

RAPE

Biblical Roots Of The Long Leash On Men

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If a man is executed for rape, the cost side of his cost/benefit equation is his entire future reproductive success. Nevertheless, a propensity to rape when the chance of being punished is negligible would be naturally selected. Estimating the cost of rape can require extensive knowledge about a potential victim's family, prevailing laws, and the probability of getting caught. In the absence of relevant guidelines, decision thresholds for rape can only be reached at the extremes — i.e., when it is clearly safe, and when it is clearly too dangerous.

As is the case with so many of life's quandaries, the Holy Bible provides guidelines for rape. The ramifications of these rules were detailed by the Sages of the Talmud and codified by Maimonides. Unfortunately, biblical guidelines for rape, and the attitudes toward women which they entail, remain an important part of our cultural legacy.

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Animal Husbandry

The Good Book says that “a certain Levite” made the mistake of traveling alone through the land of the Benjaminites, another tribe of Israel, after retrieving a concubine who had run away. An old man gave them shelter, but things went badly (TANAKH: Judges 19:20-30):

“Rest easy,” said the old man. “Let me take care of all your needs. Do not on any account spend the night in the square.” And he took him into his house. He mixed fodder for the donkeys; then they bathed their feet and ate and drank.

While they were enjoying themselves, the men of the town, a depraved lot, had gathered about the house and were pounding on the door. They called to the aged owner of the house, “Bring out the man who has come into your house, so that we can be intimate with him.” The owner of the house went out and said to them, “Please, my friends, do not perpetrate this outrage. Look, here is my virgin daughter, and his concubine. Let me bring them out to you. Have your pleasure of them, do what you like with them; but don’t do that outrageous thing to this man.” But the men would not listen to him, so the man seized his concubine and pushed her out to them. They raped her and abuser her all night long until morning; and they let her go when dawn broke.

Toward morning the woman came back; and as it was growing light, she collapsed at the entrance of the man’s house where her husband was. When her husband arose in the morning, he opened the doors of the house and went out to continue his journey; and there was the woman, his concubine, lying at the entrance of the house, with her hands on the threshold. “Get up,” he said to her, “let us go.” But there was no reply. So the man placed her on the donkey and set out for home. When he came home, he picked up a knife, and took hold of his concubine and cut her up limb by limb into twelve parts. He sent them throughout the territory of Israel.¹

The protagonist in this story sent his concubine’s body parts across Israel to incite revenge against the Benjaminites for the offence that was committed against *him*. He could dispose of the woman who had been raped and murdered as he saw fit because she was too old to be under the authority of her father and she was no man’s wife, so she had no legal standing. The Levite is referred to as his concubine’s “husband” because he was providing for her, but she is not called his wife. Indeed, he was her husband in the sense now restricted to animal husbandry, but she was no more his wife than his cow would have been.

The practice of giving one’s concubine or daughter to men who wanted to homosexually rape one’s self or one’s male guests was established in Genesis by Lot, Abraham’s brother, as a venerable alternative (19:2-8):

"My lords, turn aside, I pray you, to your servant's house and spend the night, and wash your feet; then you may rise up early and go on your way." They said, "No; we will spend the night in the street." But he urged them strongly; so they turned aside to him and entered his house; and he made them a feast, and baked unleavened bread, and they ate. But before they lay down, the men of the city, the men of Sodom, both young and old, all the people to the last man, surrounded the

house; and they called to Lot, "Where are the men who came to you tonight? Bring them out to us, that we may know them [rape them]." Lot went out of the door to the men, shut the door after him, and said, "I beg you, my brothers, do not act so wickedly. Behold, I have two daughters who have not known man; let me bring them out to you, and do to them as you please; only do nothing to these men, for they have come under the shelter of my roof."²

Although sodomy of boys was generally agreed to be permissible,³ homosexual rape of adult men was an outrage in all cases and could not be compensated. Similarly, rape of an Israelite man's wife or fiancée required capital punishment (Deuteronomy 22:25-27):

... if in the open country a man meets a young woman who is betrothed, and the man seizes her and lies with her, then only the man who lay with her shall die. But to the young woman you shall do nothing; in the young woman there is no offence punishable by death, for this case is like that of a man attacking and murdering his neighbour;⁴ because he came upon her in the open country, and though the betrothed young woman cried for help there was no one to rescue her.⁵

In lieu of capital punishment, if a married or engaged Israelite man's certainty of paternity was not at stake, a deal could be struck between a rapist and his victim's male kin.

For You, Fifty Shekels

The Torah is comprised of the first five books of the Bible. The word *Torah* means *law*, and *The Torah* is *The Law*. Laws given in the Torah tend to be clear and blunt. They also tend to be either very general or very specific, such that application of general laws to specific cases requires interpretation, and application of specific laws to cases not specified requires derivation of a general law with subsequent interpretation.

This legal work is the subject and purpose of the Talmud, an encyclopaedic compendium of laws derived from the Torah by rabbis who are traditionally called The Sages. Most of the many laws that regulated the rape of Israelite women were derived from a single passage of the Torah (Deuteronomy 22:25-29): "If a man meets a virgin who is not betrothed, and seizes her and lies with her, and they are found, then the man who lay with her shall give to the father of the young woman fifty shekels of silver, and she shall be his wife."

Here we have an example of a law which is clear and blunt, but limited in application by its specificity. What if the victim did not want to marry her rapist? And would fifty shekels be enough to cover all cases? What if the rapist also beat his victim — should he pay more? What if the victim was not a virgin? What if she was unattractive or handicapped? What if she died subsequent to the rape but before going to court?

The possibility that rape would result in pregnancy was the central concern. What should be done if the victim was too young to be impregnated or was menstruating at the time of her rape? What if pregnancy was precluded because the victim was infertile, or because she was anally raped but not vaginally raped? What if she was anally raped by one man before being vaginally raped by another? And the other way around? Few stones were left unturned by the Sages of the Talmud.

The Coming Priesthood: Nice Work If You Can Get It

Unfortunately, those overturned stones are scattered across most of the Talmud's 63 tractates, or books, in no discernable order. Fortunately, however, they were compiled and organized in the 12th Century as part of a compendium that became a foundation for all Western legal systems — The Codes of Maimonides. The treatise on rape begins by defining a rapist and reiterating the rule given in the Torah (Maimonides 1195: 4:1:2):⁶ “Who is a violator? A violator has intercourse with the victim against her will ... he must be compelled to consent to marriage; he must consummate the marriage and pay the fine as well.”

Marrying one's rapist might seem like punishment, but most non-virgin women would have had great difficulty finding a husband. Not telling a fiancée about having been raped was out of the question, because if a woman did not bleed from a ruptured hymen on her wedding night, she risked being stoned to death (Deuteronomy 22:13-21), and spinsterhood was considered a fate analogous to death. Still, a rape victim or her father could refuse the marriage (*ibid.* 4:1:3): “If a violated woman refuses to marry her violator, or if her father refuses to give her in marriage to him, they may do so, and the violator may then pay the fine and go his way.”

There were, however, other circumstances which would preclude marriage (*ibid.* 4:1:5,11; clarification added in brackets, parentheses per original):

If the violated woman is forbidden to the violator — for instance, if she is his sister or aunt, or is menstruating [at the time of the rape], or the like — he may not marry her. Similarly, if after he has consummated the marriage, there is found a matter of unchastity concerning her, he must divorce her, for it is said, *and she shall be his wife* (Deuteronomy 22:29), meaning, if she is fit to be his wife.

And in a typical catch-22 twist of logic, priests were exempt from the marriage obligation (*ibid.* 4:1:6): “A priest who violates a virgin may not consummate the marriage, because he is commanded to marry a virgin, whereas this one is no longer a virgin at the time when he is about to marry her.” Concomitantly, if a non-priest Israelite's wife was raped, he could have a problem with certainty of paternity because she was still permitted to be his wife, but if a priest's wife was raped, she could no longer live with him (Talmud: Yebamoth 56b).

Conspicuous sexual privileges accorded to priests seem paradoxical in light of the fact that there were no Temple Priests during the time of the Sages. However, belief in the imminent reestablishment of the Temple was a palpable article of faith for these most eminent rabbis and it was clear that they would be top candidates as soon as that job market opened up.

Such A Deal

Marriage aside, details about the fine paid to a victim's father had to be ferreted out. Fifty shekels could have been a minor amount, depending upon the status of the rapist and the status of the victim's father. How should this be adjusted? Because the amount is stipulated in the Torah, it could not be changed, but it could be waived altogether (*ibid.* 4:1:9,15; italics per original):

The following are not entitled to the fine: a woman who is of age [because she should be married], a girl who has exercised her right of refusal [refused a marriage to which her father agreed], a barren woman, an imbecile, a deaf-mute

[the first because reproduction was not at issue, the latter two because neither could reliably testify to having been raped], a woman known since her childhood to be of ill repute [not a virgin when she should be], and a woman who, though divorced after marriage, is still in fact a virgin maiden [a virgin when she should not be] ... [and] if a man has intercourse with his victim, and she then dies, he is exempt from the fine, for it is said, *then the man that lay with her shall give unto the damsel's father fifty shekels* (Deuteronomy 22:29) — not “unto the dead damsel’s father” — provided that she dies before she appears in court.

... or variable fines could be added according to the circumstances (*ibid.* 4:2:1):

The fine of fifty silver shekels constitutes payment for the enjoyment of the intercourse alone. [The violator] must also pay, in addition to this fine prescribed by the Torah, compensation for the humiliation and the blemish. The violator must pay, in addition to all these, compensation for the pain, for a woman who submits to intercourse willingly suffers no pain, where as if she is violated she does suffer pain.

Maimonides often glossed over Talmudic discussions that were not considered politically correct by 12th Century standards. The issue of payment for pain during rape is an example. One of the most influential Sages, Rabbi Simeon, taught that “A violator does not pay compensation for the pain because the woman would ultimately have suffered the same pain from her husband” (Talmud: Kethuboth 39a-39b).⁷ This minority opinion notwithstanding, all agreed about the procedure for determining the size of supplementary awards (*ibid.*):

Compensation for the humiliation, for the blemish, and for the pain is not the same for all women, and requires assessment. How is compensation for the humiliation to be assessed? It all depends on the status of him who has inflicted the humiliation and of her who has been subjected to it, for there is no comparison between him who humiliates an esteemed maiden of distinguished family and him who humiliates a girl of poor and humble family. Nor is there any comparison between one who is humiliated by an important and eminent man and one who is humiliated by an ignoble and utterly worthless man. The judges must therefore consider the status of the man and of the girl involved, and assess the amount the girl's father and her family would have paid to prevent such a thing from happening to them at the hand of this man, who must then pay the equivalent of such a sum. Compensation for the blemish is assessed according to the girl's beauty. The judges must therefore consider her as if she were a bondswoman being sold in the market place, and must estimate her value as a non-virgin as against her value as a virgin ... The judges must thus determine the amount of her deterioration in value, and the offender must pay accordingly ... And if he violates an imbecile or a deaf-mute [with witnesses present] he must pay only for the pain [no deterioration in value being possible].

Compensation for the pain depends upon the tender age of the girl and the structure of her body, as well as upon the age of the offender and the structure of his body. The judges must thus estimate the amount the father would have paid to prevent his daughter from being hurt by this man, and the latter must pay this amount.

Still Crazy After All These Years

With regard to the social status of a rapist relative to his victim, the Talmud did not specify that sons of particularly “important and eminent” families could proceed, unfettered, to medical school, if their victim has been charged with ill repute ... but that would have been squarely within the spirit of the law. Of course, William Kennedy Smith might have walked even if his lawyers had not delved into the details of his victim’s personal history. Indeed, newspaper accounts of a more recent case from Wales suggests that soiling the victim’s reputation is not always necessary:⁸

A British Judge let a teenager who raped a classmate walk free, but ordered him to pay \$723 so she could take a holiday to get over the ordeal ... “It will give this girl the chance of a good holiday to help her get over the trauma,” he said ... Judge John Prosser, who put the youth under a three-year supervision order [parole], said he had come from a good home and locking him up would introduce him to “more bad habits.” ... The girl, a virgin when she was dragged from the school tennis court and raped after she refused to give her attacker a birthday kiss ... broke down when told the 15-year-old rapist had walked free from court. ... The judge jailed a burglar of the same age just an hour later.

Perhaps a hint of progress can be gleaned from the fact that Judge Prosser did not inquire about the possibility that the girl had been previously sodomized — a circumstance which would have lowered the fine under Talmudic law (Maimonides 1195: 4:2:8):

The violator is not liable to a fine unless he has intercourse with the girl in a normal manner ... If two men, A and B, have intercourse with the same girl, A in a natural manner and B unnaturally [specified as anal intercourse in the Talmud, Yebamoth 59b, note 17], the rule is as follows: If B was first, he must pay compensation for the humiliation and for the blemish; if he was last, he must pay only for the humiliation, inasmuch as the girl was already blemished. As for A, he must pay the fine and the other penalties, whether he was first or last, but the compensation for the humiliation and for the blemish is not the same for a woman who has never had intercourse before and for a woman who has been subjected to unnatural intercourse.

Shiksa Beware

A non-Jewish woman (a shiksa) could be raped by an Israelite man with impunity, as long as it was a hit-and-run operation. Prior to launching their campaign of extermination⁹ against the inhabitants of what was to become Israel, a *laissez faire* attitude toward keeping heathen sexual outlets for repeat performances was reported (from Numbers 31:1-35):

They warred against Midian, as the LORD commanded Moses, and slew every male ... And the people of Israel took captive the women of Midian and their little ones ... Then they brought the captives and the booty and the spoil to Moses [3 to 4 day march] ... And Moses was angry with the officers of the army, the commanders of thousands and the commanders of hundreds, who had come from service in the war. Moses said to them, "Have you let all the women live? ... now kill every male among the little ones [children], and kill every woman who has known man by lying with him. But all the young girls who have not known man by lying with him, keep alive for yourselves ... Now the booty remaining of the spoil that the men of war took was ... thirty-two thousand persons in all, women who had not known man by lying with him.

“Keep alive for yourselves” did not mean invitations to tea with manna, and the sudden influx of 32,000 non-Jewish virgins, whether exaggerated or real, threatened internal cohesion. Accordingly, laws were established to curtail the threat posed by Israelite soldiers’ propensity to keep some victims alive (Deuteronomy 21:10-14):

When you go forth to war against your enemies, and the LORD your God gives them into your hands, and you take them captive, and see among the captives a beautiful woman, and you have desire for her and would take her for yourself as wife, then you shall bring her home to your house, and she shall shave her head and pare her nails. And she shall put off her captive's garb, and shall remain in your house and bewail her father and her mother a full month; after that you may go in to her, and be her husband, and she shall be your wife. Then, if you have no delight in her, you shall let her go where she will.

Many details needed to be clarified — how many times could she be raped before marriage? When and where could this raping be done? What about special dispensation for priests? And, most important, if marriage was in the cards, what about making the victim Jewish? Once again, the Sages did their work and Maimonides put it all together (1195a: 5:8:2,3): “A soldier in the invading army may, if overpowered by passion, cohabit with a captive woman ... [but] he is forbidden to cohabit with her a second time before he marries her ... Coition with her is permitted only at the time when she is taken captive ... he must not force her in the open field of battle ... that is, he shall take her to a private place and cohabit with her.”

There were, of course, good logistical reasons why a soldier should not disrupt ongoing pillage and murder in order to rape, but the admonition against raping more than once seems uncharacteristically stringent. Rashi, writing about 1095 CE, addressed this point prior to Maimonides by adding the following comment to the relevant passage in the Talmud (Kiddushin 22a): "Nevertheless one is able to bridle his desire in the knowledge that he will be able to satisfy it at home." And again, priests were able to have their cake and eat it too (Maimonides

1195a: 5:8:4): “A priest is permitted to have relations with a captive woman once, for permission to have relations with a captive woman is a concession to man's evil impulse; but he is not permitted to marry her, because she is a proselyte.”

The contradiction inherent to being an involuntary “proselyte” compounded the degradation of non-Jewish victims of physical rape and kidnap by adding philosophical rape (ibid: 5:8:5-7,9):

If after the first coition, while she is still a heathen, she expresses her willingness to accept Judaism, arrangements are forthwith made for her ablution for the purpose of conversion. If she is unwilling to accept the Jewish religion, she remains in his house thirty days, as it is said: She shall bewail her father and her mother a full month (Deuteronomy 21:13). She weeps also for her religion and he may not stop her ... He puts up with her, in the hope that she might accept Judaism. If she does, and he desires to marry her, she is converted and takes a ritual bath ... If after the marriage [after resuming sexual intercourse] he no longer cares for her, he lets her go where she pleases.

If she refuses to be converted, she is put up with for twelve months ... A captive woman who refuses, after the lapse of twelve months, to renounce idolatry, is put to death.

Shaygetz Beware

Fifty-shekels-and-we're-off was not available to a Shaygetz (male analogue to a shiksa) regardless of honorable intentions (Genesis 34:1-29):

Now Dinah the daughter of Leah, whom she bare unto Jacob [a.k.a. Israel], went out to see the women of the land. And when Shechem the son of Hamor the Hivite, prince of the country, saw her, he took her, and lay with her, and defiled her. And his soul was drawn to Dinah the daughter of Jacob; he loved the maiden and spoke tenderly to her. So Shechem spoke to his father Hamor, saying, "Get me this maiden for my wife."

Now Jacob heard that he had defiled his daughter Dinah; but his sons were with his cattle in the field, so Jacob held his peace until they came. And Hamor the father of Shechem went out to Jacob to speak with him. The sons of Jacob came in from the field when they heard of it; and the men were indignant and very angry, because he had wrought folly in Israel by lying with Jacob's daughter, for such a thing ought not to be done. But Hamor spoke with them, saying, "The soul of my son Shechem longs for your daughter; I pray you, give her to him in marriage.

“Make marriages with us; give your daughters to us, and take our daughters for yourselves. You shall dwell with us; and the land shall be open to you; dwell and trade in it, and get property in it." Shechem also said to her father and to her brothers, "Let me find favor in your eyes, and whatever you say to me I will give. Ask of me ever so much as marriage present and gift, and I will give according as you say to me; only give me the maiden to be my wife."

The sons of Jacob answered Shechem and his father Hamor deceitfully, because he had defiled their sister Dinah. They said to them, "We cannot do this thing, to give our sister to one who is uncircumcised, for that would be a disgrace to us. Only on this condition will we consent to you: that you will become as we are and every male of you be circumcised. Then we will give our daughters to you, and we will take your daughters to ourselves, and we will dwell with you and become one people. But if you will not listen to us and be circumcised, then we will take our daughter, and we will be gone."

Their words pleased Hamor and Hamor's son Shechem. And the young man did not delay to do the thing, because he had delight in Jacob's daughter. Now he was the most honored of all his family. So Hamor and his son Shechem came to the gate of their city and spoke to the men of their city, saying, "These men are friendly with us; let them dwell in the land and trade in it, for behold, the land is large enough for them; let us take their daughters in marriage, and let us give them our daughters.

Only on this condition will the men agree to dwell with us, to become one people: that every male among us be circumcised as they are circumcised ... and every male was circumcised. On the third day, when they were sore, two of the sons of Jacob, Simeon and Levi, Dinah's brothers [heads of two of the twelve tribes of Israel ... each tribe having its own retinue of warrior-herdsmen], took their swords and came upon the city unawares, and killed all the males.

They slew Hamor and his son Shechem with the sword, and took Dinah out of Shechem's house, and went away. And the sons of Jacob [all twelve tribes] came upon the slain, and plundered the city, because their sister had been defiled; they took their flocks and their herds, their asses, and whatever was in the city and in the field; all their wealth, all their little ones and their wives, all that was in the houses, they captured and made their prey.

Thus began a glorification of endogamy, unlimited imperialism, an ideology of genocide, and patterns of deceit which became modus operandi of both ancient and modern Zionism¹⁰ (Lilienthal 1982; Chomsky 1983; Segev 1986; Said and Hitchens 1988; Schoenman 1988; Ostrovsky and Hoy 1990; Findley 1993; MacDonald 1994; Shahak 1994; Born 1995; Hartung 1995).

Natural ≠ Good

Biblical and talmudic rules for rape were designed to maximize the cost of raping a co-religionist's wife, optimize the reproductive efficacy of raping a co-religionist's unmarried daughter, dismiss rape that only offended the victim or could not lead to reproduction, and minimize the cost while maximizing the benefit of raping non-co-religionists. All of these rules require the assumption that men will engage in rape when costs, including artificially imposed costs, are lower than benefits. In this regard, the assumptions of the Sages are in agreement with evidence presented by Thornhill and Thornhill (1992) that rape lies at one end of a continuum of naturally selected male sexual strategies — as distinct from being a non-sexual, psychopathological manifestation of improper socialization.

It may be that the authors of the Bible and the Sages of the Talmud were socialized in a manner that caused them to make untoward assumptions about men — such that the rules they formulated would only be relevant in societies which socialize men to behave according to those assumptions. It could also be the case that Thornhill and Thornhill were coincidentally socialized in a manner which caused them to entertain analogous assumptions about the nature of men and rape — or perhaps they spent their formative years studying the Torah and the Talmud and derived their perspective, not from the vast body of empirical evidence which they have presented, but from the Sages themselves.

Alternatively, the Sages and the Thornhills independently derived fundamental and valid realizations about the default program for rape that men should be expected to follow in the absence of effective social and legal efforts to the contrary. If so, the most important difference between the Thornhills and the Sages is that the Thornhills have the stated objective of gaining insights that might facilitate the reduction of rape, while the Sages had the objective of regulating rape in a manner that would most benefit men in the society that paid them to think about such things, and to which their own inclusive fitness was intimately tied.

Wrong ≠ Evil

On occasion, rapists miscalculate their probability of getting caught:

The medic, whose name was withheld for security reasons, testified on the opening day of a hearing to determine whether five U.S. Soldiers should face trial over the crime that took place in March 12 this year involving the rape and murder of Abeer Qassim al-Janabi and the killing of her parents and sister in Mahmoudiya. The girl's mother, the medic said, was lying dead on the floor with bullet wounds in her chest and abdomen. In another room, Abeer's father was seen in a pool of blood. "The brain was on the floor and parts of the head were all over the place," the medic said.

Next to the body of the father, lay the dead child about six years old. The medic said that it appeared as if a bullet had "entered the front of her face and out the back of her head." On the floor of the living room, laid the body of the raped and murdered teenage girl, Abeer, with her legs spread, her clothes torn off, and her body burned from her head till her waist. The medic also said that the girl had a gun shot under her left eye.¹¹



Iraqi ID card issued in 1993 to Abeer Qassim al-Janabi.

And sometimes, after a plea-bargain to avoid the death penalty, they confess without feeling that they have done something wrong:

One of four U.S. soldiers accused of raping a 14-year-old Iraqi girl last spring showed little remorse and even smiled during a confession to charges he conspired to kill her and her family.

Even before the hearing Wednesday to announce a plea agreement, Spc. James P. Barker, 23, slapped hands with other soldiers and grinned as he smoked a cigarette in the rain. A bailiff scolded him. And when he described for the judge the assault in his own words, he gave vivid details of the rape with a deadpan delivery.

"That's pretty much all I have to say," Barker muttered with a shrug after describing raping the screaming girl.

Barker agreed to plead guilty to the charges to avoid the death penalty, his civilian attorney David Sheldon said. The agreement requires him to testify against three other soldiers and a former Army private also accused in the March 12 attack in Mahmoudiya, 20 miles (30 kilometers) south of Baghdad.¹²

Regardless of its ontogeny or etiology, rape is wrong, but rape is not evil in and of itself. There is a difference between what is wrong and what is evil. Evil is committed when clarity is taken away from what is clearly wrong, allowing wrong to be seen as less wrong, excusable, right, or an obligatory commandment of the Lord God Almighty.

Evil is bad sold as good, wrong sold as right, injustice sold as justice. Like the coat of a virus, a thin veil of right can disguise enormous wrong and confer an ability to infect others. Evil is committed when wrongness is taken away from rape. The same goes for lying, theft, murder and genocide. If all of us condemn James P. Barker for raping Abeer Qassim al-Janabi prior to the murder of his victim and her family by another soldier,¹³ why do so many of us revere Biblical characters when they commit the same crimes?

We cannot combat evil and simultaneously give it sanctuary. We should not give evil a place to hide — not in the Bible, not in the tortuous discourse of the Talmud, not in the propaganda of people who disguise an assumption of divine privilege behind a presumption of bequeathed victimhood, not in the blather of people who imagine that they will bring heaven to earth if they support those claims, and not in the fatuous speech of politicians who pander to those people.

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NOTES

1. The empirical veracity of biblical stories, or of any story told in earnest, is independent of the messages, both implicit and explicit, that they convey. Throughout this essay, those messages are considered valid information.
2. Unless indicated otherwise, biblical quotations are from the Revised Standard Version — see *Bible, The Holy* in REFERENCES.
3. Rabbi Samuel dissented on this ruling. After losing the argument that sodomy of boys should be punished unless the victim is under 3 years of age, he argued that sodomy of boys falls under the general prohibition against homosexual intercourse and was thereby not permissible in any case. After a brief discussion, it was decided that sodomy of boys under 9 years of age was not liable to punishment (Talmud, Sanhedrin 54b — see note 7):

Our Rabbis taught: In the case of a male child, a young one is not regarded as on a par with an old one; but a young beast is treated as an old one [i.e, bestiality was punished regardless of the age of the beast]. What is meant by this? — Rab said: Pederasty with a child below nine years of age is not deemed as pederasty with a child above that. Samuel said: Pederasty with a child below three years is not treated as with a child above that. What is the basis of their dispute? — Rab maintains that only he who is able to engage in sexual intercourse, may, as the passive subject of pederasty throw guilt upon the active offender; whilst he who is unable to engage in sexual intercourse cannot be a passive subject of pederasty in that respect [boys were considered sexually mature at age 9]. But Samuel maintains: Scripture writes, *And thou shalt not lie with mankind as with the lyings of a woman* [Leviticus 18:22].

It has been taught in accordance with Rab: Pederasty at the age of nine years and a day; he who commits bestiality, whether naturally or unnaturally [anally]; or a woman who causes herself to be bestially abused, whether naturally or unnaturally, is liable to punishment .

4. As with all biblical prescriptives towards one's neighbor, like "love thy neighbor as thy self" (Leviticus 19:18), "neighbor" meant Israelite neighbor (Hartung 1995).
5. If their intercourse occurred in a city the woman was also stoned to death, because she was presumed to have not called for help, which implied that she was "playing the harlot" (Deuteronomy 22:20-21, 23-24,).
6. Citations to Maimonides (see REFERENCES) are given by Treatise, Chapter and Section.

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7. References to the Talmud are given by Tractate and Folio number. All quotations are from the Soncino Press translation — see *Babylonian Talmud, The* in REFERENCES.
 8. Newsday 2/8/93, 2/9/93; Daily Express 2/8/93, 2/11/93; The Mail on Sunday 2/7/93.
 9. For examples of the commandment to commit genocide and boasts of having done so, see: Numbers 21:2-3; 21:34-35; 24:8; 24:19-20; Deuteronomy 2:34; 3:2-6; 3:21; 7:1-2; 7:16; 7:23-24; 9:3; 11:24-25; 20:16-17; 31:3-5; 33:27; Joshua 2:10; 6:21; 8:2; 8:24-26; 10:1; 10:28; 10:35; 10:37; 10:39-40; 11:11-14; 11:20-21; Judges 1:17; 3:29; First Samuel 15:3; 15:8; 15:15; 15:18; 15:20; First Chronicles 4:41 (any major translation). See also Love Thy Neighbor (Hartung, 1995).
 10. It should be kept in mind that Christianity is a form of Judaism and that the majority of contemporary Zionists are Christians (Epstein 1984; Simon 1984; Haddad and Wagner 1986; Halsell 1986).
 11. http://www.aljazeera.com/cgi-bin/review/article_full_story.asp?service_ID=12397
 12. Associated Press, November 17, 2006 [http://web.lexisnexis.com/universe/document?_m=aba4f7001f781c8af0777719ae0e1cb4&docnum=1&wchp=dGLbVzWzSkVb&_md5=00118eca6c76b3b3f068d39137998e80]
 13. According to the New York Times (11/17/06), Abeer and her family were murdered by Steven D. Green, who did not rape Abeer. But according to BBC News [2/22/07] (<http://news.bbc.co.uk/go/pr/fr/-/2hi/americas/6384781.stm>), confessed rapist Paul Cortez testified that after murdering Abeer's family, "Green then placed himself between Abeer's legs to rape her. When Green was finished, he stood up and shot Abeer in the head two or three times." My guess is that both accounts are correct — that Green did not rape Abeer in the biological sense of penile insertion, but by placing himself in a position to do so, even in the absence of having an erect penis, he raped her legally. That Abeer would be killed by a soldier who did not rape her makes sense in terms of sperm competition as shaped by natural selection (see Shackelford, T. K. & Pound, N. in REFERENCES), but sexual frustration may have been his proximate motivation.

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