“I Thought I Could Endure Him But Now I Cannot” – Gendered Sensory Landscapes in MKetubot 7.7-10 and Parallels

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Abstract

Four consecutive mishnayot, Mishna Ketubot 7.7-7.10, concerning the rights of men and women to end marriage and betrothal are examined through the lens of two overlapping theoretical frames, anthropology of the senses and legal aesthetics, in the process expanding traditional scholarly methodologies used to examine early rabbinic halakhah and the culture in which it emerged through the use of interdisciplinary theory. Using these theoretical frames, as yet unexploited as far as rabbinic halakhah is concerned, this study highlights the intersection of sensory experience and gender in rabbinic ideologies of marriage, through analysis of the language, rhetoric and formal structure of early rabbinic halakhic texts.

INTRODUCTION

Four consecutive mishnayot – MKetubot 7.7-7.10 – identify circumstances that allow the end of a marriage on the basis of gendered sensory experience. These circumstances are of two kinds: a) those that allow a man to retroactively annul a betrothal and keep the ketubah (the dowry payment to the wife specified in the marriage contract) and b) those that allow a woman to petition a rabbinical court to compel her husband to divorce her. The unit’s formal symmetry, in which two mishnayot devoted to the legal repercussions of men’s response to women immediately precede two devoted to women’s response to men, is, arguably, a deliberate redactional strategy presenting a formal, but not an actual, equivalence between men’s and women’s halakhic status in marriage. The legal lack of equivalence between men’s rights and women’s rights to dissolve betrothal or marriage is enhanced by a correlating distinction between the way in which sensory perception motivates men with regard to the acceptability of their betrothed and/or spouses and the way in which it motivates women. A man can seek to invalidate a betrothal or end a marriage on the basis of defects in a women’s appearance, which are accessed through the male sense of sight. A woman can petition a court to compel divorce on the
basis of her husband’s offensive smell, which is accessed through the female olfactory senses. Thus, the texts assume a gendered binary distinction between men’s and women’s sensory experience and their respective responses to sensory perception.

MKetubot 7.8 clearly identifies the defects that render a betrothed woman or a new wife unacceptable to her husband and that may give him grounds to cancel the betrothal or to divorce while retaining the ketubah payment; these defects are accessed either directly through the male sense of sight, or by proxy through female relatives who can view the naked body of his betrothed in the bath house:

...[Once] she has entered into the domain of her husband [and defects appear on her], the husband must bring proof that these defects existed before her betrothal and that his purchase was made in error [owing to misrepresentation of the condition of the ‘goods’ in order to sue and thereby cancel the betrothal and retain the ketubah]. This is the opinion of Rabbi Meir. But the Sages hold: What kind of defects does the above ruling concern? Hidden defects. But the husband is unable to demand [cancellation of the betrothal while retaining the ketubah] if the defects were visible. And if there is a public bath house in the city – he cannot make this demand even of hidden defects because he is able to check her [entire body before betrothal] through [the agency of] his female relatives. (M7.8)

By contrast, MKetubot 7.10 identifies the circumstances that enable a woman to petition a rabbinical court to compel her husband to divorce her on the basis of her sense of smell:

These are the defects for which we may compel him [to divorce his wife]: affliction with boils, one who has a polypus (bad breath), one who collects [excrement], one who refines copper or one who is a tanner. Concerning all of the above Rabbi Meir explained, “Even though she married him, she has the right to claim, ‘[At the time of my agreement to marriage] I imagined/thought that I could accept/endorse him, but now I cannot endure him.” (M7.10)

The gendered binary distinction evidenced by these mishnaic rulings invites innovative theoretical frames from the relatively recent fields of anthropology of the senses, sensual culture studies and legal aesthetics. Some observers may consider it critically inappropriate or anachronistic to read ancient rabbinic texts in the light of contemporary theory. Yet whether or not a given theoretical frame is critically appropriate can only be determined by reference to the relevance and coherence of the analysis that results from its application. In this case, theoretical...
frames from these disciplines offer relevant, innovative, and, indeed, previously unremarked, insights into the texts in question and the rabbinic culture that produced them.

One goal of the present analysis is to broaden the range of scholarly methodologies currently used to examine early rabbinic halakhah and the culture in which it emerged: lower and higher textual criticism, tradition history, the history of the development of halakhah, and social and cultural history. This work is born of the conviction that analysis of rabbinic culture that uses appropriate interdisciplinary theory expands the opportunity to consider aspects of rabbinic culture independently, rather than comparatively. Recent research that focuses on the independent development of rabbinic tradition usually employs textual and literary methodologies to examine the development of halakhah and of rabbinic beliefs and cultural attitudes. By contrast, current “new historicist” and comparative cultural research in the field of rabbinics prefer comparative methodologies. More often than not, broader cultural phenomena are analyzed comparatively, viewed against the backdrop of Sasanian Zoroastrian Persia, Hellenistic and Roman culture, and early Christianity. Comparative and independent analyses of rabbinic texts and culture are equally necessary and, optimally, will enhance one another. The theoretical frames employed in this study are as yet unexploited as far as rabbinic halakhah and culture are concerned. Through an analysis of the language, rhetoric and formal structure of halakhic texts, these frames enable an independent study of a broad cultural phenomenon: the intersection of sensory experience and gender in rabbinic practices and ideologies concerning marriage. It is to be hoped that this study will prompt complementary comparative research.

**Anthropology of the Senses, Legal Aesthetics and Sensual Culture Studies**

Anthropology of the senses and legal aesthetics aim at two distinct objects of analysis. Legal aesthetics, an interdisciplinary, cross-cultural hermeneutical enterprise emerging in the 1990s, explicates stereotypical cultural assumptions embedded in both legal process and the rhetorical features of authoritative legal texts. It argues that “the discourse of law is fundamentally
governed by rhetoric, metaphor, form, images and symbols." Sensational jurisprudence, a sub-discipline of legal aesthetics, examines the complex interface between law and legal discourse, on the one hand, and the senses on the other. It aims to critically problematize this interface, examining how the sensory assumptions and discourses in normative legal texts and process embed social constructs and hierarchies of gender, class and race, reifying them into “totalizing symbolic authority.” The reification of sensory perception into legal form encourages prescribed law and legal process to mirror cultural values in an unthinking way, thereby discouraging legal development from transcending culturally determined sensory stereotypes.

The discipline of anthropology of the senses, or “sensorial anthropology,” is concerned with how individual sensory experience is embedded symbolically in all aspects of human cultural and social practice: ideology, gesture/performance/ritual, myth, law, social structure, art and the patterns of everyday life. “Sensory landscapes” is the term used to designate culturally and socially embedded patterns of sensory experience. The discipline emerged in the 1990s from the pioneering efforts of David Howes and his fellow participants in the Sensoria Research Project of the Department of Sociology and Anthropology at Concordia University, Montreal, Canada. The many publications of Howes and his colleagues and the Sensory Formation series recently published by Berg Press demonstrate the continuation of this research to this day. Primarily concerned with “how the patterning of sense experience varies from one culture to the next” and “the meaning and emphasis attached to each of the modalities of [sensory] perception,” the discipline explores the influence of sensory perception and its cultural reception on forms of social organization and cultural expression, including art, law, the manufacturing and marketing of sense-related commodities and academic historiography.

Since the 1990s, the field of anthropology of the senses has merged with cultural studies, creating a new, highly interdisciplinary field designated “sensual culture studies,” whose mandate is “to enhance our understanding of the role of the senses, in history, culture and...
aesthetics by redressing an imbalance: the hegemony of vision and the privileging of discourse in contemporary theory and cultural studies.”17 This statement encapsulates the explicitly corrective theoretical mission of both sensorial anthropology and sensual culture studies: to expose the deconstructionist and post-modernist appropriation of cultural and discursive practices, which represses embodied sensory experience and privileges rational, intellectual process. From the perspective of sensual culture studies, these practices perpetuate longstanding cultural trajectories that originated in classical Western philosophy and science. The most notable of these are the privileging of the sense of vision and linguistic discourse and all of the social, ideological and intellectual biases that result from this privileging.18 Whereas the critical tendency of sensorial anthropology is “to liberate us from the hegemony which sight has for so long exercised over our culture’s social, intellectual and aesthetic life,”19 that of sensual culture studies is to overturn the predominance of linguistic discourse in the “hyperliterate world of academia,” which reductively understands “all human thought and endeavor…as structured by, and analogous to, language.”20

**Gender and the Senses**

Since sight is stereotypically regarded as a “masculine” sense in Western cultural trajectories, the destabilization of sight as the privileged human sense strongly supports the theoretical work of feminist and gender critique.21 Constance Classen has conducted ongoing research on the interface between sensory perception and gender, beginning with *The Color of Angels*, published in 1998. This seminal work presents a sustained analysis of Western historical trajectories of the cultural stereotyping of sensory experience and gender that takes into account both ideologies and social practices of gender identity and relations.22 Subsequent work on gender and sensory perception has explored how cultures tend to attribute levels of sensory sensitivity and modalities of sensory experience to men that are different from those they attribute to women (analogous attributions of difference apply across races, castes and social classes as well). Furthermore,
cultures also tend to suppose that men and women provoke different kinds of sensory response in one another. As far as Western culture is concerned, from ancient Greek philosophy until the present, cultural notions of sensation and gender have normatively operated through a binary symbolic system that associates women with the “lower” senses of touch and smell, and men with the “higher,” more rational senses of hearing and sight, especially the latter. This binary symbolism became embedded in Western cultural and social practice, in which it correlated with the domestic and economic domains occupied by men and women and the types of labor considered appropriate for each.

Classen’s work on the historical trajectories of sensory perception elucidates through examples from medieval Europe the correlation between the association of women with the lower sense of touch and the representations and practices of women’s work in the home. For example, she cites legal evidence of the sensory rationale for the shift in control of medical care from the domain of the female healer to the male, university trained professional in the late Middle Ages, a change that articulates a gendered distinction between the roles of the “higher” and “lower” senses in medical treatment. In fourteenth-century Paris, a popular female healer, Jacoba de Alamania, was charged with illegally practicing medicine. “[Her]…hands-on methods [using touch] were deemed no match for the visual and auditory expertise acquired through university schooling [of male doctors] and Jacoba lost her case, though her patients testified fervently on her behalf.” Classen also illustrates how medieval European notions of appropriate gender relations and expectations are based on gendered sensory stereotypes. A fifteenth-century French text contrasts the quotidian, homely sensual pleasures provided by the wife for her husband with the latter’s harsh, cold experience working out in the elements: she removes his shoes, dries his feet, makes up the fire and sets him before it, serves him food, heats water and draws his bath, and so on. These pleasures, sensual rather than sexual, and the labor associated with them, are projected as the part of the normative service a wife provided for her husband.
Classen also explores the historically trenchant, stereotypical Western representation of how men and women use their senses in gender-distinctive ways. Men have been consistently associated with what have been considered to be the more refined or “nobler” aspects of a given sense and women with its normatively more “ignoble” aspects. For example, “men were ideally imagined to employ [the]… sense [of sight] for intellectual activities such as studying and devising plans, while women made use of it for the sensual ends of acquiring gaudy clothes and looking at themselves in the mirror.”29 In the context of sexual desire and the male sexual dominance of women, the association of men with sight is, arguably, still unreflectively entrenched, even in contemporary Western critical theory. Indeed, the critical notion of the dominating, empowering “Male Gaze,” 30 in which the sense of sight is a metonym for male sexual, intellectual and cultural modes of dominance, has become an apriori, problematically unexcavated trope of both feminist critical discourse and scientific discourses of human sexuality.31 Although the sense of taste and touch are critical to male sexual pleasure, their role has rarely been the focus of research that examines the engendering of sensory perception.32

It is to be hoped that this study will convincingly complicate the received theoretical notion of the “Male Gaze” by illustrating its cultural and historical diversity. Indeed, the texts under analysis here evidence a culturally specific “rabbinic male gaze,” in which the parameters of male dominance are defined by Jewish law. In this case, the male sense of sight is not simply the agent of male sexual desire and possession, but also the agent enabling a halakhically informed physical scrutiny of a woman’s body for the purposes of application of the law. Here it is privileged male legal expertise, rather than the privileged male libido, that energizes the power of the male sense of sight.
GENDER, LEGAL AESTHETICS AND THE SENSORIAL APPROACH IN THE STUDY OF ANCIENT JUDAISM: AN OVERVIEW OF RECENT SCHOLARSHIP

The increasing popularity of the *Sensory Perception in the Bible, Early Judaism and Christianity* sessions (now renamed *Senses and Culture in the Biblical World*) in the annual conferences of the Society of Biblical Literature evidences the recent growth of interest in the sensory approach in scholarship on religion in antiquity. However, the present study is the first to analyze the development of early rabbinic halakhah from a sensory perspective. Certainly, some recent work on rabbinic halakhah that employs the methodology of deconstructionist discourse analysis has assumed the construct of the “rabbinic male gaze” as a discursive tool of social control, most notably the early work of Charlotte Fonrobert and more recently, the work of Mira Balberg. According to the present theorization of the concept, the “rabbinic male gaze” is distinct from the universally abstracted “Male Gaze”; its aim is always the acquisition of control by achieving structural or institutional power through the application of culturally distinct legal authority, rather than through the discursive representation of brute, male sexual possession. Thus the objectification of women through the sense of sight through the “rabbinic male gaze” is part of a much larger agenda of establishing and maintaining the hegemony of rabbinic halakhic authority. Situated firmly in the area of sensual culture studies, Deborah Green’s highly original interdisciplinary study of the cultural valence of the sense of smell in Palestinian rabbinic culture does assume a gender perspective; however, she limits her discussion to Palestinian rabbinic sources and to those that are almost exclusively aggadic, rather than halakhic.

Recent theoretically driven studies of rabbinic halakhah tend to be informed explicitly by literary or cultural theory rather than by legal aesthetics. Nevertheless, they evidence the presuppositions and methodologies associated with legal aesthetics; that is, they seek to uncover the ideological and legal assumptions embedded in rabbinic halakhic through analysis of language, rhetoric and

The interdisciplinary methodology employed in the present study enables an innovative critical view of the developing intersections of law, gender and sensory experience in rabbinic texts and culture of antiquity. Its aim is an exposition of the different sensory landscapes of the Mishnah, the Tosefta and the commentary in the Yerushalmi and the Bavli and the intersection of assumptions about gender and sensory perception implicit and explicit in those landscapes. It presumes neither to present a complete overview of the *halakhic* issues under consideration nor to undertake a detailed tradition-historical analysis of the texts to determine questions of textual precedence or influence. It does, nevertheless, indicate relevant text-historical points in the course of its analysis. In particular, the textual analysis supports Judith Hauptman’s recent hypothesis of the chronological priority of the Tosefta to the Mishnah. In addition, where relevant, it assigns ideological nuances to particular textual layers (tannaitic, amoraic, stammaic) and correlating textual provenances (Palestinian/Babylonian). However, a full exposition of these issues is beyond the scope of this study.

**The Sensory Landscape of MKetubot 7.7-10 and Parallels: Overview**

The Mishnah and Tosefta texts are presented in full immediately after this overview. To facilitate the illustration of the argument, MKetubot 7.9-10 and TKetubot 10b-11, which define the circumstances in which a wife can petition a court to compel her husband to divorce her, will be repeated later in the article. The relevant portions of the Tosefta follow the Mishnah texts. This mode of presentation is heuristic; that is, it is used in order to facilitate the clarification of comparative points and not to imply textual precedence or chronological priority. Texts from
the Bavli and Yerushalmi are too long to include in full; relevant portions thereof will be cited in the course of discussion.

A comparison of the Mishnah and the Tosefta will be the point of entry into this exploration of rabbinic sensory landscapes and their intersection with gender. The analysis will show that the Mishnah and the Bavli assume gendered binary sensory structures but that the Tosefta and the Yerushalmi do not, although the latter does formulate a gendered binary opposition that is unique to itself. Close attention to the structure, content and rhetorical features of the texts shows three general trajectories of development relevant to a sensory analysis. First, the Tosefta and the Mishnah differ in their understanding of the basic nature of defects in both women and men. The Tosefta primarily considers defects to be serious, functional physical or mental impairments or illnesses. The Mishnah, followed by the two Talmuds, primarily, but not exclusively, considers defects to be aesthetic in nature; that is offensive to the male sense of sight or the female sense of smell. Both the Mishnah and the Bavli connect the emphasis on visible female defects less to the aesthetics of female beauty for the requirements of male sexual attraction than to the rabbinic institution of marriage as a relation of property ownership, in which a husband “purchases” his wife from her father. Arguably, the acquisition of a new wife, who would be on public view during the marriage ceremony and subsequent festivities, was a significant source of cultural capital, one that would influence her husband’s actual and perceived social status. The issue of women’s defects has, debatably, much less to do with female beauty in male sexual attraction, than with the respect and status within the community that acquiring a good piece of property brings to its male owner.

The second trajectory of development is the formulation of very different types of gendered binary structures in the Yerushalmi and the Bavli. The Bavli’s binary distinction, continued from the Mishnah, is sense-based, whereas the Yerushalmi’s is complementary; that is, the Yerushalmi lists for each gender physical characteristics that should be considered either defects
or assets. The third trajectory of development concerns the Mishnah and the Bavli specifically: although both assume a gendered sensory binary structure that associates men with sight and women with smell, both resist reifying this sensory stereotype into the “totalizing symbolic authority” of legal prescription in the manner described by scholarship in sensorial jurisprudence. Through redactional and rhetorical strategies, including the formulation of rulings in language of gendered subjectivity, both the Mishnah and the amoraic and stammaic layers of the Bavli complicate the sensory binaries, even to the point of self-contradiction. It is possible that the Bavli’s complication of rigid gendered sensory binary structures reflects historical or cultural changes peculiar to Babylonian ideologies of marriage, possibly a shift from marriage as a relation of property ownership to a more personal relationship between husband and wife. But this is an issue that requires further investigation.

MEN’S SENSORY RESPONSE TO WOMEN – MKETUBOT 7.7-10 AND TKTUBOT 7.8-11

THE TEXTS

MKetubot 7.7

If a man betroths a woman [stipulating] that she be under no vows and it is found that she is under vows, the betrothal is invalid. If he married her without [stipulating conditions] and it is found that she be under vows, she may be divorced without payment of her ketubah. [If a man betroths a woman stipulating] that she have no defects and defects are found upon her, the betrothal is invalid. If he married her without [stipulating conditions] and defects are found upon her, she may be divorced without payment of her ketubah.
All of the defects that disqualify priests [from divine service] disqualify women [from a valid betrothal agreement or payment of the ketubah].

**TKetubot 7.8**

If a man betroths a woman [stipulating] that she be under no vows and it is found that she is under vows – the betrothal is invalid. If she goes to a Sage and he releases her from her vow – the betrothal is valid. If he married her without [stipulating conditions] and it is found that she is under vows, she may be divorced without payment of her ketubah. If she goes to a Sage and he releases her from her vow, the marriage is valid [and she has the right to her ketubah in the case of divorce]. [If a man betroths a woman stipulating] that she have no defects and defects are found upon her – the betrothal is invalid. If she goes to a doctor and he cures her – the betrothal is valid. If he married her without [stipulating conditions] and defects are found upon her, she may be divorced without payment of her ketubah. Even if she goes to a doctor and he cures her, she may be divorced without payment of her ketubah.

What kinds of vows are meant here? For example, if she vowed that she would not eat meat, or that she would not drink wine, or that she would not wear colored garments.

**TKetubot 7.9**

If defects [are found] upon her – the ketubah is invalid.
All of the defects that disqualify priests [from divine service] disqualify women [from a valid betrothal agreement or from payment of the *ketubah*]. We add to the list for women, bad breath and sweat and a mole/wart\(^5\) without a hair.

**MKetubot 7.8**

If defects appear on [the betrothed woman] while she is still living in her father’s house, the father must bring proof that these defects appeared only after her betrothal and “his field is laid waste” [that is, the husband’s property is damaged and he must bear the loss; thus he has no grounds to cancel the betrothal and retain the *ketubah*].

[Once] she has entered into the domain of her husband [and defects appear on her], the husband must bring proof that these defects existed before her betrothal and that his purchase was made in error [owing to misrepresentation of the condition of the “goods” in order to retain the *ketubah*]. This is the opinion of Rabbi Meir.

But the Sages hold: What kind of defects does the above ruling concern? Hidden defects. But the husband is unable to demand [cancellation of the betrothal while retaining the *ketubah*] if the defects were visible. And if there is a public bath house in the city, he cannot make this demand even of hidden defects because he is able to check her [entire body before betrothal] through [the agency of] his female relatives.

**TKetubot 7.10a**
If a man asks his friend, “Betroth your daughter to me, on condition that she has no defects.”

And he says to him, “This daughter of mine is sick, she is an idiot, she is an epileptic, she is mentally ill…” [In such a case,] if she had any other defect and he concealed it among the defects [explicitly listed], then this is a purchase made in error [owing to misrepresentation of the “goods,” and the betrothal is invalid. If he said], “These are the defects and there is another [unspecified] defect among them,” this is not a purchase made in error [and the betrothal is valid]. The Sages agree with Rabbi Meir about defects that are latent and potentially manifest in her.  

In such cases, even if she is already living with her husband, her father must bring proof [that they did not exist before she was betrothed]. If he betrothed her without [stipulating conditions] and vows or defects are found upon her, the marriage is valid [that is, she has the right to claim her ketubah in the case of divorce].

**MKetubot 7.9**

If defects arose in a man [after marriage], we do not compel him to divorce his wife. Rabban Shimon ben Gamaliel said, “Which defects does this statement concern? Small defects, but we do compel him [to divorce his wife] in the case of large defects.”

**TKetubot 7.10b**
Rabban Shimon ben Gamaliel said, “If he is lame in [at least] one leg or blind in [at least] one eye these constitute large defects and he should divorce her and give her her *ketubah*.”

**MKetubot 7.10**

ואלו שכופין אותן להוציא: מוכי שחין והמצרף נחשת והבורסי מוכה שחין ובעל פוליפוס והמקמץ ו– בין היו בם עד שלא נישאו

ולכל עונשים ערין יוהל לכב. התוכמות אומרים: ממקבת זו על רודה והרודה מתוכמה שקית מפניה שימוקעת. מועשה בצר знает התוכמות: יוהלו היא ושארית: יוהלו לא יוהלו ליאל.

These are the defects for which we may compel him [to divorce his wife]: affliction with boils, one who has a polypus (bad breath), one who collects [excrement], one who refines copper or one who is a tanner. Concerning all of the above Rabbi Meir explained, “Even though she married him, she has the right to claim, ‘[At the time of my agreement to marriage] I imagined/thought that I could accept/endure him, but now I cannot endure him.’” The Sages said, “If she is able she may stay married to him, except in the case of a man afflicted with boils, because in this case she harms him [by sexual relations].” An incident occurred in Sidon concerning a tanner who died [childless] and he had a brother who was [also] a tanner. The Sages said, “[The widow does not have to accept her husband’s brother in levirate marriage since] she has the right to claim, ‘I was able to accept/endure your brother, but I will not be able to accept/endure you.’”

**TKetubot 7.11**

א זא מקמיך? התוכמות אומרים, זא מקמיך. מצרתה והמתנה. ר’ יוסה בי ר’ יהודה בעל פוליפוס, והרודה עונש על התוכמות. ר’ יוסה בי ר’ יהודה.– Исходен פメ ימה, התוכמות אומרים, יוהל הגאולה.

If they are afflicted with boils, the Sages said, “The widow does not have to accept her husband’s brother in levirate marriage since she has the right to claim, ‘I was able to accept/endure your brother, but I will not be able to accept/endure you.’”

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Who is “one who collects”? This is a tanner. And some say, “This is one who collects excrement.” “One who refines copper” [refers to] a metal smelter. Rabbi Yose ben Rabbi Judah said, “‘A polypus’ [refers to] bad breath.” Under what circumstances did they [rule that] he should divorce her with her ketubah? When he wants [to continue the marriage] but she does not want [to], when she wants [to continue the marriage] but he does not want [to] – but if both want [to continue the marriage] they shall continue [to be married]. [But in the case of] a man afflicted with boils, even though they both wish to [continue the marriage] they shall not do so. Rabban Shimon ben Gamaliel said, “We found an old man afflicted with boils near Sephoris, and he said, ‘There are twenty-[four] types of boils, and [sexual relations with] a woman does no harm to any of them, except to those suffering from ra’atan.’”

THE MISHNAH AND THE TOSEFTA – ANALYSIS – M7.7-10, T7.8-11

As discussed in the introduction, the structural symmetry of the four mishnayot projects a stereotypical opposition both between the sensory sensitivity attributed to men and the sensitivity attributed to women and between the sensory responses they provoke in each other. The superior, rational sense of sight is privileged in male experience; consequently, women provoke visual responses in men (M7.7-8). The inferior, emotional sense of smell dominates women’s experience; consequently, men provoke olfactory responses in women (M7.9-10). The mishnaic unit’s balanced, formal structure presents an apparent, but not actual, legal symmetry between men’s and women’s halakhic status and agency in marriage. Although tannaitic halakhah developed the biblical institution of marriage into a conceptual and ritual relationship of sanctification, marriage remained, legally speaking, a relation of property ownership; that is, one in which the husband purchased a woman from her father as sexual and personal property and had a unilateral right to initiate divorce proceedings independently. Although a woman had to consent to a marriage for it to be legally valid, she could not initiate divorce and could only petition a court to compel her husband to do so.
A comparison of MKetubot 7.7-10 with TKetubot 7.8-11 shows the patterns peculiar to their respective sources: in the former case, the regularized structure and rhetorical control typical of the redactional impulse underlying the Mishnah; in the latter case, the looser, less even structure and more fragmentary content typical of the Tosefta. Indeed, although both M7.7-10 and T7.8-11 present the situations of men and women separately and in the same order, only the Mishnah devotes two clearly separate units to each gender. These literary patterns suggest that the Tosefta preceded the redaction of the received Mishnah and that its contents were selected and regularized in the redaction process.

A comparison of the Mishnah and the Tosefta texts from a sensory perspective shows a striking phenomenon. The Tosefta, while evidencing more explicit sensory content, neither presents a gendered binary structure nor emphasizes the notion of marriage as acquisition of property. By contrast, the Mishnah’s content and formal structure strongly project a gendered binary structure that associates men with sight and women with smell; moreover, this structure is correlated with an explicit emphasis on marriage as a relation of property ownership. The Mishnah and the Tosefta also differ significantly in their treatment of women’s defects and women’s vows. MKetubot 7.7 begins with two statements about women’s vows and then shifts attention completely to their defects; by contrast, the parallel TKetubot 7.8 devotes far more attention than the Mishnah to vows and less to their defects, listing three qualifying vows as examples and returning to the subject of vows at the end of the unit.

The Tosefta differs from the Mishnah in its specific content as well as in its form and relative emphasis. It is much more explicit than the Mishnah about the precise identity of a qualifying defect. Except for the three defects that differentiate women and priests, “bad breath, sweat and a mole/wart” (T7.9), the defects listed in the Tosefta for both genders are not aesthetic defects accessible through the senses but functional physical or mental handicaps or medical conditions. Thus T7.8, by granting that a woman’s defect may be healed by a doctor, implicitly identifies...
defects as medical conditions (hallal ha-asef rasha va-rifshi). Also, T7.10 lists four qualifying physical or mental defects in a woman that can invalidate a betrothal agreement with her father: illness, congenital idiocy, mental illness and epilepsy. None of these defects have to do with a woman’s appearance; arguably, any of them might render a woman unfit to perform her domestic duties. In the case of male defects that allow a court to compel a husband to divorce his wife, T7.10b lists two unique to the Tosefta that do not appear in the parallel Mishnah. Both are physical handicaps that, arguably, would impede a husband from effectively supporting his wife: lameness in at least one leg or blindness in at least one eye.

Thus, the Tosefta has little to say about the negative sensory experience of either men or women, since it understands defects primarily as functional, rather than aesthetic, impairments. Parallel to the Tosefta’s itemized list of men’s functional defects, MKetubot 7.10 also presents a list of unpleasant occupations or physical conditions that allow a court to compel a husband to divorce his wife. Apart from this list, however, M7.7-10 avoids listing explicit examples and lacks anything like the Tosefta’s many detailed examples of defects both in women and in men (T7.8, 9 and 10). A telling example is M7.9, which presents the opinion of Rabban Shimon ben Gamaliel as a general principle, rather than as a list of specific examples followed by a more general statement, as in the Tosefta. M7.7 also leaves out T7.9’s itemized list of the three defects that are relevant in the case of women but not in the case of priests.

If one assumes the temporal priority of an earlier Tosefta, the received Mishnah has regularized the earlier text and has reworked its content; through this process it avoids explicit detail concerning women’s defects. Moreover, it assumes that women’s defects are exclusively visual, and therefore accessed by the male sense of sight; it ignores the Tosefta’s emphasis on functional physical and mental defects. For instance, M7.8 assumes the use of the sense of sight when it cites the general majority ruling: “The Sages hold: What kind of defects does the above ruling concern? Hidden defects. But the husband is unable to demand [cancellation of the betrothal
while retaining the ketubah] if the defects were visible.” Moreover, the anonymous addendum to this ruling clearly implies the sense of sight: “And if there is a public bath in the city – he cannot make this demand even of hidden defects because he is able to check her [entire body before betrothal] through [the agency of] his female relatives.” (M7.8) The verb “to check” (בדקה) denotes the visual examination of her naked body. This unique mishnaic ruling is not developed in either the Yerushalmi or the Bavli, perhaps because of changing practices of public bathing in amoraic Palestine and in Sasanian Babylonia. It projects a situation in which the male discriminating sense of sight is engaged by proxy through his female relatives; in other words, owing to the demands of modesty, women can act as agents for men, a role that they carry out in the baths. It is worth noting that the word used to denote the method of scrutinizing the female body by proxy, the verb “to check,” (בדקה), is associated with female agency in another context, menstrual purity.

Thus, despite the absence of explicit language denoting sight or smell, the Mishnah projects a gendered sensory binary framework through content, structural features and rhetorical features. Although the Tosefta is explicit about what might offend both men and women’s sense of smell (bad breath), women’s sense of smell but not men’s (foul sweat) and men’s sense of sight (moles or warts), it neither privileges the male sense of sight nor understands defects primarily in terms of sensory perception. Consequently, it fails to present a gendered binary sensory landscape. Thus, a comparison of the Mishnah with the Tosefta shows the redactional impulse of the former move towards both a regularized binary legal formulation and an explicit gendered binary sensory landscape.

The Mishnah’s projection of this sensory landscape correlates with its enhanced presentation of marriage as an act of property acquisition. Certainly, the Tosefta also clearly assumes the legal basis of betrothal to be the purchase of a woman by her husband from her father. For instance, TKetubot 7.10 describes a situation in which a man is permitted to cancel a betrothal
retroactively on the grounds that his acquisition of his betrothed was “a purchase made in error.” A betrothal becomes a purchase of this kind if the woman’s father discloses her defects before betrothal in the following deceptive manner. If, before the finalization of the betrothal agreement, the father verbally includes a defect possessed by the daughter in a list of other defects without singling it out, then the man’s acquisition of the women from her father is technically a “purchase made in error” and the husband can retroactively cancel the betrothal and keep the ketubah. Relative to the Mishnah, however, the Tosefta does not stress the notion of marriage as a relation of property ownership.

By contrast, the mishnaic parallel to the Tosefta expands the parameters of the legal problem, and, in doing so, presents additional technical language related to property acquisition. In the Mishnah alone, a betrothed woman with defects is designated not only a “purchase made in error” but also a “field laid waste,” and thus it enhances her association with damaged property. MKetubot 7.7 presents the general principles (without itemizing any specific cases) that govern a man’s retention of a woman’s ketubah upon the annulment of a betrothal or a divorce. MKetubot 7.8 defines how the male domain in which the woman resides after being betrothed, her father’s or her husband’s, determines both her status as the defective property of her husband and upon whom the burden of proof rests concerning the onset of her defects. M7.8 describes the woman with defects that became apparent after her betrothal, with two technical terms for damaged property: “a purchase made in error,” if the husband can prove that the defects arose while the woman still lived in the domain of her father, and “a field laid waste,” if the father can prove that the defects arose after she left his domain and entered that of her husband. The Mishnah’s enhancement of the privilege of the male sense of sight in accessing a woman’s defects resurfaces at the end of M7.8, in the anonymous addendum discussed above, in which a woman’s hidden defects can be checked out in the public baths through the visual agency of female relatives.
Although the Mishnah projects an explicit gendered binary sensory landscape and correlates it with the notion of marriage as the acquisition of property, this correlation is complicated in several ways. First, a surprisingly unequivocal general correspondence between the defects of women and the defects of priests appears in MKetubot 7.7: “All of the defects that disqualify priests [from divine service] disqualify women [from a valid betrothal agreement or payment of the ketubah].” This equivalence between the defects of women and the defects of priests replaces the gendered binary sensory landscape with a gendered hierarchical binary homology between two relations based on service: the relation between priest and God and the relation between wife and husband. Just as the kedushah – the holiness – of the Temple demands the physical wholeness of the body of the priest, so the kedushah of marriage demands the physical integrity of the body of the wife. Here it is the Tosefta that distinguishes men from women. It specifies three defects that pertain to women but not to priests: “Bad breath and sweat and a wart/mole without a hair.” (T7.9) This addition may indicate that the formulators of this tosefta were uncomfortable with an undifferentiated correspondence between women and priests. Alternatively, the Tosefta’s distinction may rest upon an underlying assumption that women and priests differ inherently in their potential to be physically offensive to their masters (husband or God). As will be discussed below, the Bavli, illuminated by Rashi’s commentary, assumes that women’s potential to be physically offensive to their husbands is greater than priests’ potential to be physically offensive to God. Husband and wife live in the ongoing, close proximity of marital intimacy, whereas a priest visits the sanctuary only intermittently at specific times.

MBechorot 5-7 itemizes the physical defects that disqualify priests from divine service, which it considers largely identical to the defects that disqualify animals for sacrifice; however, MBechorot 7.1 adds some defects peculiar to humans. Whether they pertain to animals or to priests, almost all of the defects listed in MBechorot are physical defects or pathological physical conditions. Yet aesthetic considerations do play some role, especially in the case of priests, who are disqualified if they are strange-looking in some obvious, visible way, without being actually
physically impaired. MBechorot 6.12 mentions a defect related to the sense of smell: an animal may not be sacrificed “if it is old or sick or filthy/foul smelling (מזוהם).” Overall, M7.7’s parallel between the qualifying defects of a betrothed woman and those of a priest suggests that here defects are understood as physical impairments, as in the Tosefta, rather than aesthetic defects. As discussed above, however, the subsequent MKetubot 7.8 strongly implies that a woman’s defects are those that are offensive to the male sense of sight. Ultimately, a tension between two different gendered binary structures underlies M7.7 and 7.8: a sensory binary structure correlating with the notion of marriage as a relation of property ownership and a hierarchical binary structure in which marriage is understood as a relationship of sanctification.

The comparison with the Tosefta has shown how the redactional strategy that underlies MKetubot 7.7-10 projects a gendered binary sensory landscape absent in the former. Yet, this binary is complicated in three ways. First, as remarked above, the Mishnah lacks explicit sensory language that denotes sight and smell. The Mishnah does assume that a man accesses a woman’s defects through sight and that a woman accesses a man’s defects through smell, but this assumption does not find expression in explicit sensory language. Second, the Mishnah omits the list of defects in the Tosefta (T7.9) that distinguishes between women and priests and instead specifies categorically that women’s defects are identical to priestly defects; thus it blurs the Tosefta’s gendered binary distinction and replaces it with a different model of gender hierarchy. Finally (anticipating subsequent discussion), only the Mishnah, in M7.10, projects the unique, astonishing voice of radical (if imagined) female subjectivity to articulate the minority ruling of Rabbi Meir concerning a woman’s right to petition for divorce: “I thought I could accept/endure him, but now I cannot …” This phrase appears in only one other tannaitic source, TKetubot 12.5, where it is used in a different halakhic context. The phrase is used occasionally to express fictionalized female subjectivity in late exegetical and homiletical midrashic compilations; its post talmudic attestation in halakhic sources usually concerns the subject of MKetubot 7.11, a woman’s right to petition for compelled divorce.
In MKetubot 7.11, contrary to the majority ruling, Rabbi Meir maintains that a wife has the right to petition a court to compel her husband to divorce her in cases where her husband is unbearably offensive because he has an olfactorily challenging disease or occupation. Even if she had married him with full knowledge of his condition, she should be allowed to claim that she now cannot tolerate him, since abstract “knowledge of the condition is not sufficient grounds for requiring the woman to abide it.”\(^75\) It is usually supposed that Rabbi Meir’s ruling is motivated by “purely humanitarian grounds” – that is, out of regard for the sensitivity of the wife.\(^76\)

Another possible basis for the ruling could be the impediment to sexual relations and reproduction that might result from the sensitivity of the wife.\(^77\) Whatever the rationale behind the ruling, the radical subjectivity of the female voice and, through it, the sense of the wife’s independent agency, troubles the notion of marriage as property ownership so explicit in M7.8.\(^78\)

The inert, voiceless passivity of a “field laid waste” and a “purchase made in error” (M7.8) are problematically contrasted with the voice of female subjective agency, which appears twice, once concerning a woman’s rights for petition to divorce and once concerning her right to be released from levirate marriage. Thus, although MKetubot 7.7-10 exhibits a clear, gendered binary sensory landscape, its sensory stereotypes ultimately fail to be reified into law.\(^79\) This outcome is a consequence of the Mishnah’s content (an absence of explicit sensory language, the parallel between women and priests) and its rhetoric (the female voice of radical subjectivity), both of which undermine the binary distinction between male and female perception.

**Talmudic Development – MKetubot 7.7-8**

The talmudic commentary on MKetubot 7.7-10 is much more complicated and lengthy in the Bavli than in the Yerushalmi. The latter devotes about the same amount of commentary to the mishnayot that focus on men and those that focus on women, whereas the Bavli devotes far more space to men’s response to women’s defects (75a-77a) than to women’s response to men’s defects (77a and a few lines in 77b). Nevertheless, although the Bavli emphasizes the male point
of view, its ambivalent discursive strategies consistently both destabilize and affirm gendered sensory binary assumptions.

After a long discussion devoted to the first part of MKetubot 7.7 on the issue of women’s vows (YKetubot 7.7 (31c); BKetubot 72b-75a), both Talmuds begin by destabilizing the Mishnah’s categorical correspondence between the defects of women and the defects of priests (“All of the defects that disqualify priests...disqualify women” M7.7). Both Talmuds then immediately cite TKetubot 7:9 either verbatim (the Yerushalmi) or in paraphrase (the Bavli): \(^80\) “We add to the list for women, bad breath and sweat and a mole/wart without a hair.” This invocation of TKetubot 7:9 initially broadens the sensory impact of women’s defects upon men. However, both Talmuds proceed to devote their discussion almost exclusively to the male sense of sight.

**The Yerushalmi – Yketubot 7.7 (31c-31d) on MKetubot 7.7**

The Yerushalmi’s quotation of TKetubot 7.9\(^81\) initially broadens the range of possibilities for women’s sensory offence to include the olfactory (sweat, bad breath) and possibly even the tactile (sweat) as well as the visual (mole/wart). Then, however, the Yerushalmi abruptly shifts its focus from the visceral to the visual and discusses exclusively the appearance, size and position of female defects that are accessed through the male sense of sight. The Yerushalmi, like the Mishnah, eschews explicit language of sight, yet implies it by categorizing different kinds of skin defects (moles/warts) as “concealed” (בָּסָרָה) or “revealed” (בָּגָלָוי). It expands the range for qualifying skin defects by citing a Baraita that characterizes moles/warts with hairs as well as those without hairs as defects, whether large or small or whether on the face or on the body.\(^82\)

After a discussion of the appearance, size and location of qualifying moles/warts, redactional interest turns exclusively to distinguishing the defects of women and priests. The Yerushalmi begins to dismantle MKetubot 7.8’s categorical correspondence between the defects of women and priests. Both Talmuds then immediately cite TKetubot 7:9 either verbatim (the Yerushalmi) or in paraphrase (the Bavli): \(^80\) “We add to the list for women, bad breath and sweat and a mole/wart without a hair.” This invocation of TKetubot 7:9 initially broadens the sensory impact of women’s defects upon men. However, both Talmuds proceed to devote their discussion almost exclusively to the male sense of sight.
and the defects of priests by citing a priestly defect listed in MBechorot 7.2, baldness, and questioning whether it pertains to women, since it is not listed in T7.9. Rabbi Samuel then presents a limitation of M7.8: “The mishnah rules [concerning] a defect that is objectionable on one [a priest] and on the other [a woman], but not [concerning] defects on one and not on the other.” According to the Yerushalmi, then, M7.8 excludes gender-specific defects; not all of the priestly defects can, in fact, be applicable to women because priests are male and women are female and each gender has defects that are peculiar to itself. A gendered binary list follows, itemizing three distinct physical characteristics that are considered “adornment” (נוי) for one sex and a defect (מום) for the other: a bald spot (although a defect in a woman, it is not necessarily so in a man), a beard and breasts. Thus the Yerushalmi effectively distinguishes between the defects of women and the defects of priests by transferring the discussion from the domain of human sensory experience to an idealized, essentialist gendered paradigm of physical characteristics. In other words, the Yerushalmi presents a rigid gendered binary distinction between women and men, but not one that directly concerns sensory perception.
THE BAVLI – BKETUBOT 75A ON MKETUBOT 7.7

The amplified, more complex discussion in BKetubot 75a also initially extends the sensory range of women’s defects by paraphrasing TKetubot 7.9; it then turns abruptly to an exaggerated focus on women’s defects accessible through the male sense of sight. Like the Yerushalmi, the Bavli begins by destabilizing the correspondence between the defects of women and the defects of priests, but it achieves the destabilization in a very different way. After citing T7.9, the Bavli challenges its list of three defects that are specific to women by citing MBechorot 6.12, which specifies that an animal may not be sacrificed “if it is old or sick or filthy/foul smelling (מזוהם).” Since MBechorot 7.1 specifies that disqualifying defects are basically the same for animals and priests, MBechorot 6.12 implies that priests can be disqualified from serving in the sanctuary due to an offensive smell; therefore this defect may not be exclusive to women.

The Bavli then brings the principles of “permanent defects” and “impermanent defects” (מומין קובעין) into the discussion by the immediate quotation of MBechorot 7.1. This maneuver enables a discursive shift that effectively distinguishes the defects of women and those of priests. In light of these principles, a priest who has a permanent or impermanent physical condition resulting in defective symptoms is disqualified from divine service only when the defective symptom is active and fully evident while he is discharging his duties. Thus, when a priest’s offensive symptoms, bad breath or sweat, are not fully evident, he may discharge his duties in divine service. The principles do not apply in the same way, however, to a woman who suffers from the same symptoms: her symptoms are always fully evident, and so she is never able to discharge her duties towards her husband without their full presence. This position is explained in the Bavli’s resolution offered by Palestinian Amora Rav Yosi bar Ḥanina: “There is no difficulty! Here, [in the case of priests, the ruling concerns] sweat that can be temporarily removed (זיעה עוברת). There, [in the case of women, the ruling concerns] sweat that cannot be temporarily removed (ברתזיעה שאינה עו).” He unit’s finale, delivered in two sequential statements
by Rav Ashi, informs that a priest can temporarily alleviate his bad breath and offensive sweat through cosmetic means (holding a peppercorn in his mouth and washing with vinegar) in order for him to execute his duties to God. However, claims Rav Ashi, this is impossible for a woman serving her husband.86

Unlike the Yerushalmi’s essentialist, complementary, gendered binary list, this sugyah understands the difference between the defects of women and the defects of priests as their relative degree of sensory offence. Apparently, its redactors considered a husband to be much more fussy than God about bad breath and offensive sweat! Rashi’s commentary identifies a rationale that may underlie Rav Ashi’s categorical statement: “This is because he talks to her all the time.” The implication is that breath sweeteners will not avail as cosmetic prophylactics in the case of a woman, since husband and wife are in constant, domestic proximity (unlike God and a priest). Essentially, the Bavli assumes two different, gendered applications of the principles “permanent defect” and “impermanent defect,” one for priests and one for women, and thus is able to deconstruct M7.7’s categorical correspondence between women and priests by concluding that the former are potentially much more offensive to their husbands than the latter are to God.

To this point, the Bavli’s distinction between women and priests is primarily concerned with olfactory offence. A new sugyah then shifts from the visceral to the visual by listing a series of women’s defects, all of which but one listed at the very end of the unit (a rough voice) are accessible through the male sense of sight. Moreover, it is possible to argue that the discursive presentation of these defects assumes the perspective of “the rabbinic male gaze,” a halakhically knowledgeable male scrutiny of a woman’s face and the front of her body for the purpose of determining halakhah. The Bavli presents much more detail than the Yerushalmi does about the appearance, size and position of qualifying defects. Its list of such defects comprises: a mole/wart with hairs, a large mole/wart without hairs, a mole/wart on the face only partially
covered by the hair or kerchief, a scar caused by a dog bite and women’s breasts that are too big or positioned in an unseemly fashion.

MKetubot 7.8’s categorical principles of “hidden defects” and “visible defects” are not cited explicitly, but assumed, judging from the language that describes women’s defects: a mole/wart without a hair “standing” (i.e., in plain sight) on a woman’s forehead (בעומדת על פחתה) and a mole/wart on her forehead partially concealed by her head covering (תחת כפה של ראשה). Unlike the Mishnah, the Tosefta and the Yerushalmi, the Bavli evidences explicit language denoting sight. For instance, it describes a mole/wart on a woman’s forehead partially concealed by her head covering with explicit language of sight, language that assumes the perspective of someone looking at the woman’s face: “sometimes it is seen, sometimes it is not seen” (זימין דמתחזיא ויזימין דלא מתchezיא). Moreover, the male response to women’s defects is, for the first time, articulated in the language of subjective male visual experience: “he [is assumed to have seen it] and accepted it” (ראה ונתפייס). That is, the man is assumed to have seen a mole/wart on the woman’s face before betrothal and not to have considered it offensive.

The sugyah ends with a discussion of women’s breasts. Although the Yerushalmi considers breasts, generally speaking, to be an adornment in women and a defect in men, it shows no interest in the aesthetics of women’s breasts and their possible defects. The authorities cited in the sugyah have different opinions about the position and size of women’s breasts and what renders them attractive or defective. The unit opens with a tannaitic ruling, recorded only here, in the name of “Natan” (thus most extant manuscript traditions) or “Rabbi Natan” (thus the early printed editions and Vatican 130) that specifies that “[if the space of] a handbreadth is seen between a woman’s breasts – this [constitutes a qualifying defect].” Rav Aḥa then states that, in his opinion, such breasts are aesthetically pleasing (מעילותא). Abaye then offers a compromise position by reducing the space between the breasts that constitutes a defect to three fingerbreadths. The sugyah then cites in the name of Rabbi Natan a unique Baraita that concerns
the defective size of women’s breasts: “If a woman’s breasts are larger than those of other women, this constitutes a defect” (תניא ר’ נatan אומר כל אשה שדדיה גסינה משל חבורתה ה’ מום). Rabbi Measha then standardizes the relative size to one handbreadth. Finally, the sugyah offers an eyewitness anecdote in the name of Rabbah Bar Bar Ḥannah in response to the question, “Can a woman actually have breasts like this?”: “I once saw an Arab woman who could fling her breasts behind her and yet nurse her child [at the same time]!”

The privileging of the male sense of sight as the means of accessing and assessing the aesthetics of the female body is dominant throughout this discussion of breasts. Explicit language of sight appears most obviously in the final first-person, eye-witness anecdote of Rabbah Bar Bar Ḥannah (“I saw” – ראיתי). The male sense of sight is also invoked in the tannaitic opinion of Natan or Rabbi Natan: “if the space of] a handbreadth is seen between a woman’s breasts.” It is noteworthy that the English translation of the Soncino evidences a process of censorship that eliminates explicit language of sight, reading the masculine third person singular imperfect form of the Nifal verb “to be seen” (ביראה) as a name “Rabbi Natan Bir’ah.” The tannaitic authority “Rabbi Natan Bir’ah” appears nowhere in the early rabbinic corpus. He first appears in fifteenth-century Sefardic works, most notably the Beit Yosef of Joseph Caro, in association with the discussion in BKetubot 75a. The evidence strongly suggests that “Rabbi Natan Bir’ah” is a fictional authority invented in a late process of textual censorship, which neutralized an explicit reference to the male sense of sight. Apparently, the fifteenth-century Sephardic authorities felt uncomfortable with the Bavli’s insouciant presentation of great rabbinic figures scrutinizing women’s breasts and imagining the gap between them measured by their hands and fingers.

At first blush, BKetubot 75a’s sensory landscape evidences a straightforward, exaggerated example of the feminist critical construct “the Male Gaze,” that is, its focus on the intense male scrutiny of the aesthetic appeal of women’s breasts. However, arguably, more is at stake here than the aesthetic requirements of male sexual desire. Although talmudic discourse consists of
a redacted assembly of individual rabbinic voices and opinions, it is essentially a collective
terprise with collective motives. Indeed, this sugyah projects a “rabbinic male gaze”; that is, a
gaze in which larger halakhic issues, the concerns of the rabbinic collective, destabilize and
redirect individual male sexual desire. The discussion of the aesthetics of women’s breasts and
the intensive rabbinic scrutiny thereof, viewed in the context of the sugyah as a whole, is not
simply about male sexual domination and possession, but also about economic exchange and
social status. The scrutiny of a woman as an object to be sexually possessed – the “Male Gaze” –
and her scrutiny as a piece of property, potential or actual – the “rabbinic male gaze” – are not
the same thing. Certainly, both processes unequivocally assert patriarchal control of women by
men, but they assume and essentialize very different models of the relationship between the
sexes. Undeniably, an appeal to the subjectivity of brute male sexual desire has a role in the
discursive thrust of this sugyah. However, arguably, its representation of rabbinic men’s scrutiny
of women’s faces and breasts for defects has less to do with male sexual desire than with the
social and halakhic institution of marriage as a relationship of owner to property, a subject that
preoccupies the Bavli’s subsequent discussion of MKetubot 7:8.

THE YERUSHALMI – YKETUBOT 7.7 (31C) ON MKETUBOT 7.8

The Yerushalmi’s short interpretation of MKetubot 7.8 has no sensory landscape whatsoever;
perhaps in response to the Mishnah’s focus on the husband’s rights, it concerns itself with
discussing the circumstances in which a woman would have the right to keep her ketubah. To
this end, the Yerushalmi cites a ruling in the name of Rabbi Shimon ben Laquish: “If he married
her and consummated the marriage” (בשכון ובעל), she has the right in the case of divorce to keep
her ketubah, even if her husband is able to prove that she had defects while still under her
father’s domain. The husband is able to keep the ketubah only if he has not yet had sexual
relations with her (בשכון ולא בעל). Arguably, here the Yerushalmi’s interests correlate with a
trajectory in the development of halakhah that is concerned with protecting and expanding a woman’s rights in regard to divorce.\textsuperscript{94}

**The Bavli – Bketubot 75a-77a on MKetubot 7.8**

MKetubot 7.8 considers the case of a woman whose defects became evident while her status is transitional: she has been betrothed, but is not yet living fully as a wife to her husband under his domain. As discussed above, a woman whose husband can prove that her defects existed before betrothal is defective property “purchased in error,” in which case the husband may keep the ketubah. A woman whose father can prove that her defects appeared after the betrothal is her husband’s damaged property, “a field laid waste,” on the basis of which she has the right to claim her ketubah.

Treatment of a given issue is generally much longer and more complex in the Bavli than it is in the Yerushalmi, and the Bavli’s treatment of MKetubot 7.8 is no exception to this rule. It includes an extended discussion at the stammaic level of halakhic principles in two similar cases of purchase of defective property: a dead donkey and a \textit{treif} animal purchased for slaughter (BKetubot 76a-b). Overall, the Bavli shows ambivalence about the rabbinic understanding of the halakhic definition of marriage as a relationship of owner to property. On the one hand, the extremely negative metaphoric valence of the two similar cases of transitional acquisition of defective property serves to exaggerate the notion of marriage as property ownership. On the other hand, the notion of marriage as property ownership is troubled by a reiterated counter-discourse of male subjectivity, in which the male sense of sight surprisingly becomes the means of reconciliation to, rather than rejection of, a woman’s defects.

The following discussion divides this long section of the Bavli (75b-77a) into four units.\textsuperscript{95} The discussion focuses on the first three units, which are chiefly concerned with two issues: (1) presupposed halakhic principles underlying the burden of proof of a betrothed woman’s defects
(whether incumbent upon the father or upon the husband); and (2) under what circumstances the husband of a betrothed woman with defects can keep the *ketubah*. These sugyot contain much of interest concerning general questions of halakhah and gender; however, the analysis will be limited to the relationship between the sensory landscape in the Bavli and its underlying ambivalence towards the notion of marriage as a relation of property ownership. The last short unit identifies the physical condition of regularly recurring epilepsy as a “hidden defect” (the top of 77a). This identification is noteworthy since it is the only place where the Bavli regards a woman’s defect as a debilitating physical condition, rather than an aesthetic blemish; however, since this unit does not concern sensory data it will not be discussed in detail. The third unit provides the most unambiguous view of marriage as a matter of property, so for the purposes of analysis I will consider it first.96

The Third Unit – “Rav Judah said in the name of Samuel, ‘If one exchanges a cow for a donkey’” (המחליף פרה בחמור (BKetubot 76a-76b)

This sugyah considers how the transitional status of a betrothed woman with defects might determine whether responsibility for the defects will fall on her husband or her father. The elucidation proceeds by means of two analogous cases of provisional transactions in which the goods purchased or exchanged are defective and the buyer wants repayment: (1) a man exchanges his cow for another man’s donkey, but the donkey dies while the barter agreement is only partially transacted; and (2) a butcher purchases an animal for slaughter and after killing it, finds its internal organs damaged, rendering it *treif* and unfit for Jewish consumption, the damage probably having occurred before the animal’s purchase. Although the gemara is interested in the halakhic parallels between these two cases and our mishnah, it is the specific metaphoric valence of the two cases that is relevant to the immediate topic.

Recent work by Gail Labovitz on language theory and rabbinic halakhah concerning marriage has shown that metaphor is a “highly effective tool to enforce, reproduce, and naturalize cultural...
identity,” including ideologies and practices concerning gender. The two cases of provisional purchase cited here may be read as metaphorical reflections on M7.8, that is, on betrothal as an act of property transference from father to husband. The sugyah transfers to the betrothed woman with defects the metaphoric valence of the two items of acquired property in the parallel cases: a donkey that died before the process of its purchase was complete and a treif animal that became unfit for Jewish consumption while alive, although its defectiveness became evident only after it was slaughtered. Thus, the woman is likened to a living or dead domestic animal, in the first instance to a living donkey (before betrothal without defects) and a dead donkey (after betrothal with defects). In this metaphorical constellation, the living (that is, the valuable) cow that has been exchanged for the donkey represents the ketubah. Whatever light the Bavli’ s argument may shed on the halakhic situation in MKetubot 7.8, the metaphorical correlation between the woman, whose defects arose while she was in transition between father’s and her husband’s domains, and the donkey, which died in transition between one owner and another, projects marriage as a relation of property ownership in an extreme way; that is, it objectifies a woman with defects who is “purchased” by a man as a dead domestic animal.

The second case portrays both the marital relationship and the woman with defects in an even more negative manner. Here the betrothed woman with defects is likened to a kosher animal that had become internally unfit for Jewish consumption before it was slaughtered. The betrothed woman is metaphorically equivalent to dead, inedible meat, the husband to the butcher, and the butcher’s payment for the living beast, to the ketubah. The metaphorical correlations here, between woman/meat and husband/butcher, are more extreme than the correlations in the first case. Unlike the metaphor “a field laid waste,” these two metaphorical clusters have no halakhic significance in themselves; they project an ideology of marriage in which the objectified body of the woman is a piece of living property purchased by a man, without any agency on her part, and subject to concealed actual or potential damage. The right of a man to reclaim his payment for
defective property, whether it is *treif* meat, a dead donkey or a woman with defects, is the overriding concern. 100

The First Unit – “The reason the father brings proof” (עמה דמייתי האב ראיה) – to “the money remains in the hands of its presumptive owner” (והעמד ממון על חזקתו) (BKetubot 75b-76a)

The extreme metaphoric representation of marriage as a relation of property ownership in the third unit of the sugyah contrasts remarkably with the discursive position of the first unit. Here a reiterated voice of male subjectivity, one that articulates explicit language of sight, accomplishes two things at once: it destabilizes the extreme focus on women’s physical defects that dominates the earlier commentary on M7.7, and it challenges the notion of marriage as a relation of property ownership. The gemara begins by dividing M7.8 into two separate clauses, which the stam then correlates with the views of Rabbi Joshua and Rabban Gamaliel respectively, concerning the reliability of the testimony of a betrothed woman with a different kind of defect. She is discovered not to be a virgin on her wedding night and claims to have been raped after betrothal (MKetubot 1.6; BKetubot 12b). According to Rabbi Joshua, “We do not ‘live by’ her words” (that is, we do not accept her testimony) in the case of rape after betrothal; hence, in accordance with the first clause of M7.8, the burden of proof of the betrothed woman’s lack of defects at the time of betrothal is upon her father. In the opinion of Rabban Gamaliel, however, the testimony of a raped betrothed woman “is to be believed,” a judgment that correlates with the second clause of M7.8; hence, the burden of proof is upon the husband. An involved debate follows as to whether the two clauses of M7.8 are contradictory or whether they can be reconciled. In the process, the gemara presents a series of legal principles that underlie the different situations described in the two clauses of M7.8. The two principles most relevant here present a husband’s subjective, male perspective of his betrothed’s defects. 101 They also correlate this perspective with two issues: whether or not the husband retains the ketubah if he chooses to
cancel the betrothal agreement; whether or not he must return the ketubah if he chooses to divorces his wife.

The two principles are as follows: 1) “‘No man drinks from a cup without checking it first,’ therefore he saw [her defects at betrothal] and accepted them” (אין אדם שותה מן הכוס ואחר כך בודקו ראה וניפייס). In this case, the husband has no valid claim to keep the ketubah, a situation that corresponds to to M7.8’s “a field laid waste.” (2) “No man accepts defects [in a woman at betrothal]” (אין אדם מיפייס במומים). In this case, the husband has the right to keep the ketubah since the defects are assumed to have arisen while the woman was in her father’s domain; here the correspondence is with the Mishnah’s “a purchase made in error.” As the argument progresses, it repeats this pair of principles consecutively three times. The unit concludes with a final repetition of “no man accepts defects” and a final repetition of the principle that “the money (i.e., the ketubah) remains in the hands of its presumptive owner (i.e., the husband).”

These two principles present conflicting assumptions about the subjective male response to defects in a prospective wife. The second principle clearly assumes that defects in a woman are categorically unacceptable; thus, it can be assumed that no man would ever betroth a woman with defects. However, the first principle, glossed with an explicit reference to the male sense of sight, implies that even though a woman has defects she may still be attractive to a man, who might well betroth her despite them. The wording of the gloss is crucial to this understanding of the principle: “he saw [the defects] and was reconciled” (ראה וניפייס). The implication is that a man’s attraction to a woman and his approval of her as a marriage partner is not solely dependent on her physical perfection. The principle itself is couched in euphemistic, metaphorical language of sexual consumption. “Drink from the cup” probably connotes satisfactory sexual consummation; “without checking it first” implies the scrutiny of the woman’s body by the male sense of sight at betrothal. On the one hand, this principle clearly illustrates the dominant “Male Gaze” of feminist critique, through which a woman is examined critically as an object of
anticipated sexual consumption. On the other hand, the gloss “he saw…and was reconciled” implies that a satisfactory relationship between a husband and a wife does not necessarily depend upon the wife’s physical appearance.

Here again, as in the gemara on MKetubot 7.7, the Bavli has added explicit reference to the male sense of sight that is only implied by the Mishnah. Paradoxically, however, the male sense of sight invoked here, although it remains the privileged sense of male sexual acquisition, is at the same time the discursive medium that projects a marital relationship beyond a relation of property ownership. Here, a betrothed woman with defects does not correspond to a dead donkey or a treif slaughtered animal, since a woman with defects may still be desirable as a wife but a dead animal is utterly useless to its owner.

Elsewhere in the Bavli, what at first blush appears to be an unequivocally extreme statement about the requirement of female physical perfection at the time of betrothal may be read in a similar way. In BKiddushin 41a, Rav Judah says in the name of Rav: “It is forbidden for a man to betroth a woman until he has seen her (עד שיראנה) lest he find something repellent in her after the betrothal and she would hence become repulsive to him, as Scripture says, ‘And you shall love your neighbor as yourself.’ (Lev 19:18)” Certainly, this tradition illustrates a patriarchal privileging of the “Male Gaze.” Its focus, however, is on the success of the relationship between husband and wife, rather than the status of a woman as an aesthetically pleasing piece of sexual property. Moreover, the tradition implies that a man may well accept a woman’s defects, as long as he is aware of them before betrothal. Thus, the subjective male perspective articulated through explicit language of sight exposes a fundamental ambiguity in developing ideologies of rabbinic marriage: marriage is a personal/sexual relationship between a man and a woman and, simultaneously, a public, legal relationship of male owner to female property. Marriage as a personal/sexual relationship may not be threatened by a woman’s defects, provided that they were seen before betrothal; but a woman with defects that were not disclosed before marriage is,
legally speaking, a damaged piece of property, and this is a situation to which a man cannot be reconciled.

The tension between these two views of marriage is informed by the extreme social significance of the new wife in the process of legal and ritual transition from the domain of her father to that of her husband. Today, in secularized Western cultural contexts, couples marry to consolidate a personal relationship of love and mutual support; the vast majority of women would be irate at the suggestion that their husband “owned” them. Nevertheless, the marriage ceremony and subsequent festivities have, arguably, retained ritual trappings of marriage as property acquisition, rituals in which the bride figures as the central target of public attention. The social capital earned by the acquisition of a new bride must have been exceedingly significant in a time and place in which a wife was, legally speaking, the only piece of “real estate” the average Jewish man would ever own. Certainly, the evidence suggests that in the ancient rabbinic Jewish context, a woman was the focus of intensive public scrutiny and celebration only once in her lifetime: during her first wedding celebration. At the transitional ritual moment of marriage, a man had a unique opportunity to earn cultural capital and social prestige through public display of the quality of the wife he had acquired, a quality determined by her visible features and by her assumed virginity.

Tellingly, a Palestinian tradition cited in the Bavli shows that contrary to the normative dictates of modesty, it was permitted for male wedding guests to gaze at the face of the bride, prominently seated upon her bridal throne during the feasting, in order to “endear her to her husband” (BKetubot 17a). While this opinion is subsequently rejected, the tradition suggests that a bride’s value to her husband was socially mediated by the visual impression she made on the male guests. BKetubot 16B contains another well-known Palestinian narrative, which explicitly connects the bride’s status as a piece of new property and her physical appearance during the wedding ceremony. The house of Hillel maintain that a bride’s beauty should always be praised...
in exaggerated, even untruthful, terms during the wedding celebration, since it is rude to remind the groom that he might have acquired a “bad bargain in the marketplace” (שלקה 먹샤 ען חומש). Overall, the evidence supports the argument that the Bavli’s emphasis on visible defects on the front of a woman’s body concerns her status as a newly acquired piece of property on public display during the transitional moment of marriage, and not the aesthetics of male sexual desire.

The Second Unit – “Rav Ashi said, ‘The first clause of the mishnah [assumes a woman can claim], “My father’s money is in your possession”’” – to “Rav Judah said in the name of Samuel” (BKetubot 76a)

Although this unit contains no sensory data, it shall be discussed briefly because its first-person voice of female subjectivity foreshadows the gemara’s subsequent discussion of MKetubot 7.10. This voice destabilizes the extreme patriarchal framing of divorce law assumed by the previous commentary. Moreover, throughout the sugyot under discussion, this unit alone presents the wife, rather than the father or the husband, as a possible claimant for the ketubah. Here, the rights of both husband and wife to the ketubah are articulated through the imagined, first-person voice of the wife: “My father’s maneh [payment] is in your [the husband’s] hand”; “My maneh is in your hand.” Thus, much like MKetubot 7.10, this unit discursively embodies the legal issue in the language of female subjectivity.

WOMEN’S SENSORY RESPONSE TO MEN – MKETUBOT 7.9-10 AND TKETUBOT 7.10B-11

THE TEXTS

MKetubot 7.9

האיש שנולדו בו מומין אין כופין אותו להוציא.


במומין הגדולים – משום שאדם מותקן. ארבעה קבנים, אשתו, שניים מאמר, ואחרים, ואמר רבן שמעון בן מיליאן: נקמה וביה, ובעיה ביה, וביה ביה, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו, וביה בתו,していて.

If defects arose in a man [after marriage], we do not compel him to divorce his wife. Rabban Shimon ben Gamaliel said, “Which defects does this statement concern? Small defects, but we do compel him [to divorce his wife] in the case of large defects.”

TKetubot 7.10b

Rabban Shimon ben Gamaliel said, “If he is lame in [at least] one leg or blind in [at least] one eye these constitute large defects and he should divorce her and give her her ketubah.”

MKetubot 7.10

These are the defects for which we may compel him [to divorce his wife]: affliction with boils, one who has a polypus (bad breath), one who collects [excrement], one who refines copper or one who is a tanner. Concerning all of the above Rabbi Meir explained, “Even though she married him, she has the right to claim, ‘[At the time of my agreement to marriage] I imagined/thought that I could accept/endure him, but now I cannot endure him.’” The Sages said, “If she is able she may stay married to him, except in the case of a man afflicted with boils, because in this case she harms him [by sexual relations].” An incident occurred in Sidon concerning a tanner who died [childless] and he had a brother who was [also] a tanner. The Sages said, “[The widow does not have to accept her husband’s brother in levirate marriage
since] she has the right to claim, ‘I was able to accept/endure your brother, but I will not be able to accept/endure you.’”

TKetubot 7.11

“Who is “one who collects”? This is a tanner. And some say, “This is one who collects excrement.” “One who refines copper” [refers to] a metal smelter. Rabbi Yose ben Rabbi Judah said, “‘A polypus’ [refers to] bad breath.” Under what circumstances did they [rule that] he should divorce her with her ketubah? When he wants [to continue the marriage] but she does not want [to], when she wants [to continue the marriage] but he does not want [to] – but if both want [to continue the marriage] they shall continue [to be married]. [But in the case of] a man afflicted with boils, even though they both wish to [continue the marriage] they shall not do so. Rabban Shimon ben Gamaliel said, “We found an old man afflicted with boils near Sephoris, and he said, ‘There are twenty-[four] types of boils, and [sexual relations with] a woman does no harm to any of them, except to those suffering from ra’atan.’”

DISCUSSION – M7.9-10, T7.10B-11

A comparison of MKetubot 7.9-10 and T10b-11 from a sensory perspective shows predictable patterns. They structurally balance the two previous units (M.7-8; T8-9) by discussing the defects of a husband that give his wife the right to petition a court to compel divorce. M7.9 implies that unlike the defects of the betrothed woman, which may have existed before her betrothal, the husband’s defects “appeared” (נולדו) after marriage. The legal asymmetry between husband and wife is aptly and succinctly put in the language of marriage as property ownership.
by the Tosafot to M7.9: “We cannot say about a husband that due to him ‘her field has been laid waste’ because a husband is not the ‘field’ (i.e., the property) of his wife.”

Although neither M7.9 nor T7.10b have any explicit sensory language, they are nevertheless relevant to the overall gendered sensory landscapes of the unit at large. Both begin the determination of qualifying defects in a husband by citing different versions of a ruling in the name of Rabban Simeon ben Gamaliel, which specifies that the defects for which a court can compel a man to divorce his wife and give her the ketubah are large defects, not small defects. In keeping with its general pattern, the Tosefta generates this ruling from a list of qualifying “large defects” (“lame in one foot, blind in one eye”). By contrast, M7.9 presents the ruling as a general principle articulated in response to an anonymous majority ruling: “If defects arose in a man [after marriage] we do not compel his to divorce [his wife].” Rabban Gamaliel then specifies that this general ruling only concerns small defects, not large ones, which are not specified until M7.10. The rationale underlying the ruling is opaque; however, a longer version of the Tosefta’s list of defects in the Yerushalmi suggests that here a practical, rather than a sensorial, rationale underlies the ruling: “If for instance he was blind in one eye, or one of his hand was cut off or one of his leg was lame.” (YKetubot 7.9 (31d))

This list suggests that as far as the Tosefta and the Yerushalmi are concerned qualifying defects are those that render a man unfit to work and hence, not able to maintain his wife financially.

MKetubot 7.10 then proceeds to specify Rabban Shimon ben Gamaliel’s “large defects” with an itemized list. None of the defects involve a man’s appearance; all involve a wife’s negative sensory experience, chiefly olfactory but perhaps also tactile, caused by her husband’s occupation or by symptoms of an illness. Each case assumes a permanent bad smell or a repulsive pathological condition: boils (שחין), a possessor of a polypus (בעל פוליפוס), a collector of excrement (המקמץ), a bronze smelter/miner (המצרף נחשת) and a tanner (הבורסי). The three occupations on the list are identified elsewhere in rabbinic literature as particularly smelly or...
repulsive modes of employment.111 In keeping with their patterns elsewhere, the Tosefta uses explicit language to denote smell (“What is the possessor of a polypus? Someone who has bad breath”), whereas the Mishnah contains no explicit language of smell but clearly assumes it, since its list of “large defects” leaves out the physical handicaps specified in T7.10 (lame in one foot, blind in one eye). Indeed, if M7.10 is read without the parallel tosefta, one might assume that “large defects” are only those repugnant to a wife’s senses, rather than those that would inhibit her right to maintenance. Thus, here too the Mishnah enhances a gendered binary sensory landscape by ignoring the defects that are physical impediments to maintenance. However, it also represses explicit sensory language and effectively neutralizes the sensory binary by including the voice of radical, first-person, female subjectivity in the minority ruling of Rabbi Meir. True, this first-person, female voice is not the authentic utterance of a real woman; it is, rather, the imaginary projection of a male halakhic sensibility that enters the legal discourse through the citation of Rabbi Meir – arguably, a type of “male discursive ventriloquism.”112 Be that as it may, the presence of the first-person woman’s voice is unprecedented, and significantly so, in both its initial use in the Mishnah as justification for halakhah and its use in the Bavli and subsequent halakhic development as a metonym for the legal rights of a woman to petition for divorce.113

TKetubot 7.11 does not contain this voice of radical female subjectivity. Its main concern is not the repulsion of the offended wife, but whether divorce can be compelled by the court in a specific situation: both partners wish to continue being married, but the sexual availability of a wife might cause physical harm to a husband afflicted with a repulsive medical condition. If the husband is afflicted with boils, divorce is compelled, even if both husband and wife wish to continue the marriage: “[We compel divorce in the case of a man] smitten with boils; even though both parties want [to continue the marriage], they should not continue [to be married].” (T7.11) A halakhic anecdote completes the unit; it is cited by Rabban Gamaliel to limit the applicability of the above ruling to one specific type of boils. To do so, he consults an expert
witness, an old man of Zipporin smitten with boils, who testifies that proximity to a woman (i.e., sexual intercourse) is harmful only if a man is afflicted with one out of twenty-four types of boils, the deadly ra’atan.

Although MKetubot 7.10 also cites the majority view that a divorce must be compelled if a man has boils, it maintains a focus on female subjectivity and agency through a unique, concluding halakhic narrative. The unit begins with the list of qualifying male defects; then, Rabbi Meir’s opinion, articulated in language of female subjectivity, shifts the focus of the mishnah from male defects to female agency. According to Rabbi Meir, even if a wife had full knowledge of her husband’s defects at the time of marriage, she still has the right to petition for divorce. The rationale for her right is implied in the ambiguous meaning of the words “I thought” (מבורהAlready: (my son) רבי מאיר), which denotes both “I understood” and “I imagined,” and קבל, which can mean both “to accept” and “to endure.” Thus, “even though she married him, she [has the right to] claim ‘I thought/imagined (סבורה אני) that I could accept/endure (קיבל) [his defects], but now I cannot endure (קיבל) [them].’” This mishnah then presents the ruling of the Sages about the requirement to compel divorce in the case of a man afflicted with boils, which in one respect differs significantly from T7.11: whereas the latter presented the case from the perspective of both husband and wife (“If both of them want [to continue the marriage]”), M7.10 presents only the wife’s perspective (“If she is able she may stay married to him”).

MKetubot 7.10 ends with a return of the radical voice of female subjectivity in a more extreme legal case. A halakhic narrative relates an incident in Sidon in which a woman who accepted and endured marriage with a deceased tanner does not have to accept his brother in levirate marriage, since she has the right to claim, “I was able to accept/endure your brother, but I will not be able to accept/endure you.” In this instance, as Judith Wegner points out, a woman’s sensory capacity trumps the biblical requirement of levirate marriage. Similarly, the gendered binary sensory landscape of M7.7-10 as a whole is complicated by this final mishnah, which through the
discourse of female agency and radical female subjectivity, deployed in the minority opinion of Rabbi Meir, expands the potential for a woman’s right to petition for divorce.117

TALMUDIC DEVELOPMENT – MKETUBOT 7.9-10

Both the Yerushalmi and the Bavli devote much less commentary to MKetubot 7.9-10 than they did to MKetubot 7.7-8; there are, in this case, no long sections of stammmic development in the Bavli. Arguably, both Palestinian and Babylonian post-tannaitic rabbis had much less interest in women’s sensory response to men than in men’s response to women. By contrast with the Bavli’s emphasis on the male sense of sight in the previous commentary, explicit language of olfaction appears only twice in BKetubot 77a, which identifies a polypus first, in the name of Samuel, as “a nasal smell” (ריח החוטם) and second, citing a Baraita (T7.11), as “smelly breath” (ריח הפה).

THE YERUSHALMI AND THE BAVLI– YKETUBOT 7.9 (31D); BKETUBOT 77A ON MKETUBOT 7.9

Both the Yerushalmi and the Bavli begin their commentary by exploring the implications of the word “arose” (נולדו) in the opening anonymous majority ruling (“If defects arose in a man [after marriage] we do not compel him to divorce his wife”) and reconciling it with the specification of Rabban Shimon ben Gamaliel’s ruling in M.7.9: “Which defects does this statement concern? Small defects, but we do compel him [to divorce his wife] in the case of large defects.” The subsequent discussion clarifies a wife’s rights, which depend upon whether her husband’s defects were present at marriage (היו) or arose after marriage (נולדו). Although no sensory content appears in either Talmud, only the Bavli frames the issue in terms of the wife’s subjective agency, which it does by paraphrasing MKetubot 7.10: “I thought I could accept/endure him but now I cannot.” By contrast, the Yerushalmi simply reconciles the apparent contradiction between Rabban Gamaliel’s view and the opening anonymous majority ruling by specifying that in the latter case the term “arose” actually means defects present at the time of marriage, in
which case the wife would have known about them and accepted them, and thus cannot petition for divorce.

Strikingly, the Bavli’s presentation of the wife’s rights through discourse of female subjectivity creates symmetry between the husband whose betrothed is found to have defects (M7.8) and the woman whose husband has defects at the time of marriage (M7.10). This symmetry is affected by thrice-repeated language of female subjectivity in the third person, paraphrasing M7.10: “she thought/imagined and she accepted/endured.” Arguably, this repetition corresponds to the thrice-repeated language of male subjective sensory experience in the previous sugyah: “A man does not drink from a cup without checking it first”; “he saw [the defects] and accepted them.” However, the implied formal symmetry of the situations of the husband and the wife is undermined by the ambiguity of the meaning of the word “savar” (סבר), which varies with the context.117F118 If a woman agreed to marry a man who possessed a large, qualifying defect at the time of marriage, then the verb means “to understand”: “She understood [the implications of his defects], and she accepted them.” However, according to the minority opinion of Rabbi Meir in M7.10, the word can also mean “to imagine”: a wife may imagine that she can tolerate her husband’s defects when she accepts him in marriage, but after marriage she may not be able to endure them.

The assumption of the instability and unreliability of female cognitive faculties underlies the halakhic argument. It is assumed that the reliable male sense of sight does not impair a man’s assessment of a prospective bride, but that a woman’s response to smells or repulsive conditions clouds their rational judgment.119 Thus the Bavli treats a husband’s visual evaluation of his wife’s defects as reliable provided that they were not hidden from him at the time of betrothal, but a wife’s evaluation of her husband’s defects is inherently unreliable; thus, her rational, correct understanding at the time of betrothal of her husband’s defects may be retroactively transformed into an imaginary, incorrect understanding. Alternatively, the Bavli may assume that
a wife’s evaluation at the time of her marriage of her ability to withstand her husband’s defects was irrational, and that she achieved a rational evaluation of his offensiveness only after social and sexual marital intimacy. In either case, although Rabbi Meir’s minority ruling may well take female subjectivity seriously, it also assumes that female cognitive faculties are inferior to male sight as a means of rationally evaluating potential consequences.

**The Yerushalmi and the Bavli – Yketubot 7.10 (31d); Bketubot 77a-b on MKetubot 7.10**

Although MKetubot 7.10 projects the voice of radical female subjectivity, neither Talmud, in this section of commentary, shows any interest in imagining female agency or subjectivity or in interpreting the halakhah thereby. Moreover, except for the two references to bad smell in the Bavli specified above, there is no specific sensory content here. Rashi, not the gemara, comments that the occupations listed in M7.10 (a smelter, a collector of excrement, a tanner) are especially smelly. The Yerushalmi and the Bavli adopt similar structures for their commentary. Both devote sections – narrative in the Bavli, exegetical in the Yerushalmi – to (1) the precise meaning of M7.10’s itemized list of large defects and (2) aggadic conclusions focusing on men afflicted with boils. The Bavli has an additional middle unit that lists parallel situations in which a man may be compelled to divorce his wife (if they are in a forbidden liaison, if she bears no children after 10 years, if he fails to support her financially).

The concluding section of the Bavli completely diverts attention from sensory offence to the wife to the physical vulnerability of the male body through a lengthy, grotesque narrative fantasy about affliction with the deadly type of boils called “ra’atan” (T7.11). The description in the Bavli of the circumstances of infection and surgical treatment, in which the skull and cerebral organs of the afflicted male sufferer are softened and penetrated (first by the toxic, infecting fly, then by the surgeon’s healing knife) begs for a classical Freudian interpretation. This lengthy narrative digression transforms the wife from the afflicted party into the aggressor: it is the threat
that sexual relations with a wife present to the vulnerable, boil-ridden male body that justifies compelled divorce in cases of this kind. The Bavli cites an expanded version of TKetubot 7.11, in which “proximity to a woman,” here explicitly sexual intercourse, is harmful to men afflicted with boils of any type, not, as the Tosefta specifies, just to those who suffer from ra’atan: “Rabbi Yosi said, ‘I was speaking with an old man in Jerusalem, who told me: “There are twenty-four kinds of boils, and the Sages say that sexual intercourse is bad for men afflicted with any of them, but especially for ra’atan sufferers.”’” (BKetubot 77b) Thus, like the toxic ra’atan fly that penetrates the male skull through the nasal cavity, a wife becomes a dangerous sexual aggressor, a far cry from the Mishnah’s radical voice of female subjectivity.

CONCLUSION AND SUGGESTIONS FOR FURTHER RESEARCH

Interdisciplinary theoretical ways of reading ancient texts should broaden the scope of received critical perspectives to enable innovative insights into those texts and the historical and cultural worlds in which they originated and were transmitted. In the present study, the novel perspectives afforded by theoretical frames from sensory anthropology, sensual culture studies and legal aesthetics have augmented the critical understanding both of the texts under consideration and of rabbinic ideologies and practices related to marriage and gender relations. The prevailing view has been that the primary rabbinic concern underlying halakhic notions of betrothal in the texts under consideration was physical beauty in a prospective wife. This study has shown that the reality was much more nuanced, and that the aesthetics of male sexual attraction were perhaps less central to these notions than the concept of marriage as a relation of property ownership.

The study has considered the sensory landscapes embedded in the texts as an independent rabbinic phenomenon, without locating them in their greater historical and cultural contexts. It is to be hoped that the present work will stimulate research that will contextualize the texts and issues considered here in diverse geographical, cultural and historical contexts. As far as the

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discipline of rabbinics is concerned, the present study shows the value of further diachronic study of the interpretation and application of the rulings that I have discussed here in later halakhic literature. The goal of such study would be to trace the historical trajectories of sensory landscapes and gender stereotypes and their legal ramifications in the different Jewish cultural and historical contexts in which the laws were implemented and practiced. It is to be hoped that the present study will prompt more comparative research – in particular, research that examines the sensory landscapes of the rabbinic material in the light of those evidenced by early Christian theology and liturgical practice, especially in late-antique Syrian communities, and those found in Sasanian Zoroastrian communities contemporary with the formulation of the Bavli. Further comparative research on the sensory landscapes of antiquity will not only expand the perimeters of current comparative scholarship; it will also enable the isolation of uniquely rabbinic cultural notions about sensory perception and its legal and social ramifications, and thereby highlight what was peculiar to ancient rabbinic Judaism.

This study has also both augmented and rendered more nuanced the current interdisciplinary scholarship in sensory anthropology, sensual culture studies and legal aesthetics. For instance, the study provides more evidence in support of the work of Constance Classen – in particular, (1) Classen’s identification of the conservative, gendered Western historical trajectories that associate women with the “lower” sense of smell and men with the “higher” sense of sight and, (2) her analysis of the longstanding, stereotypical differentiation of sensory experience by gender. This research has broadened the scope of Classen’s work by focusing on legally prescriptive texts from rabbinic Judaism of antiquity, a culture as yet unexamined in the interdisciplinary fields of sensory studies. The critical presuppositions of sensorial jurisprudence have gained nuance from the argument that, at least in the texts in question, sensory perception does not always work towards effecting the reification of the “totalizing symbolic authority” of social constructs and hierarchies of gender. In fact, the present analysis has shown that although the rabbinic texts in question undoubtedly project gendered stereotypes related to
Gendered Sensory Landscapes in MKetubot 7.7-10 and Parallels

sensory perception and its influence on the social hierarchy inherent in rabbinic marriage, the legal development tends to complicate, rather than reify, these stereotypes. Finally, this study complicates the universally applied, received concept in feminist critical scholarship of “the Male Gaze” through discussion of a culturally specific “rabbinic male gaze,” which is less concerned with sexual dominance and possession than with social status and property ownership.

The textual analysis yields interesting reflections on the historical and cultural permutations of rabbinic patriarchy in antiquity. For instance, the comparison of the Bavli on M7.7-8 and M7.9-10 shows that Babylonian rabbis were able to imagine male subjectivities that destabilized gendered binary sensory stereotypes related to the male sense of sight but were much less interested in imagining female subjective sensory experience in the same way. The Bavli is willing to entertain imagined female subjectivity only in its commentary on M7.9, where it is an unreliable mode of cognitive evaluation rather than an affirmative voice of female agency. However, the transmission of Rabbi Meir’s minority ruling in M7.10 shows that tannaitic rabbinic culture did feel comfortable with discursively presenting a ruling in an unequivocal voice of radical female subjectivity.

Overall, although both the Mishnah and the Bavli evidence a move towards binary gendered sensory landscapes, neither sustains this binary landscape to the point where it becomes a legal formulation that unambiguously reifies gendered social hierarchies. One might say that both the Mishnah (more formally) and the Bavli (more haphazardly) show a process of assertion, destabilization and reassertion of gendered binary sensory assumptions. The Bavli ultimately privileges the reliable, objective male sense of sight, thereby conforming to the longstanding, remarkably conservative, Western genealogy of the gendered valorization of this sense; nevertheless, discursive ambivalence consistently underlies its presentation of the male visual response to a woman’s defects. This ambivalence may evidence an emergent ideology of marriage in the Babylonian context, in which the personal relationship of a man to his wife...
troubles the halakhic definition of marriage as a relation of property ownership. Indeed, a suggestion of this ambivalence occurs in the following amoraic tradition: “Rav Ḥisda said, ‘It is forbidden for a man to have sexual relations with his wife during the day, as it is said, “And you shall love your neighbor as yourself.” (Lev 19:18)’ What is the basis [of his opinion]? Abaye said, ‘He might see something unattractive in her and she would become repellent to him.’” (BNiddah 17a) This tradition explicitly privileges the male sense of sight as the trigger of marital sexual response and felicity. At the same time, the tradition implies that what takes place hidden by darkness (that is, בסתר) may well be fully sexually satisfactory to a man, whatever the appearance of his wife. Contrary to MKetubot 7.8, here concealment is an asset, not a liability, since in the darkness there is no danger of vision’s interfering with pleasure.

ENDNOTES

1 This paper was first presented in the Sensory Perception in the Bible, Early Judaism and Christianity Section at the 2012 annual meeting of the Society of Biblical Literature in Chicago, under the title, “I Thought I Could Endure Him but I Cannot.” I thank Yael Avrahami and the other organizers of this section for pioneering the field of Sensory Perception in Antiquity. The idea for this paper was sparked by my involvement in the Feminist Commentary on the Babylonian Talmud project, led by Dr. Tal Ilan of the Institut für Judaistik of the Freie Universität, Berlin. I warmly thank her for her exemplary leadership and guidance. I also thank Dr. Joshua Golding of Bellarmine University, Louisville, Kentucky, for sharing my first reading of the passages in the Bavli and the Tosefta. Last but not least, I thank the two anonymous reviewers for their careful reading of this article; their erudite and sensitive suggestions have greatly improved its scope and quality.

2 Comparative evidence suggests that the redactional impulse underlying this unit aimed to present a formally balanced gendered binary opposition not appearing elsewhere in the Mishnah concerning the topics of betrothal and divorce. While the two mishnayot presenting the male sensory perspective (7.7 and 7.8) have mishnaic parallels, the two presenting the female sensory perspective (7.9 and 7.10) have none. MKetubot 7.7 has an exact, verbatim parallel in MKiddushin 2.5. The situation in MKetubot 7.8, where a betrothed woman is found to be a “field laid waste,” has a loose parallel in a different halakhic context in MKetubot 1.6, where a betrothed woman who is found not to be a virgin at the time of her marriage is designated by the same term. For discussion of the legal and metaphorical ramifications of the term “a field laid waste,” see Gail Labovitz, Marriage and Metaphor: Constructions of Gender in Rabbinc Literature (New York: Rowman and Littlefield, 2009) 42, 70, 109-10.


4 Most notably, Jeffrey L. Rubenstein, Talmudic Stories: Narrative Art, Composition and Culture (Baltimore, MD: Johns Hopkins University Press, 1999); and The Culture of the Babylonian Talmud (Baltimore, MD: Johns

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Hopkins University Press, 2003). Rubenstein’s work largely focuses on trajectories of cultural development within ancient rabbinic Judaism by comparing Palestinian and Babylonian sources in order to explore the cultural differences between ancient Palestinian and Babylonian rabbinic communities.


7 See the Conclusion for suggestions for future research.


10 See the collection of essays in Bently and Flynn, Ibid., which concern the intersection of sensation and law in issues involving gender, race and class. Also, Howes and Classen, Ibid.


12 In Manderson’s words (concerning drug legislation in 1990’s Australia): “The law sees the world the way the addict sees the world.” Ibid. 211.

13 Early monographs include David Howes ed., The Varieties of Sensory Experience: Sourcebook in the Anthropology of the Senses (Toronto: University of Toronto Press, 1991); Constance Classen, Worlds of Sense: Exploring the Senses in History and Across Cultures (London: Routledge, 1993).


15 Volumes have appeared on all of the traditional five senses, as well as on “the sixth sense,” or paranormal sensation. Full publication details of the series are available at: http://www.bergpublishers.com. Volumes in this series most relevant here are David Howes, ed. The Empire of the Senses: The Sensual Culture Reader (Oxford: Berg, 2005); Jim Drobnick, The Smell Culture Reader (New York: Berg, 2006); Elizabeth Edwards and Kaushik Bhaumik eds., Visual Sense: A Cultural Reader (Oxford: Berg, 2008).
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16 Howes, Ibid. 3. For a historiographical survey of the study of the senses in the field of anthropology, see David Howes, Sensual Relations: Engaging the Senses in Cultural and Social Theory (Ann Arbor, MI: University of Michigan Press, 2003) 3-58.
17 Drobnick, The Smell Culture Reader, frontispiece.
18 Howes dramatically articulates the missionary urgency of this imperative: “The need for us to experiment with other ways of sensing the world has never been more acute. Indeed, if we do not ‘come to our senses’ soon, we will have permanently forfeited the chance of constructing any meaningful alternatives to the pseudo-existence which passes for life in our current ‘Civilization of the Image’.” Empire of the Senses, 3.
19 Ibid. 4. For the influence of the ancient Greek philosophical prioritization of sight on the fields of biblical studies and rabbinics, see Deborah Green, The Aroma of Righteousness: Scent and Seduction in Rabbinic Life and Literature (University Park, PA: Pennsylvania State University Press, 2011) 9-10.
20 Howes, Empire of the Senses, 1.
21 Howes noted the significance of sensory ideological hierarchies to feminist and gender research in his first monograph, citing feminist French philosopher Luce Irigaray to critique the privileging of the sense of sight in male-dominated Western philosophy. Varieties of Sensory Experience, 14.
23 For an anthropological study of binary Western models contrasted with cross-cultural gendered sensory models, see Howes, Sensual Relations, 61-172, especially 160-72.
26 Classen, Touch, 71-92.
27 Ibid. 80.
28 Ibid. 20-21.
31 In recent publications in the field of the psychology of human sexuality, male sexual arousal by the sense of sight tends to be presented as an intuitive fact, despite acknowledgement of the multiple factors involved. For instance, a scientific, comprehensive anthology acknowledges that “[s]ensory information, whether auditory, olfactory, gustatory, tactile or visual, may effectively arouse sexual response.” Yet “men most easily and preferentially attend to information from the visual pathway.” Walter Everaerd, Ellen T. M. Laan and Mark Spierling, “Male Sexuality,” in Lenore T. Szuchman and Frank Muscarella eds., Psychological Perspectives on Human Sexuality (New York: John Wiley and Sons, 2000) 64. See also the more popular publications, ostensibly based upon scientific data: Derek Llewellyn-Jones, Every Man (New York: Peter Bedrick Books 1981); Gary R. Brooks, The Centerfold Syndrome (San Francisco: Jossey-Bass Publishers, 1995).
32 As far as rabbinic culture is concerned, rabbinic representations of female objects of male desire never evoke explicitly tactile imagery; however, the sense of taste is often evoked through motifs of food consumption, which are used as metaphors or metonyms for sexual intercourse and sexual desire. See Michael Satlow, “‘Texts of Terror’: Rabbinic Texts, Speech Acts, and the Control of Mores,” AJS Review 21:2 (1996) 273-97; Boyarin, Carnal Israel, 72, 74, 75, 116-17, 123.
A growing number of scholars currently pursue research on sensory perception in the Hebrew Bible. For instance, Yael Avrahami, *The Senses of Scripture: Sensory Perception in the Hebrew Bible* (International: T&T Clark, 2012).

Fonrobert identifies a rabbinic taxonomy of the color of menstrual stains accessed by the authoritative rabbinic sense of sight. She also notes an anomalous, unique talmudic source, in which the purity status of a vaginal secretion is determined by the male sense of smell. *Menstrual Purity*, 115-17.


Fonrobert remarks the privileging of the rabbinic male sense of sight in her discussion of the rabbis’ drive to establish authority over women through “the expertise of the new science of blood” (that is, the determination of the purity or impurity of vaginal stains based upon a taxonomy of color). Fonrobert, *Menstrual Purity* 110, 105-15.

Also Satlow, “‘Texts of Terror,’” who examines rabbinic discourses of violence and food consumption involving women contextualized in a larger agenda of the establishment of rabbinic authority over Judaism in its formative period.


Labovitz, *Marriage and Metaphor*.

Hauptman’s recent study of the historical relationship between the Tosefta and Mishnah, which includes a comparative analysis of our MKetubot 7:10 and the parallel TKetubot 7:11, hypothesizes that “[t]he Tosefta existed as a collection prior to our Mishnah and is itself a commentary on an early Mishnah, an ur-Mishnah.” Judith Hauptman, *Rereading the Mishnah: A New Approach to Ancient Jewish Texts* (Tübingen: Mohr Siebeck, 2005) 29, and 36-40.


On the contrary, judging from their formal literary features a comparison of these texts supports Hauptman’s hypothesis of the chronological priority of an ur-Tosefta to the received Mishnah. See above n. 40. The uneven formal features of the Tosefta texts suggest their relative earliness compared to the parallel mishnayot, which exhibit features of an evening redactional impulse: a far greater degree of homogeneity, coherence, structural balance and halakhic formulation in general legal rulings rather than in lists of examples as in the Tosefta.

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43 The traditional text of the Yerushalmi has been used along with the manuscript published by Yaakov Zusman ed., *Talmud Yerushalmi: yotze le-or al-pi ketav yad skliger* 3 (Or. 4720) (Jerusalem: The Academy of the Hebrew Language, 2005); the traditional Venice edition of the Bavli has been used, supplemented by the manuscript evidence available on *The Sol and Evelyn Henkind Talmud Text Database*, Version 5 (Israel: Bar Ilan/Jewish Theological Seminary of America, 2002).

44 As required by the legal aesthetics approach. Manderson, *Songs Without Music*, ix-x.

45 This point problematizes some of Michael Satlow’s conclusions in his comparative study of Palestinian Jewish marriage in the context of ancient Greco-Roman culture. He considers MKetubot 7.7 and 7.8 to be evidence of the aesthetic requirements of the rabbinic male libido, regarding the emphasis on the lack of visible defects on the female body to primarily concern the requisites of male sexual attraction. Michael Satlow, *Jewish Marriage in Antiquity* (Princeton, NJ: Princeton University Press, 2001) 116-19.


49 The term מום has been translated consistently as “defects” rather than “blemishes”; however, the Hebrew word denotes both a serious, permanent flaw (defect) and a superficial, ephemeral or curable flaw (blemish). Since the Hebrew word does not distinguish between these two meanings, the halakhah introduces the concepts of “removable defect” (מום עובר) and “permanent defect” (מום שאינו עובר), which are discussed below.

50 For manuscript variant see Lieberman, *Tosefta*, Vol. 6, 294.

51 The Hebrew/Aramaic שומא denotes a skin blemish, either a mole or a wart. From our cultural perspective, moles are not necessarily aesthetic blemishes for women while warts definitely are. Due to the ambiguity of the Hebrew/Aramaic שומא, it is impossible to ascertain with any certainty the degree to which women’s facial or bodily moles were considered blemishes in the ancient Jewish context. The amount of discussion devoted to the subject in both Talmuds shows the tannaitic aesthetics of the שומא was unclear to both Palestinian and Babylonian Amoraim. Whatever שומא designated in the tannaitic sources, it denotes a skin blemish so unattractive as to constitute a potentially serious defect in a woman’s appearance.

52 The precise meaning of לקדשו לולד בה (literally “it is their nature to appear in her”) is unclear. The phrase is unique to this tosefta. It is taken to denote a case where the woman has a permanent condition with latent symptoms that are not always evident.

53 See discussion below and n. 114 for the ambivalent connotations of the statement.

54 Labovitz, *Marriage and Metaphor*, 79-88, who argues that the halakhic concept of *hekdesh*, the formal dedication of property to the domain of the sacred (i.e., to the Temple precincts), underlies the rabbinic conceptualization of marriage as sanctification (*kiddushin*). Also Satlow, *Jewish Marriage*, 73-77.


56 Hauptman notes that the redactional impulse of the Mishnah “…introduces mnemonic devices into the text, thereby superimposing structure on…[the] loosely organized material” of the Tosefta. *Rereading the Mishnah*, 29, n. 102. The formal symmetry here may be a kind of mnemonic device.

57 TKetubot 7.8-10a are devoted to women’s defects and T7.10b-11, to men’s defects.

58 “Which defects does this concern? Small defects. But we compel him…in the case of large defects (M);” “If he is lame in [at least] one leg or blind in [at least] one eye these are large defects and he should divorce her and give
her her *ketubah*” (T). Hauptman views M7.9 as a “…rewriting of both ur-Mishnah and Tosefta.” *Rereading the Mishnah*, 40.

61 Both textual and archaeological evidence suggests that public bathing was discouraged and/or prohibited in Sasanian contexts due to the Zoroastrian belief in the sanctity of water. The bathhouse (מרחץ) in question in our mishnah is not a *mikveh*, but Greco-Roman style public baths, which were, sometimes problematically, frequented by Palestinian Jews. For Jewish attendance at public baths in Greco-Roman Palestine, see Yaron Z. Eliav, “Bathhouses as Places of Social and Cultural Interaction,” in Catherine Hezser ed., *The Oxford Handbook of Jewish Daily Life in Roman Palestine* (Oxford: Oxford University Press, 2010) 605-22. For the restrictions against the use of water for bathing under Sasanian Persian rule in Babylonia, see Scott John McDonough, “‘We and These Waters of the Sea are One’: Baptism, Bathing and the Construction of Identity in Late Ancient Babylonia,” in Cynthia Kosso and Anne Scott eds., *The Nature and Function of Water, Baths, Bathing, and Hygiene from Antiquity Through the Renaissance* (Leiden: Brill, 2009) 263-75.

62 The role of the female relatives as agents appears to be informal, rather than halakhically official. Their eyes are able to “see” for their absent male family member, but it is unlikely they were formally appointed as halakhic agents of inspection. For formal halakhar of agency, see Nahum Rakover, “Agency,” in *Encyclopaedia Judaica*, 1st ed., (Jerusalem: Keter, 1972) 2:349-54.

63 This verb is used to denote women’s vaginal self-examination to determine the end of menstrual impurity, as detailed in a popular orthodox family purity manual. Tehilla Abramov and Malka Touger, *The Secret of Jewish Femininity: Insights into the Practice of Taharat ha-Mishpachah* (Southfield, MI: Targum Press, 1988) 88-92.

64 While the term “a purchase made in error” designates a variety of fraudulent business transactions, “his field is laid waste” refers specifically to situations involving the acquisition of women as wives. See Labovitz, *Marriage and Metaphor*, 41-42, 58-59, 108-109. According to Labovitz, “a purchase made in error” implies fraudulence on the part of the vendor; “a field laid waste” does not imply fraudulence, but simply describes the buyer’s bad luck to have purchased “damaged goods.” Ibid. 109.

65 Listed in MBechorot 5-7.

66 I thank the anonymous reviewer for suggesting this interpretation.

67 “These defects, [listed previously referring to sacrificial animals], whether permanent or impermanent, [also] disqualify humans [from divine service]. And for humans we add [to the list] he whose head is wedge shaped or turnip shaped or hammer shaped, or if his head is sunken or is flat.…” (MBechorot 7.1)

68 While the word *מזוהם* means “filthy” rather than “smelly,” a filthy domestic animal would likely emit an offensive odor. Moreover, *מזוהם* is clearly understood as “smelly” by the Bavli, BKetubot 75a, which I will discuss below. See Rashi’s commentary on Ibid.: “Filthy” (מזוהם) – his body stinks (מסריח).

69 Two explicit references to smell are present in TKetubot 7.9 and 7.11, both referring to bad breath (ריח הפה), but they do not establish a gendered binary structure. More explicit references to sight and smell appear in the Bavli’s commentary, which I will discuss below.

70 The phrase is absent in the parallel T7.11, which does, however, evidence language indicating female subjective volition in the third person: “Under what circumstances did they [rule that] he should divorce her with her ketubah? When he wants [to continue the marriage] but she does not want [to], when she wants [to continue the marriage] but he does not want [to].”

71 In TKetubot 12.4 a first-person voice of female subjectivity is used to express a woman’s options when her maintenance has been discontinued by the court. The textual relationship between our MKetubot 7.10 and TKetubot 12.4 demands more attention than possible here. Assuming Hauptman’s hypothesis (see above n. 40) of an ur-Tosefta that antedated the received Mishnah, the redactors of our Mishnah may have shifted this phrase from a prior context concerning maintenance to the context of divorce.
73 A woman has sexual relations with an Egyptian overseer, thinking it is her husband – *Shemot Rabbah* 1.5.a, 28, *Tanhuma* (Warsaw) *Shemot* 9.9 and *Midrash Aggadah* (Buber) *Shemot* 2.11; the Congregation of Israel, personified as a woman, promises to observe the commandment of two *ḥallot* – *Shir ha-Shirim Rabbah* 1.5.5, *Pesikta de Rab Kahana* 14.5.4, *Midrash Aggadah* (Buber) BaMidbar 33.1, *Yalkut Shimoni* Ezekiel 358.20 and *Shir ha-Shirim Rabbah* 982; the Congregation of Israel, personified as a woman, contemplates her anticipated punishment – *Eichah Rabbah* 1.5.42 and 1.5.3.

74 A Bar Ilan data base search shows the significant amount of Responsa literature on MKetubot 7.10, specifically on the phrase “I thought I could accept/endure him, but now I cannot” (44 occurrences), to determine circumstances allowing a women to petition the court to compel her husband to divorce her. A diachronic study of these Responsa is recommended to shed light on the different gendered sensory landscapes informing the time and place of their composition.


76 Wegner, *Chattel or Person*, 111.


78 The ambivalence of the status of the wife in this mishnah has been noted by Wegner, *Chattel or Person*, 88.

79 A phenomenon maintained by Manderson, “Senses and Symbols,” 201.

80 “A Baraita adds to them: Sweat and a mole/wart and bad breath.” (תנא הוסיפו עליהן זיעה ושומא וריח הפה) (BKetubot 75a). This wording is unique; it is not clear whether it reflects a variant tannaitic tradition or simply errant paraphrasing by the redactor of this sugya.

81 “All of the defects that disqualify priests [from divine service] disqualify women [from a valid betrothal agreement/payment of their ketubah]. We add to the list for women, bad breath and sweat and a mole/wart without a hair.” (T7.9)

82 “It was taught: A mole/wart with a hair, whether large or small, whether on the body or the face, is a defect.” (תני שומא דיש בה שיער בין גדולה בין קטנה בין בגוף בין בפנים הרי זה מום) YKiddushin 2.5 (62d).

83 See above n. 59.

84 See above n. 67.

85 As Rashi indicates in his commentary on the BBechorot 43a quotation of MBechorot 7.1: “Whether permanent or impermanent” – whenever they appear upon him.”

86 BKetubot 75a: “Rav Ashi said, ‘Cannot sweat and filth be removed [from the body]? One can remove it temporarily with wine vinegar. And bad breath [can be temporarily removed] by sucking on a peppercorn. But regarding a woman’s relationship with her husband], this is impossible.’”

87 “But the Sages hold: What kind of defects does the above ruling concern? Hidden defects. But the husband is unable to demand [cancellation of the betrothal while retaining the ketubah] if the defects were visible.” (M7.8)

88 The Bavli’s only explicit example of a hidden defect is found in a very short passage at the end of the discussion of M7.7-8. (BKetubot 76b) Here Rabbi Nahman identifies regularly occurring epileptic fits as “hidden defects,” since their regularity enables an afflicted woman to hide in the house when one is expected and thus to conceal her condition. Unusually for the Bavli, this defect is a physical condition, like those listed in T 7.9, not an aesthetic blemish.

89 The aesthetics of women’s breasts appears to have been a Babylonian cultural concern; research on Sasanian parallels to this phenomenon might be a fruitful enterprise.


91 Joseph Caro, *Beit Yosef*, Even Ha-Ezer 39.3; also found in Abraham Zakuto, *Sefer Yyhasin*, Part II,. Accessed in the Bar Ilan Judaic Library Database, Version 20. Interestingly, the Bar Ilan database follows the tradition of censorship by listing Rabbi Natan Bir’ah in his biographical index as an authentic tannaitic authority.
92 See the work of Tal Ilan for discussion of the process of censorship during the transmission of rabbinic texts, in which references to women are deleted or transformed. Among others, Tal Ilan, *Silencing the Queen: the Literary Histories of Shelamzion and Other Jewish Women* (Tübingen: Mohr Siebeck, 2006) 2-3 and throughout.


94 See Judith Hauptman, *Rereading the Rabbis: A Woman’s Voice* (Boulder, CO: Westview, 1998). Alternatively, it is possible that the Yerushalmi assumes that the husband saw the defect at the time of the marriage and, nevertheless, proceeded with its consummation, confirming his acceptance of the defect. I thank the anonymous reviewer for suggesting this interpretation.

95 The four units are: (1) from its beginning at the top of 75b – “The reason the father brings proof” (שנה דמייתי האב טראיה) – to the top of 76a – “The money remains in the hands of its presumptive owner” (והעמד ממון על חזקתו) (2) from the top of 76a – “Rav Ashi said, ‘The first clause of the mishnah [assumes a woman can claim], “My father’s money is in your possession.”’” (רב אשי אמר רישא מנה לאבא בידיך) – to the bottom of 76a – “Rav Judah said in the name of Samuel”; (3) from the bottom of 76a – “Rav Judah said in the name of Samuel” – to the bottom of 76b; and (4) a very short passage identifying the “hidden defects” of M7.8 as regularly recurring epilepsy at the top of 77a.

96 Regrettfully, a full analysis of this lengthy sugya is not possible here. Its overall structure suggests that the order of its units may evidence a deliberate redactional strategy. The redactors may have chosen to conclude the sugya with an unambiguous unit in order to defuse the ambiguity of the preceding units. I thank the anonymous reviewer for this suggestion.


98 In the Bavli, the burden of proof is finally assumed to be incumbent upon the father (i.e., the original owner of the donkey) to prove that the defects in his daughter that became evident at the time of marriage did not occur while she was under his domain.

99 Rabbinic ideologies and practices concerning gender are often expressed by metaphoric associations between sexual relations and food consumption, evidencing the tendency of food imagery to be a normative discursive means of establishing gendered social boundaries and control over women. See among others, Satlow, “Texts of Terror;” Boyarin, *Carnal Israel*. See above n. 32.

100 In the Bavli, the case of the treif animal is assumed to show that the burden of proof establishing when the damage occurred is incumbent upon of whichever party wishes to take money from the other, privileging the husband who holds the ketubah after betrothal.

101 The other principles brought into play are: (1) “the presumed wholeness of the body” (הקדש גופא) [the presumed freedom of the woman’s body from defects at betrothal]; (2) “here they were and here they arose” (האר נמצאו והאר היו) [the defects can be assumed to have arisen in the place where they were found – the father’s domain or the husband’s domain]; (3) “the money remains with its presumptive owner” (והעמד ממון על חזקתו) [the ketubah remains in the possession of the husband, who holds it from the time of the betrothal].


103 See Ibid. 230-35 for discussion of marital love in Palestinian Judaism.

104 See Bketubot 16b-17a for traditions about the central importance of the bride during the wedding celebration; also, Avot de Rabbi Natan A 4, in which rejoicing before the bride is considered more important than the commandment of Torah study.

105 See n. 114 below for the ambivalent connotations of the statement to be discussed below.

106 For manuscript variant see Lieberman, *Tosefta*, Vol. 6, 306.

107 Included in Bketubot 77a as a Baraita.

108 A woman has the right to petition the court to compel divorce if her husband does not maintain her financially, since maintenance is one of her marital rights. Biale, *Women and Jewish Law*, 86-87.

109 Nowhere is it assumed that a woman will be repulsed by a man’s appearance alone. Satlow, *Jewish Marriage*, 119.
Satlow believes that the low social status of the occupations listed in MKetubot 7.10 was also of concern. Ibid. 328, n. 160.


I thank the anonymous reviewer for this phrase.

See above n. 74 for the use of the phrase in subsequent halakhah.

The lexical range of the verb סבּר בּרָא includes three different connotations of the English verb “to think”: “to imagine,” “to understand” and “to reason” with the rational mind. Marcus Jastrow, A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature (New York: Judaic Press, 1975 [1971]) 951-52.

Ibid. 1308.

Wegner, Chattel or Person, 111-12. Wegner understands this halakhic leniency as having to do with the different legal circumstances of a betrothed woman (who is her husband’s acquired property) and a widow (who is not purchased as property by her levirate redeemer).

According to Wegner, here the Mishnah’s recognition of a woman’s independent agency and legal status is in tension with her status as a husband’s sexual property. Ibid. 83-84.

This illustrates Classen’s identification of the conservative historical trajectory stereotypically attributing different valences to men’s and women’s sensory experience. See above notes 24-29.

I thank the anonymous reviewer for pointing out this second alternative.

“All of them [are listed here] because they are smelly occupations.” (כולן מפני שאומנות מסרחת היא). Rashi’s commentary on MKetubot 7.10 (BKetubot 77a).


See above n. 5. To date, Sasanian Zoroastrian sensory culture has never been critically considered either in and of itself, or by comparison with rabbinic materials. The potential fruitfulness of such an approach is suggested by evidence that men’s olfactory response to women may have been a particularly Babylonian concern. Notably, the only time the Bavli evidences the use of smell to determine menstrual impurity is in a aggadic narrative with explicit Sasanian content and a Babylonian rabbinic hero, Rava (BNiddah 20b). See Fonrobert, Menstrual Purity, 115-17; 261-62. Another amoraic tradition unique to the Bavli records a “sniff” test involving wine to tell if a woman is a virgin. (BKetubot 10b)

One such peculiarity is the way in which tannaitic halakhah maintains a clear distinction between moral and ritual impurity and avoids overlapping positive and negative sensory experience and moral valence. For the former, see Jonathan Klawans, Impurity and Sin in Ancient Judaism (Oxford: Oxford University Press, 2000) 134. By contrast with the early Christian evidence (Harvey, Scenting Salvation; Caseau, Euodia), early rabbinic halakhah tends not to conflate moral evil with sensory stench and moral goodness with pleasing aroma, although such conflation does appear in aggadic sources. See Green, Aroma of Righteousness, 136-39.

Manderson, “Senses and Symbols,” 201.

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McDonough, Scott John. “‘We and These Waters of the Sea are One’: Baptism, Bathing and the Construction of Identity in Late Ancient Babylonia.” In Cynthia Kosso and Anne Scott, eds. *The Nature and Function of Water, Baths, Bathing and Hygiene from Antiquity through the Renaissance.* Leiden: Brill, 2009. 263-75.

Gendered Sensory Landscapes in MKetubot 7.7-10 and Parallels


