person declares first.

substance of captivity itself; instead, it uses this legal formulation to enrich the conversation on the father and teacher dilemma. That being said, this is a new type of relationship between captive and redeemer because the subject here is a younger person and the object of captivity is an older man. This demonstrates that captivity is a real issue (at least as "real" is deemed by the rabbis) for everyone in the community and many categories of people could have to face the issue of redeeming someone from captivity. While one might expect that a son would be obligated to first redeem his father, the text gives primacy to the student-teacher relationship by showing that the object of captivity is not necessarily parent or spouse- one has obligations to his teacher as well.

In b. Baba Batra 8b, the Talmud examines a key question to this study:

> Raba asked Rabbah b. Mari: Whence is derived the maxim of the Rabbis that the redemption of captives is a religious duty of great importance?- He replied: From the verse, And it shall come to pass when they say unto thee, Whither shall go forth, then thou shalt tell them, Thus saith the Lord, Such as are for death, to death, and such as are for the sword, to the sword, and such as are for famine, to the famine, and such as are for captivity, to captivity: and [commenting on this] R. Johanan said: Each punishment mentioned in this verse is more severe than the one before.
> Toward the end of this conversation the text states, "Captivity is harder than all, because it includes them all."[71]

This is a profound statement on the importance of the redemption of captives. In redeeming a captive, a community is saving an individual from the worst kind of existence. But it is not only an issue of the individual's experiences- "it includes the sufferings of all" is meant to say that the captors can do whatever they want with the captives.[72] Captivity has endless possibilities for cruelty. Besides seeing how redemption of the captives ranks among the commandments, this text begins to reveal the rabbis' understanding of the nature of captivity. As a captive, one has no agency as a person in general and as a Jew in particular. The captors of the rabbinic period

[71] Captivity includes death, the sword, and hunger.
[72] Epstein.

were non-Jews and even when living as "free" people (i.e. not as captives) Jews' abilities to make decisions for themselves without interference from the majority culture was not guaranteed. In captivity, this situation would be amplified. Most likely a captive Jew would not be able to be a practicing Jew, thereby stripping captives of the religious framework that structured their lives. A captive is a person without agency, unable to live as a subject because s/he is an object of their captors. This type of understanding of captivity would explain why redemption of captives is an imperative religious obligation.

A statement like this, declaring the importance of redeeming captives actually appears during a discussion of collecting *tzedakah*. Earlier in the sugya Abaye brings up R. Samuel b. Judah's ruling that *tzedakah* should not be collected from orphans even for the redemption of captives. Just a few statements later, Abaye repeats Rabbi's ruling declaring that from this ruling "we may conclude that the redemption of captives is a religious duty of great importance." While the Gemara will go on to see how Rabbi comes to this conclusion, it is clear this act is singled out because it possesses serious religious significance.

Another text that highlights the importance of redeeming captives is from b. Baba Batra 3b. The Gemara is talking about money that has been collected to be used for a synagogue and whether or not that money can be used to redeem captives should the need arise. The Gemara answers itself in the affirmative. If the synagogue has already begun to be built and the community needs money to redeem captives, the Talmud says that those materials can be sold and the money used for that purpose. We know from other parts of that Talmud that the rabbis are specific about how money that comes from the sale of synagogues, schools, etc. can be used.

That money is not always available for other uses.[73] However, here redemption of captives is an act worthy of such funds.

B. Gittin 52a also speaks to money use in relationship to captives. The context is what guardians can sell and buy on their ward's behalf. After listing specific items that can be sold, the Gemara offers a general rule that they can buy items to be used for religious obligation that has a defined scope (like *t'fillin*, a *mezuzah*, etc.). The text goes on to say that guardians cannot give *tzedakah*, redeem captives, or do anything not defined in scope, including comforting mourners. Upon first read, this could seem to be in conflict with the texts analyzed above. If redeeming captives is a critical obligation, why couldn't guardians engage in the act? However, the issue here has more to do with the limits and standards of a religious act. There is no specific definition or limit on redeeming captives in the same way there is a specific time and place for laying *t'filin*. Even within this prohibition, though, we can look at the context of the use of redeeming captives here. *Pidyon Shvuyim* is categorized with the giving of tzedakah and comforting the bereaved, two religious obligations of great importance. The local context of redeeming captives reveals the rabbinic understanding of *pidyon shuvyim* as a serious religious duty.

A final example of the use of money and obligation relevant to our study is found in b. Baba Kamma 117b:

> A certain man had a purse of money for the redemption of captives deposited with him. Being attacked by thieves he took it and gave it to them. He came before Rava who exempted him [from paying back the money]. Abaye said to [Rava]: Didn't he save himself with another person's money? [Rava] said to [Abaye]: You could not find [a case of] redeeming the captives greater than this.

This scenario is one in a series that investigates the issue of being robbed of something which is not necessarily yours. Many of the examples include situations in which attackers force a person

[73] See beginning of chapter four of tractate Megillah.

to give over something that belongs to his/her neighbor. There is a dispute over the specifics of responsibility- is the person who was robbed of something belonging to a neighbor obligated to something? In the text above, the man who was in possession of another's money did in fact use it for its intended purpose.

B. Ketubot 51b-52b addresses the issue of ransom as it relates to married women. The larger question here is what the laws of redemption are when a man's wife was actually in a category of women forbidden to him. This Gemara revisits a mishnah discussed above. M. Ketubot 4:8 states:

> [If a husband] did not write for [his wife in the ketubah]: "If you are captured, I will redeem you and bring you to me to [be my] wife"; or with the wife of a priest [he did not write]: "I will return you to your home town"- he is obligated[74], because it is the common practice.

The beginning of the Gemara gives the opinions of Abaye and Rava. Abaye states that a High Priest must redeem his wife who was a widow because the mishnah states "in the case of a priest's wife, I will restore you to your parental home." A High Priest cannot live with his wife after she has been taken captive so the clause "I will take you again as wife" is not written in her ketubah. He can, however, return her to her original home. If an Israelite is married to a *mamzeret* or a *n'tinah*, he does not need to redeem her because the mishnah states: "I will ransom you and take you again as my wife."[75] An Israelite is forbidden to marry a *mamzeret* or n'tinah so "take you again as my wife" cannot apply. Rava frames the issue differently. He says that if a woman becomes forbidden to her husband because of the captivity, he is obligated to redeem her. But if some other factor caused her to be forbidden, he is not under this obligation. Abaye and Rava are speaking about a situation in which a husband's obligation is in question because of the forbidden nature of his marriage. Abaye's concern is whether or not a

[74] He is obligated to do so anyway (Kehati).
[75] Instead, he would give her the ketubah money and she would redeem herself with it.

husband must ransom his wife if she was forbidden to him before he married her. Rava does not assume the problem exists before the woman is taken captive.

The Talmud continues to explore situations in which a husband may or may not have to ransom his wife. Again, a woman's classification or status will also affect the decisions. A baraita is brought that depicts the following situation: "A man made a vow [that his wife should not derive benefit from him][76] and she was taken captive. R. Eliezer says he [must] ransom her and give her ketubah. R. Joshua said: He must give her ketubah but not ransom her." The baraita and commentary continue with various rabbis questioning, challenging and responding to the issue. However, just in this first statement several factors are highlighted as important to the rabbis in deciding a husband's obligation. One is the content of the vow itself because the rabbis link ransoming with bestowing benefit. The second is the timing of the vow- whether it happens before or after she is taken captive. The final issue is her ketubah and whether or not that is also given to her. In the end, the Gemara says "they differ only in [the case where one] made a vow against either the wife of a priest or the wife of an Israelite, R. Eliezer being guided by the woman's original status while R. Joshua is guided by her subsequent status."

The Gemara on b. Ket. 52 b continues:

> Captives cannot be ransomed for more than their value for the sake of tikkun olam.[77] [This then implies] that they must be ransomed for their actual value even though the cost of a captive's ransom exceeds the amount of her ketubah. Has not, however, the contrary been taught: [If a woman] was taken captive, and a demand was made upon her husband for as much as ten times the amount of her ketubah he must ransom her the first time. Subsequently, however, he ransoms her only if he desires to do so but need not ransom her if he does not wish to do so. R. Simeon b. Gamaliel ruled: If the price of her ransom corresponded to the amount of her ketubah, he must ransom her; if not, he need not ransom her.[78]

[76] In this case he is obligated to divorce her (Rashi).
[77] Gittin 45a
[78] Epstein.

In this Gemara, the issue of status works in a specific way. Not only does captivity affect her status in terms of marriage (see Chapter 2) but her status affects whether or not she is redeemed from captivity. Before moving on to the specifics of the following commentary, there is an ideological contradiction in the text when compared to the other texts about redemption of the captives. In the texts we saw earlier , the rabbis emphasize the religious importance of redeeming captive. This Gemara qualifies that obligations in the case of a husband whose wife has been taken captive. Redemption of the captives is a gendered mitzvah whereby marginal women are in danger of not being ransomed. This is not unique among the mitzvot but there is a particular way in which status, obligation, and gender coincide to inform a communal and individual practice.

There is a difference, though, between the situation in the other rabbinic conversations on the topic and this one in Ketubot. Earlier we looked at a text that was talking about the community's responsibility toward captives in general. The situation was generic. This Gemara addresses a specific relationship- that of a husband and wife- as well as particular issues like vows, ketubah, and status. This difference helps to lessen the contradiction of the texts, but does not erase it. While the rabbis want to demonstrate the need to redeem captives, they cannot abandon the rest of the social norms which they have established in earlier texts. B. Ketubot 52a-b reminds the reader that there is a context in which the rabbis understand mitzvot and that includes redemption of captives.

The texts in this chapter looked at a multiplicity of factors that inform the position of the captive and the redeemer and guide the process of *pidyon shvuyim*. The attention which the rabbis give to the details of the issue demonstrates its importance for them, particularly because of their historical context. These texts continued to convey broad challenges (such as the

relationship between community and individual) through the specifics of establishing parameters for the redemption of captives. The texts in this chapter also incorporate some of the issues of captivity and status that we saw in the last chapter. Captivity affects a person's status while a person's status affects decisions concerning their redemption. Both sets of rabbinic sources considered captivity in a variety of relationships such as husband/wife, master/slave, and community/individual. While the realities of captivity were actually controlled by those in power (who were the ones actually taking captives), the rabbis work hard to create a system that responds to captivity- the system of redeeming captives- based on their existing values and priorities.

Conclusion

In this thesis, I sought to analyze texts on captivity from biblical and rabbinic sources. While the texts I looked at are diverse, I was able to draw several conclusions from each group of texts. In chapter one, the biblical texts addressed captivity in the context of war, distinguishing these texts from later ones. Deuteronomy 21:10-14 in particular presented a complicated biblical attitude toward captivity and the rules that govern it. There was a tension between the physical and emotional protection of the captive and affirming the position of the victorious, Israelite captor. The situation in which the Israelite is the captor instead of the captive (like the Jews in rabbinic sources) proved to be unique to the biblical context. In the analysis of texts in chapter two, we saw that the freed female captive acquired a different status due to her experience of captivity and the assumptions made about that experience. The impact of captivity on a woman's status is important because it affects her life and the life of her family, especially vis a vis the marriage process. The texts in chapter two show how the captive woman is not always treated as a full subject, continuing a trend seen in the biblical text. Finally, chapter three demonstrated the rabbinic position that redeeming captives is a high priority, but the community must also be a consideration when it comes to paying ransom. Gender continues to be an issue, specifically in relationship to marriage. Redeeming a captive wife is understood to be a part of the marriage contract and a husband's obligation.

Throughout the biblical and rabbinic sources, discussion of captivity is a site of contention where the rabbis need to consider different and sometimes opposing values. An experience of captivity implies a power differential between the captor and the captive. But the rabbis do not set up a clear binary between these two positions in terms of how power should function- they continually try to negotiate the relationship between captor and captive. In

situations between men and women or Jews and non-Jews, the texts convey a desire to maintain a normative social order while still offering some protection to the less powerful. An additional complicating factor is the community. In chapter three, some of the texts identify a specific third party who is obligated to redeem a specific captive (i.e. husbands). In situations of ransom, the rabbis considered the community as a third player in a captivity scenario. However, there was another entity that the rabbis dealt with in making their arguments- society. The rabbis were not free to make whatever claims they wished about captivity because they were working within a social system that provided both the context for their thinking as well as boundaries on behavior. This includes the historical social system in which they lived but also the imagined structure they created through the Mishnah and later in the Gemara. Their statements on specific issues were made on the basis of the imagined halakhic system and community they created. This was the influential backdrop of all the conversation on captivity. Many issues besides captivity present this type of tension in the rabbinic world, but the combination of issues which captivity brings forth highlights this struggle.

This thesis represents one attempt to bring together and draw meaning from texts that address captivity and its attendant issues. There are several possibilities for continuing this research in the future. The first strategy would be an analysis of other rabbinic sources on captivity. While I began to look at some of the midrashic texts, there is a body of sources from a variety of midrashic collections. The medieval commentators also have much to say on the subject- particularly in the Codes. One could explore themes that may persist through several centuries of rabbinic texts and identify what no longer concerns the later commentators. Looking at some of these texts would allow for a consideration of different historical and cultural contexts from which views on captivity are produced.

Another way to continue would be to compare the category of the captive to other, similar categories of people. An example of this would be a systematic analysis of the position of the *eved ivri*- Israelite slave. This would make for a reasonable comparison, because the *eved ivri* is within the community in that he is Jewish, but he has a compromised status in that community. Again, one could continue to raise questions of power, gender, and the relationship between the individual and the community.

Finally, one could study the implications of rabbinic texts for situations of captivity that we face today. This undertaking would need to be approached cautiously because the meaning of captivity for the rabbis is not the same as it is for the contemporary person. However, there are parallels. Prisoners of war have been and continue to be a part of modern history and could be understood as a category of captives. Hostage situations and kidnappings address the questions of ransom and the implications of paying ransom for families and nations. Like R. Nahman's daughters there are situations today when captives begin to identify with their captors.[79] This research would consider the messages of the classical texts studied in this paper and discern their relevance to today's situations. In some cases, the biblical and rabbinic sources may be able to provide insight into some of the complexities of the relationship between captive, captor, and community. While the differences may be vast, we may find meaning in a conversation between the early texts and the experiences of modern captivity.

This way in which power functions in rabbinic text is a broad and rich subject for continued exploration. The rabbis experienced their own powerlessness as part of a minority and often persecuted community at the same time that they set up a Jewish legal system in which they were the authoritative voice. The struggles and ambiguities in the texts are portals to

[79] Weisberg 148-152.

understanding rabbinic culture and values. There is also a historical context, which affected the creation and redaction of these texts that should be further pursued. Interacting at length with these texts provided an opportunity to engage with the rabbis on the issue of captivity and wrestle with its meanings and implications.

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