

I saw the movie *RBG* last night, and it reminded me of how different the landscape was for women only 50 years ago, and how far we've come, in large part thanks to the efforts of jurists like Ruth Bader Ginsburg. In the 1970s, she argued cases dramatically changed the discourse and legal reality of women's rights. Prior to her efforts, it was legal to give women and men different benefits for the same jobs. It was policy for women to receive social security benefits after their husbands died, but not vice versa. States could bar women from serving on juries. Women could be fired for being pregnant in many states. Can by case, by slow progress, those norms and laws were changed.

It is perhaps with that in mind that I read the double Torah portion Mattot-Mase'ei this week. Mase'ei is the last Parasha of the book of the Numbers, naming every step of the journey from slavery in Egypt through the wilderness to arriving at the border of the promised land. Mattot opens Chapter 30 of the book of Numbers describing how binding vows are.

When a man swears an oath either of action or abstention, it goes into effect and is binding immediately. Rabbi Jonathan Sacks, former chief rabbi of the UK, writes about the importance of these oaths, and particularly why these laws fall here at the end of the Book of Numbers: "The Israelites were nearing the land. They were about to construct a society unlike any other. It was to be a free society based on a covenant between the people and God. The rule of law was to be secured not by the use of force but by people honouring their moral commitments, their voluntary undertaking to God that what He commanded, they would do.

A covenantal society is one in which words are holy, sacrosanct. This is the principle at the heart of Judaism as a code of collective freedom, a constitution of liberty."

That is beautiful, but there is a problem. Matot goes on by saying, when a woman swears either kind of vow while still living in her father's household, and her father hears of it and offers no objection, then the vows shall stand. If, however, the father holds her back on the day he finds out, then Hashem will forgive her."

Further, Torah offers the same option to a grown woman's husband: when he hears of a vow – if he does nothing, the vow stands, but he can make a declaration of nullification, and then she will not be beholden. If the vows of our mouths are the expression of the unique covenant, as Rabbi Sacks, suggests, by what right should a husband or father interfere with that expression?

Professor Yosi Fleischman of Bar Ilan university offers this apologetic, he notes that, presumably unlike other ancient societies, the Torah allows women to make vows, and that the supervising men in their lives have only one day to object and nullify the vows. He writes: "From the fact that the Torah does not prevent women from making vows and does not require them to obtain advance permission or give advance notification, we may conclude that the Torah wished to enable women to stand before G-d in any place whatsoever, just as men, and make their vows without intermediaries and without witnesses. Thus it appears that the authority given fathers and husbands to annul vows was intended not to deprive women of the right to make vows, but to provide supervision in circumstances that warranted it."

What would be such a circumstance? In fact, the ancient rabbis argued extensively over the course of most of Chapter 11 of tractate Nedarim, the tractate "vows" in the Babylonian Talmud, about what it means that a father or husband can annul a vow.

Using logic that Ruth Bader Ginsburg would likely appreciate, they wound up significantly confining the types of vows that the man could annul, concluding that they only can annul vows of self-denial, “inui nefesh” in Hebrew, the same word used to describe the practices of Yom Kippur. That is to say, if a woman vows to fast, or to abstain from bathing, for a long time, the man who supervises her can annul it. But many other kinds of vows, for example, to make a certain kind of sacrifice, or to do another kind of ritual, are impervious to the objections of father or husband.

Now, I want to go back to Prof. Fleischman’s point, as apologetic as it was. Not only does Torah explicitly presume that a woman may make any vow of her own accord, but Torah doesn’t even say that if her father or husband annuls the vow, she is forbidden from attempting to fulfill it. It only says that if they annul the vow, she is forgiven it.

This may, in fact, be an interesting case of Torah having a sensibility of equity, rather than equality. In contemporary social justice discourse, equality means treating everyone the same, regardless of circumstances. Equity means recognizing that different people have different needs, and that different concessions must be made for different needs.

The JPS translation of the verses may be telling, “If her father restrains her on the day he finds out, none of her vows or self-imposed obligations shall stand; and Hashem will forgive her, since her father restrained her.” Torah may, in fact, be making an allowance for the fact that women lived under coercive circumstances, not necessarily able to fulfill all of their intentions. In such a case where a man has prevented a woman from being able to fulfill her vow, Torah does not hold her accountable.

Even more telling, verse 16 says, "If her husband annuls a vow after the day he found out about it, he shall bear her guilt," which is to say, if he prevents her from fulfilling her vow after his one day grace period to object is up, not only does the vow stand, but he is the one who is punished for preventing her from fulfilling it.

I don't want to be apologetic for Torah, and make it out to be more radically pro-equality than it was. Radical would be if Torah stated explicitly, "Women have the right to make vows, and once a woman makes a vow, no man has the right to prevent her from fulfilling it." Or if Torah stated, "Anyone is liable for the fulfillment of a vow that they prevented someone else from keeping." Torah conspicuously does not do either.

What the process of Torah does do is much more like the incremental change that comes from accumulated legal victories: first, confining the scope of *when* a man can interfere with a woman's vow, and making it clear that the does so outside of the bounds, he is liable for punishment. Then the rabbis come along, and further limit the scope of *what* kinds of vows a man can interfere with. And in our generation, it continues to be our responsibility to do responsible jurisprudence that moves Torah towards greater liberation.

It is rather like the incremental journey of Mase'ei. God doesn't just whisk us up from Egypt and deposit us in the promised land. It's a process that takes time and sweat and human effort. But the advantage of incremental journeys of all kinds is that they are definitively not miracles handed to us by God: they are the product of human effort. We can look back on them and notice, "we did this, this is how long it took, and this was how we accomplished it. And if we could accomplish progress in the past, may it give us strength to continue progressing in the future.