Getting Away with Murder:
The Application of Marriage Laws in Jewish Yemen

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ABSTRACT

Rabbinic designations of females as a kind of movable property under the management of fathers and husbands has mostly benefited males at the expense of females. But in spite of excessive care in covering as many circumstances as possible direct violations of rabbinic mandates have been fairly common in Yemen. Using a selection of narratives, this paper identifies specific halakhic mandates that have been disobeyed, ignored, circumvented or just defied by some of Yemen's Jews from the mid-19th century to the mid-20th century.

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INTRODUCTION

In Jewish Yemen males' rights of control over females' sexuality, issue, property and actions were a cultural given ordained by rabbinic law and supported by both Islamic decrees and local Yemeni customs. Nevertheless, Jewish wo/men often manipulated, even defied openly, codified inequalities in order to satisfy their personal needs, needs that religious dicta and local customs were often too rigid to accommodate (cf. Ferrante 1996).

Presented here is anecdotal evidence of how gender roles and relations were manipulated in Jewish Yemen, from the mid-nineteenth to the mid-twentieth centuries, in the light of two parameters in anthropology: the real and the ideal. In this paper “ideal” gender-appropriate behaviors are those prescribed primarily by Talmudic laws that express beliefs regarding the nature of human sexuality. The “real” refers to the strategies individuals employed as they bent, reshaped, and even ignored jural dicta in their attempts to adjust circumstances to suit their needs.

The paper identifies significant rabbinic pronouncements defining a woman's statuses, rights, duties and “privileges” which set stringent limitations on her actions throughout her life. Each will be illustrated with at least one example of how individual Yemenite Jews, since the mid-nineteenth century, went about manipulating, even violating rabbinic precepts to suit their individual needs. The paper also offers incisive perceptions and comments by some of the women participating in this study regarding the rabbinic mandates.
WOMEN AS PROPERTY (qinyan): AN ILLUSTRATION OF THE HALAKHIC CONTEXT

Many of the laws pertaining to the “acquisition” of a wife, wedding and marital life have developed in Judaism during the first centuries of the Christian era. The rabbis compiled several tractates such as the Mishnaic Seder Nashim, and the Talmudic Gittin, Ketubbot, Niddah, Qiddushin and Yeabmot, detailing legislation and management of women's affairs. (cf. Neusner 1991:3-4, Halivni 1986, Jospe 1978).

The rabbis' preoccupation with property was very well served by the legal systems of the invading Greeks and Romans (cf. Lieberman 1950:100-152, Blundell 1995, Gordon 1965, Pomanta 1996, Pomeroy 1984). Adopting virtually wholesale long-established Athenian, Hellenic and Roman laws subjugating women, the rabbis were encouraged to contrive a legal construct called qinyan, 'the acquisition of landed and moveable property, the latter including animate goods, such as animals and people.'

The rabbis discuss qinyan largely with reference to the levir and how a man can acquire his childless dead brother's widow (b. Yeabomat, 53b, 54a,b, 68a, 96b). Acquiring women, through the levir or otherwise, is quite unlike other forms of qinyan where goods and property are obtained through barter or money. It is nearest to purchasing a slave. Although women can also own slaves, qinyan is used only with reference to males acquiring females, their children and slaves (Genesis 31:3; b. Yeabmot 66a). Fathers primarily, but by default, mothers and other guardians, have the right to transfer ownership of minor children, particularly females, without their consent. “Forever she is owned by the father, until she becomes the property of her husband in marriage.” (Ketubbot 4:5, referring to details in the previous mishnah)

Generally, men are encouraged to acquire females through acts that can be interpreted as rape, seduction and lying (b. Ketubbot, 46b) without allowing the women any choice. Through qinyan, a man automatically acquires a minor female once he has paid some form of compensation to her male relatives (b. Ketubbot 39a,b). She has no say in the matter.

The rabbinical “wedding” ceremony demonstrates the simplicity of how, in qinyan, transferring females from one male to another, works. Its legal aspect entails a single action accompanied by a short, easily memorized statement uttered in the presence of two male witnesses.

Either in person or by proxy, a man can acquire a female by simply placing any object in her right hand, at the same time uttering the statement of possession proclaimed only when acquiring a female: 'Lo, thou art consecrated to me.” 3 If she remains silent, he owns her (Qiddushin 2:1-2; t. Qiddushin 2:7; y. Qiddushin 2:62c). 4
THE YEMEN CONTEXT

Well aware of its effectiveness for retaining control over females, Yemenite Jewish men submitted to the rabbinical ruling which permits a man to have sexual intercourse with a female once she is three years and one day old (b. Niddah 44b). ²

Although it seems to have been rare in Yemen to acquire a female under the age of eight there were a fair number of cases where girls were procured and raised in the boy's father's house until the groom at least was sexually mature.

Between one-third to one half of acquisitions in this study took place between a sexually mature male and a just pubertal female. I know of only one out of over two hundred where the female had not yet entered menarche. Nearly all the females were transferred to new owners by their parents before the age of fourteen whether or not they were sexually mature. About half the males who acquired them were between fifteen and eighteen.

As we might expect in any society with a male-superior, female-inferior dichotomy, the combination of forced acquisition and marital rape was common. The Talmudic justification for acquiring women at almost any cost is the Deity's command to Noah and his sons: “be fruitful and multiply.” (Genesis 9:1) The Talmud interpreted this injunction as requiring men to procreate, but not women.

Although the rabbis discourage a master from raping his female, they do not view it as a crime (b. Erubim 100b). Well aware of the value of maintaining control over “inferiors,” the rabbis give half-hearted lip service to discouraging masters from raping and physically abusing their females: “A man who forces his wife to have sexual intercourse will have unworthy children.” (b. Erubim 100b) The rabbis may have assumed that scriptural injunctions and exemplars of the “he shall rule over she” variety were sufficient justification for rape. (Genesis 2:16)

Maimonides, however, had no scruples about recommending that a man beat his female if she refuses to wash his feet (Mishneh Torah, Nashim, Hilkoth Ishuth 21:3, 23:10). Neither does the Qur'an.

Surah 4:34 favors beating a rebellious female (Bell 1937/1960 v.1:74, Surah IV:38). Such behavior, namely 'she who opposes, rebels or rises up against her master,' is unacceptable (Mir 1987:146-7). Some Muslim jurists facetiously suggest a toothpick as the weapon of choice (cf. Sircar n.d. v.2:358, Layish 1975). But the realities are unavoidable. With reference to women, in Judaism and Islam “Might makes right.”

“WIFE” BEATING

Wife beating must have been as common in Yemen as it is in other societies that espouse violence as a means of social control and which also value male god religions that demean women and limit their autonomy (cf. Graetz 1998).

Yet reports of battering are few. Perhaps this is because people are reluctant to talk about incidents they now consider shameful.

Just after World War I in pre-state Israel, a young woman who managed to retain her freedom into her late teens, finally agreed to marry her cousin. A sofer, a Scriptures scribe, he was a lazy man who was delighted to acquire a beauty who was also an excellent breadwinner.

Angered at her supposed inability to conceive and her refusals to have sex with him whenever he wanted, he tried to beat her. Half his size and two-thirds his weight, she crowned him with a heavy iron skillet the first time he attacked her. After several years of discord he manumitted her.

One of the few reports documenting a man getting away with beating a woman occurred in the early 1900s in San'aa. There are two versions. In one the female in question is identified as only “a member of the family.” She is the wife of a brother in the second version. The nature of the story, however, suggests that the chief female protagonist was at-tabinoh, a euphemism for 'second female', in this case the acquired second young and attractive female of the man's father.

The elder, first-acquired female is leaving her house for an unstated reason and an unspecified time. Before departing the older woman gives her younger keys, delegating her position, authority and responsibilities, a signal honor indeed. Her seventeen year old son, the male protagonist, was so enraged that this “intruder” was chatelaine in his mother's absence, he attacked and beat her and took the keys away from her, keeping them until his mother returned.

**ANALYSIS**

Definitely not the norm, yet in many respects this family characterizes the ideal Yemeni family, the extended one which was actually unusual.

The titular head was, predictably, the father. A moneylender by trade, he was financially warm. He could force his married sons live under his roof. His first woman, the mother of the oldest children, administered this large household. If the attacked female was a daughter-in-law, the young man was out of line. She would be entitled, as the first woman's aide-de-camp and his brother's acquired female, to proxy her mother-in-law.

If, however, the woman in question is his father's at-tabinoh, then the young man's rage is easier to understand. Instead of attacking his father, the true culprit who introduced discord by purchasing at-tabinoh, he attacked the clearly competent victim.

That the young man beat her suggests that he felt free to do so, and this is significant. Only if she was “disrespectful” to her father-in-law or to the other
males in the family could he justify attacking her. But as an *at-tabinoth*, she had only her owner, the man's father, as protector.

According to informants his father did not chide his son at all which suggests that he could have been his father's/the family's tool, and/or they were afraid of him. Whatever the reasons, this man was “legally” in the right. Almost any excuse is acceptable when control of women is the touted reason.  

**DISPOSITION, ACQUISITION, RAPE**

The following narratives depict several acts of intentional wrongdoing, that is, violations of rabbinic edicts, on the part of all the protagonists with respect to transferring ownership of females. In all four cases none of the girls wished to marry. All except one kept silent as the law requires, but under duress. The rabbinic ruling that silence signifies acquiescence and therefore willingness, supposedly allowing the girl some choice, was continually violated.

Coercing children into marriage, especially females, was all too common. Parents and guardians threatened reprisals from the Deity. Citing the Fifth Commandment, translating “Honor you father and your mother” into obedience, was a common tactic.

When threats, such as selling her into slavery, or marrying her off to a man who already owned a woman and children did not work, the girl was shamed into silence. She was told she would degrade her parents and herself in front of everyone. No one would speak to her or to her family. She and they would be outcasts. In spite of her protests, a girl's parents would often accept the *mohar* (dowry) and spend some of it on clothes and domestic goods for her and other family members. If she kept on refusing, the girl's parents and relatives would then say that the *mohar*, was already spent. They cannot return it. All the lovely clothes, bedding, kitchenware, jewelry would have to be given back at a reduced price. And it was all her fault.

If bullying and intimidation did not work, parents would promise a special treat. Lying about the consequences of being acquired was another common strategy. The younger the girl, the more likely she would believe that this was a game. Many adults felt no compunction about reassuring the girl that she would return home with her parents when the ceremony was over. Extreme poverty was probably the most fundamental reason why so many girls were married off before menarche and without a mohar.

At the turn of the century in southwestern Yemen a widowed mother, barely able to feed herself and her infant daughter, gave her pre-pubertal ten-year-old away to a man nearly three times her age. An orphan and without a trade, he had remained unmarried all those years. The child refused to be acquired, but the desperate widow cajoled her daughter, employing a common ruse: if she remains quiet like a good girl, the man will give her a nice surprise. It seems the child's new owner was somewhat overeager. As the narrator put it, “He jumped on her like a dog,” damaging her reproductive system so badly that she had great difficulty conceiving and giving birth.
In two separate circumstances, both taking place in San'aa, Yemen's capital during the early 1940s, the girls were quite vocal about refusing to leave their parents' homes. Threatened with the great sins of disobeying and shaming their parents, the girls remained silent just long enough to be acquired.

In one, a just-nubile ten-year-old was acquired by a man in his forties. A grandfather several times over and a widower twice, shortly after the huppah, 'the acquisition ceremony,' he dragged the child into the kummeh, a storage room cum “honeymoon suite” set aside for sexual privacy.

Her reluctance to be penetrated while the guests were present infuriated him. He beat and raped her. Her parents and the wedding guests heard her screams. No one intervened. She was his property. (cf. El- Sa'adawi 1981, Granquist 1931, 1935). Many girls lived in constant fear of their rites of acquisition.

The second occurrence concerns a man who acquired a girl who, within a year of acquisition, died along with her newborn, in childbirth. The new widower demanded a replacement from his dead wife's family. Fearing that her fate would be that of her sister's, the substitute refused to be acquired by her brother-in-law, but to no avail. She was forced into silence, to accept him at the ceremony of acquisition in front of witnesses.

The girl successfully fended off her owner's advances for a day or so, until he tricked her into looking out of a narrow window. He then pinned her against the sill and, with the neighbors looking on, penetrated her from the rear. Nine months later she survived the birth of a son. Her husband then mocked her, saying “If God wanted you to die you would not now be alive and a mother.”

In San'aa at the turn of the century, a young girl from a well-to-do family refused to accept the elderly man her parents had chosen. She threw down the coins he placed in her right hand during the huppah. In spite of her quite vocal refusals, she was physically transported to her husband's house.

As soon as her family left the older man raped her. When he finally fell asleep, she crept out of his house and fled to her own. At least twice more both families dragged her back to his house. After each instance of rape she bolted. Finally she was manumitted. She was luckier than most. Her parents were well off and could afford to keep her. She remained single all her life. Nevertheless, some women refused to remain single for practical as well as social and emotional reasons.

WOMEN CHOOSING, REJECTING AND ACCEPTING ACQUISITION

Jewish men are warned away from a woman who is twice-widowed. In fact, women are forbidden from being acquired more than twice, especially if their freedom both times resulted from burying their owners. Rabbi Shim'on ben Gamliel's opinion is three times, but not four. To the rabbis such a woman is considered “bad luck.” (b.Yebamot 64b) Yet a man can bury any number of wives without rabbinical concern for how they died.
One “bad-luck” woman's first two owners died and left her childless as well as penniless. Believed to be incapable of having children and therefore useless, she was not acquired through the levir. She, however, refused to remain single, the only acceptable alternative. Instead, she contrived to be acquired by a man several years her junior whose mother, her boss, ran the weaving factory where she also worked.

She was at last partially vindicated by giving birth, but to four daughters, two of whom survived to reproduce. She outlived her husband as well.

Even a well-to-do or attractive woman who wished to, had difficulty being acquired. Although technically sons were supposed to support elderly parents, more often it was a daughter who did so.

A woman who sought acquisition was nearly always young and childless. If she had children, she had to fob them off on someone else. Few men want to be saddled with their wives' parents and another man's children.

In the 1930s an eighteen year old widow with two small daughters was able to marry a man from another village only because her widowed father along with her newly acquired young stepmother agreed to raise them for her.

Just after World War I another widowed teenager remarried a year after her first husband died. She was lucky; her new spouse accepted her twin daughters.

A wealthy woman, even with children, had little difficulty being acquired if she so chose, but it was the rare man who was single or remained a widower or divorcee whatever his income. It was common for a widower to acquire another female within a few months of his wife's death. Custom and law permit him to do so even during shiv'ah, 'the seven-day mourning period,' particularly if he has young children.

Many women remained single after their first acquisition because they did not wish to relocate. Most of Yemen's Jews lived in small villages with an exceedingly small bank of available and/or acceptable males. Some had no choice; they were acquired under the levir.

**THE LEVIRATE**

The Talmud allows men a number of ancillary advantages, such as skewing polygamy, when a wo/man espouses more than one mate. Polyandry, when a woman weds more than one man is prohibited. Polygyny, one male and more than one female, is permitted (b. Ketubbot 90a). In fact, polygyny is often obligatory.

The rabbis require a man under the levir, married or single, to acquire his dead brother's wife if his sibling died without issue. (Deuteronomy 25:5-10) Usually, only the brothers' childless females, and 'needy widows,' were subject to acquisition through the levirate. Abuse of the levirate was common. No mohar need be paid. If the widow were well endowed with goods, all the better. If she
were penniless, that, too, was acceptable. She could be mistreated and
overworked, in larger towns sent out to service, her earnings her new master's
property. And he acquired another bedmate.

Several women with children were lied to. They were told that they had no
choice. In one case, however, a very attractive young woman with three young
daughters knew she had “a choice,” but acceded anyway. Acquired by this family
as a child around 1890, she was a town woman from a well-to-do conservative
family whose women were homebound. Her personal property was minimal. Her
natal family refused to house her or her children. Untrained as a weaver or potter,
slaughterer or beautician, she would not have been able to support herself and her
daughters on her own.

Moreover, for a woman with children to express a desire for a new life, and with
a man of her choice who she would have had to seek herself, was tantamount to
declaring herself a sex-mad whore. Socialization and unabated family pressures
forced this woman into accepting her deceased husband's eldest brother, nearly
thirty years her senior, who already had two other wives and several children
older than she.

In their zeal to protect males at the expense of females, the Talmud encourages a
man to marry a second wife, *at-tabinoth*, as a means of punishing his disobedient
first. Polygyny is also viewed as an alternative to divorce, particularly if the first
wife is childless and/or would be destitute if manumitted.

Too often a female's only alternative was accepting status as *at-tabinoth*. So
appalling is the *at-tabinoth* status, however, many females were willing to forgo
regular sex and even children, the Third World's version of an IRA, rather than
become an *at-tabinoth*.

**AT-TABINOH**

When an *at-tabianoh*, 'the second, usually younger acquired female' enters a
household, unless she is chosen by the first woman, competition characterizes
their relations. The Hebrew word is *tzarah*, 'trouble.' To be an *at-tabinoth* in
another woman's house women see as a *har'aam*, 'a curse.' It means that nearly
everyone resents you. Men, women say, are notoriously fickle and spoiled and
not to be depended upon.

An *at-tabinoth* cannot know how long her owner will favor her, if at all, over the
first woman and her children. The first woman, her children and their spouses
nearly always present a united front against her, frequently making her life
miserable. Worse, there is no woman in the household with whom the *at-tabinoth*
can link. As one woman summed up, “Being acquired is good for a man; it is
lousy for a woman.”

All the verses sung about the *at-tabinoth* universally bewail her lot. Better, they
say, to be a slave, to be acquired by a poor old man as his only female, than to be
an *at-tabinoth*. 


Only well-to-do men could afford the luxury of acquiring a young, attractive female for pleasure. Many who could, did not, for although “divide and rule” encouraged household members to compete with each other in pleasing their master with greater alacrity, the continuous friction, the verbal and physical abuse usually heaped on the at-tabinoh disrupted the household too much for anyone's comfort.

**MANUMISSION**

The Talmud only frees a woman from a man's control under two conditions. One is provable death. Unless his body is found, she lives the rest of her life in a kind of owner's limbo as an agunah, 'female who is anchored.' A more semantically accurate definition would be 'she who is buried alive.' Two male witnesses testifying orally or in writing to a man's death is acceptable as proof. Women cannot be witnesses in court.

The second form of release is a writ of manumission which she accepts. He alone can initiate freeing his female from his control through a get pitturin, 'a writ of manumission.' Actual legal separation, however, depends upon both. If a woman refuses to be manumitted, he cannot manumit her. But this safeguard depends entirely on a woman's awareness of her right of refusal.

Prohibiting women from studying the Talmud is mandated by both din,'law,' and minhag, 'custom.' Literacy, religion and masculinity are synonymous. Jewish men alone are commanded to perform the 613 mitzvot or 'obligations,' including the mitzvah of procreation. Praying to the Deity in the company of other men at least twice a day, and the study of the Torah and its numerous commentaries, are male obligations/privileges which are denied females by the simple measure of excluding them from public prayer and its literacy prerequisite (Dahbany-Miraglia 1984, Jospe 1978).

**WOMEN AND LEARNING**

The Talmud went to great lengths to disable women's input into the laws that limited them. Very simply, it mocks women by forbidding women access to literacy (b. Qiddushin 29b, Biale 1984, Chapter I and 38-41; y. Sotah 3:16a; b. Sotah 20a, 21b).

In Jewish law women are expected to be “enablers” (ibid:40), gaining merit by helping their husbands and sons to learn (ibid:39-41). Laws referring to women must be funneled through men. Rabbi Eliezer was against women participating in religious life (e.g. learning to read and write and pray along with men). He preferred the Torah be burnt than given to women (y. Sotah 3:16a).

Jewish men in Yemen went even further, frightening each other with this adjuration: 'Do not give women learning; they will destroy the world.' An obvious response, 'Yes, the men's world,' went unheeded. Yemen's poet laureate, Shalom ash-Shabazi's daughter Sham'a(t) was one of the few Jewish women in Yemen who did learn to read and write. 17
DIVORCE AND REMARRIAGE

There is a saying: “Your first marriage belongs to your parents; your second is yours.” Although Yemenite men were allowed to acquire more than one female at a time, there were many who rejected the luxury of having two women compete, work and care for them.

Before World War II in a village near San'aa, two youngsters were in love. They wished to marry, but the boy's parents forced him to acquire the girl they chose who happened to be in love with him as well.

A year or so later she gave birth to a son, a circumstance that should have delighted him. But he must have felt doubly trapped, for the birth of their son seems to have solidified the young man's resolve to manumit her. The young man sought out the mori, the best educated Jewish man in the area, and demanded a get pitturin, or 'bill of manumission.' He served it on his female, forcing her to accept it by telling her she had no choice. 18 This young man finally acquired his beloved.

Well endowed in household goods and jewelry, in less than a month, in a violation of rabbinic law, his manumitted female allowed herself to be acquired by a man who accepted her and her son, a violation of Iddat and halitzah. 19

Between the World Wars one twelve-year-old endured eight years of childless bondage to an older man she detested. When they migrated to Israel in 1948 she promptly left him when he refused to give her a get. Self-supporting, but still legally acquired, a few years later she “married” another, younger man. At the insistence of an Israeli rabbinical court her first husband was shamed into giving her a divorce. 20

Between 1890 and 1910 in east central Yemen, a fourteen year old, unusually tall and strong and very beautiful, was sold to a man her parents chose for her. Determined to make him divorce her, she refused her husband sexual access, hit him back blow for blow when he tried to beat and rape her, refused to cook and clean, and disobeyed him in all things. Believing she would eventually give in, he refused to divorce her.

They endured each other for a few years. She made his life so miserable, however, that stubborn as he was, he was glad to finally get rid of her. She was in love with another man who was a few years younger, and whom she wooed and “married” after her three-month waiting period. The notoriety of her actions encouraged the couple to immigrate to pre-state Israel.

Females had three options, only two of which were viable: either outlive their owners or else force them into agreeing to a get. The third is an option the rabbis did not expressly forbid, but would not have approved of: murder one's owner and not get caught.

VARIOUS OTHER VIOLATIONS OF RABBINIC LAW
There are reports of young girls running away from their families to Muslim neighbors, who promptly converted and/or enslaved them, passing them over to friends or family members. In one case, just before World War I, a just-pubertal Jewish girl and the son of one of her Muslim neighbors fell in love. To punish her waywardness her family arranged to give her to an elderly widower. Despite their watchfulness she fled to her lover's family.

Another report, also occurring before World War I, involves a pair of quedeshot, 'licentious' sisters who joined a passing caravan heading north. A hundred or so miles and dozens of villages later, they arrived at a fairly large town that appealed to them. They settled there and established a lucrative house of prostitution.

A similar tale takes place during the 1880s. Two forcibly acquired sisters from south central Yemen escaped from their owners. They changed their names and upon reaching a distant northern town, pretended to be widows. Young, childless and well-endowed with jewelry and other goods, each allowed herself to be acquired by a well-to-do artisan and “lived happily ever after,” even though, a few years later their scam was discovered. Perhaps the townspeople fussed, but neither the sisters nor their new owners bothered to request gittin, 'writs of manumission' from the original owners.

Stoning or burning a kohent or bat-kohen 'a daughter of a priest,' and similar punishments designed to punish zonot, 'harlots/women who violate the sexual restrictions men have designed,' were, to my knowledge, never meted out (Leviticus 21). San'aa, Yemen's capital, boasted a number of Muslim as well as Jewish prostitutes, women and girls who were sold by their parents to female procurers.

A significant minority of girls are reported to have chosen prostitution rather than be acquired. No reasons were offered why they “chose” this profession. One suggestion is that they alone could get away with openly practicing birth control.

Kohanim, 'male members of the priest caste' are forbidden to acquire a woman who is not a virgin. Widows and manumitted and raped women are out of bounds. Nevertheless, a number of kohanim all over Yemen acquired women forbidden to them.

It is significant that these couples did not leave their home towns or villages. They remained, carrying on as if their marriages were sanctified. Legally tame, 'polluted,' nevertheless these men conducted the religious obligations their new status forbids them from carrying out, especially the 'blessings of the priests of/for the multitude' which only “kosher” kohanim are permitted to invoke.

Moreover, male children born of these unions were accepted and trained to their priestly duties just as though their births were not violations of rabbinic injunctions. For the record, this practice is still commonplace, in the United States and in Israel.
Cases of men stealing their acquired females' personal property, especially jewelry, were all too prevalent. They used the gains to buy themselves a child bride or escape from their responsibilities. Sick or lazy husbands often forced their acquired females to support them, their parents and their other children.

One outrageous incident occurred about 1880 in the blad, 'the countryside/villages.' A dying woman without offspring demanded that she be buried in her wedding dress along with her jewelry. Her owner was furious. He wanted her wealth so that he could buy another female.

She was buried less than a day when her widower, sneaking out at night, dug up her grave and stole her jewelry. His guilt must have been severe, for he was unable to sleep, claiming he heard her voice in his ears, threatening to take him to her if he did not return her property. He became nearly demented. When he finally owned up to his crime the local mori, 'most learned man.' ordered him to rebury the jewelry.

Some men deserted their females to fend for themselves, a clear violation of their obligation for maintenance. A particularly offensive example is the owner who, on their way to Aden just after World War II, abandoned his newly acquired female who was just coming into labor with her first child. The caravan drivers, no better than he, were in a hurry. They refused to halt long enough for her to give birth. Her owner declined to stay with her, saying that he can always acquire another female any time.

Leaving both of them to die, he continued on with the caravan. After several hours in the hot sun without water, she gave birth to a son. She spent the night trying to keep both of them warm. A Muslim found her the next day and carried them both to his home. His family cared for her until she was well enough to continue. She survived, but her baby did not.

The pressure to produce offspring, especially sons, was considerable. Because rabbinic law laid on sons the responsibility of reading kadish, 'the prayer for the dead,' for their parents' souls, they are deemed more desirable. It was the rare couple who remained together in a childless relationship.

Around 1900 a couple in their early teens from San'aa, were joined. Soon after they immigrated to Jerusalem. One of the lucky few who grew to love each other, they remained together childless for over fifty years. A mori or 'rabbi,' all their married lives he was under pressure to manumit his beloved, or else take a second wife. He consistently refused to do either, saying "If God wanted us to have children he would have given them to us,” invoking 'the Deity's will,' as justification for violating the obligation to procreate (b. Yebamot 65b, Genesis 1:28).

RABBINIC LAW AND “WOMEN'S” WORK

The realities of life in pre- and non-industrial state societies where poverty is endemic, require everyone work. Everyone's contribution is essential. Virtually
every business is a family business. The industrial capitalistic pattern where only the male wage earner/patriarch works is, in these societies, rare.

The rabbinic injunction that a man not teach his son a woman's trade (b.Qiddushin 82a) is, under these circumstances, more than ludicrous. It very clearly underscores the social and economic distances between the tiny class of privileged literate men and the rest of the Jewish people whose lives they legislate.

In addition to her regular time-consuming, labor-intensive household chores, female as breadwinner was the norm in Jewish Yemen where most everyone was a crafter. Women earned their livelihoods by cleaning, sewing and baby-sitting. They were cooks and bakers, beauticians, wetnurses, midwives, mourners and performers. Women were slaughterers, leather workers, field workers, peddlers, diagnosticians, healers, herbalists, mediums, construction workers. They were highly skilled potters, dyers, weavers, embroiderers, tailors, blacksmiths, and in a few cases, jewelers.

Then as now, Yemenite Jewish women served as information banks; were import-export merchants (using men as intermediaries), established and ran factories, and served as bankers and as unofficial bureaucrats. (Dahbany-Miraglia 1987, Fernea and Bezirgan 1977, Goitein 1967, Minai 1981).

THE MATER FAMILIAS

In spite of legislated and customary subservience, many women managed to manipulate law and custom advantageously. Contrary to stereotypes (cf. Esposito 1982:26) the majority of Middle Eastern women, whatever their religion, were administrators and providers as well as nurturers (Atiya 1982, Dahbany- Miraglia ms, Sweet 1974).

Clearly the jural prescriptions regarding female economic dependence on males, which are central to male ownership of females in Rabbinical Judaism, Islam, Hinduism, and in Christianity, only distort realities. Jurally Jewish women are property and so must be under a male's management. In everyday life, however, it is women, as mothers and “wives,” who generally protect and care for everyone, especially men. An unexceptional case in point.

In southwestern Yemen in 1910, a young girl “saved the skin” of the man who acquired her. In about five years he ran his business down into bankruptcy. His Muslim creditors were looking to kill him. She made him change his name, sold some of her jewelry so that he would have some cash, and helped him to escape to a village more than a hundred miles away. There he promptly acquired another female for his comfort, which did not please her.

With her three young daughters this resourceful young woman traveled north to San'a'a where she worked as a maid and a baker for a few well-to-do Jewish families. They were generous to her and her children, and by dint of careful
saving she was able, in four years, to put aside enough money to send for her owner. She had decided to migrate to pre-state Israel.

She sent word to him that he could come with them, but only if he manumitted his second female, abandoning both her and the children they had together. He joined her in Aden within a few months of receiving her message. Until she died in April 1997 she was the *mater familias* of seven daughters and one son, of a family of four generations consisting of more than fifty individuals.

Economic autonomy was supposed to be difficult for women to achieve. On the Yemeni plateau women could not sell in the local markets. That is “men’s work.” Female ownership of manufacturing businesses, however, was common.

In the 1880's one village woman in east central Yemen was a *virtuosa* potter who not only ran her household, but in the end, her patron, the village *sheik*, as well. An exceptional artist, she was constantly creating new designs which claimed higher prices.

Middleman between the Jewish artisans and the town-based Muslim buyers, the *sheikh* refused to give her and her co-potters their fair share of the now-larger receipts. Spokesperson for the Jewish potters, her reasonable protests evoked threats of further deductions. Intelligent and perspicacious, she negotiated with the *sheikh* of a nearby village who was more than happy to act as the potters' new patron. The potter then informed the *sheikh* of her town that unless he re-negotiated their agreement for payment, she and the rest of the potters would leave. Her patron laughed at her warning. But when he finally realized she was in earnest, he was so enraged he threatened all sorts of punishments.

Quietly but quickly, the potter and her colleagues packed up their movables and left the village. Shocked by the Jewish potters' exodus and momentarily forgetting his superior status, the sheikh hurried after the potter and begged her to return, promising to keep to their initial agreement if she did. The *virtuosa* wisely refused and relocated.

Although forbidden to leave Yemen without the Imam's permission, travel within Yemen's borders was encouraged, especially for those men who were willing to peddle goods out into the countryside. But women, too, moved about, particularly when they were married far from their natal villages and towns.

In the 1870's a young female in southwestern Yemen was acquired as an *atabinoh* by a wealthy weaver from Aden to the south. About twelve years later he died. To protect her and her sons' right to her share of her owner's estate, this woman approached a higher authority than her dead owner's first female's sons: the *sheikh* of her home town.

Following proper rituals of request she prepared the way for this *sheikh* to negotiate with his opposite number in Aden. After claiming his cut there was enough left over for her to set up a weaving factory.

**COMMENTS AND PERCEPTIONS**
When told specific details of the rabbinic attitude towards women, even the most reticent women in this study volunteered opinions. When informed that women are not adjured to marry because, to the rabbis, such a thing is incomprehensible, some of the women laughed. Others sat looking stunned.

The rabbis' assumption, the so-called “woman's” maxim that a female prefers unhappy enslavement to a happy spinsterhood or that “a woman prefers to be impoverished and be married than be wealthy and unmarried” (Biale, 64) was hooted. The following quote they found particularly hilarious.

The rabbis assumed, and rightly so, that for both a man and a woman married life was under almost any conditions preferable to being single, and therefore, while the man might be trusted not to abuse his power, the woman if virtuous, would only in the rarest circumstance actually desire a divorce. (Simon, Introduction to Gittin)

They roundly condemned the rabbis for ignoring the axiom “Power corrupts and absolute power corrupts absolutely.” Most over thirty rejected marrying a second time because they did not relish the job of stepmother to someone else's children or the position of nurse to a “sick old man.” They did, however, admit they would miss the pleasures of sex. The older the woman, the more likely she preferred the single state.

These women were unanimous in condemning the situation where a woman must await her owner's agreement to free her, but they were pleased with knowing now, since immigrating to Israel, of their right to reject manumission.

A obvious sore point is the Yemenite men's refusal to include women in public prayer. Their justifications are based on the spurious rabbinic claim that women's voices are erotic (b. Qiddushin 70a), and the institution of separating women and men. (cf. Biale 1984, Chapter 1)

Yet so adamant are the Yemenite men against women learning, they have, since the 1930s, steadfastly refused to establish a Yemenite yeshiva because to survive financially, it would have to include girls.

It is probably universal that the gap between de jure legislation and de facto realities, particularly in patriarchal systems, is, in everyday terms, enormous. In Charles Dickens' Oliver Twist, the dialogue between Mr. Bumble, a most ineffectual, very married thief, and Mr. Brownlow, Oliver's grandfather and rescuer, indicates that power relations between spouses in systems where females are required to rely on the “protection” of male relatives, do not always “toe the ideal line.”

“I hope,” said Mr. Bumble, looking about him with great ruefullness,..”I hope that this unfortunate little circumstance will not deprive me of my parochial office?” “Indeed it will,” replied Mr. Brownlow. “You may make up your mind to that, and think yourself well off besides.” “It was all Mrs. Bumble.
She would do it,” urged Mr. Bumble; first looking round to ascertain that his partner had left the room. “That is no excuse,” replied Mr. Brownlow. “You were present on the occasion of the destruction of these trinkets and indeed are the more guilty of the two, in the eye of the law; for the law supposes that your wife acts under your direction.” “If the law supposes that,” said Mr. Bumble,..., “the law is an ass--a idiot. If that's the eye of the law, the law is a bachelor; and the worst I wish the law is, that his eye may be opened by experience.” Dickens 1839/1982:402-403

ENDNOTES

1. The ethnographic and linguistic data in this study derives from field research carried out among Yemenite Jews in the Greater New York area between 1970 and the present, and in Israel the summers of 1984 and 1985. An “insider,” I have worked intensively with approximately 40 Yemenite Jews in Brooklyn, New York and about ten in Israel. Methodologies include participant observation, structured and unstructured interviews, book research, and some of that collection technique often called oral histories.

2. Gender is defined here as the multiplicity of cultural and psychological differentiation that people create to distinguish the sexes based on their conceptions of biological sex differences. There is considerable confusion in the definitions of gender because it is too often synonymized with human sexuality, which is but one aspect of gender. The most operational definition is Katchadourian's who sees gender as a complex of roles that include expectations as well as enactments which are manifested as relationships--the psychological and behavioral strings that link people (1979:8-34, 27f).

3. The Semitic root /q-d-sh/, 'holy,' nearly always refers to the Deity, and not to humans. By 'consecrating' a female to a male the rabbis award themselves and other males the hubris of godhead. This action is reminiscent of “Man, thy head is God; woman, thy head is Man,” a paraphrase of John Milton's reference in Paradise Lost to the creation of Adam and Eve, “He for God only, she for God in him (Book IV, 1:288, Stevenson 1967:1254,17).”

4. No doubt following the rabbinic example, Islam requires the female's silence. It is accepted as assent (Sircar v.I 297, 327, 56a). A legally adult Muslim woman must acquiesce to marriage, and her silence, too, is accepted as equivalent to a positive rejoinder (ibid 292). The exception is the sayyiiba(t), 'she who is no longer a virgin.' Her verbal assent is necessary to legalize a Sunnah Muslim marriage (ibid v.I 299).

5. It is common in state and in other societies, especially those with a sexual hierarchy in which males supersede females, to encourage male control over females through early real or symbolic sexual access to prepubertal ones. Early betrothals and marriage are one of the most common expressions of masculine (and parental) dominance. Among the New Guinea Arpesh a man “grows” his preadolescent wife. That is, he infantilizes her and makes her psychologically as
well as physically dependent on him. In loco parentis he feeds, clothes and disciplines her until she has reached menarche and is ready for sexual intercourse (Mead 1963).

6. Bell identifies this surah which enjoins men to admonish, avoid in bed and beat disobedient wives as a late addition.

7. The Amazon Yanamoma are an extreme example of jurally establishing violence, specifically rape, as the most effective means of maintaining supremacy over females. When a woman disputes her husband or the male establishment she is gang raped by her husband and other men publicly, in front of her children and the rest of the community (Chagnon 1977).

8. Most of the time the girl's mother was the “bad guy,” the one who was under duress by the family to put pressure on the girl until she obeyed. This betrayal by one's mother must have been especially hurtful, in some cases to both parties.

9. Frequently men who never married were orphans, but just as often they were mentally or physically defective. Their families did their best to acquire a female to both support and nursemaid their male. The well-to-do were usually successful. They usually purchased an orphaned female before she was stolen by Muslims and forcibly converted to Islam.

10. Although females have the right to demand acquisition through the levir, the male “conspiracy” the rabbis established, kept most of them ignorant.

11. Until 1948 more than 90% of Yemen's Jews lived in more than 1,000 villages and towns throughout the Yemen plateau. Their communities ranged from 10 to 300 to 1,000 families in San'aa. This distribution was prescribed by the Zayidi Imams who adopted Islam after defeating the Jewish Hashimites and the Christians about 1200 years ago. Dispersing the Jewish artisans did more than support the Muslim tribespeople who practiced mixed farming. It also made any Jewish revolt impossible.

12. When Jews began settling Europe in earnest sixteen hundred years ago and were forced to adapt to Christian religious law, the rabbis limited the number of women a man could own to one. In the Muslim Middle East, however, until recently, a man acquired as many women as he could afford to support or who he could force to support him. A traveling Jew could acquire a woman in Christian Europe yet keep one or more elsewhere without religious penalty. The status of agunah, laughingly translated as “grass widow,” though, applies everywhere and only to women.

13. As is common in traditions that grew out of the consensus of a few individuals over a long period of time, contradictions in rulings are frequent. Again and again men are exhorted to marry. In Yebamot 65b Rabbi Johan ben Beraqa states that both must marry, citing Genesis 1:28 “God blessed them and said to them (e.g. Adam and Eve) “be fruitful and multiply.” This single exception, however, does not invalidate the masculine biases that are the root, trunk and leaf of Judaism, Christianity, Hinduism and Islam.
14. The Arabic root /t-b-n/ as tabiuana(t), 'a small, jar-shaped oven sunk in the ground, open at the top and used for baking bread,' is a pejorative referring to a woman's pudenda.

15. In b. Gittin 12a there are two types of gittin: get pitturin, 'writ of release,' and get shihur, 'writ of liberation,' to free a slave. Both pitturin, 'patron, patronage' and shihur are synonyms for 'release,' 'liberation,' and 'manumission.'

16. This state of affairs continues to the present day, particularly for Yemenite women over forty. Hardly any of them, more than 200 with whom I have worked with since 1970, are even reading literate. Most can just barely sign their names. See two papers on female literacy: Dahbany-Miraglia 1984 and 1985.

17. Although nearly every Jewish male in Yemen could read, few could write. Books and paper were imported and so, very expensive. Thus, most men did not understand what they were reading. The Hebrew and Aramaic were very different from the Judeo Yemenis they spoke. The contemptuous jibe - 'He reads but he doesn't understand,' was tossed at men by other men as well as by women. Females who expressed a desire to learn were mocked with the question: 'Do you want to become a man?' or with 'Where is your penis?'

18. The laws regarding a get pitturin require that both parties be present before a beth din, 'a court of law,' comprised of more than one qualified jurist. Because women were forbidden access to literacy, few knew their rights in Jewish law, particularly that most important one, the right to reject a get. Indeed, because Muslim women cannot challenge their owners' right to send them away, Jewish females were led to believe that they, too, had no choice. Gittin, 'wrts of manumission,' were given to Jewish males on demand, a case of din minhag ve-mianhaq din, 'law is (the equivalent of) custom and custom law.' If a Jewish female refused to leave, her owner would forcibly eject her. Her manumission usually means that her child, female or male, is repudiated as well.

19. Both Islamic Iddat and Jewish halitzah require a female to wait at least three months before remarrying. The reason is obvious: to see if she is pregnant and so, make unequivocal to which patriarchal unit the possible child belongs.

20. The authority of the court to demand a man manumit his female can be ignored. There is a famous case that has, for the past forty-five years, been periodically cited in Israeli newspaper articles pointing out the injustices of Talmudic “marital” laws. A Yemenite man has steadfastly refused to give his wife a divorce. In spite of rabbinical courts' pressures he stood fast to his right to own her. She was finally freed in the mid-1990s when he died.

21. This is, of course, nonsense. Females can have male proxies read over their parents and memorialize them in the 'synagogue.'

22. In the Tehama, the long arid coastal plain on Yemen's western flank, female descendants of immigrants from the Sudan, Eritrea, and Ethiopia have continued the African pattern where women dominate the markets.
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