Abstract

Rabbinic Judaism created a system of laws and legal categories that generally functioned to put women at a social and material disadvantage. Intriguingly, then, rabbinic sources also include scattered stories of women in their own, rabbinic context(s) confronting and finding ways to maneuver within the details of those laws so as to attempt (and even to succeed) to secure a favorable result. Rachel Adler and Charlotte Fonrobert have used terms such as "trickster" and "ruse" to describe the character and actions of Yalta, the protagonist of one such story. Each has thus identified and highlighted a critical feature of this story that contributes to the subversive potential that a female figure like Yalta exhibits in this episode: both the (likely) ruse and the ability to function not just as an object but as a participant to some degree in rabbinic legal discourse. In this article, these criteria will be used to seek to identify other stories in the Bavli that might speak to this theme, and to analyze the presentation of female characters that come before legal authorities and the actions they take in the course of their cases. Put another way, can we identify other stories about other female characters that might function as tricksters and/or "legal guerrillas" (to use another of Adler's terms)? And if we can, what might this imply about rabbis and rabbinic culture that such episodes are incorporated, presumably by the rabbis themselves, into Talmudic literature?

Introduction

It is no new insight to note that rabbinic Judaism created a system of laws and legal categories, based on, and expanded from biblical antecedents that generally functioned to put women at a social and material disadvantage. And yet, rabbinic sources also intriguingly include scattered stories of women in their own, rabbinic context(s) confronting and finding ways to maneuver within the details of those unfavorable laws so as to attempt, and even succeed to secure a favorable result. This article will explore a series of stories in the Babylonian Talmud that illustrate several models of how such interactions might occur. What tactics and resources do Talmudic sources suggest that women might have had available to them? How do those sources portray either the tactics or the women who employ them, or put another way, what might be the interpretive options for later readers of these portrayals? As will be seen, in some cases, it may be that women achieve results in a fortuitous manner, or through persuasive if not strictly legalistic claims. In several other examples, though, women seem to have no method to seek redress through “normal” legal channels. Indeed, such methods may be actively closed off
to them by the judicial arbiters of their cases and instead resort to means that are clearly outside anything resembling typical legal procedure. What is perhaps most unexpected, however, is finding a few rare episodes, in which women appear to have a degree of familiarity with the law and use that knowledge to actively shape the results of their cases and legal inquiries. At the conclusion, the meaning and import of the inclusion of these few episodes will be considered.

In order to set the stage for the questions explored here, it is appropriate to begin with one such story that has already been given some scholarly scrutiny. In this episode from bNiddah 20b, the character Yalta appeals one rabbi’s ruling regarding a blood sample to another:

Yalta brought blood before Rabbah bar bar Ḥana, and he declared it impure for her. She then brought it before Rav Yitzḥak the son of Rav Yehudah, and he declared it pure for her.

But how could he have done this? But it is taught [in a Tannaitic source]: A sage who declared something impure, his colleague is not permitted to declare it pure; [if he] forbid [something], his colleague is not permitted to allow [it]!

Originally, he had declared it impure, but when she said to him that “Every [other] time he has declared [blood] of this type pure for me, and this time he has a pain in his eye,” he declared it pure for her.¹

Yalta is one of the few women who are named and who appear in multiple locations in the Babylonian Talmud. She is frequently associated with Rav Naḥman, a prominent third generation Babylonian amora, and is traditionally identified as his wife.² At issue, here is the question of whether her blood is to be considered menstrual, and thus whether she and her husband are forbidden to engage in sexual relations. It is notable that rabbinic Judaism understands that when there is doubt as to whether a particular sample of blood that a woman has seen or found on her body or clothing is menstrual blood, the determination is under the jurisdiction of a rabbinic arbiter and is not something for the woman herself (or another woman) to determine about her own body. Yalta is, then, already functioning within these constraints

¹. Translations of primary texts are my own unless otherwise indicated. Where the terse and elliptical nature of the Talmudic text is unclear, I have added explanatory notes in brackets.

². But see Tal Ilan, Mine and Yours Are Hers: Retrieving Women’s History from Rabbinic Literature (Kinderhook, New York: Brill, 1997), 121–29; note especially the discussion of manuscript variants to bKiddushin 70a-b, on 126.
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when she brings her blood sample to Rabbah bar bar Ḥana, and yet, as the story progresses, both in the initial incident and in the Talmud’s examination of it (“But how could he do this...”), she exerts significant influence over the final determination of her status, first by seeking a second opinion and then, as the Talmudic discussion has it, making a compelling argument to that second rabbi in favor of changing the original outcome.

As Rachel Adler notes, there are at least two ways to interpret Yalta’s response to Rabbah bar bar Ḥana’s ruling,

one of which is considerably less destabilizing than the other. One could argue that Yalta is merely asking for accurate assessment of evidence and consistency in judgment... But a darker, more ironic reading results if we assume that Yalta’s account of Rabbah bar bar Ḥana’s judicial record and indisposition is a calculated attempt to manipulate the system and that her motivation for turning to a second judge is not an intellectual distaste for legal inconsistency but a desire to avoid the stigma of impurity. 3

According to the latter reading strategy, Adler suggests, Yalta may be understood as a “trickster” and “prankster,” or, in another term she suggests, as a “legal guerrilla.” In this role, Yalta functions to point up the often veiled human fallibility that is inescapably embedded in rabbinic interpretation of what it understands to be Divine law, and the injustices which may or even inevitably result:

Yalta’s legal guerrilla tactics are predicated upon her skepticism that the authorities are dispensing justice...Yalta reminds us that what grounds authority is power, and power has social investments. Power can use authority to include and empower broadly. But power can also exercise authority to stigmatize, to subordinate, and to exclude. Yalta as legal guerrilla strips away the mask of justice, revealing the cruel face beneath. 4

Charlotte Fonrobert, on the other hand, re-opens the first of Adler’s possible readings, but only to show that it too does not rest easily with the rabbinic gender ideology that constructs male rabbis as the observers and evaluators of female blood: “Yalta is not represented as fabricating a story

4. Ibid., 58.
in order to circumvent the rabbi’s authority. Rather, she can be read as making a coherent argument, quite acceptable within the terms of rabbinic culture.”⁵ In Fonrobert’s reading, Yalta’s move in her conversation with Rav Yitzḥak, as imagined by the Talmud, is a second “ruse” (going to him for a reversal of the original ruling being the first), one in which she presents a cogent legal argument or even innovation, derived from the rules of diagnosing skin disease, that one who evaluates blood must have the fully functional use of both eyes to do so. In this reading too, then, Yalta presents a challenge to androcentric discourse around women’s body, although in a somewhat different manner: “Reading the story from this angle, we see her not as circumventing the authority of the self-fashioned experts, but as competing with it.”⁶

Despite the variations in their readings, one may observe that both Adler and Fonrobert present Yalta and her actions as a challenge to the rabbinic system of menstrual laws in which men are the arbiters over women’s blood and thereby women’s sexuality.⁷ And both, citing alternate sources of definition, but clearly in conversation with each other, invoke the concept of the “trickster” and the ruse to elucidate the role Yalta plays in this story. Thus, although one might frame the two readings as standing in contrast to one another (as hinted at above), it would be feasible to suggest here that each has identified and highlighted critical features of this story that contributes to the subversive potential that a female figure like Yalta exhibits in this episode – features that might serve as criteria for demonstrating that other such women, with similar potential subversive import, are to be found elsewhere in the Bavli as well. These are: 1) the (likely) ruse, and 2) the ability to function not just as an object but also as a participant to some degree in rabbinic legal discourse. In the body of this article, one or both of these criteria will be used to identify other stories in the Bavli that might provide additional examples of types of female participation and agency (or barriers thereto) in the legal setting, and will analyze the

⁶. Fonrobert, Menstrual Purity, 120.
⁷. One might say their husbands’ as well, if a bit indirectly, especially if we presume monogamy to be the common practice (though not a legal requirement) among most rabbinic Jews.
presentation of female characters who come before legal authorities and the actions they take in the course of their cases. Put another way, can other stories about other female characters that might function as tricksters and/or (to borrow and adapt Adler’s terminology) “legal guerrillas” be identified? And if so, what might this imply about rabbis and rabbinic culture that such episodes are incorporated, presumably by the rabbis themselves, into Talmudic literature?

**Tricksters and Legal Guerrillas**

In order to pursue these questions, however, it will be helpful to pause to specify the working definition of what makes a character a trickster figure – itself a tricky proposition. Whether one comes at this topic from the anthropological, literary, psychological, or any other approach, one almost immediately runs into questions regarding such (interconnected) issues as: Can one even speak of a cross-cultural trickster or whether the trickster must be studied within the specific parameters of the particular culture and cultural productions in which the figure appears? What defines a character’s actions as “tricky”? Must trickster tales include particular literary qualities (such as humor, for example)? How does gender interacts with the concept of the “trickster”? Indeed, yet more such questions could be posed.

First and foremost in this context, there is a distinction to be made between the trickster figure found in many mythological systems, who is a divine or semi-divine character for whom trickery is an (if not the) outstanding salient personal attribute (for example, Coyote or Raven in Native American mythology, Loki in Norse mythology, Ananse in Ashanti mythology), and the human characters – both male and female – found in folklore and similar forms of literature, who resorts to trickery and deceit in a specific situation or situations to accomplish their ends (Odysseus would be a prime example of this second pattern). For the purpose of this study the definition of “trickster” follows the latter understanding, and is largely congruent with the definition that is often tacitly and occasionally explicitly used in the field of biblical studies to

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analyze stories such as the patriarchal wife-sister tales, Rivka and Ya’akov’s ruse to steal the blessing of the first born from Esav, or the encounter between Yehudah and Tamar (to name some examples just from Genesis). Moreover, there is one element that recurs in the many definitions and scholarly discussions and suggests ambiguity, or ambivalence. This ambiguity is often manifested as a moral ambiguity, as Mieke Bal writes, “it seems rather obvious what sort of a character a trickster is: a morally and sometimes ontologically ambivalent being who plays tricks that deceive others...” In reviewing analyses of the stories below, various modern, feminist scholars will be cited, and this ambiguity will be repeatedly seen in the difficulties


10. William J. Hynes even suggests that this is the trait of the trickster from which all others flow: “At the heart of this cluster of manifest trickster traits is (1) the fundamentally ambiguous and anomalous personality of the trickster.” William J. Hynes, “Mapping the Characteristics of Mythic Tricksters: A Heuristic Guide,” in *Mythical Trickster Figures: Contours, Contexts, and Criticisms*, ed. William J. Hynes and William G. Doty (Tuscaloosa & London: The University of Alabama Press, 1993), 34.

interpreters face in evaluating the women’s motives and characters, both in terms of their presentation in the primary sources\(^\text{12}\) and as modern readers.

As suggested above, however, both Adler and Fonrobert suggest that there may be another quality to Yalta’s ruse that extends beyond trickery. Adler’s own terminology indicates that she wishes to define Yalta as a “legal guerrilla”; as cited above, her guerrilla tactics are “legal guerrilla tactics.” This, it would be argued, is the key point that Fonrobert’s reading can add to our analysis. She alerts the reader to the fact that a key element of the story in bNiddah 20b – as opposed even to other stories in which Yalta appears – is the ability of the female protagonist to function as “a participant in talmudic discourse, instead of its mere object.”\(^\text{13}\) In what follows, a series of stories, in which women confront the inequities of power in rabbinic procedures and rulings regarding their legal claims and attempt nonetheless to secure for themselves the most favorable outcomes despite their disadvantaged status, will be examined. In each, women use verbal arguments with various degrees of calculation, resort to trickery, and/or use various forms of deception to achieve their goals. It is of particular interest to find and demonstrate additional examples of the “legal guerrilla.” The best parallels to the case of Yalta appear in those cases in which there is not just a degree of tricky behavior, nor just a successful outcome to the suit for the female petitioner, but those in which there is both ruse and reasoning. This is where the subversive potential of the “legal guerrilla” comes to the fore, and the most pressing questions are raised about such women’s presence and purpose in rabbinic discourse.

**Texts**

Two sets of stories present women engaging rabbinic legal authorities, who are initially reluctant or consider themselves unable to rule as sought by the female petitioners. Each set includes stories, in which the women do not simply accept the original response, but continue to

\(^{12}\) Indeed, it should be noted that Fonrobert proceeds to demonstrate how the continuation of the passage in Niddah reframes its picture of Yalta and her actions, first by asking directly “and is she believable?” (although the answer is, at least at first, yes), a move that will be reflected in the ambiguity about female reliability that surfaces in several sources discussed below, and then by retelling the story with the ultimate conclusion that Rav Yitzhak did not actually accept Yalta’s report/reasoning, but “relied on his own tradition.”

\(^{13}\) Fonrobert, *Menstrual Impurity*, 121; emphasis added.
verbally engage the rabbi who is presiding over the case and thereby alter the outcome. The very fact that the female petitioners challenge the verdicts they initially receive and are able to achieve a more favorable result through their words might suggest a parallel to Yalta and the response of a “legal guerrilla.” Each passage also concludes with a story, in which the woman involved invokes tricksterish tactics either to achieve her desired end or to protest a decision she perceives as being against her interests. What will be less clear is whether any of these women are best understood as “legal guerrillas;” at the same time, in choosing not to categorize them will help clarify what characteristics identify other examples that do fit this motif, if they exist.

1) bGittin 35a

Under discussion in this passage is mGittin 4:3, and more particularly an apparently contradictory set of concepts that it contains. The Mishnah opens by ruling that a widow may only collect her *ketubbah*, her marriage settlement, from her husband’s children if she takes an oath that she has not already collected it. It then immediately follows this law with a statement that at some point in time, “they” – presumably rabbis and/or rabbinic courts – “refrained from making her take an oath.” Although the text also notes that Rabban Gamliel provided an alternate procedure to allow her to reassure the heirs and receive her payment, this very issue of whether a woman will be able to convincingly and validly assert her legal right to the money so as to be able to collect it becomes a key issue of the Talmudic discussion:

Rav Yehudah said Rav Yermiah bar Abba said: Rav and Shmu’el both said: They only taught [this restriction on administering oaths to widows] regarding [an oath taken] in a court, but outside of a court, they administer an oath to her. Can this be so? But Rav said: one does not collect a *ketubbah* for a widow! This is a difficulty.

In Sura they taught it thus [as just related]; in Nehardea they taught it thus: Rav Yehudah said Shmu’el said: They only taught [this] regarding [an oath taken] in a court, but outside of a court, they administer an oath to her. And Rav said: Even outside of a court, one does not administer an oath to her. And Rav [rules] according to his own opinion, for Rav would not collect a *ketubbah* for a widow. But let her take an oath and let her collect! In Rav’s time, oaths were treated lightly.
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1) A certain woman came before Rav Huna [seeking to collect her ketubbah]. He said to her: What can I do for you? For Rav would not collect a ketubbah for a widow. She said to him: is there any reason other than that perhaps I have taken something of my ketubbah? By life of the Lord of Hosts, I have not gotten any benefit at all from my ketubbah! Rav Huna said: Rav would admit [that the ketubbah may be paid] regarding one who jumps in [and takes an oath without being prompted].

2) A certain woman came before Rabbah, the son of Rav Huna [seeking to collect her ketubbah]. He said to her: What can I do for you? For Rav would not collect a ketubbah for a widow, and my father, my master, [also] would not collect a ketubbah for a widow. She said to him: Give me my maintenance. He said to her: You are also not entitled to [lit.: do not have] maintenance, for Rav Yehudah said Shmu’el said, One who makes a claim for her ketubbah in court, she is not entitled to maintenance. She said to him: Overturn his chair [a curse of some sort!]. He rules for me in accordance with [the more disadvantageous of] both [views]! They overturned his chair and righted it, and even so he did not escape illness.

Given the seemingly contradictory impulses in the Mishnah – women must take an oath in court before collecting the ketubbah, but were denied the opportunity to actually do so – amoraim discuss the possibility of creating an alternate means for a woman to collect her ketubbah outside of the usual methods and auspices of the court. Rav, however, is presented as holding the view that a woman should never be made to take an oath. The result of Rav’s position, though, would be that since she cannot take either an oath in court or an alternate form of an oath, and thus cannot legally establish that she has not already collected some or all of the money owed her, there is no means at all for her to legitimately collect money from the children of her deceased husband. If a woman comes before a rabbi who holds by Rav’s view or considers himself to be under Rav’s jurisdiction (as Rav Huna and his son Rabbah do in these stories), the judge will

14. The exact implications of which are unclear. Perhaps it means that Rabbah’s authority and/or position of prominence (symbolized by the chair) should be stripped from him, or perhaps it is a reference to the custom of “overturning the bed” for those in mourning, that is, that Rabbah should be in mourning, or even others in mourning for him (an explanation that might fit especially well with illness as the “modified” form of the curse that is fulfilled). See also Aryeh Cohen, Rereading Talmud: Gender, Law and the Poetics of Sugyot (Atlanta, Georgia: Scholars Press, 1998), 159, n11.
consider himself unable to enforce collection of her *ketubbah*, and the woman will be apparently left without legal recourse.

II) *bYevamot 65b*

Marriage, the end of marriage (in this instance through divorce rather than widowhood), and *ketubbah* payments figure in this set of cases as well. At issue here is the question of whether women are obligated to procreate, something which rabbinic Judaism unquestioningly considers obligatory for men. The Talmudic passage begins by recording that two *amoraic* authorities, Rabbi Yoḥanan and Rabbi Yehoshua ben Levi, took opposite views on this point, without having a clear tradition on which ruled which way. After some discussion aimed at resolving the problem of pairing person with halakhic position, the following cases are presented. In the first two cases of interest here, a woman who has not had children in her current marriage approaches a rabbi regarding matters related to a divorce, while in the last, the female protagonist takes a very different approach to a different end:

What is the result? Come hear: For Rav Ḥa’i bar Ḥanina said Rabbi Abahu said Rabbi Assi said, a case came before Rabbi Yoḥanan at the assembly in Caesarea, and he said “He must divorce her and give her the *ketubbah* payment.” And if you think that she is not commanded [to bear children], what is the *ketubbah* doing here [why did Rabbi Yoḥanan say that the husband is obligated to pay it]? Perhaps it was a case of a woman who came on account of a claim –

1) Like the woman who came before Rav Ami. She said to him: Give me my *ketubbah*. He said to her: Go, you are not commanded. She said to him: In her [i.e., my] old age, what will become of this woman? He said: [In a case] like this, certainly we compel [the husband to grant a divorce and/or pay the *ketubbah*; see below].

2) [There was] a woman who came before Rav Nahman. He said to her: You are not commanded. She said to him: Does this woman not need a staff for her hand and a hoe for burial? He said: [In a case] like this, certainly we compel.

3) Yehudah and Ḥizkiah were twins. The form of one was completed at the end of nine [months, of their mother’s pregnancy], and the form of the other was completed at the beginning of seven
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[months].15 Yehudit [the mother of the twins], the wife of Rabbi Hiyya, had pain/difficulty in giving birth. She changed clothing and came before Rabbi Hiyya. She said: Is a woman commanded in procreation? He said to her: No. She went and drank a sterilizing drug. Eventually, the matter was revealed. He said to her: If only you had borne for me one other womb(full)!

The cases numbered 1 and 2 here are somewhat difficult to explicate in terms of what the women are seeking, whether it is the assistance of the rabbi/court to obtain a divorce from their husbands (something a woman cannot do on her own in rabbinic law, in which a divorce is the unilateral act of the husband releasing the wife) so as to be able to marry another man from whom they might bear children, or more specifically the collection of the ketubbah.16 Be that as it may, what is relevant to this discussion is that as in the first case from bGittin 35a (presented above as I.1), the women here do not simply accept the statement of the presiding rabbi that he cannot fulfill their requests (whether it be to collect the ketubbah or to receive a divorce). Rather, each responds in such a way that the judge is, based on her response, able to overturn his original

15. According to a related text in bNiddah 27a, although Yehudah and Hizkiah were initially gestated together as twins, one was born three months before the other, at the beginning of the seventh month vs. the end of the ninth month.

16. The former view is taken by scholars such as Judith Hauptman, Rereading the Rabbis: A Woman’s Voice (Boulder, Colorado, Oxford: Westview Press, 1998), 137–38, Ilan, Mine and Yours Are Hers, 205–6, and Susan C. Grossman, “Between Authority and Autonomy: Women in the Rabbinic Courts: A Study of Rabbinic Attitudes and Perceptions,” thesis, DHL (New York: Jewish Theological Seminary of America, 2009), 116–22. However, the demand that the woman in the case numbered 1 above makes (although the second woman’s request is not presented, contextually it can be assumed to be similar or identical to that of the first woman), “Give me my ketubbah” – as opposed to something like “Give me a divorce” – somewhat complicates this explanation. Indeed, one might note in this vein the talmudic analysis of Rabbi Yoḥanan’s ruling in the immediately preceding part of the discussion, which focuses on his awarding of the ketubbah to the woman, while making no comment on his order that she should receive a divorce. Rashi suggests, perhaps on these grounds, that the case is one in which since it is the woman who seeks the divorce, she ought to thereby forfeit her right to the ketubbah (that is, there are limited circumstances in rabbinic law in which a woman is “entitled” to seek a divorce; in all other circumstances, apparently including those described in this passage, she may petition for the divorce but will not be able to collect the ketubbah if the divorce is granted). See also Judith Baskin, Midrashic Women: Formations of the Feminine in Rabbinic Literature (Hanover and London: Brandeis University Press/University Press of New England, 2002), 127–28, Shulamit Valler, Women in Jewish Society in the Talmud Period (Israel: Hakibbutz Hameuchad Publishing House Ltd., 2000), 115–17 [Heb.], and David Halivni, Sources and Traditions - Nashim (Tel Aviv: The Dvir Publishing House, 1968), 71 [Heb.]. The topic is worthy of further investigation, but as a full explanation is not directly needed for this work, I will not pursue it here.
verdict; the woman receives (that is, the husband is compelled to give her) her divorce and/or her ketubbah.

None of these three cases (I.1 and II.1-2) involve tricksterish elements. The fact that each passage concludes with an additional story (I.2, II.3) that can more readily be described as invoking themes of trickery and deceit nonetheless prompts further examination of these episodes.

It must be noted that a common theme that runs through these three stories is not only the persistence of the female petitioners but the reticence or even resistance at first of the male arbiters of the cases to provide legal recourse for the women before them. It is intriguing, moreover, that both Grossman and Judith Hauptman in their discussions of the Yevamot cases (II.1-2) each suggest, in very similar ways, that the rabbis hearing the cases have to actively circumvent the established law to be able to act on behalf of the women—something they are not initially willing to do absent the women’s pleas for their future security. In the face of women who have no access to rabbinic power (in the sense that they cannot become rabbis) and no obvious role in the shaping of the law that nonetheless governs their lives and well being, it is male rabbis, the recognized interpreters and arbiters of the law, who at first claim powerlessness. Keeping this aspect of the stories in mind may therefore shed light on the reading of the women’s responses in each case, their willingness to persist in the face of judicial protestations of incapacity to act on their behalf—and the fact that those responses are crucial to securing a positive outcome for the female petitioners.

17. See Grossman on the ambiguities and complexities of the rabbinic response “What can I do for you”: “Between Authority and Autonomy,” 79–81, 91. Cohen also highlights this aspect of the cases in his analysis of the Gittin passage: Rereading Talmud, 153, 164.


“If we look closely at the three anecdotes, we see that in the last two, the decisors...held that women are not obligated to procreate but even so decided to help them obtain a get and collect their marriage settlement. That is, these rabbis felt they could find in the woman’s favor even if such a decision went against the rules.” Hauptman, Rereading the Rabbis, 137; emphasis in the original.
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What could be at stake is well framed by Dvora Weisberg in regards to the unsolicited oath of the woman in the Gittin case (I.1): “It is unclear whether she is knowingly manipulating the law or whether she is simply lucky enough to inadvertently use language that forces Rav Huna to collect her marriage settlement. If we assume the former, then this unnamed widow is what Rachel Adler refers to as a ‘rabbinic trickster’ or ‘legal guerrilla’...”19 Yet as already noted, there are no obvious tricks or deceptions here. It may be that nonetheless Kathleen Ashley’s comment about female trickster figures in biblical narratives could have some applicability here: “They may use strategies which are not normally valid, including deception, or they may exploit linguistic ambiguity to redefine terms in order to provide a solution to problems.”20 It is noteworthy that in each of these cases when each woman is confronted with a judge who professes his inability to attend to her problem, it is the woman’s words (or action undertaken through words, as in the oath) that reframe the situation and allow for a different, more favorable answer to emerge – as was also the case for Yalta in bNiddah 20b.

Weisberg has thus identified one of the key questions that arises in analyses of these cases and the possibility of identifying them with the “legal guerrilla” motif, that being intention: to what extent is each of the three women responding with some degree of calculation as to what will sway the judge, or alternately, do the women respond spontaneously but find themselves fortunate enough to land on a persuasive argument? Relatedly, what might the response of each woman indicate about her knowledge of rabbinic law and/or her ability to advocate for her case within the system? There is little agreement or certainty to be had on these points among scholars. Grossman, for example, presumes that the woman in Gittin (I.1) takes her oath “impulsively” rather than using “rational reasoning;” the content of her oath suggests that she is not familiar with rabbinic law regarding full or partial payment of the ketubbah. In Yevamot, on

the other hand, she proposes that the first woman’s plea (II.1) may be understood as a “simple *cri de coeur*,” albeit one based on logic and ethics as well as emotion, while the claim of the latter (II.2) “is in the form of a stylized statement” that “seems to imply that this formula was known, accepted and effectively used by women...”\(^{21}\) Valler goes one step further in her review of the Yevamot cases, suggesting not only that the women were relying on what was, or would become, a recognized effective argument for women in this situation,\(^ {22}\) but also that the women actively and knowingly altered their arguments when they realized that their initial claims would not be compelling to the rabbis overseeing their cases.\(^{23}\) If this is so, however, it is curious that the presiding rabbis do not seem to be aware of this legal expedient until it is explicitly brought to their attention by the women litigants – or one may note that they are unwilling to bring it into consideration themselves unless it is invoked explicitly by the litigant on her own behalf.

Furthermore, the Gittin case (I.1) in particular can quite plausibly be read as encoding a great deal of ambivalence around the woman and her “solution” to the problem of her “uncollectable” *ketubbah.* This is specifically so in light of the context that surrounds the story. As noted above, in the following story the female petitioner is not able to influence the judge through arguments or an unexpected but effective legal action, and instead resorts to placing a curse on the judge. Aryeh Cohen observes that it is also preceded by another story (though not one that explicitly takes place in a judicial setting) further up on the page, in which a woman makes an unintentionally mistaken oath and thereby brings death to her son; thus, “In the second *ma’aseh* [that is, the story identified here as II.1] the woman gets what she demands, and there is no apparent danger to the men. The context of the other two *ma’asim* imply, however, that there

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22. Both Valler and Grossman base this argument in part on bKetubot 64a, where there is a further appearance of almost the exact language used by the second woman in our case, also in a mention of a woman who “comes on account of a claim” – in these instances to be released from betrothal or a levirate connection to a man who refuses to move to full marriage. Valler, *Women in Jewish Society in the Talmud Period,* 116; Grossman, “Between Authority and Autonomy,” 120.
is danger in this one too."

Perhaps, then, this ambivalence could be understood as reflective of the kind of ambivalence as to motives and morality, and hence subversive potential that would be expected in the presence of a trickster figure. On the other hand, it may be noted that such ambivalence does not figure so clearly in the Yevamot episodes (II.1 and 2), which rather seem to accept positively the women’s pleas and the judges’ reconsiderations of their verdicts.

In light of these considerations, especially the lack of behavior that can be obviously deemed “tricky,” uncertainty as to whether the women are engaging in deliberate and informed interactions with the law and legal thinking relevant to their cases, and questions as to whether their statements and actions need be deemed ambiguous and potentially subversive (particularly in the Yevamot examples), it is difficult to definitively label these cases as examples of the legal guerrilla phenomenon. It seems best to follow Weisberg in her posing of the question, which remains without a clear answer.

The final story, in each passage above (I.1 and II.3), introduces a companion story to each. In these cases, there are more likely examples of “trickster” behavior that may identify other legal guerrillas in the mold of Yalta.

III) bBava Batra 153a

A story with some significantly similar details to those of the latter story in Gittin 35a (I.2) appears in this passage: a woman receives an unfavorable decision and pronounces a curse, indeed, an efficacious curse, on the rabbi overseeing the case. The context is a discussion of whether gifts given in anticipation of death can be retracted should the giver survive (and if so, under what conditions). The details of this particular case are not related explicitly, so it is unclear if the woman was the donor trying to retract or had some other interest in the case, but in any event, she is presented as unhappy with the verdict:

25. Rashbam, whose commentary appears on the printed page, presumes that the woman was the one trying to retract, but that language in the documentation to the gift made it permanent according to Rava’s understanding of the law. Valler suggests that it was the woman’s husband who made the gift to another man, and that after the
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A certain woman came before Rava; Rava ruled for her [that is, in her case, but against her claim] in accordance with his teaching. She bothered him [afterwards, about the verdict]. He said to Rav Pappa the son of Rav Ḥanan, his scribe: Go write for her, but write in it, “he may hire at their expense or deceive them” [a reference to mBava Metzia 6:1]. She said: Let his ship sink! Do you mean to deceive me? (!) They placed Rava’s clothes in water, and even so, he [or perhaps “it,” i.e., the ship] did not escape sinking.

Several points link this story and the latter case in bGittin (I.2). There is, of course, the curse and the failed attempt to neutralize it in each. The parallels go deeper, however. First, in both these stories, there are questions to be raised about the interpretive and judicial choices made by the presiding rabbi. In bGittin, Rabbah follows his father Rav Huna in following Rav and therefore refuses to enforce the collection of a ketubbah (a position that might be expected as Rav Huna is elsewhere depicted as both a student of Rav and the teacher of his son). But for him to then turn to the ruling of a different authority regarding the awarding of maintenance, and one who is often depicted as disagreeing with Rav (i.e., Shmu’el) at that, does indeed lend credence to the complaint voiced by the widow that he is deliberately inconsistent, picking and choosing in each instance a guiding authority who provides the ruling that will be more detrimental to her. In the bBava Batra case here, Rava rules according to his own interpretation of a prior ruling (also of Rav), which is presented above on the page, but it may be noted that the gemara there also cites two amoraim who disagree with Rava’s position. Thus, while Rava cannot be charged with inconsistency in this instance, the context makes clear that there were other options as to how the case might have been decided.

Nor is this all there is to be said about the attitude taken, more or less overtly, by the two rabbis towards the female petitioners. As Tal Ilan has pointed out, the law that a widow who makes a formal claim for her ketubbah thereby loses her right to maintenance is known in the Yerushalmi as well. Rabbah’s ruling in bGittin 35a (I.3) may thus be contrasted with what happens when a case involving this law is described in yKetubot 11:1 (34b); there the result is husband’s death she claimed first rights to collect her ketubbah from his estate: Valler, Women in Jewish Society in the Talmud Period, 147.
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quite different, as the presiding rabbi, Rabbi Bar Kohen, alerts the woman to the consequences of claiming the ketubbah, and allows her the opportunity to withdraw her initial request. In the Babylonian court, however, “the widow is not warned – she is cornered, subordinated to the male system and made destitute.”26 In discussing the theme of tricks and deceptions, it is critical to recognize that in bBava Batra 153a it is the rabbi who first attempts to deceive the female litigant. The passage Rava asks his scribe to insert into her document, a citation of mBava Metziah 6:1, explicitly invokes deception; it describes a scenario in which an employer is permitted to make a deceptive wage offer to lure back workers who have quit an uncompleted time-sensitive job. The reader, be it another rabbinic judge who reviews the case or the audience for the story, is to similarly understand that Rava’s document for the woman is no more sincere, or in need of being honored, than the employer’s sham overture to the recalcitrant laborers.

The question of whether justice is being served by the rabbinic arbiters of the law is therefore already present in both episodes at the point at which the curse is uttered. It must also be noted that in each case, the woman is aware to a greater or lesser degree that the rabbi is actively working against her interests. As Grossman writes of the woman in the bGittin case (1.3), “While clearly not presented as knowledgeable enough in rabbinic law to have avoided this dilemma, she is presented as knowing enough to know that the rabbi’s decision draws on the worst of two different authorities to her disadvantage.”27 All the more so in the bBava Batra case, it appears that the woman recognizes the Mishnaic citation or at least immediately comprehends its implications for her own case.28 Additionally, Valler suggests, “It appears that the subject

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26. Tal Ilan, *Silencing the Queen: The Literary Histories of Shelamzion and Other Jewish Women* (Tübingen, Germany: Mohr Siebeck, 2006), 176–77. It may also be noteworthy that the woman in the Yerushalmi case is not anonymous, but rather is identified as the widow of a named rabbi (though her own name is not given).


here is an intelligent woman who knew that there was someone who disagreed with Rava’s interpretation of Rav’s words...”

Resorting to a curse, the means by which both women respond, introduces elements of trickster behavior to the depiction drawn of them. The intention is, similar to playing a trick on someone, to cause harm to or at least gain the advantage over the one who is cursed. An element of moral ambiguity thus attends the two women’s acts of cursing the rabbis, reminiscent of the moral ambiguity that often characterizes the behavior of trickster figures. That is, it is quite possible for a reader to understand, even sympathize with, the frustration out of which these two women utter their curses. Highly relevant in this regard are Bal’s comments on the story of Judah and Tamar in Genesis 38. She argues that to identify Tamar, and Tamar alone as the trickster figure, in this story is problematic and even prejudicial: “The liar and fellow-trickster in this story is Judah, if we consider false promises as lies...This seems a trifling detail but it is not...it is necessary to insist that her trick is a response to the trick played against her, not an initiative of trickery. There is an exchange of trickery...”

So too these two Talmudic episodes might be read in a similar vein, as tit for tat trickery, or examples of the trickster (rabbis) tricked. Further complicating an easy assessment of the stories or the women in them is the fact that the curses are efficacious, even after attempts at protective measures have been made. The effectiveness of the curses can be reasonably read as confirmation that an injustice has been done and is being punished. Alternately, it may be taken as a sign that women are dangerous to the legal system and its male overseers (or both interpretations at once).

The curse is, quite plausibly then, at least a guerrilla tactic. Certainly, it cannot be described a standard, “typical” tactic, legal or otherwise, for achieving justice or even just a
personally favorable legal result. Significantly, however, while the women’s curses in these two stories succeed in harming the rabbinic judges, they do not apparently change the verdicts or the legal dilemmas the women face. Even if the women have a measure of justice on their side, the actual wrong is not righted. Thus, lacking in these cases is the second element of the legal guerrilla, highlighted by Fonrobert in her reading of the above Yalta story. The women, even if knowledgeable about the applicable law or elements of legal reasoning regarding their petitions and the judges’ responses (a possibility raised above), do not make a legal argument or claim that can sway the juridical outcome of their cases. Whether unable or unwilling to invoke such a strategy to alter results, the women instead turn to the tricky recourse of the curse; they do not interact with the rabbinic legal system as true and full participants. As Grossman notes, the response they do pursue opens other possible associations besides that of “guerrilla:” “such a depiction may be intended to paint the woman not only as spiteful and vicious but as presenting a demonic danger to the rabbis and the rabbinic world...the depiction of these angry women whose curses are nevertheless efficacious evoke[s] a universal literary and folk motif that identifies non-compliant women as witches.”32 Here again, then, it is difficult to unequivocally identify these women as “legal guerrillas.”

IV) bKiddushin 12a-b

In the third case of bYevamot 65b (II.3 above), another named female character, Yehudit, disguises herself with the rather clear intent to deceive her husband as to her identity in order to elicit a particular ruling from him in his role as rabbinic legal authority that he would not want to have implemented in his own marriage (as his response, when the ruse is revealed, indicates). Yehudit also appears once more elsewhere in the Babylonian Talmud (bKiddushin 12b) in an equally brief episode with strong affinities to the one presented above; that is, she confronts the same problem (difficult childbirth), and similarly does not seem able to approach her husband straightforwardly to resolve the problem. The story is not brought directly, but is cited as a kind

of (negative) precedent in a case being heard before Rav Hīṣda (beginning on 12a), in which a woman’s claim about the worth of an item might be determinative as to whether a man’s attempt to betroth a woman with it was valid:

His mother said: But on the day when he betrothed her, it was worth a p’rutah [the minimum necessary for the betrothal to be effective]? He [Rav Hīṣda] said to her: It is not within your legal power to forbid her to the latter [man who betrothed her].

Is this not like [the case of] Yehudit, the wife of Rabbi Ḥiyya, who had pain/difficulty in childbirth? She [Yehudit] said to him [Rabbi Ḥiyya]: My mother said to me, “Your father accepted betrothal [money] for you when you were little.” He said to her: It is not within your mother’s legal power to forbid you to me.

Note that the example of Yehudit is brought to demonstrate that the claim of the woman in Rav Hīṣda’s court is not sufficient or acceptable so as to influence the outcome of the case and thereby determine another woman’s marital status. The nesting of this story in the frame of this case emphasizes the unwillingness of the rabbis to let a woman’s words have a say in determining matters of marital status, a right they reserve instead for themselves.

The story is neatly ambiguous as to whether Rabbi Ḥiyya (and/or the storyteller) doubts the truthfulness of Yehudit’s report from her mother, or whether he refuses to rule based on the mother’s account even if Yehudit is conveying it accurately. The information the narrator gives as to Yehudit’s apparent motives certainly leads the reader to suspect that this is her own stratagem with the goal of avoiding additional pregnancies, thus invoking comparisons to Yalta’s ruse, and hence to the possibility of reading Yehudit in this episode as a trickster. In the story of bYevamot 65b (II.3), Yehudit is quite clearly functioning as a trickster. Disguise is widely

33. It is unclear whose mother is meant. This could be either the mother of Rav Hīṣda, who (for whatever reason) was with her son in the court, or the mother of the man claiming that he had betrothed a woman with the item in question.


35. In keeping with the father’s right to betroth his daughter during her minority. Such a betrothal would, then, make her later betrothal/marriage to Rabbi Ḥiyya invalid, indeed adulterous and forbidden. See below.
recognized as one of the features of trickster behavior. The story is so terse in detail that the reader does not learn who Yehudit disguised herself to be; the directness of her halakhic question to the rabbi might even mimic that of a student to a teacher, and it is not impossible to understand that she disguised herself as male (though there is nothing to prove this point one way or the other), gender-crossing being another possible trickster trait/tactic. On the other hand, the parallel here in the bKiddushin text of the two mothers whose words could affect another woman’s marital status in the case and story, and the shared language of “it is not within your/her legal power,” might lend itself to the explanation that Yehudit in this case is conveying what she has heard accurately but this information is nonetheless legally inadmissible.

Another factor, however, links the two Yehudit stories, and that is Yehudit’s relationship to the laws that govern her situation and to legal reasoning. However, her claim in the bKiddushin text is to be understood (that is, as an honest claim or a ruse). Yehudit is invoking biblical and rabbinic law of betrothals in such a way that if her account were accepted, she would necessarily be forbidden any further sexual contact with Rabbi Hyya. If she is doing so with knowledge of the applicable halakhah and deliberately to this end, then one could reasonably say that Yehudit is at least attempting to insert herself as a participant in rabbinic discourse, as in Fonrobert’s analysis of Yalta – if not also acting as a rabbinic trickster and “legal guerrilla” according to Adler’s definition – albeit unsuccessfully. This is also the case in the bYevamot story (II.3). The story must be premised on Yehudit’s ability to reason that a ruling exempting women from the obligation of procreation would thereby mean it should be halakhically

36. Hynes, for example, includes “shape shifter” in his list of trickster traits, while Barbara Babcock-Abrahams writes that tricksters “have the ability to disperse and disguise themselves...” in her list of defining features. Hynes, “Mapping the Characteristics of Mythic Tricksters,” 34; Barbara Babcock-Abrahams, “‘A Tolerated Margin of Mess’: The Trickster and His Tales Reconsidered,” Journal of the Folklore Institute 11, no. 3 (1975): 159.

37. See Babcock-Abrahams, “‘A Tolerated Margin of Mess’,” 159. As Hauptman intuits, Yehudit’s act may also be reminiscent of the disguise assumed by Tamar (and the lack of recognition on the part of the male character) in Gen. 38; she also observes that Tamar becomes the mother of twins, another feature Yehudit has in common with her. Hauptman, Rereading the Rabbis, 138. On Tamar as a trickster figure, see n30 above; note also that this story is at least mentioned, if not discussed in detail, in many of the essays in Exum and Bos, Reasoning with the Foxes.
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permissible for her to take the sterilizing drug. 38 To be sure, as in the case of Adler’s reading of Yalta, there is perhaps a more “benign” way to read Yehudit’s interaction with her husband than as a deliberate ruse. She might have been seeking a genuine answer to the question, with the intent of adhering to it whichever way her husband ruled, but adopted the disguise to be sure that his personal partiality would not affect his response. For the disguise and halakhic question to work as a ruse, on the other hand, one must presume that Yehudit asked the question knowing or having a fairly strong intuition what the answer would be. If the Yevamot account is read as a trickster story, her disguise is successful. The way in which this story is told suggests that Rabbi Hiyya is not aware for some time that she is using the sterilizing drug, let alone how she came to do so. As in other stories already discussed above, the bYevamot story leaves room for evaluating the morality and acceptability of Yehudit’s actions in multiple directions, further contributing to her image as a trickster. 39 Rav Hiyya’s response when the full facts are revealed cannot be described as a happy one, but nonetheless can plausibly be placed anywhere on a spectrum from rueful acceptance to angry confrontation. In this case, then, one would have the clearest picture yet of a woman both functioning as a rabbinic trickster, ala Adler, and engaging in her own Halakhic reasoning alongside (male) rabbinic authorities, ala Fonrobert.

Nor are Yehudit’s trickster/guerrilla tactics in bYevamot simply more successful in achieving her end. In fact, there is a sense in which the ruse of bYevamot (if read as ruse) provides a far “better” solution to Yehudit’s problem than the ruse of bKiddushin (if read as ruse) would have had it succeeded. If Yehudit’s testimony (or her mother’s) were accepted, she would have not only forbidden herself to Rav Hiyya going forward (both sexually and regarding their ability to stay together as a married couple), but also would have in essence declared all sexual contact that they had had up to this point as adulterous. It follows that the children she had borne to him already should be mamzerim (as is the case for any child of an adulterous or

38. See Hauptman, Rereading the Rabbis, 132–34, 139.
39. See, for example, the analyses of Hauptman, Rereading the Rabbis, 138, and Ilan, Mine and Yours Are Hers, 206, n79.
incestuous pairing), whose marital options in the Jewish community would be severely limited (to other *mamzerim*); not only the status of Yehudit’s marriage is at stake here. Accepting Yehudit’s (or her mother’s) testimony to her betrothal as a child might resolve her immediate problem – she will not get pregnant again – but only at a very high cost in status, shame, and perhaps even moral standing that touches every member of her family. In the *bYevamot* story, in contrast, there is no severing of the marriage or of sexual contact between husband and wife. Once Yehudit has her own husband’s ruling (though he does not realize it) from which she derives the permissibility of using a sterilizing agent, she can both maintain her marital and sexual relationship with him while also avoiding the risk of another painful pregnancy and childbirth. By operating as a legal guerrilla, using both the trickster strategy of disguise and deception, and legal reasoning to make the connection between exemption from the obligation to procreate and the permissibility of using a sterilizing agent, she resolves her problem with far less potential damage to those around her.

V) *bKetubot* 23a

Finally, having reached the point of establishing criteria and identifying at least one additional “legal guerrilla” in the Bavli in the character of Yehudit, the last story is most truly an example the female legal guerrilla and confirmation of her existence as a recurring Talmudic motif: that of Shmu’el’s daughters, found in *bKetubot* 23a. The Mishnah in this chapter introduces, and gives several examples of, a legal principle regarding testimony known, as “the mouth that forbid is the same mouth that permitted.” One of these cases involves women who have been taken captive. Rabbinic law presumes that absent evidence to the contrary; a woman who was taken captive has been sexually assaulted by her captor(s). The concern that follows is less for the crime done to this woman than the implications for her future marital status. If she were previously unmarried, she is no longer presumed to be a virgin, and is no longer eligible for the *ketubbah* amount due to a virgin bride (200 zuz), but only half that amount (*mKetubot* 1:4). Furthermore, male priests are forbidden to be married to any woman, who has had sexual contact, willing or no, with a man forbidden to her, such as a non-Jew and/or a man other than
her husband; thus a male priest may not marry such a woman and must divorce his wife if she were captured or raped under other circumstances. The legal principle thus applies in the following way: a woman admits that she has been taken captive, such that she should be forbidden to be married to a priest, but also states that she was not sexually assaulted (in the language of the Mishnah, that she is “pure”) while under the control of her captor(s), such that she should be permitted to a priest. As there is no independent evidence to her captivity other than her own statement, her testimony must be accepted in toto: despite the disqualification that ought to follow her admission to the captivity (“the mouth that forbids”), her assertion of “purity” restores her marital permissibility (“the mouth that permits”). Should there be any independent confirmation of her captivity before her claim of “purity,” however, her testimony as to her own experience is not legally admissible. The scope of this law is discussed and then exemplified in this passage:

If after she was married [to a priest], witnesses came [to testify that she had been taken captive] [she does not leave]: The father of Shmu’el said: “was married” does not mean actually married; rather, once they permitted her to marry [that permission to marry a priest remains in force] even if she were not married. But it [the Mishnah] teaches “does not leave” [suggesting she is already in a marriage]! She does not “leave” her initial permission.

Our rabbis taught [in a Tannaitic source]: If she said “I was taken captive and I am pure, and I have witnesses that I am pure, one does not say we should wait until the witnesses come; rather one permits her immediately. If one permitted her to marry, and after that, witnesses came and said, “we do not know,” she does not go out. But if witnesses to impurity come, [then] even if she has many children, she goes out.

There were certain female captives who were brought to Nehardea. The father of Shmu’el set guards for them. Shmu’el said to him: And until now, who was guarding them? He said: If they were your daughters, would you treat them with such disregard?

It was like “an error proceeding from a ruler” (Ecclesiastes 10:5), and the daughters of Mar Shmu’el were taken captive, and they took them up to the Land of Israel. They [the daughters] left

40. The underlying rationale for the legal principle would be that had the person simply wanted to provide the most personally beneficial picture, s/he would have omitted the detrimental information; its inclusion lends credibility to the testimony as a whole.
their captors standing outside, and entered the study hall of R. Ḥanina. This one said, “I was taken captive and I am pure,” and this one said, “I was taken captive and I am pure.” They permitted them. Eventually, their captors came and entered. R. Ḥanina said: They are the daughters of a scholar. The matter was revealed\(^1\) that they were the daughters of Mar Shmu’el.

R. Ḥanina said to R. Shemen bar Abba: Go take care of your relatives [i.e., marry one of them]. He said to R. Ḥanina: But there are witnesses abroad! [R. Ḥanina replied:] As of now, however, they are not before us. Witnesses are in the North, and she should be prohibited?

[This would suggest that] The reason [for R. Ḥanina’s response] is that the witnesses have not come – but if they did come, she would be prohibited? But the father of Shmu’el said: once they permitted her to marry [the law applies] even if she were not married! Rav Ashi said: it [the challenge and/or R. Ḥanina’s response] was said regarding witnesses to impurity.

Shmu’el is identified elsewhere in the Talmud as a priest, giving reason for his daughters to be especially concerned about their permissibility to marry priestly men.\(^4\) Many rabbinic materials record a preference for endogamy among priestly families, and a preoccupation with lineage more generally in Babylonian amoraic culture in particular.\(^5\) In this case, then, the text intimates rather strongly that the women deliberately staged their testimony before R. Ḥanina’s court in such a way as to be sure of a ruling that maximized their future marital opportunities.

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41. Note that this is the same phrase that is used in bYevamot 65b regarding Yehudit. However, since it seems in this case that the women’s testimony and the determination of their status (see below) rather than their identity is at the core of their ruse, I am not sure what significance to attribute to this possible connection.

42. There are two key textual variants that appear in multiple manuscripts at this point in the text:

(a) Several identify Rabbi Yoḥanan rather than Rabbi Ḥanina as the one who directed Rabbi Shemen bar Abba to marry one of the sisters (Vatican 113 and 487, Munich 95).

(b) All have not the singular “he said to Rabbi Ḥanina” – that is, that Rabbi Shemen bar Abba raised the question of the possible existence of witnesses elsewhere – but rather “they asked,” suggesting a more general question raised in the rabbinic circle around Rabbi Ḥanina (Vatican 112, 113, 130, and 487, Munich 95, and the Soncino printing; note also that Vatican 112 explicitly adds “our rabbis” as the subject of predicate “asked”).

See the discussion below on the relevance of the source-critical issues raised by this part of the passage to my analysis of this story in the larger context of this work.

43. The language of “permitted” and “leave [the marriage]” in the mishnah and talmudic passage indicates that this is the key issue under consideration here, rather than whether she has the status of a virgin (which has implications for the ketubbah, but not her right to marry or stay married altogether).

44. See, for example, Jeffrey L. Rubenstein, The Culture of the Babylonian Talmud (Baltimore: The John Hopkins University Press, 2003), 80–85 (but also the chapter as a whole), as well as the sources he lists on 184-85, n3. Rashi comments along these lines that Rabbi Shemen bar Abba was also a priest (a not unreasonable assumption if he is a relative of Shmu’el/Shmu’el’s daughters).
As in other stories that have been addressed in this work, the women in this episode begin in a place of disempowerment and objectification vis-à-vis the rabbinic legal system; this is so in several ways beyond the obvious one of their exclusion from being arbiters or decisors in the system. First, according to the storyteller it is the dismissive attitude Shmu’el takes regarding the sexual abuse that might have been inflicted on other female captives and his lack of concern to protect them from future abuse that is the proximate cause for the captivity of his own daughters. His statement intimates that he is concerned only and solely with the legal implications of the captivity for their marital status; the women are already forever legally “impure” so no further regard for their well-being is necessary. The callousness, if not injustice, of this attitude is flagged by his own father. Secondly, as already noted, it is entirely possible within rabbinic law that women, who have been held captive, could still be stigmatized as “impure,” even if they had not been sexually assaulted by their captors, depending on how reports of their captivity reached the court. In the face of outside witnesses to the captivity, their own testimony as to their experiences would be disregarded. Shmu’el’s daughters therefore have ample motive to arrange their testimony as they do before the rabbinic arbiters of their status even if their report is true. It is with these considerations in mind that one can now turn to further examination of the ambiguity encoded in the text here around the question of the truthfulness of Shmu’el’s daughters.

This story, from its beginning to the moment at which the women’s identity is revealed, is also told in nearly identical detail in the Yerushalmi’s commentary to this Mishnah (yKetubot 2:6, 26c). At the point at which Rabbi Shemen bar Abba (Rabbi Shimon bar Ba in the Yerushalmi) enters the narrative as a potential marriage partner for one of the former captives, however, the two diverge somewhat, and the Yerushalmi takes up the question of the sisters’ credibility quite directly:
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He married the first and she died, the second and she died. Why? Because they lied? God forbid – they did not lie! Rather, from the sin of Hananiah the son of the brother of R. Yehoshua, who intercalated the year outside of the Land.45

In the Yerushalmi version, the possibility of false testimony is emphatically denied.46 The Bavli is subtler on this point, however; careful reading suggests that the question is present, but it does not receive a definitive answer. To demonstrate this claim, it is worth noting that some source-critical issues complicate the text here. As both medieval commentators and several modern scholars have sensed, the exchange between R. Hanina and R. Shemen bar Abba (or other rabbis) as to the possible existence of other witnesses does not entirely make sense here. Tosafot, for example, raises two difficulties: (1) if the possibility that witnesses to the captivity exist elsewhere is to be taken as a significant consideration, then this is a challenge to the rule of the Mishnah, and not just a concern in this episode; (2) one could say that witnesses to the captivity – other than the women themselves – are not far away, but rather the captors themselves are present47 (why else would the women need to leave the captors outside when they come to Rabbi Hyya to get his ruling on their marital permissibility? – although Tosafot does not make this last point explicitly). Rather, it may be identified as an interpolation from a different case in the Yerushalmi, relating to the Mishnah before this one, yKetubot 2:5 (26c).48 Having been placed

45. See yNedarim 6:8 (40a); a Babylonian version of the story appears in bBerakhot 63a. For suggestions as to why the women should be punishable for this offense, see the commentaries of Korban haEdah and P’nei Moshe.

46. Though one might also note that the idea has now been put in the reader’s mind, if it had not been there before. See Cohen on the technique of presenting an idea “under erasure,” and its application in the Bavli: Cohen, Rereading Talmud, 166–67, 188–89.

47. The most obvious way to understand this is that the captors themselves are independent witnesses to the captivity. This is somewhat problematic, however, insofar as the underlying legal issue presumes that the captors must be unfit for Jewish/priestly women. That is, in this case, they should be non-Jews – but non-Jews are not valid witnesses in the rabbinic legal system. Another possibility, then, is that since the women arrived in the presence of their captors and members of Rabbi Hyya’s community have seen the captors themselves (albeit not until after hearing the women’s testimony), they should be independent witnesses to the women’s captivity. See also Hiddushei haRashba to this passage.

48. See the discussion in Halivni, Sources and Traditions – Nashim, 156–58; also Zecharias Frankel, Mavo ha-Yerushalmi (Jerusalem: 1966; photo-offset of Breslau, 1870 ed.), 44a-b, and Ilan, Silencing the Queen, 184–85. That the variants in the manuscripts at this point are closer to the Yerushalmi text further attests to this point; see n42 above.
here, the question to and answer from Rabbi Ḥiyya prompts an attempt to reconcile this material with the already established law. Rav Ashi thus reframes the concern raised in Rabbi Shemen bar Abba’s (or the rabbis’) question; the concern is not that there are other witnesses to the captivity, but that perhaps witnesses to “impurity” exist. That is, Rav Ashi introduces the suspicion that perhaps their captors had in fact violated the women. And if such witnesses exist, then the women must have lied. But such witnesses “are not before us now.”

Bal’s observations regarding Genesis 31, in which Rachel steals her father Laban’s idols and hides them by sitting on them and then claiming she cannot get up “because the way of women is upon me,” are highly relevant here. She writes: “Whether or not she is actually lying to Laban is not verifiable. It is also irrelevant. The text does not linger over the question, and the semiotic use of her trick is based on its very undecidability.” So too in this story as it is transmitted (and transmuted) in the Bavli: the question is hinted at, but is ultimately irresolvable. Then again, what is clear is that whatever may have been done or not to these women while in captivity, they are knowledgeable about the applicable law in their situation and plan accordingly. Rabbi Ḥanina acknowledges at least this much when he identifies them as the daughters of a scholar based on their behavior. Reading the tenor of his comment, or deriving the implications, what the storyteller wished to impart thereby, however, is open to interpretation. Weisberg notes the multiple possibilities: “On one level, the story allows the reader to acknowledge and admire the resourcefulness of Samuel’s daughters...R. Ḥanina’s comment...can be read as an admiring acknowledgment of the women’s cleverness...” Alternately, “The story could be understood as a warning: women who know something about the law will use the law to serve their own ends. Should they do so, all that a rabbi can do is (grudgingly) acknowledge their

49. Much like, it may be added, the truthfulness of Yehudit in bKiddushin 12b, discussed above.
50. The question of how they gained their knowledge – might they have had some formal education, or could they have had access to legal learning simply by being in their father’s house – is also of scholarly interest, but not directly relevant to this analysis. See Dvora Weisberg, “Desirable But Dangerous: Rabbis’ Daughters in the Babylonian Talmud,” Hebrew Union College Annual 75 (2004): 121–61.
cleverness.” This ambiguity once more shines a spotlight on the subversive, tricksterish aspect of their story even if they are truthful. Their clever maneuvering, together with their insistence on actively and skillfully participating in the application of the law, in order to achieve the result most favorable to themselves in a system stacked against their interests, thereby marks them as an outstanding example of the “legal guerrilla.”

Conclusion

Having dismissed the question of Rachel’s truthfulness in Genesis 31, Bal instead suggests other questions, questions that can lead to a concluding discussion of the significance of the materials surveyed here:

…why is this event happening, why is this particular, female, character depicted as committing this particular act? What does her role, but also its casual presentation, mean in relation to the social reality whose product and expression it is, to which it responds, and within which it functions? This question is in fact the question of what narrative means socially.

One may recall that in the citation quoted at the opening of this article, Adler writes that the “darker” interpretation of Yalta’s interaction with Rav Yosef is one in which it is “a calculated attempt to manipulate the system.” Many readings of these episodes emphasize the danger and threat of women who challenge the rabbinic legal system, or note the possibility of reading this way. To use words such as “dark” or “manipulate” to describe what Yalta or Yehudit or Shmu’el’s daughters are doing in their encounters with the rabbinic legal apparatus, however, may be to already prejudge the moral valence of the women’s behavior vis-à-vis the rabbinic power structure – and thus to miss precisely what lends them their tricksterish characters.

While acknowledging the plausibility of such readings, it was necessary to deliberately focus on the ambiguity inherent in these stories, and the range of plausible readings and evaluations that

53. As also Weisberg does frequently in both Dvora Weisberg, “Desirable But Dangerous” and Dvora E. Weisberg, “Women and Torah Study in Aggadah”.
54. Indeed, one might reasonably state that it is precisely the job of a good legal advocate to “manipulate” the outcome that is most favorable to the petitioner.
exist. The accounts themselves allow for significantly more ambivalence in evaluating the women; “ironic,” another term used by Adler, is perhaps more apt.55 What is left to address, then, is this question: What might it mean for the Bavli to let these tricksterish characters and episodes, these female “legal guerrillas” — if not many, at least a few — into its discourse? Following Hynes’ attempt to delineate “a range of interpretive theses” regarding tricksters and trickster behavior (in a chapter wisely entitled “Inconclusive Conclusions”), however, one must also add that “In conformity with trickster logic, they can be considered to be inclusive of one another or not.”56

First, trickster behaviors are frequently associated with characters that are in a subordinate societal position, for reasons such as age, gender, nationality, social class, etc. Lacking access to more standard forms of authority and power, or means to influence others so as to achieve goals and further their own interests, these characters must use whatever strategies are available to them.57 Women, then, would be one class, though certainly not the only one, likely to be depicted as resorting to tricks, untruths, deceptions, or other tricksterish behaviors when other avenues of recourse are closed. As Naomi Steinberg writes, “That the trickster appears often and with impunity suggests that this role was a form of power available to those who lacked other means to achieve their goals.”58

55. Note also the comment in Dvora E. Weisberg, “Women and Torah Study in Aggadah,” 55–56: “Adler’s suggestion that the story of Yalta and the bloodstain can be read two ways underscores one of the difficulties facing scholars of aggadah, particularly when they deal with marginalized figures such as women. The ambiguity inherent in many of these stories—the absence of editorial comment on the stories and the terseness of the stories themselves—lends itself to a variety of readings.”


57. Mention may be made here of Raymond-Jean Frontain’s analysis of tricks and tricksterism in the biblical narrative of the life of King David, and his observation that “David’s trickery—once his survival is assured—becomes the very kind of treachery he originally had to defend himself against in others. Basically, while his actions do not necessarily change, their significance is altered by his change in social rank and power.” “The Trickster Tricked,” 181. See also Prouser, “The Truth About Women and Lying,” 15.

Steinberg’s article) in examining trickster behavior exhibited by biblical characters, for example – often women, but also younger sons and other males in a position of subordination. Women, among them those depicted in the stories reviewed here, have no direct voice in the making of rabbinic law, and find themselves at a disadvantage in the constructs of that system; they can only attempt to elicit a favorable response within the constraints already imposed on them. Doing so may demand strategies that are not fully normative within that system.

This approach, though, is open to at least one serious critique as regards its application to either biblical or rabbinic literature. As Ashley summarizes, “The problem with a straightforward sociological analysis comes when the tellers of trickster tales are no longer the powerless but the power brokers themselves. The Hebrew tales of deception occur within narratives constructed primarily by men in positions of moral and literary authority...” So too, not only is rabbinic law a system constructed by men, but rabbinic literature itself is the product of those same men. In this light, there is at least one explanation that would be in keeping with the negative evaluations that might emerge from these narratives and the depictions of the women who figure in them. Among the interpretations of the trickster listed by Hynes is the possibility that “Tricksters reaffirm the belief system.” He explains that stories of trickster characters “can be a powerful teaching device utilizing deeply humorous negative examples that reveal and reinforce the societal values that are being broken.” The stories that depict women functioning in tricksterish ways before the arbiters of the law may not be “deeply humorous”; nonetheless, they may convey a message that women are a threat to the orderly learning and application of Torah and the Divine law, and to the men who are its protectors.

Relatedly, tricksters’ stories might also be a place for the tellers, when they are themselves among those who wield the cultural power and capital to shape those stories, to consider and explore their own societal position. As Steinberg writes, “It is therefore worth

59. See also Bal, “Tricky Thematics,” 147.
considering these narratives as speculation on power by the power brokers of the society...the figure of the trickster suggests the vulnerability of those in power. The stories considered can be read as reflections on the instability of this power. Possibly their telling is motivated by the fear of losing this power. 62 These few narratives allow rabbis to personify and play out questions about the exercise and limits of their power over women in the arena of the court, what it might mean, and how one might respond when that power is challenged.

And thus, yet one more permutation flows instead, or also, from this same strange aspect of rabbinic female trickster figures— Tricksters are slippery and two-edged. To depict them in order to demonstrate or even just consider the threat they might pose to the system is at the same time to necessarily allow their challenge to the system into discourse. Hynes notes that “the trickster reminds us that every construct is constructed...No narrative, category, or construct is ever fully watertight. Each one leaks, some more than others.”63 To admit these stories into the canon is to admit, as Adler puts it, that a woman who features in them appears “not merely as an object in a legal problem, but as a person with her own investment in the decision and its consequences.”64 It is to admit that a few, extraordinary women might seek to break out of their imposed status as objects of religious law and instead wish to engage it as thoughtful participants. It is to admit that to do so might require – and that women are capable of successfully accomplishing – some degree of “pulling the wool” over rabbinic eyes first. And this is the moment that the woman in the rabbinic court becomes, cannot help but become, may have no choice but to become the “legal guerrilla.” To admit her and the (moral) ambivalence she brings in her wake is to admit that even the Divinely given law, once it enters human hands, cannot guarantee its justice, its inevitability, its claim to be the whole truth.

Bibliography


Babcock-Abrahams, Barbara, “‘A Tolerated Margin of Mess’: The Trickster and His Tales Reconsidered,” *Journal of the Folklore Institute* 11, no. 3 (1975), 147-86.


Rabbis and “Guerrilla Girls”
A Bavli Motif of the Female (Counter) Voice in the Rabbinic Legal System

Frankel, Zecharias, Mavo ha-Yerushalmi (Jerusalem: 1966; photo-offset of Breslau, 1870 ed.).


Halivni, David Weiss, Sources and Traditions - Nashim (Tel Aviv: The Dvir Publishing House, 1968) [Heb.]


Ilan, Tal, Mine and Yours Are Hers: Retrieving Women’s History from Rabbinic Literature (Kinderhook, New York: Brill, 1997).

_____, Silencing the Queen: The Literary Histories of Shelamzion and Other Jewish Women (Tübingen, Germany: Mohr Siebeck, 2006).


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_____，“Samson as Culture Hero, Trickster, and Bandit: The Empowerment of the Weak,” *Catholic Biblical Quarterly*, 52 (1990), 608–24


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