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Jack Flamholz Memorial Yom Iyun

Mushrooms and Lullabies: The Public/Private Divide in Rabbinic Sources

I. Philosophical Background

“Then, turning from the consideration of such hindrances to the study of philosophy, Heloise bade me observe what were the conditions of honourable wedlock. What possible concord could there be between scholars and domestics, between authors and cradles, between books or tablets and distaffs, between the stylus or the pen and the spindle? What man, intent on his religious or philosophical meditations, can possibly endure the whining of children, the lullabies of the nurse seeking to quiet them, or the noisy confusion of family life? Who can endure the continual untidiness of children?”

-Peter Abelard, *Historia Calamitatum*

“Let us consider men...as if but even now sprung out of the earth, and suddenly, like mushrooms, come to full maturity, without all kind of engagement to each other.”

-Thomas Hobbes, *De Cive*

II. Sha’’tz on a Fast Day

Mishnah Ta’anit 2:2	משנה תענית ב:ב
When they stand and pray, they are led by an elder who is fluent [in the prayers], has children, and whose house is empty, so that his heart will be full in prayer....	עמדו בתפלה, מורידין לפני התבה זקן ורגיל, ויש לו בנים, וביתו ריקם, כדי שיהא לבו שלם בתפלה....

Talmud Bavli, Ta’anit 16a	בבלי תענית, טז.
When they stand and pray, they are led by an elder... Our rabbis taught: When they stand and pray, even if there is a wise elder, they should only be led by someone who is fluent in the prayers. Who is fluent? Rabbi Yehudah says, “he cares [for children], and does not have enough, so he has to go to the work in the field, and his house is empty.	עמדו בתפלה מורידין לפני התיבה זקן כו': תנו רבנן: עמדו בתפלה אע"פ שיש שם זקן וחכם אין מורידין לפני התיבה אלא אדם הרגיל. (איזהו רגיל) ר' יהודה אומר מטופל ואין לו ויש לו יגיעה בשדה וביתו ריקם
And his youth is becoming, and he is humble, and loved by the people—and he knows melodies, and his voice is pleasant, and he is a knowledgeable reader of Torah and Prophets, and Writings, and Midrash and Halakhah.	ופרקו נאה, ושפל ברך, ומרוצה לעם—ויש לו נעימה וקולו ערב ובקי לקרות בתורה ובנביאים ובכתובים ולשנות במדרש בהלכות ובאגדות ובקי בכל הברכות כולן....

And he knows all of the blessings.	
He cares for children and does not have enough—Rav Hisda said: Someone whose house is empty from sin. And his youth is becoming—Abaye says, “That nothing bad was said about him in his childhood”	היינו מטופל ואין לו—היינו ביתו ריקם, אמר רב חסדא זהו שביתו ריקם מן העבירה: ופרקו נאה אמר אביי זה שלא יצא (לו) שם רע בילדותו

Talmud Yerushalmi, Demai 3:3	ירושלמי דמאי ג:ג
It was taught in a baraita: “He can swear into the chavurah, and his children and the children of his house may swear for him. But there is another baraita: “He and his children and the children of his house all swear into the chavurah.” There is no dispute: Here it is talking about a case where the children are under their father’s care, and there it is talking about a case where the children are not under their father's care.	תני הוא נענה לחבורה ובניו ובני ביתו נענין לו. אית תניי תני הוא ובניו ובני ביתו נענין לחבורה ולא פליג כאן בטפולין לאביהן וכאן כשאין טפולין לאביה

Talmud Yerushalmi, Ketubot 12:3	ירושלמי כתובות יב:ג
It is written, “Abandoned [freed] among the dead,” (Psalms 88:6), when a man dies he is made free from mitzvot. Rebi Tzvia [said] three things at the time when he was freed: “Do not move my widow from my house; do not mourn me in the cities, and the one who has cared for me in life will care for me when I die.”	כתיב במתים חפשי (תהילים פח) כיון שמת אדם נעשה חפשי מן המצות ר' ציוה שלשה דברים בשעת פטירתו אל תזוז אלמנתי מביתי ואל תספידוני בעיירות ומי שניטפל בי בחיי יטפל בי במותי

Talmud Bavli, Ta’anit 19a	בבלי תענית, יט.
Shimon Ben Shetach said you him, ‘Are you not Honi? I would have excommunicated you, but what can I do with you, you nag God like a son who nags his father, and his father does his will’	שלח לו שמעון בן שטח אלמלא חוני אתה גוזרני עליך נידוי אבל מה אעשה לך שאתה מתחטא לפני המקום ועושה לך רצונך כבן שהוא מתחטא על אביו ועושה לו רצונו:

III. Dayanut

Talmud Bavli, Sanhedrin 36b	בבלי סנהדרין, לו:
<p>We learn in a baraita: An elder, eunuch, or someone who does not have children cannot serve on a Sanhedrin. Rabbi Yehudah adds, even a wicked person. And the reverse is true for the collection of taxes, because the Torah says, “Show him no pity or compassion, and do not shield him.” (Deut. 9:13).</p>	<p>דתניא אין מושיבין בסנהדרין זקן וסריס ומי שאין לו בנים ר' יהודה מוסיף אף אכזרי וחילופיהן במסית דרחמנא אמר (דברים יג, ט) לא תחמול ולא תכסה עליו:</p>

Rashi, Ad loc.	רש"י, שם
<p>Elder—One who has already forgotten the pain of raising children and will not be merciful. And the same for a eunuch.</p>	<p>זקן - ששכח כבר צער גדול בנים ואינו רחמני וכן סריס:</p>

Bavli Shabbat, 89b	בבלי שבת, פט:
<p>Shmuel Bar Nachmani said that Rabbi Yonatan said, What does it mean when it is written, ‘Surely You are our Father: Though Abraham regard us not, And Israel recognize us not, You, O LORD, are our Father; From of old, Your name is “Our Redeemer.”’ In the future, God will say to Abraham, ‘Your children have sinned against me,’ And Abraham will say before him ‘Master of the universe, erase them, for the sanctification of your name.’ He [God] said, ‘I will say it to Jacob,’ because Jacob had the pain of raising children, and he may ask for mercy on their behalf. And God said to him, ‘Your children have sinned against me.’ And Jacob said ‘Master of the universe, erase them, for the sanctification of your name.’ And God said ‘Elders have no reason, and youths have no counsel.’ And God said to Isaac, ‘Your children have sinned against me.’ And Isaac said, ‘Master of the universe, are they my children and not yours?’ At the time that they</p>	<p>א"ר שמואל בר נחמני א"ר יונתן מ"ד (ישעיה סג, טז) כי אתה אבינו כי אברהם לא ידענו וישראל לא יכירו אתה ה' אבינו גואלנו מעולם שמך לעתיד לבא יאמר לו הקב"ה לאברהם בניך חטאו לי אמר לפניו רבש"ע ימחו על קדושת שמך אמר אימר ליה ליעקב דהוה ליה צער גידול בנים אפשר דבעי רחמי עלייהו אמר ליה בניך חטאו אמר לפניו רבש"ע ימחו על קדושת שמך אמר לא בסבי טעמא ולא בדרדקי עצה אמר לו ליצחק בניך חטאו לי אמר לפניו רבש"ע בני ולא בניך בשעה שהקדימו לפניך נעשה לנשמע קראת להם (שמות ד, כב) בני בכורי עכשיו בני ולא בניך</p>

put 'we will do,' before 'we will hear,' the verse was said about them, 'My first born son' (Exodus 4:22). Now, are they are my children and not yours?"	
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Bereshit Rabbah, Parashat Bereshit 20:6	בראשית רבה, פרשת בראשית כ:ו
<p>"Your travail," that is the pain of conception, "your childbearing," that is the pain of "pregnancy," "in sadness," this is the pain of <i>nefelim</i>, "you shall bear," "this is the pain of giving birth." "children," this is the pain of raising children. Rabbi Elazar said in the name of Rabbi Shimon, "it is better for a person to raise a grove of olive trees in the Galilee than to raise a single child in the land of Israel.</p>	<p>עצבונך זה צער של עיבור, והרונך זה צער העידוי, בעצב זה צער הנפלים, תלדי זה צער לידה, בנים זה צער גידול בנים, אמר ר' אלעזר בר' שמעון נוח לו לאדם לגדל ליגיון שלזיתים בגליל ולא לגדל תינוק אחד בארץ ישראל.</p>

IV. Edut

Talmud Bavli, Bava Kamma 88a	בבלי בבא קמא פח.
<p>Mar, son of Ravina, said: It is said in a verse 'Parents shall not be put to death for children... (Deut. 24:16). They shall not be put to death on the word of fathers who do not have a connection to children. You might have thought that when it says 'Parents shall not be put to death for children' referring to children as witnesses. But then the Torah should have written, 'Parents shall not be put to death for their children.' What does it mean that it says [only] children? We learn from this that they shall not be executed on the word of fathers who do not have a connection to children.</p>	<p>מר בריה דרבינא אמר קרא (דברים כד, טז) לא יומתו אבות על בנים לא יומתו על פי אבות שאין להם חייס בנים דאי ס"ד כדאמרין לא יומתו אבות על בנים בעדות בנים לכתוב רחמנא לא יומתו אבות על בניהם מאי בנים ש"מ דלא יומתו ע"פ אבות שאין להם חייס בנים</p>

Talmud Bavli, Ta'anit 24a	בבלי טענית, כד.
<p>He [Rav Ashi] said to him, 'Didn't you frequently sit in front of Rabbi Yosei from</p>	<p>א"ל ולאוקמיה דר' יוסי דמן יוקרת הוה שכיח מר א"ל (הין) א"ל ומ"ט שבקיה מר ואתא הכא אמר</p>

Yokrat?' He said to him, "Yes.' He said to him, 'And why did you leave there and come here?' He said to him, 'How can a man who has no mercy on his own son and daughter have mercy on me?'

ליה גברא דעל בריה ועל ברתיה לא חס עלי דידי
היכי חייס

III. An American "Situated Self"?:

Excerpts from Abigail Adams' letters to John Adams:

Do not put such unlimited power into the hands of the husbands. Remember all men would be tyrants if they could [...] that your sex are naturally tyrannical is a truth so thoroughly acknowledged as to admit of no dispute, but such of you as wish to be happy willingly give up the harsh title of master for the more tender and endearing one of friend. (March 31, 1775)

I have been led to think from a late Defection that he who neglects his duty to his Maker, may well be expected to be deficient and insincere in his duty towards the public. Even suppose Him [to] possess a large share of what is called honour and publick Spirit yet do not these Men by their bad Example, by a loose immoral conduct corrupt the Minds of youth, and vitiate the Morrals of the age, and thus injure the publick more than they can compensate by intrepidity, Generosity and Honour? (June 5, 1775)

I am more and more convinced that Man is a dangerous creature, and that power whether vested in many or a few is ever grasping, and like the grave cries give, give. The great fish swallow up the small, and he who is most strenuous for the Rights of the people, when vested with power, is as eager after the prerogatives of Government. You tell me of degrees of perfection to which Humane Nature is capable of arriving, and I believe it, but at the same time lament that our admiration should arise from the scarcity of the instances. (November 27, 1775)

"Justice O'Connor has often been cited as saying that a wise old man and wise old woman will reach the same conclusion in deciding cases. I am not so sure Justice O'Connor is the author of that line since Professor Resnik attributes that line to Supreme Court Justice Coyle. I am also not so sure that I agree with the statement. First, as Professor Martha Minnow has noted, there can never be a universal definition of wise. Second, I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn't lived that life."

-Justice Sonya Sotomayor, "A Latina Judge's Voice," (2002)