

Purpose of the Captive Woman Protocol

Exegetical Approaches

Overview

In attempting to understand the protocol applied in the case of the captive woman, commentators grapple with both the moral issue of how to treat captives and the theological/halakhic issue of what needs to transpire before a heathen can wed an Israelite. For both Hellenistic Jewish commentators like Philo and modern Italian commentators such as the Hoil Moshe, the moral issue predominates. They therefore attempt to demonstrate how the Torah is attuned to the emotional needs of the woman. In contrast, the Sifre and most medieval commentators in its wake appear to be motivated more by halakhic concerns. Thus, R. Akiva focuses on how the procedure prepares the woman to abandon idolatry and become part of the Israelite nation, while others view the actions as an attempt to make the woman appear ugly in the eyes of her potential husband, thereby possibly preventing the intermarriage entirely.

Caring for the Captive

The Torah's commandments reflect a sensitivity to the needs of the captive woman, allowing her to mourn her lost former life and/or to be treated with dignity as a full-fledged wife.

SOURCES: Philo, Josephus, Rambam Moreh Nevukhim,¹ Biur, Shadal, Hoil Moshe²

Marital relations before or only after the procedure? Philo, Josephus, and the Hoil Moshe maintain that the man is only allowed to have relations with the captive after the procedure has been completed.³ The phrase "ולקחת לה לאשה" in verse 11 is thus understood as a heading introducing the process described afterwards.⁴ This stringent view of the man's permitted actions accords with the idea that the Torah is concerned with the woman's welfare.⁵

"והבאתה אל תוך ביתך" – This approach might suggest that the verse is emphasizing the need to bring the woman into the house, and treat her as full fledged wife rather than a captive of war.⁶

"וגלחה את ראשה" – Josephus, the Biur, and Shadal understand the shaving of the head to be a symbol of mourning, pointing to Iyyov 1:20 and Yirmeyahu 7:29 as evidence. The Hoil Moshe, in contrast, views it as a beautifying process,⁷ part of the woman's preparations for her wedding. Yosef's shaving of his head before approaching Paroh might support this understanding, as it apparently served to make Yosef more, not less, presentable.

"ונשטה את צפרניה" – According to Philo and the Biur,⁸ "ונשטה" means to trim her nails. This understanding is supported by the parallel usage of the root "עשה" in Shemuel II 19:25.⁹ This action, too, is viewed by most of these exegetes a sign of mourning,¹⁰ but by the Hoil Moshe as part of the process of beautification.

Clothing of captivity

- **Rags** – According to the Hoil Moshe and Shadal, women wore ugly clothing or sackcloth in times of battle.¹¹ The captive, thus, removes these rags after moving into the man's home, where she is to be treated as a wife and not as a servant.

- **Attractive garb** – The Biur, instead, posits that women would beautify themselves during war hoping to attract the enemy. Cf. Izevel who puts on make-up and does her hair when seeing the enemy approach. Thus, afterwards, the captive woman changes into more appropriate mourning garments.¹²

Crying for parents – For many of these commentators, this action is what defines the entire process as one of mourning. The Hoil Moshe, though, compares this to a woman who is upset and tearful about leaving her parent's home to get married. This is consistent with his overall view that all these actions constitute pre-nuptial preparations.¹³

Thirty days – Josephus suggests that this is the normal time frame for mourning. Philo and the Hoil Moshe add that this amount of time should suffice to ensure that, in taking the woman, the man is motivated not by passion alone, but by true love.¹⁴

What if no one died? Those who understand the process to revolve around mourning will have difficulty explaining what purpose these actions serve in a case where the captive did not lose any relatives in battle. They might suggest that the Torah refers to the prevalent case ("דיבר הכתוב בהווה"), and that if there is no cause for mourning, these actions are not mandatory.¹⁵

"אם לא חפצת בה" – According to the Hoil Moshe, this refers to any point after the marriage when the husband might no longer care for the woman. He is told that he may not then keep her on as a slave or sell her, as was the custom of many with regard to their captives, but must instead set her free.¹⁶

"תחת אשר עניתה" – These commentators might suggest, as does Rashbam, that this refers to the initial act of marital relations.¹⁷ The verse is teaching that once this woman was taken in marriage, she can no longer be treated as a slave who can be sold at will.¹⁸

Relations with a Gentile – These commentators might suggest that the woman converts before marriage and after the 30 day mourning/preparation period.¹⁹ Perhaps the verses do not highlight this aspect since they focus mainly on the actions which serve to alleviate the woman's distress, and not on what is necessary from the man's perspective. Alternatively, these commentators could maintain that there is no Biblical prohibition of relations with a Gentile.

Taking advantage of the captive woman? According to most of these commentators, these laws prevent unfair treatment of the woman, and instead demonstrate concern for her suffering and respect for her human dignity. In light of Ancient Near Eastern (and some modern) norms of war, the Torah stands out in its humanity.



Purifying from Idolatry

The procedure is a purification process serving to cleanse the woman from idolatry and prepare her to convert to Judaism.

SOURCES: Megillat HaMikdash, Targum Yerushalmi (Yonatan), R. Akiva in Sifre Devarim,²⁰ Ibn Ezra,²¹ R. Yosef Bekhor Shor #2, Ramban,²² Chizkuni, R. Yosef ibn Kaspi

Marital relations before or only after the procedure? Ramban and Chizkuni²³ maintain that intercourse is prohibited until after the entire process.²⁴ Thus, Ibn Ezra interprets the phrase "ולקחת לך לאשה" in verse 11 as an clarification of the man's future intent, rather than as an action that takes place immediately.²⁵

"והבאתה אל תוך ביתך" – Most of these commentators do not read any special significance into this ordinance, and likely view it as a simple matter of fact.²⁶

"ועשתה את צפרניה" – According to most of these commentators,²⁷ this connotes a cutting of the nails.²⁸ Ibn Ezra, R"Y Bekhor Shor, Chizkuni, and Ibn Kaspi all understand this to be an act of purification.²⁹

Clothing of captivity – This position is concerned less with whether the clothing was beautiful or ugly, than with the fact that it must be removed, signifying a severing of connections to the past and purification from idolatry.

Crying for parents – R. Akiva,³⁰ Targum Yerushalmi (Yonatan), and Ramban all understand this to refer to the captive's crying over the *religion* of her parents which she is now rejecting.³¹ R. Yosef Bekhor Shor asserts, in contrast, that this mourning is not part of the actions demanded of the woman, but simply a description of what she will inevitably do after losing her parents in the war.

What if no one died? This issue might be one of the motivating factors for this approach to interpret the crying over parents as a figurative mourning over a lost religion and nation rather than literally dead parents.³²

Purpose of actions and Biblical parallels

- **Status change** – Chizkuni and Ibn Kaspi suggest that the common denominator between all the actions is that they require a removal of something and thus represent a cutting away of the past,³³ and rebirth into a new person. Chizkuni compares the process to the sanctification of the Levites³⁴ who also shave their hair and wash their clothing as they move from the "profane" to the "holy."
- **Purification** – Alternatively these actions are not merely symbolic, but actually part of the legal process of purification.³⁵ Ibn Ezra and Chizkuni compare the changing of clothing to Yaakov's identical command when purifying his family from the idolatry of Shekhem,³⁶ and Ibn Ezra also points to the similarity of the head-shaving to the purification process undergone by one who had been contaminated by leprosy.³⁷
- **Mourning** – Ramban, instead, states that all the actions are symbols of mourning, pointing to Iyyov and Yirmeyahu as support.³⁸ Before converting, the woman is given a chance to mourn her lost religion.

"אם לא חפצת בה" – Ramban suggests that the Torah is teaching that if the man is no longer enamored of the woman after having relations for the first time after the protocol was completed, he can simply set her free and is not required to legally divorce her. After this point, though, she would be considered his full wife, and if the man no longer desired her, he would need to provide her with a halakhic divorce.

"פתת אשר עניתה" – According to Ramban, this refers to the initial intercourse after completing the purification process.³⁹

Relations with a Gentile – According to this approach, the whole process is meant to purify the woman from idolatry so that she can convert before the man has intercourse with her.⁴⁰

Taking advantage of the captive woman? According to this position, none of the actions are meant to degrade the woman.



Discouraging the Marriage

The protocol is meant to display the woman in the worst possible light so that the man will lose all desire for her and decide not to marry her.

SOURCES: R. Eliezer in Sifre Devarim, Rashi, Rambam Hilkhos Melakhim, Abarbanel #1

Marital relations before or only after the procedure?

- **Only after** – Rashi⁴¹ suggests that no intercourse is allowed until after the procedure is completed. Since the whole point of the process is to deter the man from marriage, nothing is allowed until the protocol has been followed, with the hopes that by that point, his passion will have dissipated.
- **Beforehand** – Rambam and Abarbanel (in his first approach), in contrast, allow a one time sexual act during the war itself.⁴² They assume that prohibiting a man from realizing his desires will be ineffective, and will merely cause him to do as he pleases without any limitations whatsoever. Thus, , a one time act is allowed, with the hope that the remainder of the procedure will convince him to not do so again.

"וְהָבֵאתָ אֶל תּוֹךְ בֵּיתְךָ" – This command, together with the later similar directive, "וַיֵּשְׁבָה בְּבֵיתוֹ", ensure that the woman will be constantly in the man's presence, which should lead the man to tire of her.⁴³

"וְגִלְחָה אֶת ראֹשָׁהּ" – This approach views the shaving of the hair as a disfiguring of the woman's beauty. No proof texts are brought, but Abarbanel points to a reality in which woman take pride in growing their hair, suggesting that its being shaven would be received negatively, and not endear the captive to the man.⁴⁴

"וְעָשְׂתָה אֶת צַפְרֶיהָ" – Most of these commentators assert that this refers to a growing of the nails,⁴⁵ and view it, too, as a mark of ugliness. In some manuscripts of the Sifre and Masekhet Semachot 7:13, a verse from Daniel is cited as evidence that such wild growth is repulsive.

Clothing of captivity – This approach assumes that Gentile women would adorn and beautify themselves in times of war so as to lure the enemy men.⁴⁶ The captive, thus, is forced to remove her fancy garments so that the man will no longer be enticed by them.

Crying for parents – This action, too, is understood as a means of discouraging the man who will quickly tire of a moping, sobbing, woman.

Thirty days – Abarbanel suggests that thirty days is enough time to allow the man's passion to dissipate, and cause him to regret his initial impulsive act.⁴⁷

"אִם לֹא חָפְצָה בָּהּ" – According to this approach, this verse is actually the entire goal of the process, that the man will no longer desire the woman and will call off the marriage.⁴⁸ Abarbanel adds that the fact that the man knows in advance that, should he not desire her, he will not be allowed to enslave or sell her, is itself a further disincentive for him to marry her.

"תַּחַת אֲשֶׁר עָנִיתָהּ" – According to Rambam, this probably refers to the initial act of intercourse during the war itself. Abarbanel, in contrast, suggests that it might refer to the oppressive acts demanded of the woman (to

shave her head etc).⁴⁹ Either way, the Torah warns that due to the somewhat negative treatment of the woman, if the man no longer desires her, he can not simply enslave or sell her.

Relations with a Gentile – According to this position, the whole process is meant to discourage such relations and prevent the intermarriage.⁵⁰

Taking advantage of the captive woman? This position is concerned more with the spiritual state of the Israelite man and how an inappropriate marriage might affect him, than how the captive woman is treated. Moreover, since this position understands that the woman herself was actively trying to lure the Israelite man, one might suggest that actions aimed to curb her allure simply even the playing field.

¹ In Moreh Nevukhim, Rambam emphasizes how these laws stem from a desire to act mercifully towards the captive. In contrast, in his Mishneh Torah (Hilkhos Melakhim), he adopts the approach below that the purpose of the actions is to discourage the man from desiring to marry the woman at all. Due to his synthesis of both approaches, Rambam differs from most of the other commentators in this category with regard to several of the points below.

² See also M. Sabato, "עניינה של פרשת אשת יפת תואר", who develops this general approach.

³ See R. Yochanan in Yerushalmi Makkot. The Biur and Shadal do not address the issue explicitly but seem to agree.

⁴ Alternatively, as Ibn Ezra #2 and Abarbanel explain, the phrase can be taken as a statement of the man's intentions when taking the woman captive.

⁵ In contrast, Rambam following Bavli Kiddushin 21b asserts that the man is initially allowed a one-time act of intercourse and is only prohibited from having any further relations. This read is perhaps motivated by the doubling of the phrases "ולקחת לך לאשה" in verse 11 and "להיתן לך לאשה" in verse 13, and would explain that each refers to a distinct sexual act.

⁶ According to Rambam, instead, the phrase refers to the initial intercourse and the verse is teaching that the man is only allowed to do this act if he takes the woman into the privacy of his home, but is not allowed to come to her on the open battlefield. This is how the Rambam understands the phrase "שלא ילחצנה במלחמה" in Bavli Kiddushin 21b.

⁷ It is unclear if the Hoil Moshe views the shaving as a trimming process or as a shaving of her entire head of hair.

⁸ See the opinion of R. Eliezer in the Sifre Devarim.

⁹ See the Sifre Devarim which brings this verse to buttress this understanding. Shadal asserts more simply that the phrase means to "fix" but suggests that it is unclear whether growing or cutting one's nails constitutes fixing, pointing out that this might differ in any particular cultural setting.

¹⁰ The Biur asserts that normally women would grow and paint their nails; thus trimming them instead must be a sign of mourning.

¹¹ The Hoil Moshe suggests that they were worried over their loved ones and were not likely to dress up, while Shadal suggests that upon seeing imminent defeat, they would change into sackcloth.

¹² See Josephus who also speaks of donning mourning clothing.

¹³ It also explains the directive to cry even in a case where the woman did not lose any loved ones in battle. See below.

¹⁴ The Hoil Moshe writes, "וכ"ז למנוע זמה מב"י, ובכבשם עיר או מדינה לא יענו הנשים למלאת חפץ יצרם, אבל אם ימצאו", "אשה נושאת חן בעיניהם, ימתינו עד שיודע ללבם בבירור אם היא אהבה אמיתית וישאוו".

¹⁵ As above, this is not an issue for the Hoil Moshe who does not view even the crying as related to mourning the dead.

¹⁶ Philo similarly stresses that the woman should be given her liberty so that she might not suffer when "any other woman is introduced into the house" which will inevitably lead to quarrels and jealousy.

¹⁷ The root is understood to refer to conjugal pleasure as in the verse, "שְׂאֵרָה קְסוּתָהּ וְעֹנֶתָהּ לֹא יִגְרַע". For most of these commentators, there is no other way of interpreting the phrase, as they maintain that it is forbidden to have relations with her in battle and all of the subsequent actions were undertaken for her benefit.

¹⁸ According to Rambam, in contrast, the verb might refer to the initial act of intercourse before the marriage.

¹⁹ Rambam, who asserts that intercourse was already allowed during battle, suggests that the Torah is making a one time concession to the man's uncontrollable desires.

²⁰ R. Akiva might maintain that the actions serve multiple purposes. While he asserts that the "parents" over which the woman is crying are metaphors for idolatry, he claims that the "doing" of nails is meant to disfigure the woman, which might serve the purpose of discouraging the man from marriage, like the third approach below.

²¹ In Ibn Ezra's earlier commentary to Devarim, this is only a second option formulated with greater caution, but from his later 3rd commentary on Bereshit and in Yesod Mora this seems to be the position to which he ultimately subscribed.

²² Ramban differs from the majority of the commentators who take this approach. Whereas they view the actions done by the woman as steps in the purification process, he understands them as acts of mourning. Nonetheless, he agrees that the ultimate purpose of this mourning is to distance the woman from idolatry. In this, he veers from the above position which sees in the mourning a show of concern for the woman. Ramban writes, "ועל דעתי אין הפנאי לחמול עליה, רק שיעקר שם ע"ז מפיה ומלבה, ולכבות עוד גחלת הנדוד והפרוד מאביה", "ומאמה ומעמה".

²³ Following R. Yochanan in the Yerushalmi.

²⁴ As this position stresses the need for the woman to purify herself before marriage is allowed, it makes sense that any earlier intercourse is prohibited.

²⁵ Ibn Ezra draws parallels to Bereshit 12:19 and Yehoshua 24:9. See also Abarbanel. Alternatively, the phrase can be read as a heading for the process which follows.

²⁶ Ramban, though, relates this to the woman's mourning, suggesting that like a mourning widow, she is brought to and must stay in the house. His comments refer to the phrase, "וַיֵּשְׁבָה בְּבֵיתָךְ", but could applied to these words as well. Later he adds that being constantly around the man during her month of mourning will allow the captive to gradually get used to him and reconcile herself to her new situation. Cf. the near opposite approach brought below, that the continuous presence of the woman in the house will lead the man to become disgusted by her.

²⁷ R. Akiva is the lone exception. Megillat HaMikdash does not explicitly define the word, but see V. Noam, "Traces of Sectarian Halakha in the Rabbinic World," Orion Symposium 8 (2006): 67-85, who suggests that the scroll's unique spelling ("ועשיתה"), which has the man (rather than the woman) "doing the nails", must refer to an act of fixing. Were it to mean growing the nails, the man would not be playing a role.

²⁸ These commentators are following the position of R. Eliezer in the Sifre Devarim. As above, see the prooftext brought by the Sifre from the usage of the root "עשה" in Shemuel II 19:25.

²⁹ Ramban, though, suggests that it is part of the mourning process. This is consistent with his position delineated in the notes above.

³⁰ He writes, "אין אביה ואמה אלא עבודה זרה".

³¹ See also the opinion brought in Ibn Ezra which suggests instead that she is crying over her parents who have not converted to Judaism with her.

³² For R. Yosef Bekhor Shor, as well, such a case does not pose a problem as he does not view the crying as an obligation but rather as a likely scenario.

³³ The captive is told to remove anything that was upon her when she was still an idolater. Ibn Kaspi goes so far as to say that had it been possible, she would even remove her limbs.

³⁴ See Bemidbar 8.

³⁵ See Targum Yerushalmi (Yonatan) who adds immersion in a ritual bath to the list of requirements. He also speaks explicitly of conversion.

³⁶ See Bereshit 35:2.

³⁷ See Vayikra 14. It is interesting to note a contrast between the two procedures. In the case of the מצורע (and other people of impure status), the impurity requires one to leave the camp, whereas here there is an emphasis on bringing the woman into the home.

³⁸ Cf. the approach above. Although Ramban agrees with the first position in viewing these actions as symbols of mourning, he views the mourning itself as a demonstration of the woman's rejection of her family, nation and religion, while the first position sees in it a sensitivity to the woman's plight.

³⁹ See Rashbam above. Alternatively, according to R"Y Bekhor Shor, this could refer to the initial relations during the heat of battle.

⁴⁰ See, however, Ibn Ezra in Yesod Mora, that it is also meant to delay the marriage, so that perhaps the man will change his mind.

⁴¹ See Rashi's comments on Kiddushin 22a. Rashi is following the opinion of R. Yochanan in Yerushalmi Makkot.

⁴² They follow the opinion of Rav in Yerushalmi Makkot and Rav and Shemuel in Bavli Kiddushin 21b. Rambam asserts that this act, too, is limited – see note below.

⁴³ According to Rambam, the phrase also teaches that the initial intercourse must take place in the privacy of the man's home, and not on the open battlefield.

⁴⁴ As noted above, the verses by Yosef seem to suggest the opposite. This position might respond that what is true of males might not necessarily apply to females.

⁴⁵ R. Eliezer is the exception.

⁴⁶ See the Biur above who asserts the same, and compare the actions of Izevel which support the notion.

⁴⁷ Cf. Philo and the Hoil Moshe above. Rambam rules according to the position brought in the Sifre that the man must actually wait three months before marrying in order to ensure that the woman is not pregnant.

⁴⁸ This stands in contrast to the opinions above that read the case of "וְהָיָה אִם לֹא תִפְצֹת בָּהּ" as speaking of after the marriage.

⁴⁹ Rashi does not comment on the phrase, but he could either agree with this explanation of Abarbanel, or alternatively read the verse like Rashbam above, who understands this to refer to a sexual act after marriage. Since Rashi maintains that intercourse is prohibited before the procedure, he cannot read the verse like the Rambam.

⁵⁰ Rambam and Abarbanel, who allow an initial act of intercourse, view it as a concession to appease the man's lust during the special circumstances of war, but agree that afterwards all is done to prevent any further actions.