

THE PLIGHT OF AN AGUNAH

by Rebbetzin Leah Kohn

Dear Mrs. Kohn: Thank you for your article regarding the agunah. I was one for 9 months and many times during that period I was sure that I was going to remain so for the rest of my life. My ex-husband at the time sought, as many others, to obtain a very large sum of money from my parents to pay for my freedom. Resigned but not embittered by the prospect of a solitary life I continued to dedicate any free time I had to do which came most naturally to me, acts of chesed. During those nine months I did every chesed that came my way from arranging with a friend a hachnasat kallah to taking frail elderly strangers home with their groceries, to picking up traveling guests from the airport for my Rabbi's daughter's wedding, etc etc. I feel that in a very small way the Almighty gave me my freedom because I accepted His decision (regarding my future) and because I used His bracha, of being a person who loves to do chesed, and sought to help others rather than dwell in my predicament. I only hope that any agunah no matter her age or situation will rise above the natural anger that must overwhelm her and use whatever gift Hashem has granted her to give from herself and find solace in knowing she can help others, and maybe in some way she can too obtain Divine help.

Regards,
E.

To: lkohn@torah.org, genesis@torah.org Thank you for sending this most informative article (on agunah). It is very well written and covers important halachic details. Todah to Rabbi Breitowitz!
Elaine

Dear Mrs. Kohn: The problem of the agunah will be solved when the Orthodox realize that people are more important than rules. An interpretation of the Law that creates injustice and suffering is by definition in error. I cannot believe that it was God's intent to create such misery when the Torah was composed! Samuel

Dear Samuel,

Thank you for your email. By way of responding to your comments on agunah specifically, I feel the real issue here is a deeper one: ie that it seems you do not accept the authenticity of Oral tradition of the Torah.

To begin with, therefore, I would like to seek to clarify your position with regard to the following

- three beliefs: (1) A belief in the one true G-d of Israel.
(2) A belief in the Written tradition of the Torah (Torah shebichtav).
(3) A belief in the Oral tradition of the Torah (the Talmud etc. ie Torah sheba'al peh)

It seems you accept numbers 1) & 2), however, I see some inconsistencies in your line of reasoning with regard to these areas. Allow me to elaborate:

(1) A belief in the one true G-d of Israel. You state: "I cannot believe that it was God's intent to create such misery when the Torah was composed". Do you really think you can know G-d's intentions? Can you say for instance what His intentions were in allowing the Holocaust? G-d built misery into the human experience and its existence as well as purpose are often unknown to us. Granted, it is more difficult to accept the suffering of an agunah than it is to accept the suffering of a convicted murderer who is in prison, but my point is that if one accepts G-d's existence and His omnipotence, then there are certain situations that seem to us unreasonably miserable, but whose existence we must accept as part of our overall faith.

You state: "people are more important than rules". If G-d gave us the rules, and their purpose is for the benefit of all humanity, then individual people surely have to make themselves subservient to the 'rules'. Ultimately, in the End of Days the rules will also be seen to additionally benefit even those individuals whose welfare they may appear to compromise!

(2) A belief in the Written Torah: The Written Torah is incomplete and quite meaningless without the Oral tradition of the Torah. Consider, for example, the following: Deuteronomy 6:8 (part of the first paragraph of the Shema) - And you shall bind them for a sign upon your hand, and they shall be for 'frontlets' (using the common term of translation) between your eyes. Can anyone say what this is supposed to mean, without some sort of authoritative Oral interpretation?

In much the same way, with the subject of agunah, we need the Oral Torah to elaborate on what the Written Torah gives us. You are correct that the laws pertaining to agunah are not mentioned in the Written Torah; even the term agunah itself is nowhere mentioned. In addition, there is no amplification of any kind on the procedure for divorce. All that is, in fact, stated is: ". He shall write her a certificate of divorce and deliver it into her hand, then he must send her forth from his home" Deuteronomy 24:1. Without the Oral Torah, we would have no authoritative legal procedure regulating divorce.

Re. belief in the Oral Torah:

There are various aggadic & midrashic references in the Talmud to prospective converts who did not initially wish to accept the Oral tradition of the Torah. I will quote you two of them:

(i) A gentile came to Shammai and asked: "How many traditions of the Torah do you have?" to which Shammai replied: "Two: the written and the oral". Said the gentile: "I am prepared to accept the written tradition, but not the oral; accept me as a convert on the basis of the written tradition alone". Upon hearing this, Shammai rebuked the man and sent him away. The same gentile then came before Hillel,

with the identical request. Hillel started to teach him the aleph, bet (Hebrew alphabet). When they met to study the next day, Hillel continued to teach the aleph, bet, but this time he reversed the order of the letters. This caused his pupil some confusion. "Did you not teach me the reverse yesterday?" he asked. To which Hillel responded: "If you were prepared to trust me and rely on me to teach you correctly yesterday, why should today be any different". Hillel went on to explain the point of the exercise: If the man was to rely on him with regard to accepting from him the authenticity of the written tradition of the Torah, it would be inconsistent not to do likewise with regard to the oral. The gentile accepted this argument and became a righteous convert. (Shabbat 31a).

(ii) A certain gentile came to Rav and demanded that he teach him Torah. So Rav began: "Say aleph". To which the other replied: "How do you know that this is aleph? Perhaps it is not so?" The same thing happened with regard to the letter bet, until Rav lost patience with the man and sent him away. The gentile then found his way to Samuel, and the story repeated itself. This time, however, instead of driving the man away, Samuel grabbed his ear and pinched it. When the latter cried out: "My ear!", Samuel merely asked him: "Who told you that this is your ear"? The gentile responded "everyone knows it is my ear". To which Samuel responded "So too, everyone knows that this is aleph, and this is bet". The gentile conceded the point, and became a righteous convert. (Koheleth Rabbah, 7:19)

I propose that this can be understood as follows: When a baby is born into this world, how does he begin to develop? Only by deciding to accept certain basic and fundamental facts which we hear from our parents and those we come into contact with, as our 'starting point' in life. Samuel was therefore saying that if you believe that which others have told you in suggesting that this is your ear, you have no less reason to accept that which is known to all Jews, through the traditions of our fathers, that this is an is aleph, and this is bet.

On the issue of the agunah, specifically, if you will read the responsa of the great halachic authorities of the various generations, you will see that no effort was spared by these great Sages to find any legitimate means within the parameters of halacha to permit agunot to remarry. I would venture to add that it is precisely when human beings find themselves in 'painful situations' that their true conviction is put to the test.

Rabbi Moshe Yossef.

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