



Three Contemporary Readings of the Rebellious Son

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One of the most emotionally charged and provocative legal passages is found in our *parashah*: the case of the rebellious son.

דברים כא:יח-יט, כא

¹⁸כי יהיה לאיש בן סוֹרֵר וּמוֹרֶה אִינֶנּוּ שְׁמַע בְּקוֹל אָבִיו וּבְקוֹל אִמּוֹ וַיִּסְרוּ אוֹתוֹ וְלֹא יִשְׁמַע אֲלֵיהֶם: ¹⁹וְתָפְשׁוּ בוֹ אָבִיו וְאִמּוֹ וְהוֹצִיאוּ אוֹתוֹ אֶל זִקְנֵי עִירוֹ וְאֵל שַׁעַר מִקְדָּמוֹ: ... ²¹וְרָגְמֻהוּ כָּל אַנְשֵׁי עִירוֹ בְּאֲבָנִים וּמָת.

Deuteronomy 21:18-19,21

¹⁸If a man has a stubborn and rebellious son who does not obey his father or his mother, and though they discipline him he will not listen to them, ¹⁹then his father and his mother shall take hold of him and bring him out to the elders of his town at the gate of his place...

²¹and all the men of his town shall stone him to death with stones.

A youth who does not listen to his parents is brought to the court, where the elders of the city



conduct a trial, and if he is found to be a rebellious son, he is sentenced to stoning.¹ This brief passage raises a host of moral, social, and theological questions. Part of the turmoil it generates stems from the blurring it creates between the public sphere (the court) and the private sphere (the home). This blurring raises questions about the nature of the relationship between the public and private realms in general, as well as the purpose of the law before us—a law that involves bringing events occurring within the private domestic sphere out into the public space of the court: What might be the purpose of this move outward?

To answer this, I want to draw upon several contemporary, feminist thinkers who can help us think through the relationship between the private and the public raised by the trial of the rebellious son.

I. The court as a space for fortifying the existing social order

One way to understand the law of the stubborn and rebellious son—perhaps an initial reading—is to view it as a tool in the hands of parents, adults, and societal institutions to enforce their authority over their offspring and ensure that the traditional social structure remains firmly intact. The son is brought before the elders of the city when he fails to obey his parents, and the elders effectively back the parents, refusing to tolerate rebellious behavior. This reading understands the law as providing parents with powerful leverage whenever they perceive the next generation’s conduct as threatening to create fractures in the existing social

¹ The Mishnah assumes that we are facing not just one trial, but two: “They warn him in the presence of three and lash him. If he misbehaves again, he is judged by twenty-three” (Mishnah Sanhedrin 8:4). One trial is based on the words of the verse “and they discipline him” at the onset of his rebellious behavior—in which, if found guilty, he is sentenced to lashes; and a second trial in which, if found guilty, he is sentenced to stoning.



order. Under this interpretation, there is no room for the next generation to challenge the family structure; a son must obey his parents. Furthermore, this reading views the stability of the family as the cornerstone for the stability of society as a whole. In the event of a challenge, the hand of the law, operating through the institution of the city elders, steps into the private sphere to intervene.

Kate Millett (1934-2017, USA, theorist and author) provides a framework that helps illuminate this dynamic. She views the family as a key arm of the patriarchal system (“a patriarchal unit within a patriarchal whole”) and argues that it is through the family that the social structure is maintained and kept stable.² When a specific patriarchal unit—such as a family—is undermined, for instance by a child who refuses to obey his parents, there arises a need to turn to a higher patriarchal authority, the elders of the city, to preserve order. According to this perspective, bringing the child before the court serves to clarify the power structure, display it, and restore authority to those in power. Millett views the intervention of public law and its institutions—such as the council of elders—in family matters as a mechanism for anchoring and reinforcing the existing social order.

² The family, through its heads, serves as an arm of society, and its central function is to guide the youth through a process of socialization by means of education and threat. Society has an interest in preserving the stability of the family, because a dysfunctional family that contains a destabilizing and rebellious element threatens to weaken the entire patriarchal structure. A stable family is a cornerstone of the social order. According to this view, the intervention of the city elders in the domestic, private realm allows the public system to gain a foothold within the family unit, establishing a collaboration aimed at fortifying the existing social order. See Kate Millett, *Sexual Politics* (1970).



II. The court as a means to protect the vulnerable

A second way to understand the law of the stubborn and rebellious son suggests that the involvement of the city elders may serve to protect the son from parental arbitrariness and curb the unlimited authority granted to parents within the home. Torah law,³ much like parallel Roman law during the mishnaic period, granted parents immense authority over their offspring, extending even to their very lives. The requirement to bring the son out to the elders of the city—away from the immediacy and exclusivity of his parents’ reaction—serves as a restraining mechanism on the parents. They must take their son out to the elders, who are then involved in determining whether he is indeed rebellious and subject to judgment as such.⁴

The underlying assumption is that leaving the handling of a rebellious son—or any other issue arising within the domestic sphere—entirely inside the family risks leaving the son subject to the whims of a tyrannical father or a malicious mother who interpret his behavior as rebellion. Removing judgment from the family domain into the public arena protects the vulnerable members of the household. In other words, the requirement to involve the city elders in the case of a rebellious son was intended precisely to limit parental power, curbing it by transferring the matter to a more neutral, external review—to the city elders in the public sphere. The unchecked power of patriarchy is thus restrained through public oversight of the private realm.

³ This unlimited authority finds expression, for example, in Akeidah (Genesis 22), as well as in Reuven’s promise to hand over his sons to Ya’akov if he fails to return Binyamin to him (Genesis 42:37).

⁴ As Maimonides, for example, describes the judicial procedure requiring witnesses: “How is a rebellious son judged? His father and mother first bring him to a court of three and say to them, ‘This son of ours is stubborn and rebellious,’ and they bring two witnesses” (Rambam, Hilkhhot Mamrim 7:7).



If in the first reading the goal of the law was to fortify the existing order, in this reading the goal is to protect the vulnerable members of society. Yet in both cases, this is accomplished by taking the son out to the court—thereby blurring the boundaries between the private and the public. What happens inside the home is indeed the concern and jurisdiction of the court.

Catharine MacKinnon (b. 1946, USA, theorist and professor of law) critiques the separation between the private and the public, arguing that society's ability to protect the marginalized within it and ensure their well-being depends on judicial intervention within the domestic sphere. MacKinnon demonstrates that the liberal ideal, which sanctifies privacy, rests on the premise that individuals act freely and equally. Liberalism turned the private domain into a hermetic, inaccessible space that is unaccountable, unrestricted, and unmonitored from the outside. Yet, as is well known, unequal and unjust actions frequently occur within the private sphere, turning it into a space where vulnerable and marginalized individuals are at greatest risk. Therefore, bringing the matter out to the court becomes a safeguard for the weak.⁵

When a child is threatened within his own home, inside the private realm, because his parents view him as rebellious, there arises a need to involve the elders of the city—the public sphere—to protect him. According to this perspective, bringing the child before the court serves to safeguard the vulnerable in society. The intervention of public law and its institutions in family matters acts to protect those without power in the private sphere.

⁵ See Catharine A. MacKinnon, *Toward a Feminist Theory of the State* (1989).



III. The court as a space for an opportunity for repair

There is a third possible reading, one that does not fortify an existing system, nor merely protect the vulnerable; one that does not rely on the hand of the law, the elders of the city, or the public sphere to intervene in the private realm of the family. According to this reading, the institution of the city elders may serve as a neutral meeting ground between parents and their son—a space that makes it possible to transform the son’s failure to listen, and perhaps also the parents’ failure to listen to him, into mutual attentiveness. This becomes possible precisely because there is a separation between the private and the public, precisely because the court constitutes an arena with a different context, one that is perhaps neutral and neutralizing: not a home, not a space defined by parent-child authority dynamics, not a rebellious son, and not parents whose voices are ignored. The domestic echo chamber in which jarring voices resonated is replaced by a public chamber in which the son’s behavior can be understood differently.

This shift occurs because the context of the encounter is different—a context that can foster fundamental transformation. After all, according to the Torah, the rebellious son is rebellious specifically toward his parents; his transgression is dependent upon the familial context. He acts against the immediate, supreme authority in his life. Replacing the familial context with a public context allows for a separation between the parents’ familial-educational authority and the legal-political authority of the city elders; a separation between the son’s conduct and his specific “rebellion” against one particular pair of individuals: his parents. The very act of appealing to the city elders can defuse domestic tension and place it within a new framework that changes the implications of the actions, and thereby their very essence. What takes place there is not an encounter between a son and his parents, but between a young person and the



public sphere—a place where it may be possible to focus on the relationship rather than the confrontation.⁶

Carol Gilligan (b. 1936, USA, psychologist and moral philosopher) developed an ethical framework she called an “ethics of care,” which can illuminate the role of the city elders as described above.⁷ This framework focuses on care, attentiveness, trust, and responsiveness to needs, rather than equality, fairness, or individual rights. An ethics of care emphasizes that the caregiver and the recipient of care exist within interconnected, non-competitive relationships, promoting connection and cooperation. In this reading, the court becomes a space for deep work on the relationships of those who come before it—in this case, a son and his parents.

When within the home and family there is a failure to listen and complaints of rebelliousness and defiance, there arises a need to turn to an extra-familial, public entity—such as the elders of the city—in order to neutrally understand what is taking place and attempt to repair the relationship. According to this view, bringing the son out to the court offers an opportunity for the repair of relational bonds.

As we enter the month of Elul, let us pray and strive that our relationships—inside the home and outside of it—be for good, and that we know how to build systems capable of repairing that which is in crisis.

⁶ In this context, rebelliousness is perhaps understood as part of a process of maturation or self-definition, while the disciplining is viewed, through a modern or psychological lens, as a response reflecting helplessness.

⁷ See Carol Gilligan, *In A Different Voice: Psychological Theory and Women's Development* (1982).

