

Ki Teitzei

“Our present-day *stubborn and rebellious sons* “

By Rabbi Dr Jeffrey Cohen

The law of ‘the stubborn and rebellious son’ (Dt. 21:18) was always interpreted by our Oral tradition as a purely theoretical institution, with no recorded case of a capital punishment ever having been implemented. Indeed, that same Oral Law hedged all capital crimes around with so many evidential preconditions that it was virtually impossible for a court to implement the death penalty, let alone to execute an innocent man. The objective of attaching a particular penalty to a biblical law, therefore, was to convey an appreciation of the comparative severity that attached to any particular transgression.

In our ‘broken society,’ with the image of (mainly) youth running rampant, looting and defying authority in cities of London and the provinces still vivid in our minds, this institution has a particular immediacy and the messages derived by our sages from each phrase are especially pertinent.

The Torah places the legislation governing this type of delinquent immediately following that relating to the dysfunctional and strife-ridden family, wherein there are two wives, one hated and one loved. This is not too far removed from one of the causes adduced for modern day delinquency, namely the emotional turmoil of children from broken homes and the offspring of single, neglected and impoverished mothers. Our tradition referred directly to that malaise in the phrase, “a child who doesn’t listen to the voice of his father *and* the voice of his mother” (v.18). From this is inferred the law that he is not dubbed ‘a stubborn and rebellious son’ if his father and mother do not *speak with one voice*. Where there is parental strife, the blame does not attach to the child, but to the parents! Another Talmudic inference from that phrase is that it is only where there is a father *and* a mother that he is dubbed a delinquent. Where he is the product of a one-parent family, however, he is a victim of circumstances.

What is the nature of this biblical delinquent? The Torah refers specifically to an addiction to gluttony and drunkenness (v.20), that is to the cultivation of addictive physical pleasures that are far beyond his pocket, with the inevitable result that he will turn to crime to feed that addiction. In our age that is precisely the scenario created by drink and drugs, which fuel such a high proportion of crime.

This issue of the delinquent son follows on immediately after the warning to the husband of that ‘unloved’ first wife not to deprive the latter’s son, in his will, of the extra slice of the estate to which he is entitled as firstborn, in favour of the son of his loved wife. Again, we have echoes here of the sense of hurt and deprivation felt by those born into poverty who view themselves as an unloved underclass, and who are moved to seize their ‘birthright’ by force.