

The Marriage Issue

The Latest:

William Kentridge: An Implicated Subject

Cynthia Ozick's Fiction Smolders, but not with Romance

The Questionnaire:

If you were to organize a graduate seminar around a single text, what would it be?



AJS Perspectives

THE MAGAZINE OF THE ASSOCIATION FOR JEWISH STUDIES



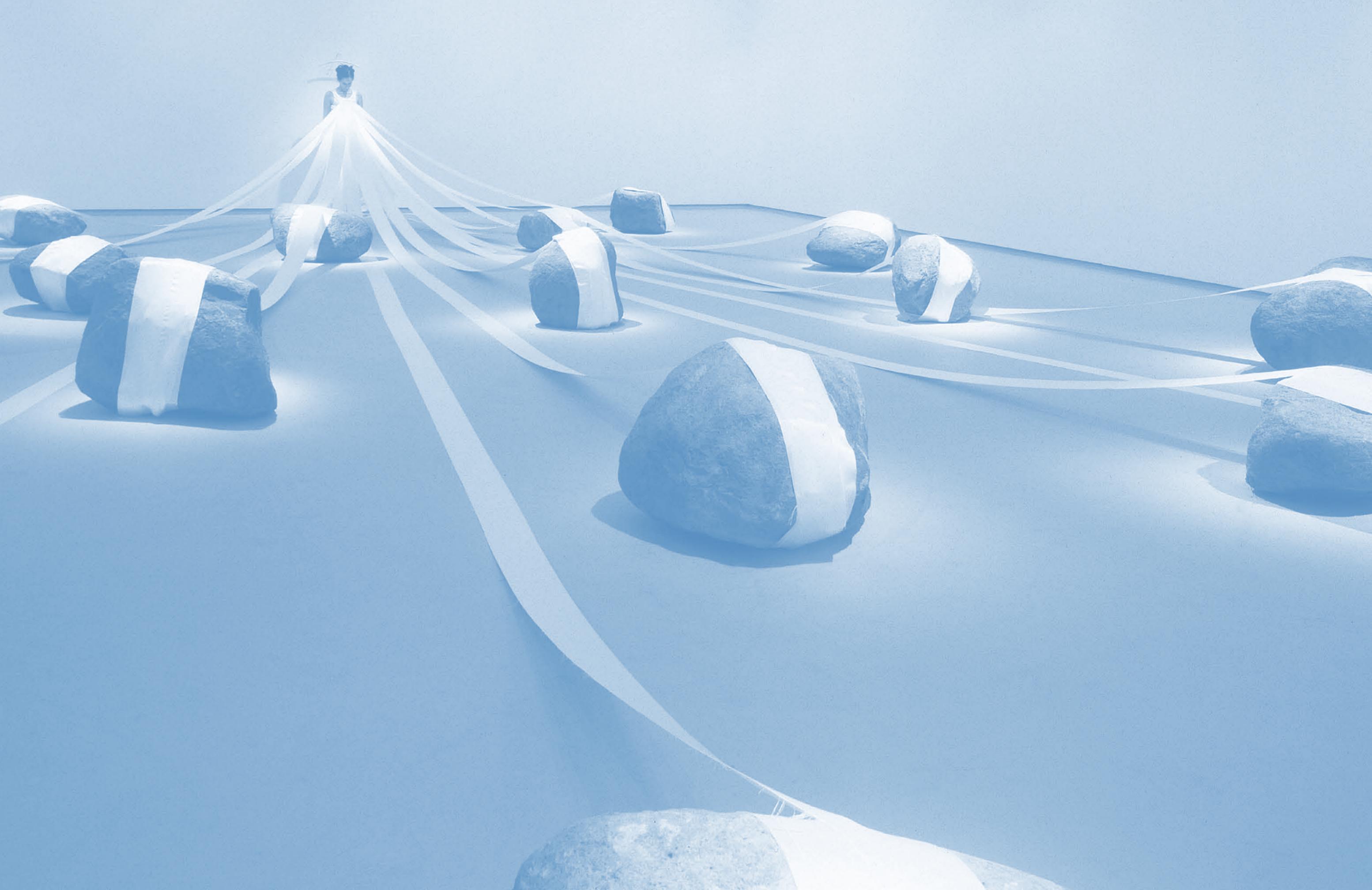


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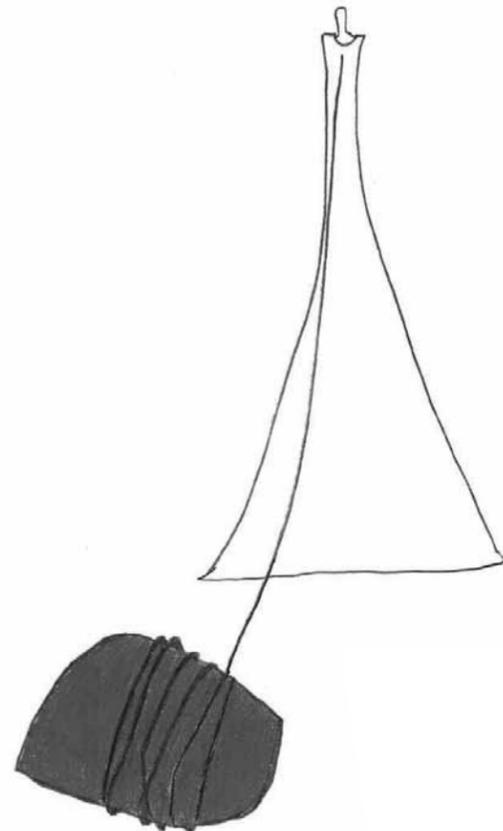
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From the Editors

Dear Colleagues,

Marriage is always in the news, from the latest tabloid spread to the urgent debate on gay marriage. (Too) much of the policy debate centers around the nature and fate of the seemingly self-evident “Judeo-Christian tradition.” As Jewish Studies scholars, we tend to be skeptical when politicians invoke the tradition we study for a living. High time, then, to collect a representative sample of the latest research on marriage.

The defense of marriage as a biblical institution brings with it no small amount of irony. The Hebrew Bible speaks of men “taking” women; it outlaws marriages with groups deemed too far from Israel and with relatives considered too close; and it stipulates procedures for divorce, remarriage, and verifying adultery. But there are no descriptions of marriage as a convention or representations of wedding rituals.

The famous verse in which a man leaves his father and mother in order to cling to a woman might well refer to coitus more than matrimony. The *Tanakh* describes parties where men drink together prior to whatever transaction affects marriage, yet these feasts lead to confusion and violence. Jacob’s revels end with his marriage to the wrong woman and Samson’s more philosophical symposium leads only to the consummation of war between Judah and the Philistines. For outpourings of love, we must turn to Ruth the Moabite who pledges to her mother-in-law Naomi that “only death will separate me and you” (Ruth 1:17) or to David, who mourns Jonathan in verse, “You were most dear to me. Your love was wonderful to me, more than the love of women” (2 Samuel 26).

The New Testament offers an even bleaker view. Jesus explicitly brings God into the equation and prevents the termination of marriage: “What God has joined together, let no one separate.” Remarriage constitutes “adultery” and the most elevated state is that of the “eunuchs for the sake of the kingdom of heaven” (Matthew 19:6–12). Paul’s famous resolution was “better to marry than to burn” (1 Corinthians 7:9), thus imagining union as a joint policing of desire. Marriage, as articulated here, goes beyond controlling women to assume a mode of Foucauldian self-surveillance in which the individual modulates his desires as part of a larger program of social discipline. Such a program is likewise evident when marriage becomes a metaphor for the relationship between a community and God. Here the actual business of satiation, cohabitation, and reproduction becomes displaced and concealed by yearning, ritual, and expansion of the group of devoted believers.

The Bible has much more to say about the marriage between the faithful and God in which the human spouse figures as feminine. Jeremiah speaks of Israel’s tender pursuit of God’s love during the wandering in the wilderness (2:2). But the difficulties inherent in the marriage between God and Israel appear in the book of Ezekiel where God charges His wife with “harlotry,” a “weak heart,” and “filthiness.” After such berating, one almost wishes that God would issue a *get* rather than “an everlasting covenant” (16).

There is debate—much within this issue—over whether the rabbinic marriage contract provides safeguards for women’s basic rights or commodifies brides as objects of transaction. It is certain that rabbinic law establishes marriage as a legal procedure within a public ritual. The implications of the legal procedure and its impacts on Jews from different periods of time lie at the heart of The Marriage Issue. The questions, whether textual or historical, lead us to wonder what to do about marriage today. Some authors suggest that if most women

knew what was actually uttered in Aramaic at their weddings, they would never consent. Others provide ways of transforming marriage and weddings into events that are more inclusive, egalitarian, and true to contemporary values. There are several suggestions about how to contract a halakically legitimate bond while dispensing with some of its objectionable premises. Some articles show that marriage is a contingent affair in which no single bond ever demonstrates the model.

Even as scholars agonize over what to do about matrimony in the age of women rabbis and state laws protecting gay marriage, wedding planners and officiants look to Jewish tradition for the tell-tale *huppahs*, *ketubahs*, and smashing of glass. For many couples, the wedding functions as a key moment of connecting to a Jewish past through these signifiers. Should tradition be put aside in the name of progressive values? Without dictating any answers to our current predicament, we recall Naomi Seidman’s article from The Secular Issue that demonstrated how ideas of romantic love entered Jewish thought as a bourgeois nineteenth-century import. Seidman refers to Foucault when she writes of how “the traditional world multiplied rather than constraining sexual relations, embedding its marriages within a dense web of religious, social, and kinship networks.” The bourgeois model, in contrast, separated the couple from these networks eventually turning them into a market that could be expanded through divorce: the greater the number of separate households, the greater consumption of goods and services. If the market replaces God as the driving force of a marriage, then is agency increased? How can one mediate the role of the state when thinking about marriage? How does the case of Israel, where the Rabbinate presides over all state marriages, complicate the issue? Does the institution of marriage afford autonomy? Should it? Can it be transformed and why, to come back to our original question, are we so married to the issue?

Matti Bunzl

University of Illinois Urbana-Champaign

Rachel Havrelock

University of Illinois Chicago



From the President

Dear Colleagues,

In 1989, when AJS was twenty years old and had been growing in size and scope, its leadership decided that the time had come to institute a new means of planning the annual conference. Instead of having all paper and panel submissions come to a single address, AJS would divide the field into sections. The head of each division would collect submissions for its respective subfield and submit recommendations to the central program committee—in effect, the procedure AJS currently uses. Legend has it that the first draft of conference divisions was made by the heads of AJS one evening while sitting at the bar of the Copley Hotel in Boston (where AJS then convened every year), jotting down their rubric on a cocktail napkin.

Like most legends, the facticity of this one is less important than the understandings that inhere within it. This bit of AJS lore infers that the task of dividing up Jewish Studies into subfields was straightforward; the divisions were readily apparent and did not require extensive reflection or debate. These divisions are not all of a kind; they are variously defined by discipline, language, geography, canonical text, or historical period. Though the divisions AJS uses to organize its conference have been tweaked over the years, the original rubric drafted in 1990 remains at the foundation of this system.

The changes made in these divisions over time have come about largely in response to what members propose to present at the annual conference. For example, this past December, the Program Committee agreed to dissolve the division on Gender, following the recommendation of this division's chair, who argued that proposals of papers and sessions dealing with issues of gender and sexuality now are regularly sent to so many other divisions of the conference that relatively few submissions on the topic come to the Gender division. The study of gender and sexuality in Jewish Studies has, in effect, been mainstreamed. Hence, the need for a separate division, which had been created in the early 1990s to bring much-needed attention to this work in Jewish Studies, now seems a less effective way of addressing the field's expansive engagement with gender and sexuality. (Note that the conference still welcomes submissions of interdisciplinary presentations on this topic; for details, see the Call for Papers on the AJS website.) This issue, as well as other questions of how to modify the conference structure, received much debate at the December meeting of the Program Committee, and its members continue to consider how the conference can better reflect the shape of the field. As Jewish Studies continues to change, the notion that its structure is self-evident has given way to more complex, ongoing probing of how the field is developing.

This issue warrants attention in other venues as well. Delineating the scope and organization of Jewish Studies is likely realized most extensively, if implicitly, in the rosters of courses offered by the undergraduate Jewish Studies programs in which many of us teach. I recently thought about how the dynamics of the field are reflected in this setting when I came across an intriguing artifact while doing research at the Magnes Collection of Jewish Art and Life in Berkeley: a brochure listing courses offered by the Department of Jewish Studies of the City College of New York in Spring 1974. Though by then CCNY no longer taught a preponderance of Jewish students (they had numbered some 80 percent of enrollees during the interwar years), it had established a substantial

Jewish Studies department, something few institutions of American higher education had at the time. Indeed, the brochure describes this as a new program, “on the cutting edge of history.”

That spring, CCNY offered twenty-one lecture courses in Jewish Studies, some of them cross-listed with other departments, as well as language courses in Arabic, Hebrew, and Yiddish. The roster includes a survey of Jewish history, courses on Jewish thought, Bible, Talmud, medieval and modern Hebrew literature, Yiddish literature, Holocaust literature, Hasidism, Israeli society, American Jewish immigration, and the sociology of Jewish identity; among topics announced for the next semester are courses on Jewish women, mysticism, and Holocaust history.

This list looked very familiar to me; it is strikingly similar to a typical semester of Jewish Studies courses at Rutgers and seems to resemble the offerings of many other Jewish Studies programs in North American schools of higher education. There are, of course, some noteworthy differences: Other than sociology, CCNY offered no courses in the social sciences; there were no courses on Sephardi or Mizrahi Jewry or on Jewish art, music, theater, film, or other media—all topics addressed in courses Rutgers and other schools often offer. On the whole, however, the rubric of Jewish Studies seems more unchanged than not over the course of nearly forty years.

What does one make of this comparison? Is it a sign of the field's stability or of its stagnation? Does undergraduate teaching reflect the intellectual dynamics of Jewish Studies scholarship? Should it do so—and for that matter, can it, given the extent to which courses must fit into the requirements of schools and the rubrics of other departments? The larger trend of Jewish Studies, as reflected in AJS conferences of recent years, has been to expand the field's sense of the possible, integrating new methods and areas of inquiry into more established topics and approaches. As a consequence, the question of what Jewish Studies constitutes and how it is constituted figures with growing frequency in both individual scholars' work and in discussions among scholars. I believe firmly that this ongoing self-reflection is a strength of the field and should be encouraged both in AJS endeavors and beyond. The nimbleness of Jewish Studies is an advantage for established scholars and new students alike. How, then, can we extend this thoughtful intellectual agility to our teaching, especially at a time when the means and ends of higher education are being rethought?

Jeffrey Shandler

Rutgers University

From the Executive Director

Dear Colleagues,

Membership dues play a critical role in supporting the work of the Association for Jewish Studies, accounting for roughly a third of the organization's annual budget. These dues help pay for core programs, such as *Perspectives*, *AJS Review*, the Distinguished Lectureship Program, the extensive resources on the AJS website, and all the staff time associated with these projects. And, of course, the dues help keep the lights on. Despite rising annual costs for these programs and overall operations, AJS has maintained the same dues levels for the past half decade, carefully managing its income and expenses to eke out as many enhanced services within its current structure.

Looking ahead to the next several years, however, the AJS Board of Directors felt it appropriate and necessary to change the dues structure—both to simplify a complicated, multitiered, income-based system and to create a sustainable model that can support AJS's services while remaining sensitive to members' financial situations. This change, recommended by Vice-President for Membership Anita Norich and the Executive Committee and then approved by the AJS Board of Directors at its June and December 2012 meetings, came out of a careful, year-long study of other learned societies' dues structures. Particular attention was paid to different membership models (flat fee vs. income-based), ranges of services offered, current and projected salary levels of members, and organizational infrastructure (i.e., volunteer vs. professional staff). Full details of the new structure to be implemented for the 2013–14 membership year can be found at www.ajsnet.org/membership.htm. Here are the highlights: (1) The board retained an income-based dues structure but reduced the number of income tiers from twelve to eight. (2) Where previously the highest income level was “above \$125,000,” there is now a new level of “above \$150,000.” (3) AJS continues to subsidize memberships at the lower range of the income scale, as an investment in the future of these scholars; thus, student rates will remain the same, and others earning less than \$30,000 annually will see only a \$5 dues increase. (4) For more than 75 percent of non-student members, the average dues increase will be less than \$8.

The board also approved a second, important change: revising the membership categories that have been in place since AJS's incorporation in 1970. This may seem simply like a bureaucratic adjustment, but it reflects important developments in the field. For decades, the Association had three main types of memberships: Regular Members, “for individuals whose full time vocation is devoted to either teaching, research or related academic endeavors in Jewish studies”; Associate Members, “for individuals who share the intellectual concerns related to the purposes of the Corporation, but whose major vocation is not in academic Jewish studies”; and Student Members, i.e., graduate students concentrating in an area of Jewish Studies. A bit of institutional history helps to explain this change in membership categories. While the number of Regular and Student Members grew in popularity over the years, the number of Associate Members dwindled. When AJS was founded, there was a constituency of people who, though not professors or otherwise professionally engaged in academic Jewish Studies, had a deep scholarly interest in the field and saw AJS as an intellectual home. At a time when Jewish Studies was seeking credibility on college and university campuses as an academic discipline, the Association's leadership felt it necessary to distinguish scholars trained in

the academy (Regular Members) from those without such training (Associate Members). Over the years, the legitimacy of Jewish Studies as an academic discipline and of its practitioners as trained scholars has become widely accepted; as a consequence, this distinction in membership categories has become irrelevant. Therefore, the Board of Directors has amended the by-laws by eliminating separate Regular and Associate categories and creating a new category, the Professional Member, which encompasses “anyone with a professional or scholarly interest in Jewish Studies.” “Professional interest,” the by-laws now read, “refers to someone whose part- or full-time vocation is devoted either to teaching, research, or related academic endeavors in Jewish Studies. ‘Scholarly interest’ refers to someone who shares the intellectual interests of the Organization, but whose major vocation is not in Jewish Studies.”

AJS is grateful for the extraordinary support its members have shown the organization over the past several years, especially during trying financial times at most colleges and universities. We constantly seek to provide new services and benefits to our members, and support them in their work as scholars and teachers. As you renew your membership and review these changes, please do not hesitate to contact me (rsheramy@ajs.cjh.org) or Vice-President for Membership Anita Norich (norich@umich.edu) with any comments, questions, or concerns.

Rona Sheramy

Association for Jewish Studies



The Marriage Issue

Jewish Marriage

Bluma Goldstein

There are of course numerous ways to approach a generic topic such as “Jewish marriage.” One could focus on its history of myths and reality, as Paula Hyman has; on the extensive legal history of marriage arrangements and practices, as does Louis M. Epstein; or on the ways in which marriages among Jews have functioned in different eras or different geographical and social milieus. This essay, however, concentrates on the ways in which Jewish marriage participates in the socially and culturally constructed relations of power. These relations shape the hierarchies especially of gender but also of class that are more generally operative in traditional Jewish law (halakah). It is significant that since Talmudic times Jewish law has created a fundamentally unalterable corpus of law, at whose core is an unequal gender and power differential in which men control the privileged hegemonic center while women are marginalized, relegated to a different arena, namely, the domestic sphere, and denied the rights and privileges that men enjoy.

Founded on biblical law, Jewish patriarchy has a long history, with a legal foundation codified in the Talmud by the rabbis, and its locus of power established firmly in the androcentric social system of traditional Judaism. The exilic turmoil of the Talmudic period might indeed have necessitated stringent standards and practices that added to the existing burden on women’s lives. Salo Baron notes that in order to implement communal cohesiveness in a threatening diasporic situation, leaders opted for rigorous rabbinic control of family life that included strict implementation of marriage and divorce laws, which affected family life and the legal status of women in a fundamentally patriarchal society. After the end of the Talmudic period, no *beit din* (rabbinic court) was universally accepted by all Jews—a sine qua non for legislation—so there was no possibility of altering the basic laws. The fact that there was no legislative prerogative to change the laws accounts for the fundamentally unalterable corpus of Jewish law and the inflexibility of marriage

and divorce legislation. In addition, the exclusion of women from the most valued practice of Talmud study solidified a social system in which a group of men, the rabbis, determined the status and actual practices of women in the community.

Jewish law is generally contract-oriented, and Jewish marriage, which is not considered a sacrament, is a contract determined by halakah. According to the law of the United States and elsewhere, contracts may be executed bilaterally, but that is not the case in Jewish law. All halakic contracts are unilaterally executed, even though they may require the consent of both parties. Moshe Meiselman explains that the marriage contract is unilateral simply because there are “no bilaterally executed contracts in Jewish law”; and the man, that is, the husband, is the executor. Although there are no explicit legislative prescriptions about marriage in the Bible, which often uses the term “to take” to designate marriage, all the halakic laws about marriage and divorce are based on Talmudic interpretations of biblical texts. In Jewish marriage law, the woman is acquired by the man, a form of acquisition not unlike acquisitions in other contracts. Indeed, Boaz Cohen notes that the rabbis borrowed modes of betrothal from the “manner of acquiring a slave or real estate.” Although the acquired woman becomes the property of the man, she is not, according to Rachel Biale, the kind of property that can be sold like other acquisitions. Nonetheless, each man is the owner of his property, and only he—not the courts or the woman—can dispose of his possessions or nullify the marriage contract by divorce. It might seem as though the marriage contract only affects the status of the woman personally—which it does—but the loss of control has broader implications. After all, as Biale notes, marriage serves as “the instrument of control over economic fortunes, social status, sexual activity, and self-perpetuation.”

The serious consequences of the unalterable gender and power differential operative at the very foundation of the Jewish legal system do not end with the execution of the marriage contract. They are perhaps

even more exacerbated should the wife, who cannot legally initiate a divorce, desire one. The biblical source for Jewish divorce (*get*) is Deuteronomy 24:1-2: “A man takes a wife and possesses her. She fails to please him because he finds something indecent about her, and he writes her a bill of divorcement, hands it to her, and sends her away from his house; she leaves his household and becomes the wife of another man.” The woman has to rely on her husband for a divorce because only he has the prerogative of executing and delivering a divorce, or *get*.

There are, however, four reasons why a woman might not be able to obtain a divorce: (1) the husband is mentally incompetent and cannot grant a divorce; (2) he has died without legal evidence of his demise; (3) a recalcitrant husband refuses to divorce; or (4) he abandons his wife and disappears. The difficulty in releasing a woman from an undesired marriage derives essentially from the unalterable system of Jewish law rooted in gender and power inequality.

Over the centuries there have been a number of rabbis and scholars who have tried to modify the marriage and divorce legislation in order to alleviate the onerous burden on wives, but their efforts were judged by other rabbinical figures to be halakically unsound or inadequate. There was a liberalizing period of about five hundred years (from about the seventh to the eleventh century) when Rabbi Gershom effected “for the first and unfortunately last time in Jewish jurisprudence” almost complete equality between men and women regarding the *get*: the husband’s right to divorce his wife remained intact and only he could prepare and deliver the *get* at will, but she was granted the right to demand a *get* and, should he refuse, to petition the court to compel him. But in the twelfth century, Rabbenu Jacob Tam, a French authority, ruled against any coercion of recalcitrant husbands and against the right of women to initiate divorce proceedings. Shlomo Riskin, among others, regarded Rabbenu Tam’s position as broadly acceptable because of the problematic social and political situation of Jews in the Diaspora where “small,

cohesive Jewish communities, generally bound together by familial ties, isolated from the surrounding Gentile society by external anti-Semitism and internal religious strength” needed an inviolable marital bond. Rabbi Gershom’s liberalizing impulse was probably a reaction to the same social circumstances: he, too, was concerned with communal maintenance, but may have feared that women who could not obtain a *get* would seek conditions more amenable to them outside Judaism. Of course, it is also likely that Rabbenu Tam might have dreaded a weakened patriarchy undermined by gender equality.

Some responses to the inflexibility of Jewish law acknowledge the difficulties confronting the rabbis who might want—yet cannot—implement innovations in marriage and divorce laws. Unfortunately commiseration does not rectify the injustice. Reuven Yaron, a professor of ancient law, who speaks of encountering “again and again the same tendency to strictness, the same horror at going beyond the principles laid down by the Talmud,” also empathizes with the “anguish and regret of the authors, the conflict between their humane desire to help and the overriding obedience to what they consider their duty.” Furthermore he realizes that “this is poor consolation indeed for the woman whom the decision might condemn to a life of celibacy,” not to mention of course the shame, ostracism, and the loss of self-esteem and status she would suffer. Not a word of criticism, however, about the patriarchal system whose laws permit such violence against women. From another perspective, Blu Greenberg, a conservative feminist, acknowledges that the rabbis who “did not go the final step in equalizing divorce law” were not guided by a concern for gender inequality but by “principles of paternalism and hierarchy.” Yet, according to Greenberg’s apologetics, the rabbis “cannot be faulted, given the almost universal nature of sexual hierarchy.” Sexual and gender hierarchy is, however, not a natural phenomenon but a socially and politically constructed one and, as such, can be constructed differently. In fact, it was possible for Rabbi Gershom in the Geonic period to make significant gains in parity and protection for women that lasted for half a millennium. Moreover, explanations by a number of scholars that the actions of the rabbis solely concern the well-being, protection, and status of women seeking a *get* seem hollow, even disingenuous.

In closing, let me say that I have been drawn to multicultural concerns within

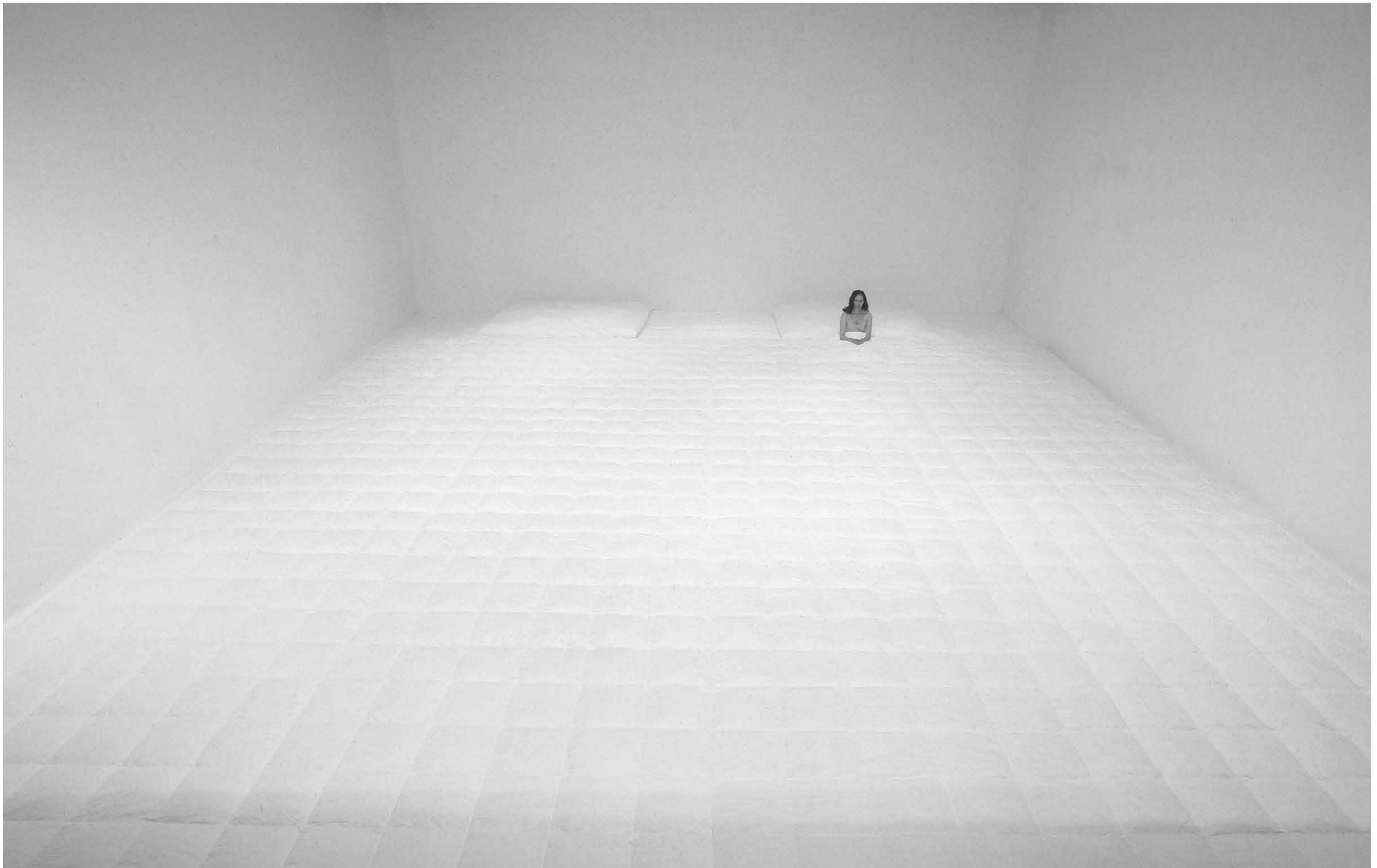
Jewish Studies—be they different legal systems; structures and operations of power among various groups; social and political effects of gender, class, and status inequities; or the nexus between larger institutional constructs like community or family and individual predicaments. But that route proved problematic because a decidedly inflexible aspect of Jewish family law was under consideration. The methodological concerns and theoretical versatility of cultural studies usually focus on challenging and exposing the authority behind structures of domination, with the expectation of abolishing or at least reducing the power inequities that often lie concealed in both public and

private spheres. It is, however, ironic and more than a little disconcerting that, while these approaches to the study of Jewish marriage and divorce laws expose the operative gender asymmetries of power, they also reveal the impossibility of altering or undoing them, given the fundamentally inflexible patriarchal Jewish legal system and culture.

Bluma Goldstein is professor emerita in the German Department and member and former chair of the Jewish Studies Program at the University of California, Berkeley. Her publications include Enforced Marginality: Jewish Narratives on Abandoned Women (University of California Press, 2007).



Marriage contract, manuscript, ink and paint on paper, dated 3rd of Kislev 5649 (1888) at Yerushalem. General Collection, Beinecke Rare Book and Manuscript Library, Yale University.



Between the Living and the Dead: Making Levirate Marriage Work

Dvora Weisberg

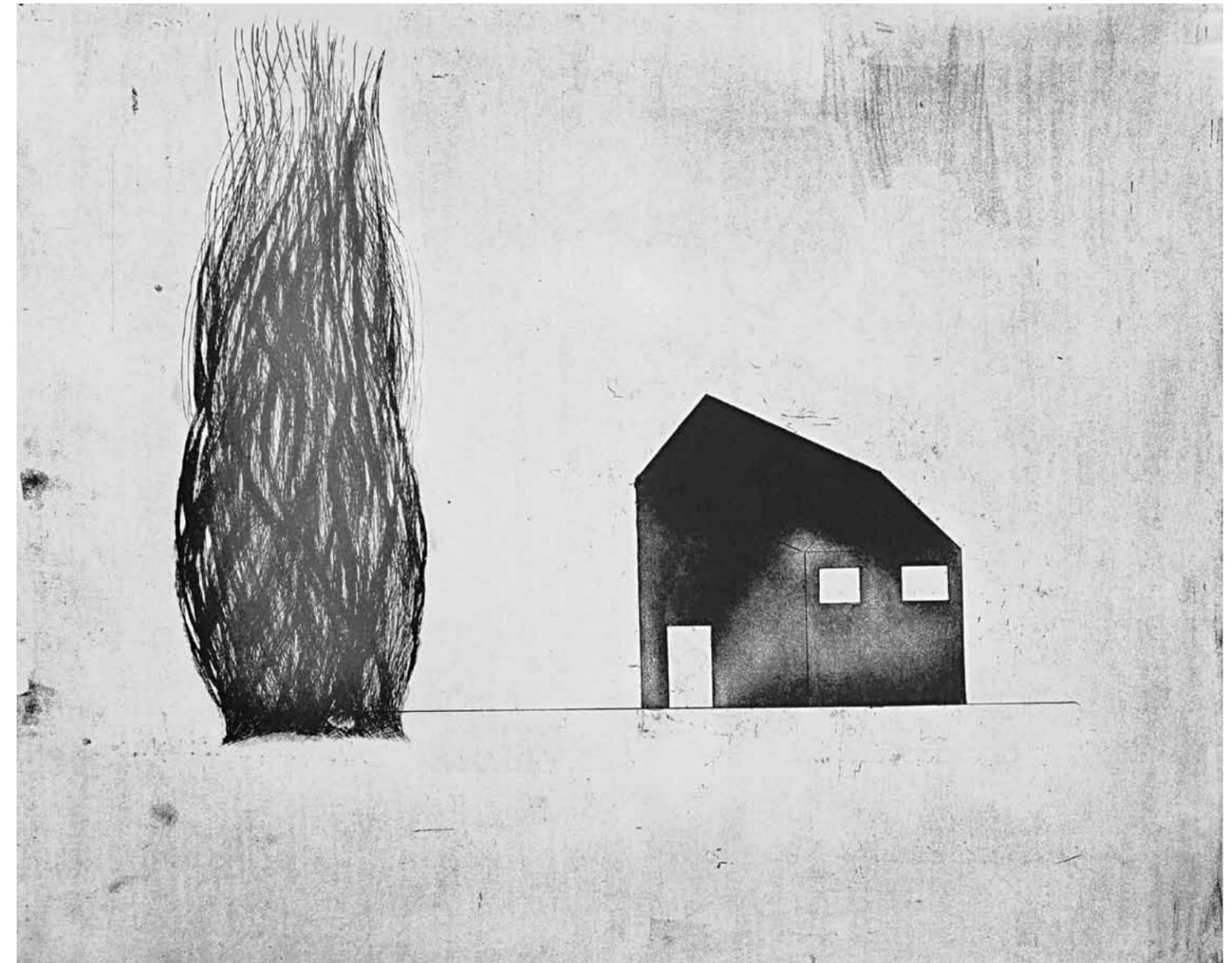
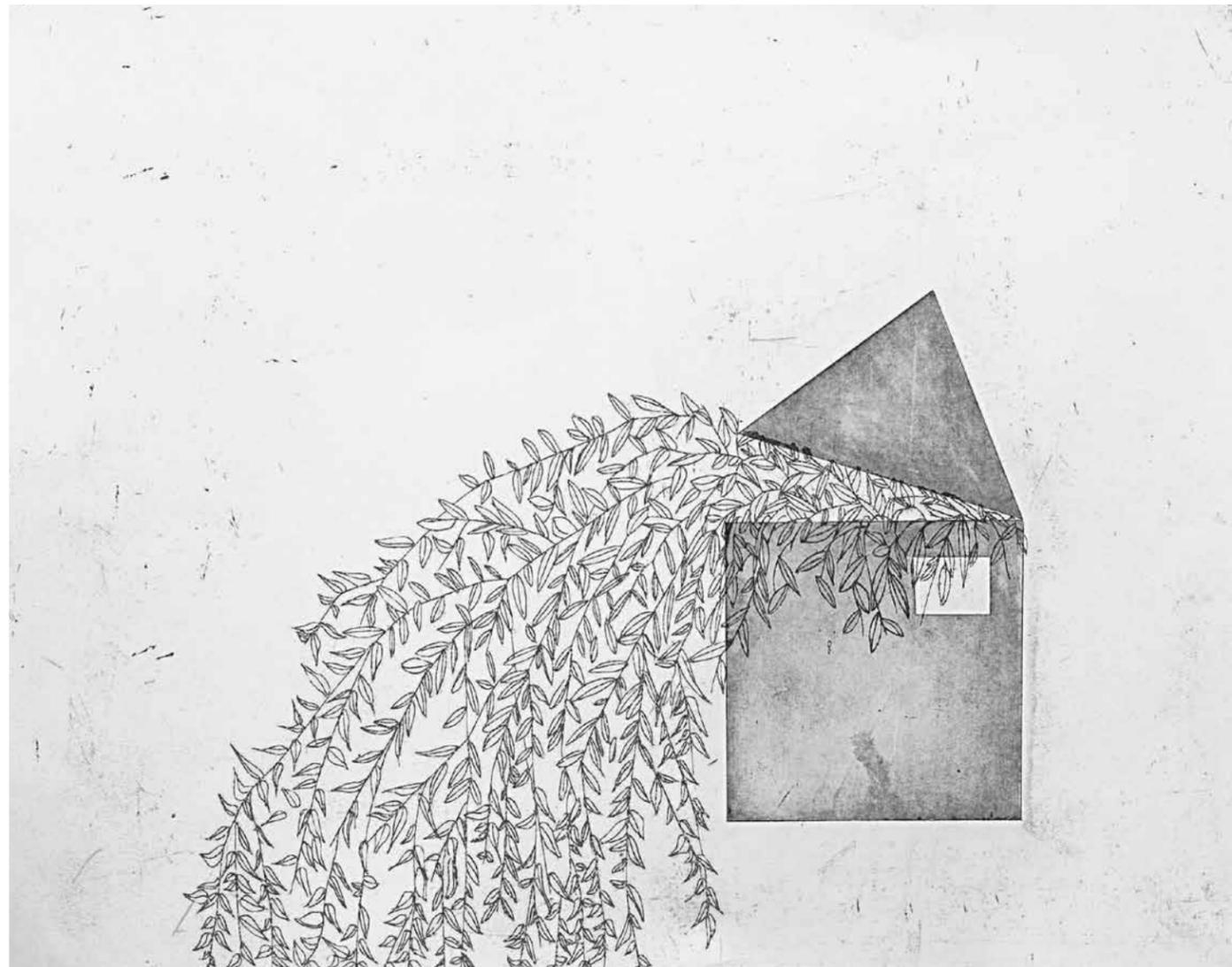
In contrast to “normal” marriage, levirate marriage is marked by irregularities and complexities. Speaking broadly, a levirate union involves a widow and a male from the family of her deceased husband; in Jewish tradition, the only man required or permitted to enter into a levirate marriage is the brother of the deceased. The offspring of a levirate union are usually recognized as the legal offspring of the woman’s late husband, rather than the offspring of their biological father, who is known as the *levir*. Although in many cultures, levirate unions are not regarded as marriages, postbiblical Judaism treats the union of a man and his brother’s widow as a

marriage. This construct of marriage creates anomalies within the broader construct of Jewish marriage.

The first and most troubling anomaly created by the institution of levirate marriage lies in the relationship between the *levir* and the widow before their marriage. Jewish law has myriad rules restricting an individual’s choice of a marriage partner; many of these rules prohibit marriage between close relatives. Among the incestuous unions forbidden in Leviticus 18 and 20 is the prohibition against a sexual relationship between a man and his brother’s wife. This prohibition is understood by ancient

commentators to apply even if the woman in question becomes a divorcée or a widow. Levirate marriage by definition, however, requires a man to marry his brother’s widow and, if the goal of levirate—the birth of a child who will carry on the name of the deceased—is to be fulfilled, he must have sexual relations with her. Thus levirate becomes a permitted (or even mandated) incest.

This problem is noted by early rabbinic sources. Noting the apparent contradiction between Leviticus 18:16 and Deuteronomy 25:5, *midrashim* claim the two verses were “spoken at the same moment,” that is, God knowingly gave two laws that seem to be



in opposition but that can in fact co-exist. The law of levirate serves as an exception to the incest prohibition or overrides it. At the same time, the Mishnah begins its discussion of levirate marriage by prohibiting marriage between a *levir* and his widowed sister-in-law if the latter would be forbidden to him under any incest prohibition other than that of a brother’s wife. Moreover, the Mishnah extends the prohibition to all of the wives of the deceased brother if even one of them is forbidden to the *levir* for reasons of consanguinity. These texts suggest that the rabbis, realizing that any levirate marriage may be perceived as “permitted incest,” simultaneously reassured themselves that levirate is *not* incest while prohibiting levirate unions in which there had been multiple family ties between the *levir* and the widow.

The other significant anomaly that distinguishes levirate unions from

non-levirate marriage is the assignment of the offspring of the union to the mother’s deceased husband rather than the *levir*. Genesis 38, the story of Judah and Tamar, offers evidence that this aspect of levirate may have been disturbing to potential *levirs*. Onan is reluctant to impregnate Tamar knowing that any child born to her “would not be his,” but that of his late brother, Er. According to Deuteronomy, the birth of a child who can “be accounted” to the deceased, “that his name may not be blotted out in Israel” is the aim of levirate marriage. Rabbinic tradition supports the notion that this is the primary if not the sole aim of levirate by declaring that levirate marriage is not performed if the deceased left any child or grandchild. At the same time, rabbinic law upends the aim of levirate marriage, declaring that the children of such a marriage are treated under the law as the offspring of their biological father,

the *levir*. Beyond a rather tortured exegesis on Deuteronomy 25:6, rabbinic literature offers no explanation for this innovation.

Another difference between levirate marriage and other marriages lies in the way it is contracted. Rabbinic law requires that a man betroth his future wife and that she consent to the betrothal. A levirate widow, in contrast, is bound to her husband’s brother from the moment of her husband’s death; betrothal is not, strictly speaking, required. Moreover, since the bond between them is generated by the husband’s death, the widow’s consent is not necessary. A levirate marriage is brought into being through an act of intercourse, even, according to the Mishnah, if the act is casual or nonconsensual. We do have sources that mandate a speech act (*ma’amar*) on the part of the *levir* and the widow’s consent as part of the process of formalizing a levirate union, suggesting the desire on the part of at least

some rabbis to “regularize” levirate unions by making them more like other marriages.

Faced with a biblical law that promotes a distinctly irregular form of marriage, the rabbis of the first five centuries of the Common Era sought to smooth out many of the anomalies present in levirate unions. The rabbis’ efforts to “normalize” levirate marriage offer us insights into the way they understood the family and familial relationships. Every marriage creates a new family and reorganizes several others. Men and women become husbands and wives, entering into new relationships with individuals who were previously “strangers.” Parents and siblings become in-laws. Families that were previously distinct and separate entities become intertwined. In some cases, families experience the marriage of a family member as a “loss” to the family; in others, marriage is seen as a way in which the family “gains” new members.

Levirate marriage offers a fascinating glimpse into constructs of family because it involves two individuals who were already related but who are now entering a very different type of relationship; the *levir* and the widow make the transition from a

close family relationship in which they are forbidden to think of each other as potential mates to one in which they are expected to become husband and wife. Additionally, the opportunity for levirate marriage arises from a family crisis, the death of a husband and brother. The death “disorders” the family, leaving the childless widow with no tangible connection to her late husband’s family. Levirate offers a path to reordering the family, reintegrating the widow into her husband’s family through marriage to his brother.

At the same time, a family unit that is disrupted by death cannot be wholly repaired, nor can it be restored to its previous state. In many cultures, levirate is an attempt to provide a widow with a socially acceptable sexual outlet while discouraging or prohibiting remarriage and at the same time providing the deceased with children after his death. On some level, the deceased remains a strong presence in his family; his wife, while permitted a sexual relationship with one of her husband’s relatives, remains “faithful” to her husband by not remarrying; the children born to her are legally his children. Rabbinic Judaism chose a different path; it chose to privilege the claims of the

living over those of the dead. The *levir* is not his brother’s surrogate; he is a husband. The widow ceases to be a widow and becomes the wife of a second husband. The children born of this union are the legal offspring of their biological father. From the ruins of one nuclear family, levirate marriage creates a new one. It does so by “renaming” individuals or reassigning roles, transforming brother-in-law and sister-in-law into husband and wife.

This legal transformation is not magical. Literature from many cultures indicates that levirate unions could be emotionally and socially problematic for the individuals involved. Nevertheless, rabbinic understandings of levirate marriage mark an attempt to regularize the irregular and to place individual men and women into relationships that reflect rabbinic visions of “normal” marriage.

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Married Men

Judith Baskin

About marriage they were never wrong, The Rabbis; how well, they understood Its human position.

With apologies to W. H. Auden's "Musée des Beaux Arts," it's true: the rabbis had no illusions about the infinite contingencies of marriage, the quotidian realities of an arrangement they considered both foreordained and an essential channel for men's and women's sexual energies. The rabbis fully acknowledged the role of fortune in the success of any individual instance of this most intimate of *human positions*, just as they accepted that marriage was an indispensable institutionalization of the familial divisions of labor on which rabbinic society and its future depended. Perhaps most painfully, the Sages also grappled with the conflicts that marriage engendered between devotion to divine service and responsibility for human dependents.

Needless to say, androcentric perspectives dominate. Reflecting on "It is not good for man to be alone" (Genesis 2:18), Genesis Rabbah 17:2 teaches:

He who has no wife dwells without good, without help, without joy, without blessing, and without atonement. . . . R. Hiyya b. Gomdi said: He is also incomplete, for it is written, *And God blessed them and called them humanity* (Genesis 5:2) [for only joined together are male and female fully human]. Some say: He [who does not marry] even impairs the divine likeness: *For God made humanity in the divine image* (Genesis 9:6) and this is followed by, *Be fertile, then, and increase* (Genesis 9:7).

These final words suggest that procreation, a male legal obligation, is the overwhelming marital value, since what makes man like God is his ability to generate new life in the body of his wife. Moreover, many of the biblical verses cited in this extended text refer to a man and his "house" or "household" (*bayit*). For the rabbis, a meritorious wife is a man's "house," a body built from his body to house and bear his children and fulfill his sexual and domestic needs. Such a partner, when she "brings light to his eyes and puts him on his feet" (BT Yebamot 62b), deserves consideration



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and respect. According to BT Yebamot 62b (also BT Sanhedrin 76b), "Concerning a man who loves his wife as himself, who honors her more than himself, who guides his sons and daughters in the right path and arranges for them to be married near the period of their puberty, Scripture says, *You will know that all is well in your tent* (Job 5:24)." BT Baba Metzia 59a cites Rab's saying: "One should always be heedful of wronging his wife, for since her tears are frequent she is quickly hurt."

The advantages of marriage for women are assumed, if not detailed. As BT Yebamot 113a puts it, "More than the man desires to marry does the woman desire to be taken in marriage," while BT Ketubbot 75a declares in the voice of Resh Lakish that a woman is satisfied with any sort [of husband] since "It is preferable to live in grief, that is, with a bad husband, than to dwell in widowhood." Samuel b. Unya is quoted in BT Sanhedrin 22b that, "Before marriage a woman is a shapeless lump. It is her husband who transforms her into a useful vessel." The

husband shapes the personality of his wife just as God formed the character of the people of Israel, "*For He who made you will espouse you, His name is the Lord of Hosts* (Isaiah 54:5)." Nor is the divine metaphor unusual; throughout Jewish literature, the relationship between a man and a woman is understood metaphorically as signifying the intimate bonds between God and human beings.

Nevertheless, certain rabbinic voices articulate an ambivalence about marriage, particularly for scholars who might prefer to devote their energies to study (BT Ketubbot 62b), and these strands contribute to a wider discourse on the uncertain nature of marital happiness and the potential treacheries of bad wives. As BT Baba Batra 145b relates, "R. Hanina said: *All the days of a poor man are wretched* (Proverbs 15:15) refers [to him] who has a wicked wife; *But contentment is a feast without end* (ibid) refers [to him] who has a good wife." R. Hiyya, an apparent skeptic on the possibility of companionate marriage, taught that, "A wife should be taken mainly

for the sake of her beauty; and mainly for the sake of children" (BT Ketubbot 59b). Elsewhere, he stated, "It is sufficient for us that they rear up our children and deliver us from sin" (BT Yebamot 63a). Good wives, exemplified in rabbinic tradition by R. Akiba's self-sacrificing spouse (BT Nedarim 50a), earn merit "[b]y sending their sons to learn in the synagogue, and their husbands to study in the schools of the Rabbis, and by waiting for their husbands until they return from the schools of the Rabbis" (BT Berakhot 17a and Sotah 21a). A bad wife who dishonors her husband risks divorce and impoverishment, or perhaps the punishment of an abusive second marriage (see Genesis Rabbah 17:3, which begins, "If he is fortunate, she is a help; if not, she is against him").

Something amazing, to invoke Auden once more, is the preservation of traditions insisting that marriage is also problematic for women; indeed, the downsides of being a wife are candidly delineated. BT 'Erubin roob, for example, offers a countdown of "Eve's curses" in a discussion of inappropriate and appropriate modes of marital sexuality generated from Genesis 3:16. Some of these are physical, including the discomforts of menstruation, loss of virginity, pregnancy, and childbirth. Others include the challenges of child rearing, a woman's yearning for her absent spouse, and the need to ingratiate oneself silently with one's husband. The final three disadvantages apply to a woman's marital constraints: "She is wrapped up like a mourner, banished from the company of all men, and confined within a prison." The first of these, even if understood as a straightforward reference to married women's veiling themselves in public, evokes connections between women and death in parallel texts such as Genesis Rabbah 17:8 and BT Berakhot 51a. "Banished from the company of all men" is said to refer to the fact that a married woman, unlike a man, cannot have two sexual partners at the same time, implying that polygyny and/or frequent resort to women outside of marriage were accepted and appreciated features of men's lives in rabbinic times. "Confined to a prison," the tenth disability imposed by marriage in this enumeration, refers to women's enforced absence from most activities in the public domain. Rabbinic social policy apportioned separate spheres and responsibilities to women and men, making every effort to confine married women and their activities to the private realms of the family and its particular

concerns, including economic activities that would benefit the household. That men would characterize the consequences for women as "confinement in a prison" is reminiscent of other rabbinic statements that women's common sense and understanding atrophy because they are isolated from the rest of the world (Genesis Rabbah 18:1).

As if ten were not enough, BT 'Erubin roob also provides three alternative female handicaps, noting that, "In a *baraita* it was taught: She grows long hair like Lilith, sits when making water like a beast, and serves as a bolster for her husband." But are these detriments or benefits? R. Dimi is cited as saying that these three qualities are compliments to women. Perhaps from a male point of view they are: women's long hair can be attractive; that she serves as a support for her husband is certainly desirable for him. Although it is difficult to see how "making water like a beast" is a positive quality, it may be an endorsement of feminine reserve. This statement allows a segue into an apparently unrelated midrash that concludes the larger Talmudic passage and offers a final word on the relative roles and capacities of wives and husbands: "R. Johanan observed: If the Torah had not been given we could have learned modesty from the cat, honesty from the ant, chastity from the dove, and good manners from the cock who first coaxes

and then mates. And how does he coax his mate? Rab Judah citing Rab replied, He tells her this [when he spreads his wings prior to mating]. 'I will buy you a cloak that will reach to your feet.' After the event he tells her, 'May the cat tear off my crest if when I have any money I do not buy you one.'"

The *sugya*, which begins with the statement, "A man is forbidden to compel his wife to the [marital] obligation," ends appropriately with a commendation of seduction. But this erotic and derisive depiction of women as sexually credulous and easily persuaded can only reinforce male satisfaction at not being created female. The passage's deeper purport: to respect and appreciate the wife who serves as a physical, emotional, and economic bolster to her husband and children, often at significant cost to herself, is diminished and undermined. *Pace* Auden, the Rabbis may have known all about marriage and its advantages and costs, but this is an *important failure*.

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‘According to the Law of Moses and Israel’: Marriage from Social Institution to Legal Fact

Michael Satlow

Imagine a powerful married man, a politician or religious leader, exposed for having an affair. The media cover the story and the man’s reputation is, if not ruined, at least tarnished. Although an extramarital affair is not illegal, many see his betrayal of his spouse as distasteful, perhaps even a reflection of other character flaws. To anyone who watches television, such a scenario requires very little imagination.

Imagine, now, in the aftermath of such a revelation, this powerful man asserted that he had recently checked his marriage license, issued some twenty years ago, and had found a legal flaw. While he has, of course, loved his wife for these past two decades, he has found that he is not technically “married” to her. His indiscretion, then, should be excused, for he was in fact and in law a single man.

This second scenario takes a bit more imagination. To most of us this justification would sound ridiculous. Whatever the law says, it is clear that two decades of living together as a couple, raising a family, sharing a life and income make a “marriage.” Our hypothetical philanderer would be mocked if he were to suggest such an argument.

This hypothetical situation occurred to me as I was writing *Jewish Marriage in Antiquity* (Princeton, 2001). One of the leitmotifs of that book is the classical rabbinic understanding of marriage as a *legal* institution. While the rabbis certainly recognize that there might be love and attraction accompanying marriage and that the union is a social relationship that can lead to individual fulfillment for both partners, these ideas are largely secondary to their thinking about marriage.

Marriage, first and foremost, defines a legal relationship that creates new rights and responsibilities, particularly in the areas of sexual relationships and property transfer. (Interestingly, in rabbinic law the marital status of parents—except in the case of adultery—has no bearing on the personal status of their progeny.) And as a legal relationship, it must be carefully defined.

Nowhere is this clearer than in the rabbinic discussions of how a marriage takes place. According to the rabbis, it begins at the moment of *kiddushin*, a binding betrothal. The rabbis allowed for different mechanisms of *kiddushin*, but they preferred what is practiced to this day: the transfer of an object of value (e.g., the ring) from a man to a woman with a statement of intent in front of witnesses (e.g., “Behold, you are

betrothed to me with this ring according to the law of Moses and Israel”). Assuming that there are no legal disabilities, that’s all it took (and takes): at the end of this ten second transaction the couple is “married” in the eyes of the law and would require a formal divorce in order to remarry. Without this transaction, there is no marriage.

One of the more controversial claims that I made in my book is that this very notion—the formation of marriage—depends on a legally objective and verifiable act, like the term *kiddushin* itself, was a rabbinic innovation. There are very few references, most notably in the Hebrew Bible and the Gospel of Matthew to the notion of a binding betrothal. The available evidence suggests that most Jews in antiquity had no need for such a formal procedure. They prepared prenuptial contracts (the *ketubah*) that governed economic relationships rather than legally constituting a marriage. Like the Greeks and Romans, most Jews knew when they and their neighbors married. They participated in a celebration that could last for days, perhaps witnessed the evidence of

the bride’s virginity. They hardly needed to pin down the precise moment of marriage.

Why, then, did the rabbis insist on a legal act to constitute a marriage? Because that is the kind of thing that the rabbis did, and because the stakes were so high. Can this answer be reformulated in a more specific way? Scholars who are familiar with Talmudic literature recognize that the rabbis created legal conditions, such as defining “work” on the Sabbath or when one should recite the Shema in the evening. In the case of marriage, there is another concern: adultery. Since the Hebrew Bible defines adultery (like violation of the Sabbath) as a capital crime, even the rabbis could not implement a penalty, they needed to define it. How do we know when a woman is married? Can we pinpoint the exact moment when her status changes?

Most Jews, however, did not need to be bothered with such legal formalities. They knew adultery when they saw it. In the cases where they didn’t, the families negotiated with each other and the “elders” to resolve the situation. To them, as to us, the idea that a defective legal formality

could take precedence over the praxis of marriage would have seemed absurd.

The contemporary debates about marriage strike me as obscured; it is often not clear whether they are about legal rights, public recognition, or private emotions. The rabbis do not provide a normative answer to this issue, but they can help us to disentangle what’s truly at stake.

Michael Satlow is professor of Religious Studies and Judaic Studies at Brown University and is the author of Creating Judaism: History, Tradition, Practice (Columbia University Press, 2006). He maintains a blog at www.mlsatlow.com.

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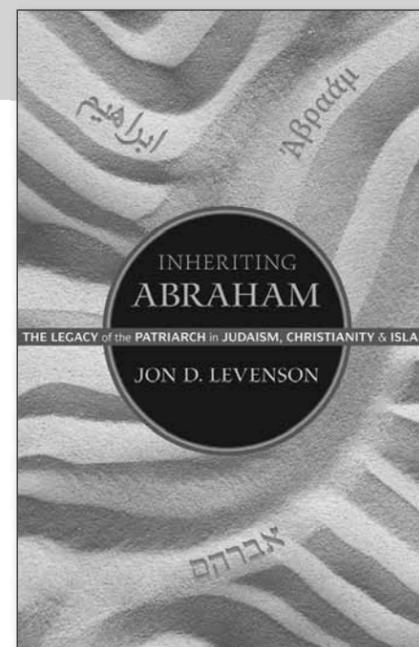
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Reading Jewish Philosophy: What's Marriage Got to Do with It?

Susan Shapiro

The field of Jewish philosophy may seem an unlikely place to look for matters related to marriage, its ideological and cultural formation, and its consequences. When one reads their texts closely and critically, however, one finds that not only do Jewish philosophers employ the trope of marriage but also sometimes directly engage questions of marriage law, Jewish and otherwise. Further, one finds in Jewish philosophical texts contemporary assumptions about marriage, gender, love, and sexuality registered in its very basic terms and philosophical imaginary.

The work of Moses Mendelssohn offers a view of marriage that is consistent over matters of philosophy and law in a manner that affirms respect for the importance of a woman's consent and partnership in marriage. Mendelssohn treats marriage in his major work, *Jerusalem*, as a sort of social contract that is mutually binding and based on consent, not on the violation of the conscience of one or the other party. Mendelssohn understands conscience to be comprised of one's basic principles or convictions, neither of which may ever be coerced by either religion or state. "Principles are free. Convictions, by their very nature, permit no coercion or bribery. They belong in the realm of man's cognitive faculty and must be decided by the criterion of truth or untruth. . . . Only the judgment reached by his powers of intellect can be accepted as valid" (70). Marriage is his primary exemplar of the social contract, which (according to social contract theory) makes possible civil society. His work stands out among social contract theorists, with the exception, perhaps, of Thomas Hobbes, by including women and marriage in the social contract. Marriage, for Mendelssohn (following Christian Wolffe), is not defined in romantic terms but through the mutual responsibility of a child's parents to raise him or her in an agreed upon way. "The parents, through the very act of cohabitation, have entered into a state of matrimony. They have made a tacit contract to render capable of felicity, that is, to educate, the being, destined for felicity, for whose coming into the world they are jointly responsible for" (50). The crucial point here is

that this agreement is mutual and noncoercive of either party's conscience and that no third party—including the state—can interfere.

In this section of *Jerusalem* we find a very long footnote about a particular divorce case then pending in Vienna. Mendelssohn argues against the position requiring the Jewish wife to remain married to her formerly Jewish, now Christian, husband. For Mendelssohn, this constitutes an instance of religious coercion and not toleration. He interprets Emperor Joseph II and his Edict of Toleration as protecting the interests of the Christian majority rather than preserving and "tolerating" Jewish difference. Mendelssohn's plea that "An emperor as just and wise as Joseph will surely not permit such violent abuse of the power of the church in his states," is actually an indictment of the emperor's position in which the religion of the Christian husband would be determinative, regardless of the wife's desires, conscience, or religion. In opposition to this coercion, Mendelssohn writes:

If marriage is merely a civil contract (and it cannot be anything else between a Jew and a Jewess, even according to Catholic principles), the wording and the conditions of the contract must be interpreted and explained in accordance with the intentions of the contracting parties, and not those of the legislator or judge. If, according to the principles of the contracting parties, it can be maintained with certainty that they must have understood certain words in this and no other way, and that, had they been asked, they would have explained them in this and in no other way, then this morally certain explanation, which is taken to be a tacit and implied condition of a contract, must be as valid in law as if it had been explicitly agreed upon. (51)

It is notable that Mendelssohn considers marriage between Jews to be "merely a civil contract" and that in this dispute he sides with the wife against both the husband and the state. Mendelssohn's argument here is consistent with his earlier definitions of

marriage and with his very understanding of the social contract. Further, this understanding underpins his overall argument in *Jerusalem* for the separation of religion and state.

Religious conviction cannot be coerced by the state or by any religious authority. One can at most persuade, not coerce. The violation of the wife's conscience, the original terms of the marriage contract, and her religious beliefs are all of a piece for Mendelssohn. Defending one entails defending the others.

The footnote continues:

Now, since both partners still professed the Jewish religion, at least outwardly, when they entered into the contract, it is obvious that they had no other intention but to conduct their household according to Jewish rules of life and to educate their children according to Jewish principles. It is at least certain that the partner who took her religion seriously could have assumed nothing else; and had she been, at that time, apprehensive of a change of this kind, and had such a condition come up for discussion, she certainly would not have expressed herself in any other way. She knew and expected nothing other than to take her place in a household governed by ancestral rules of life and to bear children whom she would be able to educate according to the principles of her fathers. If the difference is important to this person, if it is a matter of record that the difference of religion must have been important to her, at the time the contract was entered into, the contract must be interpreted according to her notions and convictions. Even if the entire state were to have different views on this matter, it would have no influence on the meaning of the contract. (51)

That Jewish marriage should be centered on the raising and educating of children, as well as what Mendelssohn terms, "Jewish rules of life," is a familiar portrait of Jewish family life. More remarkable is Mendelssohn's unequivocal defense of the Jewish woman. He even stands up to the "entire state" (and the Emperor) in interpreting the original

marriage contract as an agreement with the claims of the woman in this case.

Mendelssohn concludes:

The husband has changed his principles and adopted another religion. If the wife is now forced to enter into a household which is contrary to her conscience and to educate her children according to principles which are not her own; in a word, if she is compelled to accept and have forced upon her conditions of a marriage contract to which she never agreed, she would obviously suffer an injustice and, by a pretense of liberty of conscience, one would obviously allow oneself to be misled into the most absurd coercion of conscience. The conditions of contract can now no longer be fulfilled. The husband, who has changed his principles is, if not *in dolo*, at least *in culpa*, [responsible for the fact] that this is the case. Must the wife submit to coercion of conscience because the husband wants to have liberty of conscience? When did she agree to that? Should not her conscience also be free, and should not the party that caused the change answer also for its consequences, indemnify the other party, and reinstate her, as far as possible, in her former status? Nothing, it seems to me, could be simpler, and the matter speaks for itself. No one ought to be compelled to accept conditions of a contract to which he could not have agreed without violating his own principles. (51–52)

While it might seem that in defending the wife, Mendelssohn merely defends Jews and Judaism, he does so in a way that is fully consistent with his overall argument in *Jerusalem*. His experience of being a Jew may have informed his argument, but only because he was able to understand the stakes for minorities and for others rendered vulnerable in the emerging nation states. Recognition of the stakes of consent in contract and noncoercion of conscience may well have shaped his views that a contract should be based on the consent and noncoercion of the historically weaker party. Mendelssohn's position in this case is not an instance of special pleading, but rather exemplifies his overall philosophical position and argument.

Stopping here might provide a happier ending to the genealogy of the Jewish philosophical imaginary as regards marriage. Mendelssohn's writings, however, still hold

a core understanding about the importance of marriage in stabilizing the sexual impulses, especially—although perhaps not only—of the male. Mendelssohn notes:

It is by agreements of this kind that man leaves the state of nature and enters into the state of social relations. His own nature impels him to enter into associations of various kinds in order to transform his fluctuating rights and duties into something definite. . . . Civilized man lives for the future as well, and wants to be able to count on something certain also in the next moment. Even the urge to procreate, if it is not to be merely a brute instinct, compels man, as we have seen above, to enter into a social contract, to which we find something analogous even among many animals. (57)

While Mendelssohn's argument here may seem straightforward and innocuous, its significance shifts when considered within

the context of the Jewish philosophical imaginary and its androcentric focus on the stabilizing function of marriage for male sexuality. There are serious gender problems introduced and sustained by the focus on male sexuality, some of which include the relegation of women to mere figures of the "feminine" and to other projections within philosophical discourse with real world legal, ethical, and other consequences.

This "gender trouble" remains an unresolved challenge for the field of Jewish philosophy, one which must be addressed if we are not, however unwittingly, to reproduce its systemic faults but, instead, live up to the potential of its ethical claims and ideals.

Susan Shapiro is associate professor of Judaic and Near Eastern Studies and director of the Religious Studies Program at the University of Massachusetts Amherst. She is the author of Recovering the Sacred: Ethics, Hermeneutics and Theology After the Holocaust (forthcoming).

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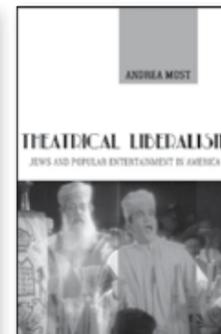
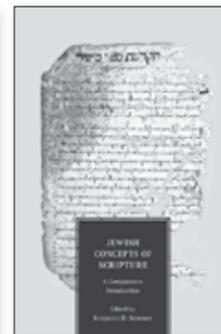
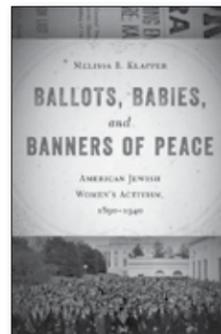
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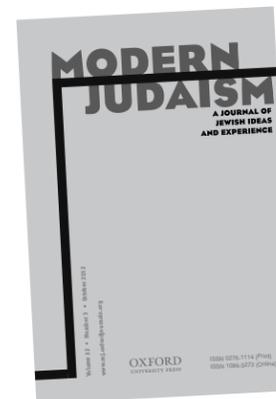
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One Jewish Woman, Two Husbands, Three Laws: The Making of Civil Marriage and Divorce in a Revolutionary Age

Lois Dubin

In late 1793, when the Habsburg Monarchy led the coalition against Revolutionary France and all of Europe was at war, one Jewish woman waged her own private struggle in Trieste, the thriving Habsburg free port on the Adriatic. The desperate twenty-three-year-old Rachele Morschene Luzzatto sought to extricate herself from her failing marriage to Lucio Luzzatto, a thirty-eight-year-old broker, her husband of five years, and father of their two-year-old daughter. With her father's help, she brought her case for economic support and civil separation to the Civic and Provincial Court of Trieste. Finally, in December 1795, seeking relief from the "bitterness and . . . anxiety brought on by an ambiguous situation," she petitioned for a civil divorce on three grounds: (1) her husband had brought the family to economic ruin; (2) he had deserted and dishonored her; (3) and most importantly, his venereal disease, syphilis, put her in mortal danger. Lucio castigated her for selfishness and impropriety, yet he claimed that his disease was cured and that the marriage should continue.

Rachele Morschene of Trieste was, in fact, one of the first European Jewish women—if not the first—to obtain a civil divorce. For more than twenty years, in Habsburg and then Napoleonic-occupied Trieste, she negotiated new civil laws of marriage and divorce as well as Jewish religious law (halakah) in her pursuit of separation, divorce, and remarriage. As I reconstruct her efforts, I treat marriage and divorce as legal norms, social institutions, lived experiences, and cultural values, and I have come to see her efforts as revealing of the intersection of religion, law, and gender at a key moment in European Jewish history. My book *Rachele and Her Loves: Marriage and Divorce in a Revolutionary Age* (Brandeis University Press, forthcoming) takes a microhistorical and gendered approach to the cultural and political processes of Enlightenment and Emancipation. It straddles public and private spheres to view Enlightenment and Emancipation "on the ground" and through the lenses of marriage and family. How did Enlightenment ideology offer practical

solutions to pressing personal problems? How did the civil equality of Emancipation work as state intervention in domestic life, and how did the creation of civil marriage and divorce affect Jewish women in particular?

Going to a civil court to resolve marital misery was a new option for a European Jewish woman. Prior to this, Rachele would have had but one option: to go to Jewish authorities for halakic adjudication. Jewish law allows divorce and remarriage, but the essential act of divorce is the husband's giving a *get* (writ of divorce) to his wife (based on Deuteronomy 24:1); a woman cannot give a *get* to her husband. At times, Jewish courts tried to ameliorate the situations of individual Jewish women, but they never altered this fundamental inequality of Jewish divorce law. Since Rabbenu Tam's ruling in the twelfth century, Jewish courts have been reluctant to compel a husband to divorce his wife even when she had legitimate grounds for divorce.

In the late eighteenth century, both the Habsburg Monarchy and Revolutionary France instituted novel laws that defined marriage as a civil contract and regulated all marriages and divorces by civil law, including those of Jews. In 1783, Habsburg legislation created a dual, interlocking system. It defined marriage as civil but created no civil marriage ceremonies and left religious ceremonies intact. Civil divorce was introduced for those communities that permitted religious divorce—Jews, Protestants, and Orthodox Christians—but it was not imposed upon Catholics; still, civil courts were required to obtain religious sanction for each divorce. By contrast, in 1792 France instituted purely civil ceremonies of marriage and divorce for all and defined them as the only legally binding acts.

How did Rachele and Lucio plead their causes? A key element in her case was the graphic testimony about Lucio's condition provided by medical experts. They were led by Dr. Benedetto Frizzi, family physician and Enlightenment intellectual who had studied with Dr. Johann Peter Frank, a pioneering crusader for public health who spread a new gospel that would alter the

lives of women: venereal disease was long-lasting and incurable, and states should take proactive measures to halt its spread. As one physician argued, "to force Rachele to stay in such a marriage . . . would be to ignore basic principles and to tyrannize the human race . . . and to dishonor Religion and Nature at one and the same time." Rachele lamented that this cohabitation, which was destroying her, body and soul, would lead to her "complete extinction." To Chief Rabbi Tedesco of Trieste, she appealed clearly but deferentially: "I too know, though I am a woman, that a marriage is a serious matter, as is its dissolution, but I know even more that the first duty of nature is to preserve life."

Lucio saw the question of duty differently. He argued that a wife's conjugal duties always come first: "If illness were sufficient to allow wives to remain distant from their own husbands, then it is certain that there would hardly be found marriage in its true and legitimate connubial state." Further, he maintained that "if a judge were to sanction wives' disobedience and absolve them from marital dependence and submission, it would cause a total revolution in marriage."

In 1794–95, civil judgments awarded Rachele separation and alimony. These were upheld on appeal. After Rachele and Lucio finally agreed on terms for divorce in November 1795, Rabbi Tedesco affirmed the possibility of a Jewish divorce. Sometime in April 1796, they were divorced civilly and religiously. In my view, the civil action facilitated Morschene's subsequent religious divorce. In this case, and others, the civil law of a modern state provided moral standing and a new venue for Jewish women seeking remedies for intolerable marital situations.

At some point, Morschene and Frizzi's friendship blossomed into romance. In 1798, they sought permission from Vienna for a "purely civil marriage." Their predicament: the *kohen* Frizzi could not marry her in a religious ceremony because Jewish law forbids priestly descendants to marry repudiated women (Leviticus 21:7), and Habsburg law had not created civil marriage ceremonies. Habsburg authorities were moved by

the couple's Enlightenment arguments, especially Montesquieu's distinction between repudiation and divorce: they claimed that Morschene was not a repudiated woman, but rather a divorced woman who had initiated her own civil divorce! Their novel arguments reinterpreted the impediment to marriage between *kohen* and divorcée and presented her natural and moral right to marriage. According to the couple, the "true substance of marriage . . . [was] always and forever dependent upon the sacred bond of Nature, and the free will of the contracting parties." Morschene's petitions for civil divorce and civil marriage articulated a natural law view of marriage as a civil contract for the purpose of procreation and for the partners' benefit through companionship, "conjugal affection" between "souls who honestly love each other," and "mutual aid"—all of which served society overall. Given the war between the Habsburg Monarchy and France, Frizzi and Morschene left unsaid that purely civil marriage procedures already existed in France from 1792. The couple signed a civil marriage contract of their own invention in November 1799. Vienna was convinced, but Triestine Jewish authorities resisted their instructions, upheld traditional halakah, and refused to marry the couple. In 1800, the pregnant Morschene sought damages from Frizzi, but the lovers soon resolved their quarrel and formed a long-term liaison and

family without benefit of clergy or state. In 1813, when the Napoleonic Empire brought the purely civil French marriage regime to Trieste, they finally wed. Three decades later, they died three days apart in 1844.

Morschene's story offers a comparative view of state-building by means of civil law and public health policy, and the making of civil marriage and divorce as part of the secularization of marriage and divorce. Her story illustrates marriage and divorce in transition, conditioned by new laws and practices, by enhanced roles for sentiment and individual choice, and not least, by shifting power relations within the family. While Morschene's first marriage was an alliance of families arranged for economic self-interest, her second was a love-match forged by individuals. Developed through personal relationships and struggles, Morschene's new horizons were ultimately framed by the Habsburg and French states—which redrew the boundaries between civil and religious, between public and private, between the body politic and the Jewish community—and by the Enlightenment—which spurred new scientific understandings of disease, health, and the role of medicine in public policy. Her strategic self-fashioning also reflected the "eighteenth-century rights revolution" that defined individuals as bearers of natural rights.

European Jews had always regulated marriage and divorce according to halakah.

When modern states brought civil law into the bedroom of the Jewish nation, they created tensions between civil and religious authorities and unwittingly raised issues of individuals' civil rights and of women's rights and agency. Jews, both in Israel and in the Diaspora, confront these issues today, albeit in different ways. An Israeli scholar once commented ironically after hearing Morschene's story, "If only the French had come to Israel!"

My understanding of the making of civil marriage and divorce in the late eighteenth and early nineteenth centuries is further deepened as I follow the debates that roil the contemporary American body politic: debates about civil unions and same-sex marriage, women's roles in heterosexual marriage, and women's sexuality and health. The state, religious authorities, families, and, not least, individuals themselves—all have a stake in deciding who has the civil right to enter and leave marriages, and on what terms.

Lois Dubin is professor of Religion at Smith College and currently visiting professor and fellow at the Frankel Institute for Advanced Judaic Studies at the University of Michigan, Ann Arbor. She recently published "Medicine as Enlightenment Cure: Benedetto Frizzi, Physician to Eighteenth-Century Italian Jewish Society," in Jewish History 26: 1–2 (2012), special issue: Festschrift for Kenneth Stow, 201–21.



Lithograph, 1884. Reprinted from *Trieste nelle sue stampe sviluppo urbanistico dalla nascita dell'emporio alla fine dell'Ottocento: storia, cronaca, folklore, arte, vita quotidiana nei secoli XVIII e XIX*, 2a ed. Riv. [di] Alfieri Seri; con la consulenza iconografica di Fiorello de Farolfi. (Trieste: Italo Svevo, 1980), 119.

Jewish Courtship and Marriage in 1920s Vienna

Marsha Rozenblit

World War I played a crucial role in changing Jewish courtship and marriage patterns in Central Europe. Before the war, both bourgeois and religious Jews routinely arranged marriages for their children. Such marriages often united families already engaged in or brought new people into family businesses. Arranged marriage, which was also the norm in non-Jewish bourgeois circles, was primarily practical. Jewish families tried to find matches for their children that were class and status appropriate, matches that also worked to perpetuate Jewish social networks. Although marriage for love—common in literature and the new medium of film—existed as an ideal, in practice few people married for love, although many couples came to love each other during their engagement or after their marriage.

World War I changed everything. The war and its attendant suffering made parents less willing to force their children into marriages that they arranged, and it made young men and women feel that they should arrange their own marriages. How could parents force a son who had experienced the carnage and horrors of the front to marry some girl with whose family they sought a business connection? How could they make a daughter, who suffered hunger at home or who had fled with them in terror from Galicia to escape the invading Russian army, marry a man they had chosen for practical considerations? The war emboldened young people to make marriage decisions for themselves, and it created a situation in which parents felt they could no longer tell their children what to do.

Vienna provides a wonderful focus for an examination of Jewish courtship and marriage. Its large Jewish community included many highly acculturated bourgeois Jews who had lived in the city for at least two generations, but it was also composed of poor Jews, as well as Jewish immigrants from elsewhere in the former Habsburg Monarchy. There were refugees who had fled Galicia during the war with no homes to which they could return. There were also religious Jews, both rich and poor, immigrants or long residents in the city. For all these Jews, World War I provided an opportunity to end long-standing Jewish practices.

A close examination of Jewish memoirs and diaries from World War I through the 1930s reveals that young Jews now wanted the freedom to choose their own marriage partners. What is most interesting, however, is that most Jews who chose wives or husbands for themselves did not do so on the basis of love or even passion. What they wanted was autonomy and the right to choose. Like their parents, they often chose husbands and wives for practical reasons, expanding the orbit of practical concern from business connections to the person who would make a proper spouse and create a good home. Moreover, ideological compatibility was especially important for Jews on the Left or active in the Zionist movement. Arranged marriages continued in bourgeois and religious circles, but increasingly men and women chose their own partners, sometimes, but not usually, for love. Although they wanted to choose their own spouses, they continued to adhere to conventional expectations of gender roles within marriage and the family.

The diary of Teofil Reiss is a very interesting example of how Jewish men who had fought in the war felt they had the right to choose their own wives. Reiss was an army medic from Vienna, probably lower middle class, moderately religiously observant, and not well educated. His unpublished World War I diary reveals a man in his mid-twenties who thought he was terribly attractive to the ladies and who spent all his spare time going out with Jewish girls, both in Galicia, where he was stationed in 1915 and 1916, and back home in Vienna when he was home on leave. His main goal was to find someone who would make him a good wife. He rejected Sabine Sauer from Łańcut, Galicia, in whose home he spent many weeks on leave, because she seemed too bold to make a good wife. He had loved staying at her house—mostly because of the good food and the interesting conversation with Sabine's father as well as with the Hasidic rebbe of Zolynia, another guest—but he found her inappropriate, especially after she turned up in his barracks one day. Such behavior was not proper for a respectable girl, and he sent her away. Similarly he rejected many girls who, he claimed, threw themselves at him, proposing marriage. He wanted to choose his own wife, and he wanted

her to be a moral, intelligent, respectable, responsible woman who would make him a nice Jewish home. Thus, he decided to marry Pepi Kamil, a friend of his sister in Vienna. She was neither pretty nor rich, but she was a “good girl,” a good daughter, and a seamstress who could earn her living if necessary. It is clear from his diary that they did not love each other when he decided to marry her in 1917. He had chosen her after careful, practical consideration, although they became emotionally close to each other after their engagement. His parents concurred with his decision. The couple married in February 1918 in Vienna, but Reiss was only happy when he and Pepi could settle down and create a home together. (Teofil Reiss, “Kriegstagebuch” in *Kriegsarchiv*, Austria, B/1576:12.)

For Reiss, neither love nor sex played a prominent role in his choice of a wife. The opposite was the case for Esti Drucker and Martin Freud, who also insisted on choosing their own life partners, but who did so because they were passionately in love with each other. Esti (Ernestine) Drucker was the daughter of a wealthy Jewish family, and her parents always assumed they would arrange for a wealthy Jewish businessman to marry their daughter. She had other ideas. She met Martin, Sigmund Freud's eldest son, at a party in early 1918, and fell passionately in love with him. They determined to marry, but her parents disapproved. After all, Martin was a young lawyer and would not be able to support her accustomed style of life. Moreover, his father was a psychiatrist, “and a pornographic one at that” in her father's words. They tried throughout 1918 and 1919 to arrange an appropriate marriage for their daughter, but she refused. The Freuds also opposed the marriage. Sigmund Freud even wrote to his son that Esti was “too pretty” for them, by which he meant she was too rich and spoiled. Esti and Martin persevered, and their parents allowed them to marry in the fall of 1919, when he returned from an Italian prisoner-of-war camp. Unfortunately, their marriage was unhappy. (Sophie Freud, *Living in the Shadow of the Freud Family* [Praeger, 2007].)

More common than marriage for love was marriage for the sake of ideological compatibility. Such was the case for Minna Schiffmann Lachs. A seven-year-old refugee

from Trembowla, Galicia, she had arrived in Vienna with her family in 1914. Although she was sympathetic with the left-wing Zionist group Hashomer Hatzair, she refused to marry a comrade from that organization when he asked her to accompany him to Palestine in 1930. By that time she had moved away from her earlier Zionist commitments and had no desire to live in Palestine, especially not on a kibbutz. Now an ardent socialist, she decided to marry a fellow socialist, a Jewish attorney from Graz who worked for Vienna's socialist city administration. He had won her heart when he had argued with those who expressed hostility to eastern European Jews. She told her parents that he was “the man most worthy of love that I have ever met.” She had decided to marry him because they shared the same ideological convictions and she admired him greatly. (Minna Lachs, *Warum schaust du zurück: Erinnerungen 1907–1941* [Europaverlag, 1986], 170.)

Similarly, Prive Schächter Friedjung, a Jewish communist from Zadowa, Bukovina, who spent most of her life in Vienna, also married for the sake of ideological compatibility. The daughter of a poor, Hasidic

family, she adamantly refused to marry any of the men her family tried to arrange for her. She wanted “to go out and seek work someplace as a free human being,” so she moved to Vienna in 1924. In Vienna she had a non-Jewish Communist boyfriend but she did not want to marry him; she did not want to offend her family, and the couple did not have enough money to marry. She married twice: once in 1931, merely to obtain legal status in Austria, and then again in 1936, to Jenö Fried, a Hungarian Jewish communist, while both were exiles in the Soviet Union. Theirs was a marriage of political convenience. They shared ideology, exile status, and the same crowded apartment, so marriage simplified the living arrangements. (Prive Friedjung, “*Wir wollen nur das Paradies auf Erden*”: *Die Erinnerungen einer jüdischen Kommunistin aus der Bukowina*, ed. Albert Lichtblau and Sabine John [Böhlau, 1995].)

Traditional arranged marriage certainly persisted in 1920s Vienna. Helen Hilsen's younger sister Olga wanted a rich husband, so in 1923 she allowed her parents to make her a match, even though her sister, who had married for love, disapproved. (Helen

Hilsenrad, *Brown Was the Danube* [Thomas Yoseloff, 1966], 129–31.) Marriage ads in the liberal, Zionist, and Orthodox press reveal that many men still wanted to “marry a business” and many women offered money, apartments, and businesses to attract men to marry them. Religious Jews were determined to find appropriate religious mates for their relatives.

The persistence of traditional patterns, however, should not obscure the major change that had taken place. Jewish men and women might have been as pragmatic as their parents or traditional Jewish marriage brokers had been, or they could have married for love; nevertheless they increasingly felt they had the right to choose. The sufferings they had endured during World War I emboldened them to assert their right to decide with whom they should be for the rest of their lives.

Marsha L. Rozenblit is Harvey M. Meyerhoff Professor of Jewish History at the University of Maryland, College Park. Her most recent book is *Reconstructing a National Identity: The Jews of Habsburg Austria in World War I* (Oxford University Press, 2001).

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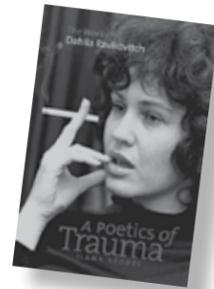


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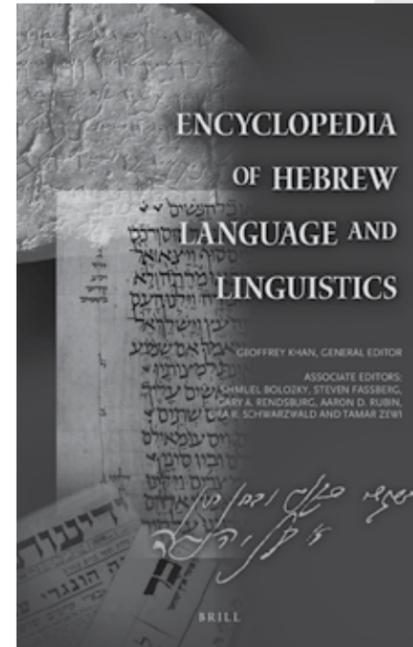
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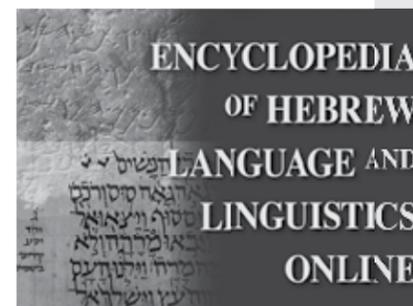
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Marriage Equality: An American Jewish View

Joyce Antler



Stills and photos from *The Imported Bridegroom*, directed by Pamela Berger (USA, 1989). Courtesy of the National Center for Jewish Film.

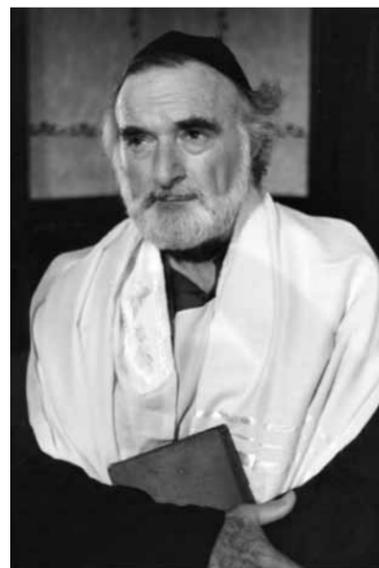
Along with the generational conflicts that arose as a consequence of migration from the Old World to the New in the late nineteenth and early twentieth centuries, the spheres of love and marriage were also transformed. As the popular Bintel Brief column of the *Jewish Daily Forward* filled with stories of traumatic conflicts between Jewish couples, desertion and divorce no longer seemed alien to Jewish family life.

Although the Bintel Brief letters duly represented the dark side of immigration, a more positive view of the opportunities of New World marriage emerged as well. No better example of these dual perspectives can be found than the stories of Abraham Cahan, the *Forward's* editor. Cahan expressed

a protofeminist sensibility regarding power differentials in marriage and the ways in which rigid Old World customs oppressed both men and women. Cahan recognized that structural changes had to be made before either sex could realize autonomy and mutuality in marriage. Later in the century, Jewish feminists from both the liberal and radical wings of the women's liberation movement echoed Cahan's condemnation of unequal marriage and framed revolutionary ideas about the circumstances in which more equitable marriages could thrive. From Betty Friedan to Shulamith Firestone and Alix Kates Shulman, feminists envisioned and implemented ideas and structures that Cahan had only begun to imagine.

In the 1896 novella, *Yekl*, and his collection of short stories, *The Imported Bridegroom and Other Stories of the New York Ghetto* (1898), Cahan depicts couples split apart by the exigencies of Americanization, an inevitable process that he saw as bringing about loneliness, estrangement, and broken romances. Often wives are left behind because their husbands modernize faster. Yet, like Yekl (who renames himself Jake), they cast off "greenhorn" wives only to find themselves unmoored by their new circumstances. Jake's

wife, Gitl, eventually modernizes, too. By the end of Cahan's story, after she has received a *get* from the rabbi paid for by Jake, she is ready to begin a new life with the sympathetic boarder Bernstein. While Jake goes off, bewildered, to confront a future that is "dark and impenetrable," a confident Gitl uses her status as a new, modern American woman to her advantage. She and Bernstein start a



business with the money Jake has given her for the divorce. No longer constrained by the marriage traditions of the past, which placed the husband as the unchallenged family patriarch, Gitl equates her opportunity to select her romantic partner with her freedom to choose her own work. As opposed to the arranged marriage she shared with Yekl, consent and choice are paramount. Equally important is the fact that Gitl's status in the private sphere is bound up with her public role. In *The Imported Bridegroom*, too, the couples that work together (or in which the woman is employed) have the greatest possibilities for mutual happiness. In "A Sweatshop Romance," Beile chooses David, who finds her a job in his shop and treats her "with respect, like a modern woman." We expect that their romance will endure.

Marriage and intimacy served as a tableau on which Cahan sketched the folly of unequal relationships of power, work, and longing. In subsequent generations, American Jewish writers as varied as Clifford Odets, Arthur Miller, Philip Roth, and Grace Paley continued to depict fractured romances and marriages torn asunder by barriers of role, status, and gender. The public critique of marriage was most boldly resurrected, however, by the feminist activists of the 1960s and 1970s who demanded equal rights in the private as well as public sphere. A noteworthy proportion of these leaders and thinkers were Jewish, most of them secular but some with religious backgrounds. The Jewish traditions that they eventually rejected had significant bearing on their perspectives.

Betty Friedan's *The Feminine Mystique* (1963) shaped the landscape of feminist marriage criticism by exposing the supposedly "happy housewife" as a sham, a false consciousness cemented by the collaboration of media, corporations, social scientists, educators, political leaders, husbands, and women themselves. Marriage infantilized women, Friedan claimed, burying them alive in their suburban homes as if in a "concentration camp." Like the victims of the Holocaust, women remained passive because of the "progressive dehumanization" they experienced in their status as wives. Friedan's use of Holocaust imagery did not attract much attention at the time, and she never explicitly spoke about Jews in her book. But her own background growing up Jewish in Peoria, Illinois, as an outsider, and the psychic burden left by her mother's bitterness at her own stunted life as a housewife, influenced Friedan greatly. "When I still used to say



prayers, even as a child," Friedan recalled, "after the 'Now I lay me down to sleep' and the Sh'ma Yisrael—I would pray for a 'boy to like me best' and a 'work of my own to do' when I grew up. I did not want to be discontent like my mother was." The solution was for women to pursue active careers outside the home.

How "Jewish" was Friedan's insight? A telling incident occurred in 1970, when on the fiftieth anniversary of the passage of the suffrage amendment, Friedan led a march of 50,000 women down Fifth Avenue to demand equal rights. At the defining moment of the march, Friedan found

herself speaking—and revising—the prayer that Orthodox Jewish men recited every morning. "Down through the generations in history," Friedan declared, "my ancestors prayed, 'I thank Thee, Lord, I was not created a woman.' From this day forward I trust that women all over the world will be able to say, 'I thank Thee, Lord, I was created a woman.'" Friedan claimed that she could not recall where she had heard the prayer.

The Feminine Mystique changed ideas about marriage and domestic life and helped to launch the liberal feminist movement of the early 1960s. But the younger group of



women who launched the women's liberation movement a few years later provided an even more radical critique. In *The Dialectic of Sex* (1970), Shulamith Firestone called for a feminist revolution to replace marriage and the nuclear family by means of engineered reproduction and nontraditional households. Marriage, she felt, was "functionally defunct": it was its "political, i.e., unequal power context" that made it "such a holocaust." Firestone came from an Orthodox, and according to her sister, Rabbi Tirzah Firestone, a deeply patriarchal, Jewish family and had studied at a Cleveland Yeshiva before attending Washington University and the School of the Art Institute of Chicago. Her father's rejection of her book—which he called "the joke book of the century"—and other deep criticisms, even from feminists, cut deeply. After starting the first women's liberationist groups in the country and playing a pivotal role in promulgating the radical wing of the movement, Firestone spent several decades isolated from former colleagues and family. Diagnosed with schizophrenia, she was in and out of mental hospitals until her sudden, tragic death in the summer of 2012. Those who knew her well felt that her Jewish identity remained strong, though she separated herself

from religion. In later years she insisted that friends address her as "Shulamith," not Shulie.

Firestone's critique of marriage resembles that of another Jewish radical—anarchist Emma Goldman, who similarly railed against the "sex-class" caste system of marriage as absolutely irreconcilable with love and therefore unworkable. Other radical feminists saw glimmers of hope. Alix Kates Shulman's 1969 article, "A Marriage Agreement," with its proposition that men and women sign contracts establishing shared child care and housework, created considerable public debate. A prominent figure in Redstockings, the women's liberation group established by Firestone and Ellen Willis, Shulman was motivated in part by the negative example of her mother, Dorothy Kates, who despite her "worldly accomplishments," including three terms as president of the Federation of Jewish Women of Cleveland, had been reduced to the role of "dependent housewife." For Shulman as well as Friedan and Firestone, a marriage with a subordinate partner could not be sustained.

These secular Jewish feminists were widely influential in the United States and abroad, including among the Jewish religious community. But even passionate advocates for equal religious rights like Blu Greenberg,

the dynamic founder of the Jewish Orthodox Feminist Alliance (JOFA), were initially wary of feminism's biting critique of marriage because of its consequences for Jewish family life. Today Greenberg has another point of view. "How much we owe them," she said of these secular feminists, "how much they have changed the world. And here we are, still fighting for the *agunah*, with so little progress made after 40 years." Greenberg believes that for Jewish marriage to thrive and fulfill Judaism's sacred ethical principles, its participants must be free and equal. She acknowledges that the universalist vision espoused by these Jewish radical feminists and their multi-sided struggle against patriarchy laid the groundwork for what remains a continuing struggle for the Jewish religious community. There is still work to be done.

Joyce Antler is Samuel Lane Professor of American Jewish History and Culture and professor of Women's and Gender Studies at Brandeis University. Her publications include You Never Call, You Never Write: A History of the Jewish Mother (Oxford University Press, 2007) and The Journey Home: How Jewish Women Shaped Modern America (Pantheon Books, 1997).

The Playwright, the Starlight, and the Rabbi: A Love Triangle

Lila Corwin Berman

I met Arthur Miller when I was seventeen. He was a recipient of the Four Freedoms Award (for the freedom of speech), and I had been selected among local high school students to attend the ceremony, which was held near the Roosevelt mansion in Hyde Park, New York. I remember almost nothing about the ceremony, except for three things. First, while Arthur Miller was accepting his award, a friend or possibly a teacher leaned into me and said, "Do you know he used to be a communist?" Second, I shook Arthur Miller's hand. He had a firm, pleasant handshake, and he struck me as being the perfect height. And third, perhaps noticing my starry-eyed look, that same friend or teacher told me that Arthur Miller and Marilyn Monroe had been married briefly.

A decade later, I opened a file stamped "Restricted Correspondence" and found a series of letters written by the man who had performed the marriage ceremony of Arthur Miller and Marilyn Monroe. New Haven rabbi, Robert Goldberg, had presided over Monroe's conversion and officiated at a Jewish ceremony, in the wake of a civil one, for the couple. Two of the things I had learned about Miller the day I met him—the allegation that he was a communist, and the fact that he had once been married to the iconic American beauty—rushed into my mind.

I stared at a photograph of Miller, Goldberg, and Monroe taken at a benefit dinner in 1959. The men in tuxedos flanked Monroe, who wore a tank dress with a lace bodice. She leaned into Miller, and smiled at Goldberg. I could not trace Miller's line of vision. Was he gazing lovingly at his wife, or were his eyes trained on the rabbi? Was Miller grimacing or smiling? I thought, then, about that firm handshake.

When writer's block hit, I returned to the photograph. I was writing a book about about the Jewish perception of the lines that separated and connected Jews to non-Jews. Yet everything about that photograph seemed to obscure those lines. Most obvious, the photograph captured romance across ethno-religious-racial boundaries. Those boundaries certainly were not erased. Commentators and critics (such as sharp-tongued Norman Mailer) made much of the union between



Marilyn Monroe, Arthur Miller, Rabbi Robert E. Goldberg photo. SC-8326. Courtesy of The Jacob Rader Marcus Center of the American Jewish Archives, Cincinnati, Ohio, americanjewisharchives.org.

the "great American mind" and the "great American body"—the cerebral was the Jewish man; the corporal and sensual was the Protestant-raised woman. But the presence of the rabbi, one point in what surely appeared as a triangle, interrupted the dichotomies.

Rabbi Goldberg signed Marilyn Monroe's conversion certificate hours before he performed her wedding. Though he had known Miller's family for a number of years, his relationship to the new couple pivoted around the intimacy he felt with the convert, Monroe, and not the Jewish playwright. In fact, Miller had not encouraged Monroe's conversion, and I imagine that he, ever the secularist, must have looked upon it with some bemusement. Still, he understood that Monroe craved what the rabbi offered: a sense

of connection to a tradition and a community, something that lasted beyond the present, with long threads of meaning extending into the past and toward a future. In epistolary recollections after Monroe's death, Goldberg described her joy while studying Jewish texts with him and participating in rituals. He believed he gave her something that neither fame nor her husband could give her.

Goldberg's letters, which he wrote periodically to Jacob Rader Marcus at the American Jewish Archives, suggest the love he felt for Monroe. In his desire to defend his motives for the historical record and explain that the conversion he performed was proper and appropriate, Goldberg's affection for Monroe lingers. His love for Monroe may have indeed been required in the way that was

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acceptable to him—through her high regard for him as a rebbe, a teacher, a guide. Perhaps this accounts for Miller's expression in the photograph of the benefit dinner, with the suggestion of a grimace cast in the direction of the rabbi, who ironically injected the intermarriage with a brand of Judaism that comforted Monroe more than it pleased Miller.

Miller would not have attended the dinner, a fundraising event for the American Friends of Hebrew University, but Goldberg urged him to do so. Two years earlier, Goldberg had prevailed upon the couple to make an appearance at a United Jewish Appeal gala at the Fontainebleu in Miami Beach. Exercising his influence over the couple, Goldberg even persuaded the reticent Monroe to talk for three minutes about why she converted to Judaism. ("I wrote the speech for her," Goldberg recalled.) The day of the event arrived and with it a subpoena for Miller to appear before the House Un-American Activities Committee. Goldberg received word from the United Jewish Appeal's organizers that Miller's invitation was rescinded. The

rabbi must have been mortified when he had to call the couple and let them know what his people, their people, had decided. Proud of his own FBI "red file," Goldberg seethed at the timidity of these establishment Jews. Later, he would protest the Vietnam War, invite Stokely Carmichael to speak at his synagogue, and dismiss the kind of Jews who allowed their anxiety about Jewish assimilation into the mainstream to overshadow their concern for societal inequality.

In 1991, near the end of Goldberg's life, Miller explained how he had come to admire this rabbi—despite the coolness that I perceived between the two in that triangulated photograph. Miller praised the rabbi for stepping outside of the "narrow, unilinear" Jewish life that frustrated the playwright and that, it seems, Monroe craved. According to Miller, ethnicity and religion left a "trail of blood, of injustices and hatred" in their wake, but not so the form of Judaism Goldberg endorsed. As Miller wrote, "For holding onto universal values, [Goldberg] has turned Judaism's best

face to the world. For this, which has taken courage, we owe him a great debt." The two men, a playwright and a rabbi, were fellow travelers resisting a world that insisted on boundaries—religious, ethnic, sexual, racial.

In the United States, Jewish leaders had fixated on Jewish marriage as the means of eternal peoplehood. Time and again, they were confronted with the shortcomings of this formulation because marriage is not a conservative institution. Rather, marriage tends to be creative and revolutionary—melding two people together, creating a new unit different from what existed before, and existing in multiple layers of identity and community created by a new "we." Even when Miller and Monroe divorced, Monroe remained close to Goldberg and to Miller's family. (Miller's father escorted Monroe to Madison Square Garden and watched from the wings when Monroe sang happy birthday to John F. Kennedy.)

Marriage may not transcend boundaries, but it always crosses them. Who among us has maintained a deep friendship or a marriage without experiencing moments of division, a gap, even a chasm? In individual relationships, whether or not formed across lines of ethnicity, religion, class, or race, we confront places where the cry of universalism cannot be heard: an argument over a childrearing decision, a difference of opinion about how to spend money, a conflict about responsibility. Whatever identity markers we share, we also find ones that separate us—this is what is so creative and revolutionary about marriage, an assertion that even in our differences we can function together. This is neither rigid universalism nor narrow particularism.

If we imagine in each marriage a creative revolution, then we may embrace the changes and transformations—not eternal sameness—that marriage in this country in the last half of a century have brought. The photograph, that still captivates me each time I look at it, captures a moment in that ongoing revolution, when a rabbi, a playwright, and a starlight stood unified by a Jewish tradition, at its best capacious enough to make room for all of them.

Lila Corwin Berman is Murray Friedman Chair of American Jewish History and director of the Feinberg Center for American Jewish History at Temple University. Her article "Jewish Urban Politics in the City and Beyond" appeared recently in the Journal of American History.



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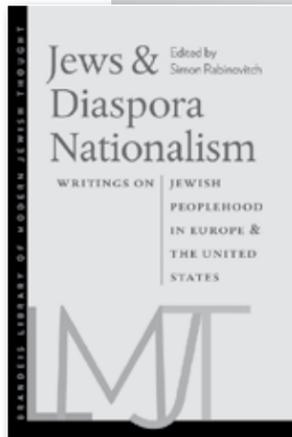
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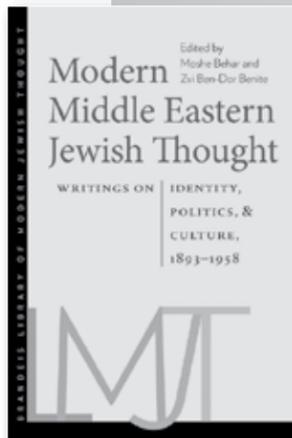


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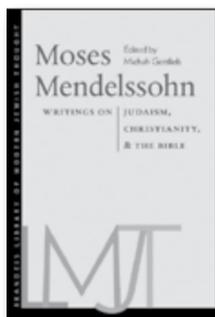


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NEW PERSPECTIVES ON THE ORIGINS, CONTEXT, AND DIFFUSION OF THE ACADEMIC STUDY OF JUDAISM

From its inception, Jewish studies was a transnational endeavor characterized by a network of scholars emerging from different seedbeds. In time, modern rabbinical seminaries in central Europe and universities in France, England, the US and Israel would provide new and necessary forms of institutionalization. The needs and strategies of the discipline and its political and cultural functions varied in different countries and political contexts. What the present state of the field requires is a collaborative effort to deepen our understanding of the intellectual revolution at the heart of modern Jewish history. The turn to history in the 19th century fundamentally recast the nature of Jewish thinking in Europe and beyond, influencing even those who challenged or rejected the dominance and mandate of historical-critical scholarship. The predominant narrative in this history of the academic study of Jews and Judaism is that of the *Wissenschaft des Judentums (WdJ)*, which fulfilled crucial cultural, political, and religious functions in its day, and which, despite recent scholarship, remains to be fully contextualized. How have academic categories and methodologies framed how Jews and Judaism are understood—be they in parallel with Christian theology, political science, history, classical philology, or in relation to traditional teaching contexts and methodologies? How might modern Jewish studies be seen in comparison to other emergent ethnic and religious area studies? What can we learn from a more systematic comparative study of different religious or national currents within *WdJ* and other parallel academic developments in Jewish studies? Proposals might address the following questions:

- How did and does *WdJ* function in the struggle for emancipation and against anti-Semitism in varying national contexts?
- How was Jewish scholarship influenced by its institutional home or lack thereof?
- What role did Jewish scholars play in the establishment and conceptualization of Oriental and Islamic studies? And vice versa.
- To what extent did the *WdJ* engage with, build on, and depart from, the scholarly legacy of Christian Hebraism and Renaissance humanism, and the historical-critical approach to the Bible in the late 18th and early 19th century?
- What extra-scholarly motives drove the development or neglect of some fields? To what extent were those aims achieved, and what do its failures reveal about European-Jewish history in the 19th and 20th centuries?
- Which disciplines other than history have shaped the development of the *WdJ*?
- What impact has the rise of Jewish nationalism and Zionism had on the direction of Jewish scholarship, such as the politics of archaeology, the place of messianism in Jewish history, or the history of communal institutions, even the funding of academic chairs?
- By what channels did the results of critical scholarship reach a broader public, and which audiences exactly?

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Theme 2014-2015

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The Hand that Rocks the Cradle: How the Gender of the Jewish Parent Influences Intermarriage

Keren McGinity

Intermarriage, like all marriage, is a relationship of power. How the power is divided depends on two things: gender and who negotiated for what, either before or after saying “I do.” If intermarriage has the potential to strengthen the Jewish people (along with institutions of education, such as summer camp or trips to Israel), it is critically important to understand the influence of the gender of the Jewish member in the marital union. Analyzing gender—the roles of both men and women combined with the relationship between the two sexes—is key to a full understanding of the meaning of Jewish intermarriage because gender informs how men and women raise children. My research focuses on heterosexual marriages, therefore much remains to be understood about the gender dynamics within same-sex intermarriage regarding parenting Jewish offspring.

How intermarried women and men experience parenthood is essential to increasing the likelihood that they will raise children to identify as Jews. When a Jewish woman intermarries and becomes a parent and when a Jewish man intermarries and becomes a parent, their experiences are different. The influence of becoming a parent on their respective Jewish identities, however, is surprisingly similar. Jewish identity is maintained, transformed, and reinvented in ways that are authentically meaningful to people who self-identify as Jewish and intermarry. It also demonstrates why intermarried Jewish men are believed to raise less Jewish children than intermarried Jewish women (Sylvia Fishman and Daniel Farmer, *Matrilineal Ascent/Patrilineal Descent* [Brandeis University, 2008]).

My qualitative research indicates that when people who are intermarried become parents, they also become more conscious of Jewish identity and of Judaism. Women who participated in my study described intensified Jewish identities, increased religious practices, or both. Although they may have become “more Jewish” once they became mothers, a typical American Jewish pattern, whether

they had intermarried or not, the extent of their change over time suggests that being Jewish while married to a non-Jew usually heightened women’s consciousness about being Jewish. When Bonnie Aaronson planned her 1981 wedding, she had a very strong cultural and social identity as a Jew, but she was not a religious person. However, in the late 1980s after Bonnie had two children, she became actively involved in her temple and co-chaired a committee that created an alternative High Holiday service. Interviewed nearly twenty years after she wed, Bonnie remarked, “I have changed pretty *dramatically* in terms of my Jewish practice and observance . . . in the course of our marriage.” Among the intermarried Jewish women I have interviewed, having children made them decidedly proactive about making Jewish connections, about observance, and about Jewish education. The experience of having children also forced women to come to terms with the inadequacies of their own Jewish upbringing and to look for creative ways to teach their children (and themselves) about Jewish heritage.

Men may also experience an awakening of their Jewish identity when they marry and become parents, regardless of whether they intermarry or in-marry, due to greater communal opportunities. Historically and at present, the organized Jewish community directs much of its programming toward family units rather than to single Jewish men or women. Still it appears that intermarriage influenced a deepening of men’s Jewish identities in relation to their Gentile-born spouses and through becoming fathers. For Charles Revkin, being Jewish meant being part of a community and he acknowledged that it became more important as he got older. “It was a combination of circumstances,” Charles explained, “where I married someone non-Jewish and then . . . I knew I wanted to raise my kids Jewish. I know mothers tend to play an important role in that. Here we were not gonna have a Jewish mother, so it’s almost like an overreaction to make sure it gets done.” Assuming a proactive role regarding

the children’s Jewish upbringing became a significant component of Jewish identity for some intermarried fathers. The shift over the course of one’s life could be striking. During his college years Allan Benjamin preferred to “pass” as a member of the (Christian) majority rather than joining a Jewish fraternity, but after intermarrying and becoming a father, he accompanied his children to Tot Shabbat and listened to Jewish CDs. Allan reflected, “As the kids grow, I’m becoming more open, more Jewish. I’m now somehow a board member of the Jewish Community Center. Seven years ago, I’d be looking at you like ‘where is the JCC?’” Although reawakening of Jewish identity in a father is similar to the experience of the Jewish mother, the men’s parenting is often secondary to his professional pursuits.

Although the men who participated in my research are invested in trying to balance or integrate their careers with fatherhood, the social reality of finding time for involvement with their children is an uphill battle. The non-Jewish wife of a Jewish man who intermarried in 1997 said that she was glad to have a Jewish family, but the *extent* to which they were Jewish would be his responsibility. Her reasons were not an outgrowth of feminist thinking, but rather stemmed from the reality that she is not Jewish and would not know how to go about it. He pointed out, “The only problem with that theory is that I’m at work 60 or 70 hours every week.” There was not much time to ensure his children’s Jewish cultural or religious education. Consequently, the children attended a Conservative Jewish day school from kindergarten through second grade where they were exposed to more practices of Judaism than their father. The family transitioned the children to a public school in 2010, and their home life does not include Jewish ritual or observance. It remains to be seen to what extent this father will be able to foster his children’s developing Jewish identities without the built-in support of a day school environment.

The challenge for intermarried men raising Jewish children is the tenacity of traditional gender roles. For the most part,



“Mending Old Cradle Family Home Cat Kitten Stocks” by A. Stocks from *Illustrated London*, 1873.

men continue to be the main breadwinners for their families while women continue to be the information gatherers and social organizers, maintaining greater influence than their husbands over children’s ethnic and religious upbringing. Women’s hands rock the cradle, so to speak. As a result, men’s presence where Jewish identity is nurtured (at home, the community center, the school, the synagogue) is more limited. Gender will persist in influencing the disproportionately low transmission rate of Jewish identity to children of intermarried men compared to intermarried Jewish women so long as “men’s work” outside the home continues to be more valued than “women’s work” inside it.

Jewish continuity depends on how the respective movements within Judaism

respond to intermarriage and interact with the individual people involved. The acceptance of patrilineal descent by the Reform and Reconstructionist movements allows children of intermarried parents to be counted as Members of the Tribe. It now remains for the Conservative movement to validate the status of the children of intermarriage and to acknowledge the influence of the roles of Jewish husbands and fathers, allowing them to retain their affiliation with the movement of their choice. Intermarried Jewish men *can* raise Jewish children as effectively as intermarried Jewish women as long as they understand that it is their responsibility to do so, ideally in partnership with their spouses. The Jewish community must reinforce their effort by validating their familial contributions. Men

can become Jewish role models in their families even if their own fathers were not. For example, intermarried Jewish men can light Shabbat candles, read Jewish bedtime stories, and transmit their love of Jewish culture to their offspring. For children of Jewish fathers to become as strongly identified Jews as the children of Jewish mothers requires that intermarried Jewish men step up to the parenting plate. Perhaps then the Conservative movement will include their children as full members of *klal yisrael* rather than labeling them as “patrilineal Jews.”

Keren R. McGinity is research associate at the Hadassah-Brandeis Institute. She is author of *Unexpected Partners: Intermarriage and Jewish Fatherhood* (Indiana University Press, forthcoming).

Critiquing and Rethinking *Kiddushin*

Rachel Adler

The word is out in both the Diaspora and Israel: the classic form of Jewish marriage known as *kiddushin* has problems. Critiques and remedies are presented from Orthodox and non-Orthodox sources. An entire issue of *Sh'ma* (June 2010) has been devoted to rethinking Jewish weddings.

The Trouble With *Kiddushin*

Critics allege that the legal structure of *kiddushin* is a format for inequality in the marital relationship. Wives are biblically required to be monogamous; husbands are not. *Kiddushin* is rooted in property law. In the first chapter of the Talmudic tractate *Kiddushin*, valid methods of acquiring a wife are analogous to ways of acquiring slaves, land, animals, and other chattel. As Gail Labovitz demonstrates in her interdisciplinary study, *Marriage and Metaphor* (Lexington Books, 2009), the Talmud frequently uses objectifying metaphors of owning and buying in regard to marriage.

Women complain that the bride in a classical *kiddushin* must be passive and silent, her silence signifying consent. Furthermore, *kiddushin* requires the man to acquire the woman unilaterally. Mutual acts of espousal are specifically ruled out. The preferred method of acquisition is *kinyan kesef*, buying the woman from herself with a token of easily specifiable but slight value. A gold ring, with 18K engraved inside is now commonly used. Because only a man can acquire, only the husband can renounce his acquisition. Halakically, women cannot effect their own *gittin*, divorces. Hence, if a husband becomes mentally incapable of giving a *get* (divorce contract), has disappeared, or simply refuses to divorce, his wife is trapped. She cannot get out of the marriage becoming an *agunah*, a chained woman. If she remarries counter to halakah, her subsequent children will be stigmatized as *mamzerim*, ineligible to marry other Jews.

Some couples complain that the Babylonian boilerplate *ketubah*, signed by the husband, witnessed, and given to the wife, does not reflect the conditions or issues of a modern marriage. Finally, although gay, lesbian, and transgender couples seek authentic Jewish ways to marry, most consider *kiddushin* inappropriate to their needs.

Tweaked *Kiddushin*

Two of the most popular ways of remedying these problems among non-Orthodox Jews are double-ring ceremonies and creative *ketubot*. Whether it is valid for a couple to exchange rings is a matter of controversy. Both the Orthodox decisor, Rabbi Moshe Feinstein and the Conservative Rabbi Isaac Klein believe that the marriage is valid once the husband has given a ring even if the bride reciprocates with a ring and a statement. Rabbi Feinstein forbids the practice, and Rabbi Klein permits it.

Creative *ketubot*, written by the couple, have no legal force either in Jewish or civil law. They would be superseded by the classical *ketubah*. Some Orthodox couples write addenda to the *ketubah* in a separate document and, in some cases, make a *neder*, a vow, about the contents of the document. Rob and Lamelle Ryman published material from their *kiddushin* on the Internet (www.journeymama.net), including a document where the husband pledges sexual fidelity, a “living” *ketubah*, and documents facilitating delivery of a *get*. The Orthodox rabbi Steven Greenberg, who is gay, describes officiating at a gay marriage effected entirely by mutual vows.

Some Orthodox couples are giving the bride a voice in the ceremony. In their ceremony (*JOFA Journal* 1998–99), Drs. Beverly Gribbetz and Ed Greenstein used an ancient variant formula for acquisition: The groom said, “Behold you are my wife and I am your man (*ishekh*)” and the bride responded, “I am your wife and you are my man.” Her statement does not effectuate acquisition but simply acknowledges his acquisition; however it is participatory. The use of “your man” rather than the usual term for husband, *ba'al*, master or owner, recalls Hosea’s prophecy (2:16) in which the covenant-marriage is reconciled: “You shall call Me *Ishi*, (my man)/ No longer shall you call me my *ba'al*.” In other ceremonies, after the groom has pronounced the acquisition formula, the woman recites a verse from Song of Songs.

The Berkovits *T'nai*

Some couples, to protect the wife from becoming an *agunah*, are contracting *kiddushin al t'nai*, conditional marriages, based on Dr. Eliezer Berkovits’s book, *T'nai*

B’Nissuin u’v’Get (Conditions on Marriage and Divorce [Mosad ha-Rav Kuk, 1966]). Precisely formulated conditions upon the act of *kiddushin* itself ensure that if the husband is not able or willing to give a divorce within a specified time, the marriage is retroactively annulled. Children resulting from a marriage that was later retroactively annulled are legitimate, and sexual intercourse prior to retroactive annulment is not considered promiscuity because the spouses had the intention of sex within marriage. Melanie Landau, an Australian scholar, has published a searching critique of *kiddushin* and its alternatives. Her book, *Tradition and Equality in Jewish Marriage* (Continuum, 2012), has an informative chapter on conditional marriage and the Berkovits *t'nai*.

Kiddushin Alternatives

Because *kiddushin* involves many risks and requires so much tweaking, alternatives have been suggested. Rabbi Meir Simcha Feldblum, an Israeli rabbi, proposes *Derekh Kiddushin*, or quasi-marriage (“*Ba’ayot Agunot U’Mamzerim*” *Dinei Yisrael* XIX). *Derekh Kiddushin* has its origins in a Talmudic case in which the couple wished to be married but was technically ineligible to contract a valid marriage. The relationship the rabbis permitted them to contract was not judged to constitute promiscuity but did not meet all the requirements for a rabbinic marriage and therefore did not require a *get*.

Rabbi Feldblum argues that no woman today would consent to *kiddushin* if she understood that she was allowing herself to be acquired. Since there can be no *kiddushin* with an adult woman without her consent, it follows that most marriages are actually invalid. This unwillingness of modern women to consent to acquisition constitutes, then, an ineligibility to contract valid *kiddushin*. Instead of *kiddushin*, Rabbi Feldblum suggests a *kiddushin*-like ceremony that would not include a *get*, and not result in *agunot* and *mamzerim* when no *get* is given. There is a divorce procedure if the marriage is unsuccessful, but it is not a unilateral de-acquisitioning by the man.

This divorce procedure, in Feldblum’s opinion, differentiates *Derekh Kiddushin* from concubinage, another solution with Talmudic

roots that has been in the news lately. The Chief Judge of the Jerusalem Rabbinical Court and the Sephardic Chief Rabbi ruled (July 17, 2012) that when a man is prevented from having children by his wife’s infertility or refusal, he may, in some cases, be permitted to take a concubine. A concubine, according to b.Sanhedrin 21a, has no *ketubah* and does not require a *get*. Historically, a small but significant minority of legal decisors have permitted concubines. Concubinage is an untidy and ahistorical category containing the secondary wives of the patriarchs, the concubines of kings, Greco-Roman hetairas, amicae, and concubinae, and the mistresses of medieval Spanish-Jewish aristocrats.

In “Partnerships According to Halakah but without *Chuppah* and *Kiddushin*,” [in Hebrew] *Academot* 17, 2006, Zvi Zohar attempts to establish concubinage as a justification for premarital relations. Others have proposed it as an alternative to *kiddushin* for secular Israeli couples. Concubinage is a hard sell to feminists, however. If being purchased is unappealing, being leased long term is hardly more attractive. The fact is that the tradition has no model of an egalitarian relationship. I have argued in *Engendering Judaism* (Jewish Publication Society, 1998) that concubinage is not a single category, but a placeholder for varieties of

long-term monogamous relationships that are neither promiscuous nor *kiddushin*.

I propose such a relationship in *Engendering Judaism*, the *B’rit Ahuvim*. The *B’rit Ahuvim* draws on the research of Mordecai Akiva Friedman (*Jewish Marriage in Palestine: A Cairo Geniza Study*, 2 vols. [Tel Aviv University, 1980–1981]). Many of the eighty Palestinian *ketubot* Friedman found in the Geniza contained a stipulation enabling the wife to initiate divorce proceedings and requiring the husband to divorce her upon her request. Some of the *ketubot* refer to the marriage as a *shutafut*, a partnership. One quotes the prophet Malachi (2:14) referring to the wife as *chaverati v’eshet b’riti*, “my companion and my covenanted wife.”

Drawing on the language of both business relations and covenant, I have designed a ceremony to remove marriage from property law and resituate it in partnership law. Instead of the husband acquiring the wife or of mutual acquisition, the partners acquire the partnership itself. This central act replaces the *Erusin*, the espousal portion of the marriage ceremony. The partners draw up a *shtar b’rit* with agreed-upon stipulations, similar to the tailor-made Palestinian *ketubot* that delineate the couple’s major obligations to one another. This partnership deed, however, is not a *ketubah*,

which is a post-*kiddushin* set of limitations and obligations. Instead it is a written account of the stipulations that shape the partnership.

The *B’rit Ahuvim* is both a business relationship and a covenant. Like a business relationship, it acknowledges fundamental economic and social concerns. As in a covenant, the partners are committed ultimately to one another rather than to the stipulations they promise to fulfill, and therefore the covenant may survive covenant transgression. Like a business partnership, the *B’rit Ahuvim* can be dissolved by the withdrawal of either one of the partners. This withdrawal should be confirmed by a *bet din*.

The Conservative movement has adopted the theoretical structure of *B’rit Ahuvim* for gay marriage, although not the ritual structure I offer. Ironically, the *New York Post* reported dissatisfaction among Conservative women that although a more egalitarian structure now existed, they were left with *kiddushin*. Warning: the natives are still restless.

Rachel Adler is professor of Modern Jewish Thought and Feminist Studies at Hebrew Union College-Jewish Institute of Religion, Los Angeles campus. She is the author of *Engendering Judaism: An Inclusive Theology and Ethics* (Jewish Publication Society, 1998).

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Kiddushin, Marriage, and Egalitarian Relationships: Making New Legal Meanings

Gail Labovitz

The feminist critique of traditional Jewish marriage through the legal mechanism of *kiddushin* has been amply articulated in a wide selection of writings. In its classic form, *kiddushin* is something that a man does to change the legal status of a woman, centering on the statement, “Behold, you (feminine) are betrothed to for me (masculine)”; the bride need only silently accept the token of *kiddushin* (typically a ring). Metaphorical associations with acquisition and purchase (as in mKiddushin 1:1, “a woman is acquired in three ways . . .”) further serve to emphasize the inequality of roles and statuses. A key legal effect of *kiddushin* is to enact exclusive, nonreciprocal sexual access for the man to the woman (she does not, legally, have exclusive sexual rights over him). Thus, *kiddushin* also assumes heteronormativity; the participants must be of differing genders in order to assign roles. Moreover, the unilateral nature of the creation of marriage means that its dissolution is also enacted by the husband alone; he must undo his acquisition of her. A divorce document, the *get*, can be withheld by the (ex)husband as a matter of spite or extortion, preventing the

wife from remarrying or even having another relationship under Jewish law.

For some, the response has been to seek ways in which to give the bride a more active role, such as suggesting responses she can make to actively indicate her acceptance of the *kiddushin*. Many Orthodox decisors, and even some Conservative ones, discourage the bride from presenting a ring to the groom during the ceremony, ruling that this turns the transaction into an equal exchange and nullifies the groom’s acquisition of her, but some permit it if a sufficient separation is made between the two acts or if the bride makes no reciprocal statement “acquiring” the groom. Indeed, while such mutualized statements—i.e., each participant declares the other “set aside”—may reflect the actual expectations of the couple for a union of sexual and emotional exclusivity on both sides, it does not typically follow that they will have control over the legal meaning given to the mutual *kiddushin*. Even some of the decisors who permit mutual statements limit their legal scope. Consider, for example, the view expressed by Rabbi Isaac Klein, a legal authority of the Conservative Movement:

“Some authorities object . . . especially if the formula used by the bride is the same as the one used by the groom. Legally, however, there can be no objection. Once the traditional formula has been recited the betrothal is binding, and whatever is added is of no legal significance” (Isaac Klein, *A Guide to Jewish Religious Practice* [Jewish Theological Seminary of America, 1979], 396; emphasis added). It is still the case within both Conservative and Orthodox practice that when a marriage ends the man will be required to give the woman a *get*, regardless of whether “mutual” *kiddushin* took place; she is not required or able to give him a *get* instead or in return.

The question for those who wish to proceed in an egalitarian direction (whether between different-sex or same-sex couples) while also taking into consideration the Jewish legal framework of marriage, is this: Can there be Jewish marriage without unilateral *kiddushin*? Is a marriage still recognized as Jewish if *kiddushin* is reconfigured to be mutual and the harmful effects of its unilateral nature are legally neutralized, or enacted through a different method altogether?

I’d like to suggest that there are three approaches currently being pursued, while also noting that the categories are likely to change, develop, and grow over time.

(1) Make *kiddushin* mutually binding and/or legally neutralize the harmful effects of its unilateral nature.

What these proposals have in common is recourse to the legal mechanisms of conditional *kiddushin*; each embeds conditions into the *kiddushin* declarations that are meant to make the statements of the two parties provisional upon each other. The topic is complex, but it should be stated that most Orthodox authorities do not accept the validity of such conditions, on the understanding that living together in marriage cancels out conditions of betrothal. Conditional *kiddushin* is accepted in the Conservative Movement. In Jill Jacobs and Guy Austrian’s proposal (*Conservative Judaism* 63:3), each party makes the *kiddushin* contingent on the other’s willingness to be obligated by the terms of the egalitarian *ketubah*, marriage contract, which they draft; each also invites the other to “be my life partner” rather than using language of *kiddushin*. Whether this is mutual *kiddushin* or a form of *kiddushin* that makes explicit the need for female consent is not entirely clear, nor is it clear that a new format would be necessary for dissolving this *kiddushin* or whether the woman could dissolve the *kiddushin* herself by subsequent removal of her consent to the conditions. The authors also note, “our ceremony seeks to solve problems of patriarchy and sexism in *kiddushin* between a man and a woman, and therefore does not necessarily address the particular needs of same-sex couples” (40).

A proposal on the blog “Mah Rabu” (mahrabu.blogspot.com/2010/06/wedding-industrial-complex-and-kant-as.html), on the other hand, explicitly aims to create mutual *kiddushin*, with conditions built into the statements each party makes to the other such that one *kiddushin* should not go into effect (or stay in effect) unless the other does also, and vice versa. In regards to divorce, if one of the parties chooses to terminate his/her act of *kiddushin*, then the condition on which the other person’s act of *kiddushin* rests is no longer valid. This format would also appear to be applicable to a marriage of same-sex partners, since unlike in classical halakah, it presumes that *kiddushin* is a process that may be performed by and binding on persons of either gender.

(2) Use a formula that does not create *kiddushin* legally, but which preserves something of the language and/or appearance of *kiddushin*.

These two proposals come from very different ideological perspectives and have different intent, yet use similar means. Both attempt to mimic the appearance and even some of the assumptions of marriage through *kiddushin*, while also deliberately seeking to avoid creating actual legal bonds of *kiddushin*.

Meir Simha Feldblum (*Dine Yisrael* XIX) writes from an Orthodox Israeli perspective, to address the social problems of *agunot* (women whose husbands withhold divorces) and *mamzerim* (children born to “adulterous” unions, as when the mother’s prior marriage was not severed by a proper *get* and is therefore considered still in force under Jewish law). Those in these situations have limited (*mamzerim*) or no (*agunot*) marriage options under Jewish law. He further notes that many modern, non-Orthodox women would reject the premises of *kiddushin* were such premises fully understood. Thus, while he continues to privilege *kiddushin* as the optimal form of marriage, he proposes that marriage done “in the manner of *kiddushin*” be allowed into the legal system as a new form of valid connection. In such a ceremony the groom would use the words “*harei at m’yuheedet li*” (behold, you are singled out for me), a formula which is mentioned in bKiddushin 6a and later codes as only doubtfully creating *kiddushin* and hence not, he argues, demanding a *get* to be severed. Although the couple foregoes the acquisitional nature of *kiddushin* and the unilateral divorce process, the ceremony as Feldblum imagines it is still hardly egalitarian.

David Greenstein (*G’vanim* 5) argues for a more thorough-going rejection of *kiddushin* in its traditional form, as it relies on a “theory of marriage” very different from that held by most modern couples. His rejection of mutualizing traditional *kiddushin* rests also on legal grounds, in keeping with the view of Isaac Klein, cited earlier. He does, however, embrace the concept of exclusivity that *kiddushin* represents, “the sense of exclusive ‘ownership’ that is inherent in feeling love for another should be preserved and acknowledged—as a feeling and claim that each is entitled to have regarding the other.” Like Feldman, he also turns to a form of marital declaration mentioned, but explicitly rejected as nonbinding, in rabbinic and later halakic writings. On this basis he proposes a ceremony in which each partner (of any gender combination) does not attempt to “acquire” the other, but rather

makes a statement of his/her own change of status: “Behold, I betroth myself to you.”

(3) Replace *kiddushin* entirely with another legal model.

Rachel Adler, in *Engendering Judaism*, states that *kiddushin* and the metaphor of ownership cannot be redeemed. While she holds that two “reciprocal” acts of *kiddushin* ought to legally cancel each other out, nonetheless “it commodifies human beings. The groom’s commodification and acquisition of the bride is not rectified by the bride’s retaliation in kind” (191). Rather, a new ceremony with a new legal basis is needed. Adler turns to rabbinic discussions of the formation of business partnerships, known in mishnaic and Talmudic passages as “placing [money] in a pouch,” to create a ceremony she names “B’rit Ahuvim,” “Lover’s Covenant.” In this ceremony each of the two partners (of any gender combination) places an item of value—a ring or something else chosen for its significance to the participant—into a bag and lift the bag together, thereby each acquiring rights and responsibilities in the partnership.

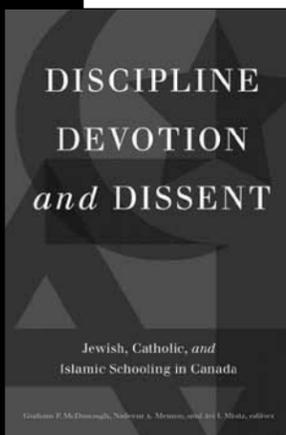
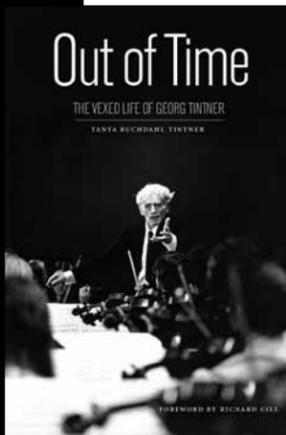
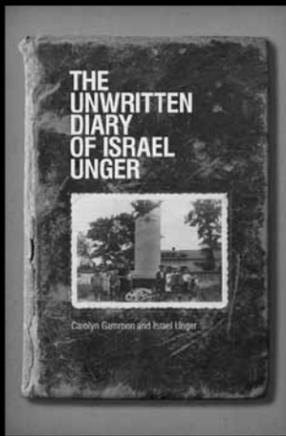
The concerns that remain are several. Allow me to highlight two, which are interrelated. Both hinge on the impulse among decisors of Jewish law (and other legal systems) to assimilate new cases and unfamiliar acts into already established categories. First, the closer an alternative ceremony looks to traditional *kiddushin*, the more likely that it will be assimilated by traditionalist authorities under the rubric of *kiddushin*, such that a *get* will be required to sever it. . . .

The author of the Mah Rabu blog, however, questions whether one ought to be concerned about legal meanings imposed from outside, at the expense of creating one’s own egalitarian legal meanings. A second question follows: If not deemed *kiddushin*, such connections may still be absorbed into the traditional system under other definitions, such as licentiousness, or even concubinage. If no *get* is demanded, then is this sufficient? Are negative, undesirable definitions imposed from outside relevant? To what extent do the authors of these proposals, and others that might follow in their wake, hope to create new legal meanings, and for whom?

Gail Labovitz is associate professor of Rabbinic Literature at American Jewish University. Her book, Marriage and Metaphor: Constructions of Gender in Rabbinic Literature (Lexington Books, 2009), recently came out in paperback.



B’rit Ahuvim ceremony. Courtesy of Rabbis Amitai and Julie Pelc Adler.



The Unwritten Diary of Israel Unger

Carolyn Gammon and Israel Unger

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Graham P. McDonough, Nadeem A. Memon, and Avi I. Mintz, editors

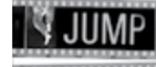
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Beyond the Sanctification of Subordination: Reclaiming Tradition and Equality in Jewish Marriage

Melanie Landau

The status of a human as an acquisition, that is surely not acceptable to me, and the fact that it's not mutual, that the man acquires the woman . . . and of course all the problems that come after— that a woman can't divorce, and that if she is unfaithful her children are "mamzerim." This is terroristic rule of women's sexuality that is not applied to men. I don't think it is healthy at all for a couple to live with the awareness of power relations such as these.

—Tehila

I find *kiddushin* humiliating. The *kiddushin* itself humiliates me. It humiliates me in a deep way and represents everything I oppose in my whole being. And what was so hard for me—I can cry just thinking about it—that here I am, at the moment that would be so important to me going to stand in a public way in front of everyone who I love and who is important to me, and I am going to allow halakah to relate to me in a way that I think is forbidden for anyone to relate to a woman ever!

—Shlomit

A few months ago in my hometown of Melbourne, Australia, I told an Orthodox rabbi and community day school principal that I write about Jewish marriage. He asked me, tongue in cheek, "Are you 'for' or 'against'?"

"Proceed with caution!" I responded. And I wasn't joking. *Kiddushin*, and the acquisition of the woman by the man that it entails, is a dangerous enterprise.

The current nonreciprocal model of *kiddushin* is not an appropriate contract for a relationship between equals. Many, if not, most women would not agree to such a relationship if they knew what it entailed. Other women who know what it entails, (such as those quoted above from Koren, *You Are Hereby Renewed Unto Me: Gender, Religion and Power Relations in the Jewish Wedding Ritual* [Magnes Press, 2011], 110 and 111 respectively;

my translations) enter into such agreements for a range of complex and difficult reasons not within the scope of this essay.

In addition to the inequality of the structure and formation of the relationship, the possibility of a woman being stranded in a marriage because of a recalcitrant husband is a risk that no Jewish woman should be forced to take in the twenty-first century.

My recently published book *Tradition and Equality in Jewish Marriage: Beyond the Sanctification of Subordination* (Continuum, 2012) explores two particular alternative forms of "marriage" in the Jewish tradition, namely conditional marriage and *Derekh*

Kiddushin. First, I discuss conditional marriage where the marriage is conditional on the husband not to withhold a *get*. In the event that he does withhold a *get*, after a specified period then the marriage is considered retroactively nullified. After civil divorce was introduced in French courts in 1884, French Jews were concerned about Jewish women getting divorced civilly and then remarrying without a Jewish divorce. They received permission from Rabbi Eliyahu Hazan, the Chief Rabbi of Alexandria, to introduce conditional marriage, in order to overcome the dangers they foresaw. This prompted great consternation from many

European rabbis, which culminated in 1930 in the publication of a collection of these rabbinic protests, *Ein Tenai be Nissuin*. In response to this collection, Rabbi Eliezer Berkovits defended conditional marriage in *Tenai be Nissuin u'v'Get*, published in 1966. As well as the interesting and relevant content, the dialogue that these publications contain is a stunning example of divergent understandings of the role of halakha and the relevance of moral agency of the legal decider.

Conditional marriage partially avoids the nonreciprocity of the *kiddushin*. Although the woman is still "acquired," the marriage is retroactively nullified if the husband exercises his nonreciprocal powers and refuses to give the wife a divorce.

Derekh Kiddushin is the other model I address. It also has Talmudic precedent (although applied in a different situation in the Talmud) and refers to an exclusive relationship that is *mutually* contracted. Rabbi Meir Simcha Feldblum reintroduced this model of partnership in his article (in Hebrew): "The Problem of Agunot and Mamzerim: A Suggested Overall and General Solution." The article was his response to ethical concerns about the plight of *agunot* and *mamzerim*, as well as the alienation

from Judaism, especially among Israelis. His article is another wonderful example of halakic creativity that is motivated by ethical concerns. Appropriating dormant legal traditions, such as those mentioned above, in order to align praxis with current moral concerns is an important feminist methodology.

In grappling with the non-reciprocity of marriage and the acquisition of the wife by the man, some have opted for a totally renewed model, like Rachel Adler's *Brit Ahuvim*. Although I honor her project, I wanted to use an alternative to *kiddushin* that has its basis in the tradition and transform it in that way.

Many others have continued with the acquisition model but departed from tradition by making the acquisition "egalitarian," for example, through double ring ceremonies in which the woman expresses a reciprocal statement of betrothal similar to the man.

My reading of *kiddushin* as unreconcilably nonreciprocal and in need of utter transformation suggests a radical break from the status quo. Instead of emphasizing the holiness of marriage and its centrality to Jewish family and Jewish community, it interprets *kiddushin* as a relationship based

on unequal power dynamics that needs to be transformed if it is to serve as the basis for Jewish families.

Others have advocated for equal ceremonies, without acquisition, that are still called *kiddushin*. This approach—of keeping the concept of *kiddushin* but shifting its meanings—pays tribute to the canon but radically transforms it at the same time. Such a model maintains the rabbinic concept of *kiddushin* while equalizing its power differential. Mutuality explicitly defies the rabbinic definition of *kiddushin*. This may be possible and desirable in the long run. But for the moment, I think that a process needs to begin in which both women and men become aware of traditional *kiddushin*, its implications, and possible ramifications.

Orthodox women who value equality also need to take the risk and refuse to participate in traditional *kiddushin*. At a time of potential union with a beloved, and connection with the Divine, no woman should have to participate in something that is at odds with her deepest values and commitments.

Melanie Malka Landau is researcher at Monash University and director of the Or HaLev Center for Jewish Spirituality and Meditation.



Author facilitating a conditional marriage. Photo courtesy of Rachel Sacks-Davis.

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The Multifarious Models for Jewish Marriage

Ira Bedzow and Michael Broyde

There is a Jewish expression, “When you have one Jew, you’ll have two synagogues; two Jews, you will have three opinions, but when it comes to marriage, the rabbis say that two Jews can have five different models of matrimony . . . and some say six.”

In Jewish law there are five different models for what constitutes a Jewish marriage, and each model is based on a contractual view. This differs from Christian views, which consider marriage as either sacramental, as in Catholicism, or covenantal, as among many Protestant denominations. It also differs from the view of marriage in European civil law, as well as the Anglo-American conception of common law marriage, as being a matter of public law, where the state defines the nature of what constitutes marriage. (This is not to be confused with common law marriages, which are, in fact, also a matter of public law.) Marriage in Jewish law, on the other hand, is solely a contract between private parties, who agree to wed based on personal preferences and agreed-upon terms.

Determining the nature of Jewish marriage is as much a matter of understanding how it commences as it is of knowing how it can end, as the Yiddish expression goes, “Before you marry, make sure you know whom you are going to divorce.” When we delineate the different models of Jewish marriage, we must also delineate the role that divorce plays in ending them.

The first model of Jewish marriage is the one provided in the Torah. Marriage is typically monogamous, could be polygamous, but is never polyandrous. Divorce can be unilaterally initiated by the husband, and, according to the majority opinion, there is no obligation to provide a dowry (*ketubah*) according to Biblical law, although to do so was a firm and ancient custom.

The second model, which emerges in the rabbinic period, differs in that it provides for greater security for the man’s wife or wives. Dowries are obligatory and are a precondition of marriage. Even though divorce remains the unilateral prerogative of the husband, it is limited by the financial obligation to pay the *ketubah*. Some Talmudic opinions even posit that a husband cannot divorce his wife if he cannot pay her the agreed upon sum established in the *ketubah*. Moreover, in the

case of fault, if either party breaks the original terms or assumptions of the marriage, the rabbinical court can impose an obligation to divorce, either without financial obligation for the husband if the wife is at fault or with financial obligation if fault is the husband’s.

The third model for Jewish marriage arises in the Geonic period (589–1038). Although marriages could still be polygamous, if a woman wanted to leave her marriage she had the right to sue for divorce and still retain her *ketubah*. Some rabbinic courts went even farther and annulled marriages when the woman requested it through a special decree called “the decree of the academy.” This meant that both the start and the continuation of marriage had to be voluntary by both parties. A similar model was advocated by Maimonides (without the decree of the academy and with a court-ordered divorce), and was normative among the Yemenite communities. This view of marriage is most similar to a pure contractual partnership.

The fourth model was established by the decree of Rabbenu Gershom, leader of European Jewry at the end of the tenth and beginning of the eleventh century. Both husband and wife have the equal right to divorce, but the pure contract model restricts the rights of the husband. Whereas the Geonic model allows either partner to initiate divorce, Rabbenu Gershom established that both parties voluntarily agree to end the marriage as well. Moreover, Rabbenu Gershom greatly limited the types of divorce considered to arise from fault and also abolished polygamy. This created a model in which marriage was seen more significantly as a bonding of two people into a union rather than a contractual agreement between partners. There was no divorce absent mutual consent or hard fault.

The fifth model for Jewish marriage is a modified version of the fourth model, for it accepts the equalization of partners established by Rabbenu Gershom. The difference is that the fifth model provides an exit when the marriage has in fact deteriorated past the point of recovery, whereas Rabbenu Gershom’s model does not. When the marriage is working, neither party can end it unilaterally. When the marriage is over in all but name, however, either party could initiate divorce, and neither party may refuse. First advocated by German Jewish law authorities

in the thirteenth century (and found in the *Or Zaruah*), many others have adopted it since.

Jewish marriage in America is further complicated by its relationship with secular marriage (and divorce) law. This is a uniquely modern issue. At no other time in history did the state impose its marriage laws on the Jewish community. The influence of secular law on Jewish marriage creates a possible sixth model in which Jewish couples marry according to secular laws and customs, and Jewish law accommodates secular law, while imposing Jewish ritual on it. The difficulty with this model is that while the other five models, regardless of their differences, maintain that marriage is a private affair, this model of Jewish marriage imposes public law, and therefore secular social mores, onto a conception of Jewish marriage. Public law conceives of marriage as a creation of the state; therefore, agents of the state define its terms rather than solely adjudicate potential disputes, as they would in any other private dispute. In practice, many perceive this hybrid simply as an isomorphic arrangement, where husband and wife are actually married twice, and potentially divorced twice. The fact that marriage is seen through the lens of two different conceptual systems, however, can cause difficulties when the underlying principles of the different conceptions diverge. When this occurs, the dominant legal system will cause the weaker legal system to adapt. When it is impossible for the weaker legal system to do so, it creates a dilemma for the weaker system that causes more harm to its adherents than concomitantly being under the dominant system is meant to help them. A dilemma occurs when adaptation to a situation is impossible: Does the weaker system rebel and take a position that conflicts with the superior legal system? Or does it acquiesce to the superior system and accept a legal situation which contradicts its own ideals to its detriment and possible legitimacy?

An example of this dilemma can be seen by the controversy initiated by two *get* laws in the state of New York. The 1984 *Get* Law prevented a person from initiating a civil divorce before completing a religious divorce, avoiding a divergence between secular and Jewish law since the state cannot impose itself on its religious counterpart. It harmonized New York law with Jewish law. Yet the

secular law does not address the problem of a recalcitrant husband not issuing a religious divorce or granting a secular divorce. The 1992 *Get* Law, on the other hand, allows secular law to impose itself on Jewish law by financially penalizing a husband who refuses to give his wife a religious divorce. Though the intent of the law is to maintain harmony between secular and Jewish law by forcing the two divorces to occur at the same time, it imposes a secular marriage principle—namely that of the right for a unilateral no-fault divorce—on current conceptions of Jewish marriage. This right is absent in all but the Geonic model and in the rulings of Maimonides, and is nowhere normative in contemporary Jewish law.

When confronted with irreconcilable contradictions, such as this one, there are three different ways to respond. Jewish law can defer to secular law, it can ignore secular law, and it can avoid the conflict by circumventing it. The first two options are generally impractical, since most American Jewish communities wish to live according to both Jewish and secular law (for example,

the community does not want its Jewish marriages to be invisible to secular law). To defer or to ignore either system is simply not a feasible choice. Circumventing the issue, on the other hand, calls for juridical creativity but it also increases the role of Jewish courts in adjudicating matters of marriage.

Jewish law can maintain its own conception of marriage and prevent coercion by secular law if potential husbands and wives sign a prenuptial agreement. Each party would be bound to meet certain obligations if either party later disregards the agreement. Jewish courts would then arbitrate end-of-marriage disputes so that the result is in accordance with the prenuptial agreement, as well as the halakic norms and values of the Jewish community to which the couple belongs (for an example by the leading Orthodox Jewish law court in America, the Beth Din of America, see www.theprenup.org).

Though Biblical and philosophic texts often portray Jewish marriage as a bond by which man and woman become one flesh, or a single soul, the historical conception

of Jewish marriage as conveyed by Jewish law tells a different story. Jewish marriage is sometimes considered as a metaphysical union, yet it is also a private contractual arrangement. In the past it has been polygamous, though today it is monogamous. Like many other areas in Jewish law, what is considered permissible falls within a given range, and what is considered normative is historically and socially influenced by the ebb and flow of rabbinic history.

Ira Bedzow is a PhD candidate at Emory University. He is the author of Halakhic Man, Authentic Jew: Modern Expressions of Orthodox Thought (Lambda Publishers, 2009), and a book of poetry, Things Overheard in the Synagogue (Urim Publications, 2012).

Michael J. Broyde is a law professor at Emory University and is a rabbinical court judge (dayan) in the Beth Din of America. He is the author of many books and nearly one hundred articles.

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What's Different (or not) about Same-Sex Marriage

Jay Michaelson

“Marriage equality” is an uninteresting issue. Marriage inequality is interesting.

Consider the Conservative movement's recent tribulations over a gay marriage liturgy. By all accounts, this particular debate has been quite civil, *l'shem shamayim*, and the sort of applied scholarship that makes academic life interesting. The question presented: should gay marriages be solemnized with a replica of a traditional Conservative Jewish wedding, or should there be a different liturgy that takes the unique circumstances of a same-sex couple into account?

The answer, as of a few months ago, was exactly what one has come to expect (for better and for worse) from the Conservative movement: both. The Committee on Jewish Law and Standards offered a traditional liturgy, but without *kiddushin*, as well as an alternative liturgy with different language and different ritual forms (no chuppah, no rings, etc.).

This result is not particularly interesting, as it is but the latest in the movement's (take your pick) pluralism/vibrancy, or paralysis/discord. But the debate surrounding the question, and its unintended consequences, are fascinating.

First, there were multiple—and diametrically opposed—rationales for alternatives to the traditional model. On the one hand, some LGBT advocates—myself included—favored a ritual that didn't mimic a straight wedding but recognized that a gay wedding is importantly and productively different. On the other hand, some small-c conservatives favored a different ritual so that it wouldn't be confused with a “real” wedding.

The rabbis on the law committee were caught in the middle. Is “different from” always “less than”? Is separate inherently unequal?

And then there was the issue of *kiddushin*. For at least thirty years now, feminists have critiqued this legal form—in which the groom effectively buys the bride—as outrageous. *Kiddushin* seemed particularly

foreseeable, development. They see it as a back-door sabotaging of *kiddushin*, and, though I have yet to read anyone saying so in print, conservatives might well point to this turn of events as evidence that same-sex marriage actually is changing marriage for everyone. In some ways, this is a nightmare come true for those who disparage gay marriage.

I have a different view, naturally. To develop it, I want to go back to my brash introductory sentences about marriage equality and inequality. From the outset, there have been multiple strands to the LGBT movement, just as there are in feminism and in anti-racism and anti-oppression work of all kinds. There are those in my community who espouse a basically assimilationist message: let us in (to rabbinical school, to the rite of marriage, etc.) because we are basically the same as you. We are not here

to transform institutions, but to join them. We want only what you already have. This is the dominant argument, and the argument that is politically the most effective.

But then there are the more radical voices with a different message. Let us in, they say, not because we are the same as you, but because we are relevantly equal and importantly different as well. And know that when you do let us in, we will probably change your—now *our*—institutions.

This, of course, is not an LGBT-specific message. Few people advocate for the “melting pot” model, the idea that all genders, races, ethnicities, and sexualities will blur together into one majority. Multiculturalism more closely resembles the metaphor of the “gorgeous mosaic” (apparently first used by New York's mayor David Dinkins)

of a diverse society. In a mosaic, the tiles are different from one another, and the celebration of that difference is what makes the overall mosaic beautiful.

Or, to choose the most proximate example, consider the effects on religious institutions once women's voices are empowered. Liturgy changes, theology changes, leadership changes—and presumably, all for the better since these changes better reflect the diversity of the population at large. These new, or newly heard, voices enrich the conversation by engaging in dialogue and often in critique of existing ones.

We are only beginning to have the conversation when it comes to LGBT people. Only in the last ten years have we begun to ask more probing questions than “Is it okay to be gay.” In Christian communities, queer theologians have been thinking and writing for several decades. In Jewish communities, with a few exceptions, we are playing catch-up. And, of course, we are still at square one in many communities, often fighting for basic legitimacy in the context of marriage.

The question of *kiddushin* is an instance in which the distinctive modalities of a same-sex relationship, in particular, the impossibility of assigning who is to be the

ba'al (owner) and who the owned, has shed light on the tensions of such dichotomies in heterosexual contexts as well, where they are no more valid. This is not unlike the adoption of the term “coming out,” which originated in gay experience, for all manner of self-revelations. In both cases, LGBT experience matters to everyone, not just gay people.

At the same time, it's obvious that this tempest in a liturgical teapot won't matter to the most Jews. Most Jewish weddings are Jewish because there's a chuppah, there's a glass, and there's a rabbi even though none of those elements is required by halakah. Halakically speaking, the words which are recited under the wedding canopy determine the nature of the relationship. But popularly speaking, they are less important than the pomp and circumstance. Weddings are Maimonidean in nature: there's one level of meaning for those who understand them, and another for those who do not.

In this light, the gradual transition of Conservative marriages to a non-*kiddushin* rite makes sense, and once again, LGBT experience might help point the way. It's interesting to note that in the United Kingdom, when the Liberal movement proposed a radically different wedding rite, gay people refused to adopt it. If they

were to get Jewishly married, they wanted it to be “kosher,” with all the trimmings.

I predict the experience here will be similar. I don't think the new “alternative rite” with its chuppah-free forms will catch on at all. People who want a Jewish wedding want a Jewish wedding. Ketubah-free weddings will likely be adopted by the small minority of Conservative Jews who are Jewishly literate enough to notice and care, while most others coast on tradition.

In other words, what's important for most people is precisely what *isn't* interesting to the scholar. Ultimately, the contemporary marriage is a sacralization of love. Once upon a time, marriage was seen as primarily an economic relationship, so the terms of that relationship were of primary importance. These days, however, marriage is seen as primarily romantic, and the old legal provisions are secondary in nature. Changing them will be important for the literate minority, and it's the right thing to do. But what matters more is the simpler stuff: this is love, and it is holy, and it is good.

Jay Michaelson will receive his PhD in Jewish Thought from the Hebrew University of Jerusalem in June, 2013. He is the author of God vs. Gay? The Religious Case for Equality (Beacon, 2011).



Photo courtesy of the author.

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The Latest

William Kentridge: An Implicated Subject

Michael Rothberg



William Kentridge. Video still from *Felix in Exile*, 1994. 35mm film; video and laser disc transfer. 8 minutes, 43 seconds. Courtesy of the artist and Marian Goodman Gallery, New York/Paris.

“Jews have an interesting position in South Africa,” the artist William Kentridge once told a New York journalist from *The Jewish Week*. Jews have indeed led an awkward, ambiguous existence in South Africa over the last century, as scholars such as Claudia Braude and Shirli Gilbert have demonstrated. They have been haunted by the European violence they were lucky to escape and fearful of Afrikaner anti-Semitism. Yet, while a significant minority of South African Jews opposed the apartheid regime after 1948, a majority accommodated themselves to their country’s racist social architecture. Kentridge, a Johannesburg-based visual artist and a leading figure in the global art world during the last decade—does not depict that “interesting position” in a direct way. Very few—if any—overtly Jewish motifs manifest themselves in his work; furthermore, the content almost never pertains to Jewish history, culture, or religion. Nevertheless, I argue, Kentridge has developed an aesthetic project that speaks both to a generalized diasporic condition common to Jews (and others) and to the intensely local position of South African Jews at the interstices of an infamously racialized society.

Kentridge’s approach to Jewishness is similar to—and, in fact, overlaps with—his approach to social and political questions in general. Coming from a Lithuanian- and German-Jewish Johannesburg family

prominently involved in the anti-apartheid struggle, Kentridge makes art that is weighted with political implication while critiquing politics, for the most part, indirectly. Although Kentridge’s work spans multiple media, including drawing, sculpture, theater, and, most recently, opera, I focus primarily on one work from the open-ended series of short animated films that he calls *Drawings for Projection*. Kentridge began that series in 1989, a year in which apartheid entered its final death throes in the face of massive political mobilization. The series registers this history obliquely, primarily by employing the lens of a private life that opens onto adjacent social questions. In fragmentary form, the films tell the tale of the industrialist Soho Eckstein and the artistic Felix Teitlebaum, two men who physically resemble the artist and serve as his alter egos in a simultaneously comical and serious reflection on contemporary South Africa. The films, which include occasional



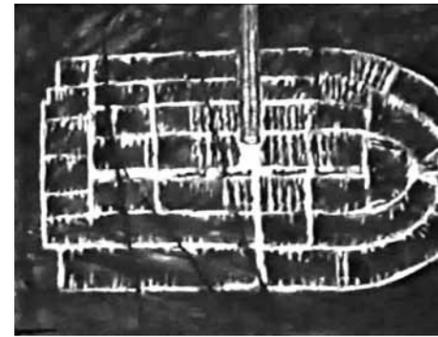
William Kentridge. Video still from *Mine*, 1991. 16mm film transferred to video. 5 minutes, 49 seconds. Courtesy of the artist and Marian Goodman Gallery, New York/Paris.

intertitles and bits of text but no dialogue, recount a love triangle between the two men and Mrs. Eckstein. They also track the rise and fall of Soho’s business empire while alluding to South Africa’s history of racialized violence and the political struggles marking its transition from apartheid to representative democracy. A significant dimension of Soho’s empire includes a mining concern established in an area recognizable as the East Rand, the

gold mining region adjacent to Johannesburg. This mining landscape is one site where Kentridge develops an understanding of South African Jews as “implicated subjects,” who are ethically and politically intertwined with the contemporary and historical injustices that mark both South Africa and more global histories of racism, slavery, and genocide.

The themes of the *Drawings for Projection* powerfully suggest these local and global histories, but Kentridge’s unusual technique provides our best access to the questions they raise. Unlike traditional animation, in which the filming of a large series of images creates the illusion of movement, Kentridge works with a small number of drawings (typically between twenty and forty for an eight-minute-long film). His process of “drawing for projection” is based on marking, smudging, and erasure. He draws an initial image on a white sheet with charcoal—occasionally supplemented with blue and red chalk—and then walks across his studio to his film camera, where he shoots two frames of the image. He then returns to the drawing and amends it through additional drawing, smudging, and erasure, before shooting two more frames. The process of creation continues like this for a period of months and results in a film that preserves layers of residual charcoal dust and concatenates palimpsestic images where traces of previous drawings remain on celluloid and in the final film even as the drawings themselves that make up each frame disappear forever (except for the final image in each sequence, which is sometimes displayed in exhibitions alongside the films). Time is made concrete by a technique that simultaneously ensures disappearance and preservation. In this manner Kentridge turns animation into a medium for reflecting on memory and forgetting. When Kentridge uses this technique to explore South Africa’s mining landscape, a traumatic Jewish history also emerges, but it emerges in contact with other histories of violence.

Mine (1991) was created as the third of the *Drawings for Projection*, following *Johannesburg, 2nd Greatest City after Paris* (1989)

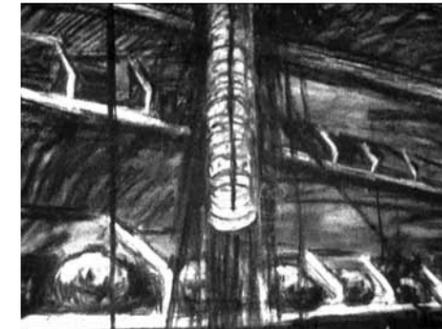


William Kentridge. Video still from *Mine*, 1991. 16mm film transferred to video. 5 minutes, 49 seconds. Courtesy of the artist and Marian Goodman Gallery, New York/Paris.

and *Monument* (1990). *Johannesburg* documents the creation of Soho’s empire, including the mining town we associate with the later film, while *Monument* shows Soho as supposed “civic benefactor,” hypocritically erecting a statue in honor of the workers. *Mine*, in contrast, reveals the underside of Soho’s empire in no uncertain terms. This revelation takes place most dramatically in a sequence that begins with Soho’s coffee pot—a *cafetière*, as Kentridge calls it, or what we call in the United States, a French press. While enjoying breakfast in bed, Soho presses down on the plunger of his coffee. However, it does not stop at the bottom of the pot, but continues its downward movement through the floor and into the mines below. The coffee plunger creates a miniature mineshaft that cuts into the living and workspaces of the miners, passing through their barracks and showers and into the cavernous mines themselves. As the scene proceeds, Kentridge reveals that his drawing technique partakes of the violence it depicts, an implicit commentary on the complicity of the artist in a world of structural oppression: the plunger becomes a kind of drill and is associated both with the drilling performed by the miners and with the artist’s own pencil. As the drill cuts into the rock, an image emerges that is soon recognizable as the cross section of a slave ship. A second association joins this reference to slavery: the iconography of the mine also resembles a Nazi camp. Indeed, the image of the compound seems to be modeled on a famous photograph from the liberation of Dachau (one which apparently features a young Elie Wiesel), although Kentridge claims not to have had the Holocaust in mind at all. Regardless of the artist’s intentions, however, recognition of this modeling also casts a dark shadow over the images of miners

in the shower, which can now be seen as an oblique reference to the gas chambers.

The film contains no clear narrative line or voiceover to guide interpretation of what I would call the film’s “multidirectional” visual associations. If these are memories that are excavated from the formations of the mine, it is not clear whose memories they are. Out of this uncertainty emerge two ways to read this sequence, which correspond, in turn, to the two ways that the historical references arise in it: the unmistakable allusion to the slave ship is emblematic of a collective memory (and forgetting) of the larger historical transfers and correspondences between different forms of violence connecting Europe and Africa (and theorized by the likes of Aimé Césaire and Hannah Arendt, among others); meanwhile, the unconscious and



William Kentridge. Video still from *Mine*, 1991. 16mm film transferred to video. 5 minutes, 49 seconds. Courtesy of the artist and Marian Goodman Gallery, New York/Paris.

ghostly presence of the Nazi camp suggests the peculiar psychology of domination and complicity of white and—perhaps more pointedly—white Jewish South Africans.

If we interpret Soho’s name, Eckstein, as an indirect indication that he is of Jewish descent—a new message emerges. Given the associations created by *Mine*, Soho’s iconic pinstriped suit becomes a displaced reminder of the concentration camp uniforms that Soho never had to wear. The shadow of the Holocaust references the *partial similarity* between German and South Africa racist regimes as well as the presence of virulent anti-Semitism that accompanied Afrikaner nationalism, especially during the Nazi period in Europe. It might also draw attention to the vast *distance* of South African Jews from the Holocaust: the fact that immigration to South Africa represented asylum for many, if not simply a bit of historical good fortune (the case for Kentridge’s own family). The

irony that, despite its racism and anti-Semitism, South Africa was a refuge for Jews during World War II is noted by the South African-British writer Dan Jacobson, who writes of his grandmother and her children: “In leaving Lithuania for South Africa, they had exchanged an anonymous death at the hands of murderers for life itself.”

If South African Jews were distant from the Holocaust—and yet still implicated in it by virtue of the loss of families and ancestral communities destroyed in the genocide—those same Jews were now uneasily integrated into a new, also violent context. Kentridge captures this new form of implication in the doubled figures of Felix and Soho. On the one hand, Felix seems more aware of the racist violence around him, although he remains separate from the political struggles that surround him. In the figure of Soho, on the other hand, we are reminded of the Jewish financiers who, in the late nineteenth century, fostered the growth of the mining industry. In the words of critic Claudia Braude, “The history of the Johannesburg Jewish community . . . is intimately intertwined with the history of the early mining town.” Soho’s mine becomes a historical allegory for one strand of Jewish South African history, but in the artist’s hands this allegory is many-sided.

Kentridge’s palimpsestic art—along with the multidirectional legacies it evokes—registers several things simultaneously. It uncovers the specific dynamics of South Africa’s political interregnum but also demonstrates how the larger forces of capitalism, colonialism, and genocide have framed South African history over the *longue durée*. It draws attention to the specific, ambivalent position of the country’s Jewish minority, yet also anticipates a more general return of suppressed memories that would accompany the end of apartheid. What the movement of the coffee plunger in *Mine* reveals is not simply a historical analogy between different sites of violence or Soho’s (or Kentridge’s) individual unconscious. It also evokes a complex history of trauma, implication, complicity, and forgetting that defines a social group—South African Jews—caught in that “interesting position” between accommodation and marginalization.

Michael Rothberg is director of the Initiative in Holocaust, Genocide, and Memory Studies at the University of Illinois. He is the author of *Multidirectional Memory: Remembering the Holocaust in the Age of Decolonization* (Stanford University Press, 2009).

Cynthia Ozick's Fiction Smolders, but not with Romance

Dean Franco

Cynthia Ozick does not write love stories. Her stories take an alternate route, skirting romance and avoiding plot lines launched by separation and heartbreak. Since the characters in an Ozick story are not lovable, there are few weddings. If Isaac Bashevis Singer coined a paradoxical concept, in his eponymous novel, *Enemies, a Love Story*, Ozick's fiction anticipates the contemporary neologism, "frenemies": A bitter character contemplates marrying his old friend's widow not for love but for her fearsome astringency; a group of Yiddish poets keep each other close for decades in order to revel in one another's failures and to nurture their common contempt for their one successful friend; a refugee orphan meets a woman who claims to be his sister, but he rejects her and shoves her down the stairs. The exception to Ozick's frenemies is the more recent novel, *Foreign Bodies*. In this rewriting of Henry James's novel *The Ambassadors*, the characters are possessed and transformed from James's post-romantic Europe to Ozick's post-Holocaustal refugee transit zone where love grows like a weed from the fissures in her characters' cracked psyches.

Ozick writes about nightmare families: husbands and wives, children and siblings—the loved ones who, in dreams, transmogrify into inexact and awful copies of themselves. The Pagan Rabbi's wife discovers her pious husband is, well, a pagan. An obscure Stockholm book reviewer is duped by a cabal of forgers who appear like a marionette family out of a Bruno Schulz fiction. Ozick's celebrated metafiction, *Usurpation: Other People's Stories*, is a series of nested stories that begins when an erstwhile writer hears another author read a story the first one wished she had written. The experience engenders envy among a cast of lesser writers and hollow attempts to copy the original. The story that sets this self-implosion in motion is Bernard Malamud's "The Silver Crown," in which a son's hatred for his father is revealed.

Love isn't very interesting to Cynthia Ozick. In her 1989 essay "Metaphor and Memory," she explains that, at the root of the ethical imagination, the theme of love is secondary to the more compelling theme



Portrait of Cynthia Ozick by Gerard Murrell. Courtesy of The Jacob Rader Marcus Center of the American Jewish Archives, Cincinnati, Ohio, americanjewisharchives.org, and Gerard Murrell.

of the strange. We love what we know, or at least what we can assimilate and love propels us toward ethics with a facility that strangeness and suspicion do not. For this reason, Ozick dismisses as unchallenging the commandment from Leviticus that we must love our neighbor as ourselves. The neighbor is too familiar, claims Ozick and the difficulty of comparison is merely psychological. Instead, Ozick is interested in what we do when we do *not* love the other, represented by the insistence on having one law for the citizen and the stranger, for "you were strangers in the land of Israel." For Ozick, this imperative to compare makes a metaphor of the grammatical juncture of the strange and the familiar, elevated by the Hebrew Bible as the corner on which we may all stand to engage ethically with the other. The comparison of what we do not know, the foreigner, to what we do—our own experiences, cultural memory, or historical understanding of deprivation and exclusion—that is the difficult ethical work explored in so much of Ozick's fiction.

Ironically, the equanimity Ozick seeks between the familiar and the strange only matters when the stranger is near, through circumstances of travel, exile, or displacement. When a stranger appears in our ambit, the strangeness in the encounter pertains to ourselves and the other.

We are very often strangers to ourselves, projecting our own demons onto the other. How else can we account for the everyday spites, jealousies, and petty acrimony accruing not only between ourselves and our distant enemies or even some nameless foreigner, but within our own families? Who does *not* have (at least) one law for themselves and a different one for the other?

Ozick is a master cartographer of the foreignness of the familiar and a canny clerk in the court of the inconstant mind. Ozick's story "Bloodshed," for example, explores the mixture of condescension and despair involved when the protagonist Bleilip comes to visit his once secular, now *haredi*, cousin Toby. Toby's joy in her new life, including her rabbinical husband and *yeshiva bocher* children inspire neither pride nor envy in Bleilip, but only resentment. How dare she find love in this atavistic community! At the end the reader learns that Bleilip has been carrying a gun in his pocket and harbors an undisclosed fear and dread. He, all along, is the stranger to both his cousin and himself. Maybe this is why Ozick quickly dismisses the familiar—nothing really is familiar, and everyone is strange, even to themselves.

Romance may not be ignited in Ozick's stories, but her flinty characters move closer to some sort of truth about themselves and each other. Their vanity is exposed and shredded, their shortcomings laid bare, their mundanity made plain. When the Stockholm book reviewer is offered a forged copy of a lost Bruno Schulz masterpiece, he has every reason to accept it for a moment of borrowed fame, but he discerns that the manuscript cannot be real and burns it. A character in "Usurpation" fearful of his own vanity, burns his story, perhaps another, unacknowledged "usurpation" of Malamud. In Malamud's "Last of the Mohicans," a Holocaust survivor burns a Jewish scholar's

treatise on Renaissance art. For both Malamud and Ozick, Jews have more serious things to attend to than the glorification of false religions. Perhaps her most audacious act of searing honesty, is the essay "Who Owns Anne Frank?" Ozick shocks even herself by imagining Frank's diary going up in smoke, incinerated along with its author rather than be traduced by readers who fool themselves into thinking they can identify with Anne.

Foreign Bodies also ends with burning, but the novel offers something new: an

affirmation of love's transformative powers. In this retelling of *The Ambassadors* a callow American boy falls unaccountably in love with a Jewish Holocaust refugee when they meet in mid-1950s Paris. The boy's father sends his aunt to retrieve him, but the aunt ends up protecting the fragile relationship through a series of deceptions and inventions. The father finally attempts to lure his son home with an enormous sum of money, but the aunt receives the check and secretly burns it. The conflagration yields no scalding

clarity: the young lovers, now married, disappear from the novel, while the other characters are pitted against each other in spite, anger, and envy. It is a victory of love, but everyone else burns with rage.

Dean Franco is associate professor of English at Wake Forest University. He is the author of *Race, Rights, and Recognition: Jewish American Literature Since 1969* (Cornell University Press, 2012).

The Association for Jewish Studies congratulates the recipients of the 2013–2014 Berman Foundation Dissertation Fellowships in Support of Research in the Social Scientific Study of the Contemporary American Jewish Community:

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May It Displease the Court: Jewish Lawyers and the Democratization of American Law

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WENDY FERGUSSON SOLTZ, The Ohio State University
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The Questionnaire

If you were to organize a graduate seminar around a single text, what would it be?

Nathan Abrams

Senior Lecturer in Film Studies,
Bangor University

The text I would choose would be Joel and Ethan Coen's film, *The Big Lebowski* (1998). While many of the Coens' films—*Miller's Crossing* (1990), *Barton Fink* (1991), and, of course, *A Serious Man* (2009)—are essential to understanding contemporary Jewish cinema, *The Big Lebowski* is the epitome of many new Jewish cinematic trends, particularly those in evidence since 1990. Its key Jewish character Walter Sobchak (John Goodman) is not only a slightly deranged Vietnam veteran, he is also—atypically—a convert to Judaism. Unusually for a cinematic Jew, Walter is not identified by any decontextualized markers (indeed Walter is not even ethnically Jewish), but by his beliefs, values, and behavior. Thus Judaism rather than Jewish ethnicity defines Walter. Walter is doubly unusual in cinematic terms in that he is a convert and, for a non-*haredi* Jew, maintains a level of Jewish Orthodox practice. Walter appreciates, understands, and takes his adopted faith very seriously, certainly more so than many other Jews on film, *haredi* or otherwise. At the same time, I would argue that the Coens use Walter to mock the de-Semiteizing and de-Judaizing strategies of the past. One cannot help reading him as nothing less than a deliberate parody of those Jewish directors (particularly the moguls of the studio system) who denuded their films of Jews and Judaism and/or produced crass, sentimentalized caricatures for didactic effect and Gentile consumption. Furthermore, Walter's passionate, even fanatical, adherence to the rules of bowling can be read as a critique of the increasing stringency amongst Orthodox and *haredi* Jews who, it has been argued, prioritize obedience over spirituality. Walter thus becomes a satiric representation of a particularly dogmatic and buffoonish rabbi. Overall, *The Big Lebowski* provides a wonderful text for considering contemporary Jewish cinema and how it has metamorphosed over the decades.

Robert Alter

Professor of Hebrew and Comparative
Literature, University of California at Berkeley

My first choice for a text to which to devote a graduate seminar would be Agnon's *Tmol Shilshom* [*Only Yesterday*]. I actually made it the topic of a Berkeley seminar in Hebrew literature that I taught in the early 1990s and regret that I haven't repeated it. *Tmol Shilshom* is arguably the greatest novel in Hebrew, and it is certainly the one modernist masterpiece in Hebrew. It needs to be read in the original because of its extraordinary stylistic subtlety and the rich play of irony and allusion detectable in the Hebrew. (The English translation is problematic, and when I once taught it in an undergraduate course, I don't think it went over very well.)

Tmol Shilshom represents a strenuous reversal of the European *Bildungsroman* that ends in tragedy, or perhaps one should say, in a violent catastrophe for the protagonist that is an absurdist Akedah. Yitzhak Kummer is one of those young men from the provinces populating nineteenth-century fiction who makes the journey to fulfill himself not to the big city but to Palestine of the Second Aliyah. In the language of the old Zionist song invoked in the opening paragraph, he comes "to build and to be rebuilt," but his naïve aspirations turn into a shambles. Agnon offers a penetrating and unblinking portrait of the dilemmas of Jewish modernity, in part figured through Kummer's oscillation between bohemian Jaffa, where he has an erotic entanglement he can't really handle, and fanatically Orthodox Jerusalem, where he finds a pious bride and death. The inner contradictions of the Zionist enterprise and the lethal ferocity of Orthodoxy are equally exposed, and probing historical realism is interwoven with fantasy and macabre comedy in the chapters devoted to the reflections of Balak, the philosophical dog, one of Agnon's great inventions. The novel is densely textured with symbolic motifs, as the critics have shown, and endlessly inventive—perfect material for enjoyable and instructive investigation.

Jeremy Dauber

Atran Associate Professor of Yiddish
Language, Literature and Culture and
Director, Institute for Israel and Jewish Studies,
Columbia University

Maybe it's the fact I just finished a book on its author. Or maybe it's the fact my wife just gave birth to our first child earlier this week, so I'm particularly attuned to works featuring fathers and children. But I don't think those are the only reasons I'd pick Sholem Aleichem's *Tevye the Dairyman* (*Tevye der milkhiger*) as my graduate seminar's central text. Our theoretically minded comparative literature students wouldn't know where to begin: would they write papers incorporating narratological theory to try to pin down Tevye's talking strategies? Would they employ discourses of gender and power to work on the representation of his daughters, and Tevye himself, constantly claiming he's no woman? Or would the deconstructionists come to the fore, citing Tevye's triumphant references to binary divisions—divisions the stories then work busily to undermine? They'd be challenged by our history students, who'd insist that to read the Tevye stories, written over more than two decades, is to read the story of modern Eastern European Jewry writ small. Some might try to tease out the particular ideologies represented by Tevye's daughters and their suitably unsuitable mates; and others might try to locate clues to their author's beliefs in the stories' complex publication history. And our Yiddish students, of course, would remind everyone of the language—Tevye only exists in language, after all, both as a fictional character and as a monologist. And they'd say that the robust history of literary criticism on Tevye can be a key to the history of Yiddish itself in the modern era, both in its Eastern European and American incarnations, both during Sholem Aleichem's life and the strange transformations and transmogrifications of his text's afterlife.

Jonathan M. Hess

Moses M. and Hannah L. Malkin Distinguished
Professor of Jewish History and Culture and
Director, Carolina Center for Jewish Studies,
University of North Carolina at Chapel Hill

Two decades ago, while I was finishing my PhD in comparative literature, I fantasized about prospective employers asking me this question. Trained in the heyday of high theory and schooled in the virtues of close reading, I was prepared to suggest any number of texts whose rhetorical, formal, and philosophical complexity made them prime candidates for intensive study in a graduate seminar. Given the directions that the field and my own work have gone in over the last twenty years, structuring a seminar around a single text holds somewhat less appeal for me today. Indeed, my recent work has moved away from the model of close reading, whether exploring the vast body of popular fiction produced by Jews for Jews in nineteenth-century Germany or studying how performances of Jewishness on the nineteenth-century stage helped give rise to cultures of liberal universalism.

Rather than dedicating a seminar to close analysis of one text, I would organize a seminar on the transnational performance history of the most popular German play of the late nineteenth century, and a text that, tellingly, no one ever suggested I read while I was in graduate school: Salomon Hermann Mosenthal's *Deborah* (1849). When it first took German stages by storm in the 1850s, Mosenthal's melodrama was dismissed and despised by both the literary elite and official organs of Jewish community life. But *Deborah* became for Jews and non-Jews in nineteenth-century Europe and America the most popular drama on a Jewish theme and a favorite vehicle for celebrity actresses and aspiring stars alike. *Deborah* was translated into thirteen languages, including English, where it was known primarily as *Leah, The Forsaken*, but also as *Miriam, Naomi, Ruth, Hager*, and *Lysiah, The Abandoned*. The seminar would certainly involve close reading, depending on students' linguistic skills, of German, English, American, and other adaptations of *Deborah*. But students would read these texts against the backdrop of the Czech opera *Deborah*, the American burlesque *Leah, The Forsook*, the British novel *Leah, The Jewish Maiden*, and at least one of the three silent films based on *Deborah*. Focusing on the cultural mobility of this material, I would accompany readings of texts with close readings of responses to

performances of *Deborah* in the nineteenth-century press. I would introduce all this material with a survey of key precursors, from Shakespeare's *The Merchant of Venice*, Lessing's *Nathan the Wise*, and Richard Cumberland's *The Jew* to selections from Walter Scott's *Ivanhoe* and scenes from Fromental Halévy and Eugène Scribe's grand opera *La juive*. Recent work in theater history and performance studies would give the course its theoretical interlocutors—and its rationale for supplementing the sacrosanct model of close reading that was so crucial to the way an entire generation of literary scholars was trained.

Eleanor Kaufman

Professor of Comparative Literature,
University of California, Los Angeles

My choice of a single text around which to situate a Jewish Studies course would be Spinoza's *Theologico-Political Treatise* (*TTP*, published 1670). Admittedly, this is a fraught choice in this context, given that Spinoza was famously excommunicated from the Portuguese Synagogue in Amsterdam in 1656. Moreover, his writings are often taken to equate God and nature and thus espouse a pantheistic impetus above and beyond a monotheistic one; and his at times quite comical assessment of the Hebrew prophets in the *TTP* is generally far from flattering. My course would examine such theological reflections directly and through close textual analysis; with this, I would devote the first part of the term simply to a careful reading of the text, without relying on outside sources. Then, for the remaining weeks, I would introduce the students to the rather extraordinary range of commentary on Spinoza and on this text specifically. We would look at the tendency to read the *TTP* in light of Spinoza's most celebrated work, *The Ethics* (1677), thereby downplaying the theological dimension of his oeuvre, something notable especially in studies of his work by eminent Continental philosophers (Gilles Deleuze, Antonio Negri, Étienne Balibar, and the excellent collection by Warren Montag and Ted Stolze, *The New Spinoza*). I would then turn to an increasing body of work on Spinoza that regards him as a Jewish thinker despite his clear distance from and tension with Judaism, in the fashion of Daniel Boyarin's *A Radical Jew: Paul and the Politics of Identity* (e.g. Rebecca Goldstein's *Betraying Spinoza*). Related to this is the important work of Jonathan Israel, Steven

Nadler, and Willi Goetschel that considers Spinoza's Jewish background as the basis for a philosophical system that becomes one of the pillars of secular if not atheistic thought. Finally, I would turn to the minor strain of criticism that takes seriously the fact that Spinoza favors apostles over prophets in the *TTP* and holds the example of Christ considerably higher than those of the Hebrew prophets. In this context, Graeme Hunter's *Radical Protestantism in Spinoza's Thought* is exemplary. Having taught a graduate seminar on "apostate Jews" in which the *TTP* was one of the featured texts, I see the merit of devoting a whole seminar to it.

Ari Y. Kelman

Jim Joseph Chair in Education and Jewish
Studies, Stanford University

The Jewish Catalog. It is a brilliant, vexing, peculiar, uneven document of American Jewish life in the late twentieth century. It emerged at the intersection of so many complementary and contradictory forces that it offers a way into any number of conversations about the parameters and problematics of American Jewish education. An intentionally educational document, *The Jewish Catalog* can provide a window into Jewish communal politics of the late 1960s and early 1970s, trends in American religion, the spiritual life of the counterculture, longer histories of guides to Jewish life, the dynamics of institutional and counter-institutional Jewish life, and the relationship between technology and education. And most of that does not begin to touch on the book's content, or what might be learned from conducting oral histories with the book's editors and contributors.

One of the challenges of graduate seminars is balancing the students' centripetal interests and the gravitational center of the class's discussion. The seminar should provide a space for ongoing, shared discussion that allows the students to continue developing their own ideas and interests that will eventually inform their dissertations. As a primary document, *The Jewish Catalog* could provide an opportunity for engaging in mixed-method or interdisciplinary research while still anchoring the seminar in a shared investment in a common text. It is accessible enough to be engaging and not open enough to be self-evidently meaningful. It is frustrating, fascinating, and funny, and it invites students to explore it through a variety of modes and methods.

Julian Levinson

Associate Professor, Department of English, University of Michigan

My choice would be Henry Roth's 1934 novel, *Call It Sleep*, which is quite possibly the most subtle and comprehensive literary work addressing the American Jewish immigration experience. As with any truly "classic" work, *Call It Sleep* can be read (and has been) in sharply contrasting ways. It can be seen as a celebration of multilingualism and ethnic pluralism, as a *Bildungsroman*, as a masterpiece of urban modernism, as a meditation on the Oedipal dynamics of the immigrant family, as an expression of Jewish longing for the gentile world, and as a cautionary tale about the effects of jettisoning Jewish tradition in an all-out embrace of American freedom. Whereas countless modern Jewish works express some measure of ambivalence about categories such as tradition and modernity, Roth's novel could be more properly called "multivalent": it expresses a number of distinct viewpoints, each one seemingly with great conviction. For instance, the traditional rabbi is depicted as a cruel and ignorant brute, but the Jewish textual tradition (in this case the Parsha to Jethro) is valorized insofar as it offers the young hero a solution to his deepest anxieties—as well as a paradigm for approaching God.

A seminar devoted to *Call It Sleep* could identify its range of perspectives on Jewish modernity and American urban experience, while also raising fundamental hermeneutical questions about whether and how a definitive "reading" of the text might be possible at all. Various methodological approaches could also be introduced. A unit on intertextuality could focus on its dialogue with James Joyce and T. S. Eliot and with Christian and Jewish readings of the Book of Isaiah. A unit on language could consider Roth's depiction of Yiddish as crystal-clear English, while also exploring the contrast between the broken English of the characters and the often exquisitely lyrical English of the third-person narrator. A unit on reception history could consider the dramatic resurgence of interest in the novel among second-generation American Jewish intellectuals in the early 1960s and, indeed, its position as a cornerstone in the emerging canon of Jewish American literature.

Shaul Magid

Jay and Jeanie Schottenstein Chair in Jewish Studies, Indiana University

This is an interesting exercise for a variety of reasons. First, it allows us to ponder what might be the goals of a graduate seminar more generally. Second, it enables us to explore the singularity of a text, removing it from its embedded and contextual place as part of a book or compilation in order to see whether and how one text can carry the weight of an entire semester.

I have chosen Nahman of Bratslav's *Likutei MoHaRa* I:64 as my text. Many of the collected homilies of Nahman (this one included) are fairly detailed examples of hermeneutic virtuosity focused around a narrow theme, often veering far afield to include many other subjects that are then swept back, through the warp and woof of midrashic/kabbalistic reading, to the central question. Written in a loose, proemic style whose focus is often a personal rather than textual subject, Nahman's work offers students exposure to a variety of textual and theological issues. It exposes students to the world of rabbinic/kabbalistic textuality while simultaneously offering them a window into the personalistic and devotional focus of Hasidic and pietistic Jewish spirituality.

The themes of lesson #64 are doubt and heresy framed around Moses' confrontation with Pharaoh and Pharaoh's "hardened heart" (Exodus 10:1–4). What is so intriguing about this homily is the personal notion of self-doubt, the existential anxiety where belief and un-belief each occupy space in the psyche of the adept. Nahman's ability to locate human doubt in the metaphysical "empty space" (*halal ha-panui*) God creates to set the conditions for creation reifies human anxiety as a condition for, and endemic to, creation itself. The questions that are raised in this homily extend from the hermeneutical to the existential, from the kabbalistic to the psychological. For those interested in Jewish heresiology from a psychotheological perspective, this text produces seemingly endless fodder for reflection.

Addendum: When I was a graduate student at the Hebrew University in the 1980s I had the honor of studying with David Flusser. We had an evening seminar and a few of us would walk Professor Flusser to the underground garage where a taxi would take him home. During one of these walks he asked me what I was studying, and I told him Nahman of Bratslav. He said, "Nahman was the only one who truly understood the

crisis of human existence (*mashber be-hayyim*). More than Maimonides, more than Kook, more than anyone." Trying to be clever, I responded, "Do you mean the personal crisis (*mashber perati*) or the collective crisis (*mashber klali*)?" He stopped and stared at me and asked, "Are you married?" to which I responded "yes." "Then," he said, "you know that they are both the same thing."

Barbara Mann

Simon H. Fabian Chair in Hebrew Literature, The Jewish Theological Seminary

I've taught A. B. Yehoshua's epic novel, *Mr. Mani* (*Mar Mani*, 1989) as part of a graduate seminar called Critical Theory and Jewish Studies. In the course we read "primary" theoretical texts from Saussure to Butler, "secondary" texts by Jewish Studies practitioners of these approaches, and a single canonical text, which serves both to anchor the course and acts as a kind of laboratory in which students may perform their own symptomatic readings.

Mar Mani's compositional style makes it both a pleasure and a challenge to teach. The novel opens in the present and unfolds as a counternarrative. As readers move forward in the book, the narrative itself moves back in time, through Palestine and eastern Europe at the turn of the twentieth-century to early nineteenth-century Greece. The novel is constructed as a series of one-sided conversations: each long chapter presents what is essentially a monologue, spoken in a particular character's voice and providing in often elliptical fashion crucial details about the Mani family and their fortunes. Finally, each chapter's linguistic style is distinctive to the period in which it is set; thus what begins as broadly vernacular Israeli Hebrew devolves into a pastiche of nineteenth-century *nusakh*, *maskilic* fanciful phrasing, and liturgical references.

Mar Mani is absorbing and dizzying in its own right and demands close attention to detail on the level of the individual sentence, as well as the novel's superstructure. At the same time, when systematically examined under the microscope of theory, the novel repeatedly yields new connective fibers. Students finish the course with knowledge of the nuts-and-bolts of theory, but also with a more critical sense of what kind of readers they are, and how this sensibility may be translated into their own scholarship.

Paul Reitter

Associate Professor of German and Director of the Humanities Institute, The Ohio State University

If I had been asked this question a few years ago, I might have proposed a throwback course, where the goal is to arrive at a better understanding of a single key work through sustained analysis, where, that is, the key work is itself the topic of the course. But I recently taught a course like this—on Robert Musil's *The Man without Qualities*—and while the experience was rewarding, I'd like to try something different before repeating it. So then the question becomes: Which text would provide a particularly fruitful way into a topic that I'd like to teach. And the text that comes most readily to mind is Gershom Scholem's diaries. I'm interested in offering a course on German-Jewish culture at the *fin* of the *fin de siècle*, and the notebooks that Scholem, who was born in 1897, kept between 1913 and 1919, seem to me to take us into that topic in all kinds of productive ways.

In the first place, of course, the diaries are revealing with respect to Scholem himself, a cultural phenomenon of no small importance. They show that he was still in his teens when he began to formulate the ideas on which his later success would be based, and also that he began to formulate those ideas as rebellious intuitions. More even than his precocious learning, what guided him was the sense that the great German-Jewish historians of the nineteenth century must be, in basic ways, utterly wrong, for they had written in a spirit of compromise and accommodation.

Scholem is anything but a representative figure; yet the dynamic of rebellion and innovation I just described is hardly unique. And for all his extraordinariness, young Scholem could be used as a case study in the mechanisms of productivity among German Jews of the expressionist generation.

But it wasn't only Scholem's mature ideas about historical Judaism that the diaries begin to articulate. What he wrote in them as a teenager often comes close to many of his influential later claims about German-Jewish culture. The diaries abound with arresting commentary about such things as the condition of the acculturated bourgeois Jewish circles in which Scholem grew up, the Zionist circles in which he eventually moved, and

how the best German-Jewish artists drew on Jewish tradition, whether they were aware of it or not. Thus the diaries invite reflection on all these aspects of German-Jewish culture, as well as on the continuities between the primary material of German-Jewish culture and the more important secondary accounts of it.

The diaries also contain quite a bit of useful information about the daily lives of Jewish university students, but that may be a topic for another seminar. Because of my space constraints, it is definitely a topic for another day.

Allison Schachter

Assistant Professor of English and Jewish Studies, Vanderbilt University

I would organize a course on gender and transnational Jewish modernisms centered on Leah Goldberg's 1946 modernist novel *Ve-hu ha-or* (*And That Is the Light*). Set in 1932, on the eve of the Nazi rise to power in Germany, Goldberg's novel interrogates the place of Jews in European culture and the place of women in both Jewish and European literary and artistic culture. This metaliterary novel negotiates the social and political backdrop of Jewish life in prewar Europe and engages with a range of literary traditions, including Scandinavian, Anglo-American, German, Yiddish, and Hebrew modernism. The course would investigate these different strands of Goldberg's novel, locating them in the context of her corpus as a whole, including her fascination with Christian imagery, her engagement with European Orientalism, her portrayals of female sexuality and eroticism, her depictions of mental breakdown, and her blend of impressionist and expressionist style. In addition to Goldberg we would read a selection of modernist writers with whom she is in dialogue, both in her prose and her criticism, including Henrik Ibsen, Virginia Woolf, James Joyce, Dovid Bergelson, Yosef Chaim Brenner, and Uri Nissan Gnessin. Placing Goldberg in dialogue with various writers and critical traditions, the course aims to rethink the boundaries of Hebrew modernism, looking at its vexed relationship to Anglo-American and European modernist movements. Moreover, we would interrogate how her relationship to all of these traditions is inflected by questions

of gender. Another important aim of this course would be to situate Goldberg as a key figure of European intellectual and modernist literary history. To that end, the course would connect her to important Jewish émigré intellectuals, including Hannah Arendt and Erich Auerbach, and to the field of comparative literature more broadly.

Moulie Vidas

Assistant Professor of Religious Studies, University of California at Davis

The graduate curriculum in my field is so text-centered that I'll probably have many opportunities to teach seminars focused on a Talmudic chapter or the interpretive career of a Biblical passage. The question, however, invites a fantasy; it also invites us to think of a seminar organized around a text but not necessarily a seminar about a text. Taking this opportunity to indulge in a playful counterfactual, I choose Johannes Eisenmenger's *Entdecktes Judenthum*, the notoriously hostile compilation and interpretation of rabbinic texts (or, alternatively, its medieval predecessor, Paris Ms. BNF Lat. 16558). In a real seminar, this text might be taught by an expert on anti-Semitism and it might be studied as an instance of scholarship in the service of hate or oppression. In my counter-factual seminar, fantasized from the privileged situation of what Israel Yuval called "the postpolemical" age, this text will not be studied for itself. It will, rather, supply a canon of Talmudic passages to organize a seminar in which the Talmud is encountered as a provocative, even scandalous text. While the "bizarreness" of the Talmud in Eisenmenger's book is often achieved through distortion or selective quotation, on a disturbing number of occasions we may find ourselves scandalized along with Eisenmenger, experiencing the gap between the late ancient document and the modern scholar (an encyclopedia of anti-Semitism faults *Entdecktes Judenthum* for "accurate" but opportunistically "literal" readings). It will be a lesson in the Otherness of the Talmud and its causes (is it something in the document itself? in our modern assumptions? in our Christianized assumptions?) and in ways to overcome that Otherness.

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