

*HARAY ATEN MEKUDASHOT LI: A STUDY OF POLYGAMY IN JUDAISM FROM
BIBLICAL THROUGH RISHONIC TIMES*

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Table of Abbreviations

Ant.	Flavius Josephus, <i>Antiquities of the Jews</i> ¹
BT	The Babylonian Talmud
C. H.	The Code of Hammurabi (Babylonian)
JPS	<i>Tanakh: A New Translation of The Holy Scriptures According to the Traditional Hebrew Text</i> (Philadelphia: The Jewish Publication Society, 1985) ²
JT	The Jerusalem, or Palestinian, Talmud
Wars	Flavius Josephus, <i>The Wars of the Jews</i> ³

¹ All references to Ant. and translations therefrom are taken from Flavius Josephus, *Antiquities of the Jews*, in *The Works of Josephus: New Updated Edition*, trans. William Whiston (Hendrickson Publishers, 1987).

² All Biblical translations are from JPS unless otherwise indicated.

³ All references to Wars and translations therefrom are taken from Flavius Josephus, *The Wars of the Jews*, in *The Works of Josephus: New Updated Edition*, trans. William Whiston (Hendrickson Publishers, 1987).

Introduction

Background

For the past six months, almost every time that I have informed someone that I am writing my rabbinic thesis on the topic of polygamy, they have grinned and asked: “So, are you for it or against it?” People seem to be amused by the fact that I – a happily newly wed woman, clearly committed to my monogamous relationship – had chosen to spend more than six months of my life immersed in materials dealing with plural marriage.

But the fact is that when my thesis proposal was due to be submitted, I had been married for just a few weeks, and marriage was the major topic on my mind. And when I began to look at Biblical and early rabbinic materials dealing with marriage, I realized that the issue of plural marriage was quite prevalent. Polygyny⁴ is a part of our tradition, and it simply cannot be ignored.

Moreover, the more that I began to learn about polygyny, the more that I became fascinated by it. My fascination was due mostly to my repulsion at the idea of a man having more than one wife, but, nonetheless, the entire institution of plural marriage intrigued me. Why, I wondered, did so many men in the Bible have more than one wife? Why does our rabbinic tradition recognize polygyny, which, though it may have been uncommon *de facto*, was certainly accepted *de jure*? And, considering that polygyny was

⁴ The term “polygyny” and other terms related to plural marriage are defined on page 4 of this Introduction.

perhaps not widely practiced, why is there so much attention devoted to the topic in the Mishnah and the two Talmuds? Why was polygyny finally outlawed by a ban for Ashkenazic Jewry some time in the eleventh or twelfth century? Why was polygyny not officially outlawed by such a ban for Sephardic Jewry, and to what extent did it continue to be practiced in Sephardic communities?

As I delved into the various time periods of Israelite and Jewish history covered in this thesis, I tried to suspend my own modern biases and to explore the issue of plural marriage based on the societal context of each period. In this regard it was extremely helpful that this past summer, when I was beginning my thesis research, I read A. B. Yehoshua's novel *A Journey to the End of the Millennium*.⁵ The novel is set in the year 999 C.E., at the turn of the Christian millennium, shortly before the pronouncement of the *Cherem of Rabbenu Gershom* – the ban against polygyny that was eventually adopted by all of Ashkenazic Jewry.

As the novel opens, the protagonist, the Sephardic Ben Attar, has recently taken a second wife, and he is – along with his two wives and other voyagers – on a journey from his home in Tangiers to Paris. The Ashkenazic wife of Ben Attar's beloved nephew and business partner, Abulafia, has forced Abulafia to terminate his partnership with Ben Attar because she is repulsed by the fact that Ben Attar has two wives. Ben Attar undertakes the journey to Paris with the hope of acquiring Abulafia's wife's approval of his bigamous marriage – as this is the only way that he will be able to rekindle his

⁵ A. B. Yehoshua, *A Journey to the End of the Millennium*, trans. by Nicholas De Lange (New York: Doubleday, 1999).

relationship and business partnership with his nephew. As the jacket of *A Journey to the End of the Millennium* proclaims, the book explores “the deepest questions about the nature of morality, character, codes of human conduct and matters of the heart.” It gives us profound insight into the Jewish world of one thousand years ago, and into the heart and soul of a man who deeply loved and cared for not one, but two wives – and the two wives who loved their shared husband and accepted this relationship.

A positive view of polygyny is also reflected in an incident recounted by S. D. Goitein in his book *A Mediterranean Society*. Goitein writes:

“While studying the society of a Yemenite weavers’ village, which, in 1950, was transferred almost intact from Yemen to the hills of Judea, I was astounded to find two women, widows of one man, living together for no other reason than that they were good friends. The first wife had been barren, the second was the mother of several children. The latter described their married life to me thus: ‘We two women were like doves. The man was one week with her and the next with me. I did embroidery, and she the household work. I produced the children, and she reared them.’ When the woman felt that I may have misunderstood or misheard her, she added: ‘Very simple, she loves children and I love to do needlework.’”⁶

Do polygynous relationships usually function so smoothly? Not entirely – at least according to our Jewish tradition. From the earliest Biblical accounts, we see tension between co-wives, and when speaking of a co-wife our rabbinic tradition reflects this tension by the frequent use of the term “*tsarah*” – which has the connotation of “rival wife.” By the Middle Ages, Ashkenazic Jewry saw it fit to outlaw polygyny entirely.

⁶ S. D. Goitein, *A Mediterranean Society: The Jewish Communities of the Arab World as Portrayed in the Documents of the Cairo Geniza*, vol. III, *The Family* (Berkeley: University of California Press, 1978), 149, citing S. D. Goitein, “Portrait of a Yemenite Weaver’s Village,” *Journal of Jewish Studies*, 27 (1955), 21 n. 51.

And so to return to the question often asked of me in jest: “Are you for polygyny or against it?” I am wholeheartedly against it. I see our tradition as evolving from the Biblical practice of polygyny, at least among the elite classes, to times in which polygyny was accepted *de jure* but probably not widely practiced, to the eventual outlawing of polygyny entirely, at least among Ashkenazic Jewry.

This having been said, I believe that polygyny is an issue that cannot be ignored when exploring the history of Jewish marriage. It is an issue that must be considered critically, but with an open mind. This is what I have attempted to do in this thesis.

Terminology and the Distinction Between Polygyny and Polyandry

“Monogamy” is “the state or custom of being married to one person at a time.”⁷

“Bigamy” is “the act of entering into a ceremonial marriage with one person while still legally married to another.”

“Polygamy” is “marriage in which a spouse of either sex may have more than one mate at the same time.”

“Polygyny” is “the state or practice of having more than one wife or female mate at one time.”

“Polyandry” is “the state or practice of having more than one husband or male mate at one time.”

⁷ The definition of monogamy, as well as the definitions of bigamy, polygamy, polygyny and polyandry are taken from *Webster's New Collegiate Dictionary* (Springfield, Mass.: G. & C. Merriam Company, 1975).

The seventh commandment proclaims: "You shall not commit adultery."⁸ Adultery is a capital crime in Jewish tradition.⁹ According to the Bible and subsequent Jewish law, "adultery" consists of sexual intercourse between a married woman and a man other than her husband. Under this definition, polyandry is *per se* "adultery," since it involves a married woman having sexual intercourse with a man (or men) other than her original husband.¹⁰

Thus, from Biblical times throughout Jewish history, polyandry has been prohibited and there are no recorded permissible cases of it. Polygyny, however, was accepted and practiced in ancient Israel, and throughout much of subsequent Jewish history. Hence, the polygamous marriages that will be discussed in this thesis are all cases of polygyny (husbands with more than one wife), and will be either a husband with two wives (bigamy) or a husband with more than two wives.

Unlike a "wife," a "'concubine' was not married by her master, and her status [in some cases] differed very slightly from that of a slave."¹¹ A concubine did, however, engage in sexual relations with her master, often producing progeny (which were sometimes deemed to be the progeny of the wife, rather than the concubine herself). The social institution of concubinage was quite common among the Israelites in Biblical times.¹²

⁸ Exodus 20:13; Deuteronomy 5:17.

⁹ Leviticus 20:10; Deuteronomy 22:22.

¹⁰ See page 34 of Chapter One for a discussion of the relationship between adultery and polyandry.

¹¹ E. Neufeld, *Ancient Hebrew Marriage Laws* (London: Longmans Green & Co., 1944), 124.

¹² See discussion of concubines in Biblical times on pages 41-43 of Chapter One.

Although the status of a concubine was not identical to the status of a wife, a man who had a wife and at least one concubine cannot be considered a “monogamist” in the truest sense of the word. Thus, for purposes of this thesis, a man who had a wife and at least one concubine is considered to have been in a polygynous relationship. Hence, the following relationships are all considered to constitute “polygyny”:

1. A man who has two or more wives.
2. A man who has one wife and one or more concubines.
3. A man who has two or more wives and one or more concubines.

Methodology

This thesis is divided into five chapters. The first chapter, “The Bible and the Ancient Near East,” is primarily an analysis of the Biblical material regarding polygamy. But before delving into the Biblical material, one must first have an understanding of the ancient Near Eastern context from which the Bible emerged. Thus, the chapter begins with a summary of the standards and legal norms relating to marriage, polygamy and concubinage in the ancient Near East. In conducting this first part of my research, I explored legal codes, marriage agreements and other related texts from a number of ancient Near Eastern societies, such as the Egyptian *Instructions of Ani*, a Nuzi marriage agreement and a Nuzi adoption document, an Old Assyrian Marriage Contract and the Babylonian C. H.

After summarizing the ancient Near Eastern context, I turn in Chapter One to the relevant Biblical material. My focus is on the narrative and genealogical sections of the Bible that mention polygyny, as well as the Biblical laws that presuppose the existence of polygyny. I also focus on those sections of the Bible which make it clear that polyandry was never accepted in ancient Israel. Additionally, I discuss the issue of “levirate marriage” – the Biblical requirement that a man marry his childless brother’s widow, apparently irregardless of whether or not the surviving brother is already married. (The issue of levirate marriage and its relationship to polygyny in subsequent periods is discussed in Chapters Three, Four and Five.) The major source for my research regarding ancient Israel was, obviously, the Bible itself. I also studied later rabbinic commentaries, such as those of Rabbi Shlomo ben Isaac (1040-1105 C.E., better known by the acronym “Rashi”), that shed light on the relevant Biblical verses.

In Chapter Two, “The Second Temple Period,” I explore the attitudes towards marriage in general and polygyny in particular of Jewish communities in Judea and the Diaspora during the Second Temple period (ca. 539 B.C.E.–70 C.E.). The groups on which this chapter focuses include the Jewish military colony that existed in Elephantine, Egypt during the early part of the Second Temple period; the philosophical school called the Essenes; and the Dead Sea Sect at Qumran. Chapter Two also examines the views of Josephus and Philo toward marriage and polygyny, as reflected in their writings, as well as the views expressed in the Apocrypha, especially in Ecclesiasticus.

In Chapter Three, “The Tannaitic Period,” I consider the issue of polygyny in the Tannaitic period (ca. 70–200 C.E.). The major Jewish legal sources for the Tannaitic period are the Mishnah and Tosefta, though Tannaitic legal material is also found in the Gemara of the BT and the JT. Aggadic material regarding polygyny in the Tannaitic period is found in the Targum of Ruth, as well as the BT. In addition to examining Jewish sources from the Tannaitic period in this chapter, I also present relevant sections from early Christian writings, such as the New Testament and Justin Martyr’s *Dialogue with Trypho*.

In the fourth chapter, “The Amoraic Period,” I explore the issue of polygyny among the two major Jewish communities, one in Palestine and the other in Babylonia, during the Amoraic period (ca. 200–500 C.E.). The relevant legal material for this period is found in the BT and the JT. Aggadic material regarding polygyny is found in various Amoraic midrashim, including Genesis Rabbah, Leviticus Rabbah, and Avot de Rabbi Natan, as well as in the two Talmuds.

The final chapter is Chapter Five, “The Geonic and Rishonic Periods.” In this chapter I look at polygyny in the Jewish world in post-Talmudic times, both before and after the *Cherem of Rabbenu Gershom* (eleventh or twelfth century C.E.), which banned polygyny, and which was eventually adopted by all Ashkenazic Jewish communities. The primary sources of my investigation are responsa literature and legal codes. In this chapter I explore the different attitudes and legal rulings regarding polygyny among Ashkenazic and Sephardic Jewry.

While the time period covered by this thesis is extremely broad, ranging from Biblical times through to the eleventh or twelfth century C.E. *Cherem of Rabbenu Gershom* and even beyond, I have attempted to keep its focus narrow. My hope is that I have been able to shed some light not only on the development of Jewish legislation regarding polygyny, but also on Jewish attitudes toward polygyny and practice of polygyny throughout the ages.

Limited Value of Using Texts as Historical Evidence

As always, caution must be exercised when treating texts such as the Bible, the Mishnah, the two Talmuds, and the various other texts used in this study as historical documents. Such texts are of limited value in that they, like any documents, only tell us what their authors have chosen to record. For example, if something is not recorded in the Bible it does not mean that such a thing did not exist, but rather only that such a thing was not recorded by the author(s) of the Bible. As Rachel Biale explains:

“in the Bible the practice of polygyny seems to be limited to the Patriarchs and the kings, and as a rule we do not hear of it in the life of the common man.”¹³

However, as will be discussed in Chapter One, very little about the life of the common man is recorded at all in the Bible. The fact that polygyny among common men is not often recorded in the Bible does not prove that polygyny did not exist among commoners, or that it existed only to a very limited extent, but only that we currently have little

¹³ Rachel Biale, *Women and Jewish Law: The Essential Texts, Their History, & Their Relevance for Today* (New York: Schocken Books, 1984), 50.

evidence for polygyny among commoners in Biblical times. The Bible and later Jewish sources generally appear to describe the elite ruling, scholarly and upper classes. Based on the evidence currently available, there is no way to know for sure to what extent polygyny was accepted and practiced among commoners throughout Jewish history.

Assumptions Regarding the Practice of Polygyny

Throughout this thesis, I have adopted the view of those scholars who contend that, although polygyny was discussed extensively in the legal literature of post-Biblical times and it was approved of *de jure* (at least until the *Cherem of Rabbenu Gershom*), most Jews throughout history – especially those who were not members of the upper classes – have lived monogamously.¹⁴ In my opinion, a great deal of legal material was devoted to polygyny in the Tannaitic and Amoraic periods not because polygyny was widely practiced, but rather in order to preserve a Jewish ancestral heritage.

However, I must emphasize that my opinion – that polygyny was never widely practiced by Jews – could very well be incorrect. It is quite possible that the reason for the vast

¹⁴ See, for example, Ze'ev W. Falk, *Jewish Matrimonial Law in the Middle Ages* (London: Oxford University Press, 1966), 3. See also S. Lowy, "The Extent of Jewish Polygamy in Talmudic Times" in *Journal of Jewish Studies*, vol. IX (1958), 115. Lowy writes that "[t]he majority of scholars...were and are of the opinion that the extent of polygamy among Jews in talmudic times was very limited." Louis Epstein also adopts this view, contending that although during the Second Temple period Jewish "[r]ulers permitted themselves plural wives [and] bigamy was not infrequent...the people as a rule practiced monogamy." Louis M. Epstein, *Marriage Laws in the Bible and the Talmud* (Cambridge: Harvard University Press, 1942), 13. And while claiming that polygyny was not rare in "high places" in rabbinic times, Epstein contends that "despite permission by the law, polygamy was quite rare in actual life among the Jews of the rabbinic period.

amount of legal material in the Mishnah, the Talmuds and subsequent responsa and legal codes regarding polygyny is due to the fact that polygyny was in fact widely practiced.

As Ze'ev Falk points out:

“We cannot assume that these examples [of polygyny in a legal context] were merely recited in the academy without the questions ever arising in real life. [Many of our legal sources] would be unintelligible unless we assume that polygamy existed.”¹⁵

I have assumed, for example, that stipulations prohibiting a husband from taking a second wife contained in Jewish marriage contracts from the tenth through twelfth centuries C.E. found in the Cairo Genizah indicate that the members of the Genizah society were opposed to polygyny, and thus polygyny was rarely practiced by the members of the Genizah society.¹⁶ But it is also possible, and perhaps just as likely, that the few marriage contracts found in the Cairo Genizah containing stipulations prohibiting bigamy are exceptions to the rule, and that these marriage contracts do not reflect the majority of the (non-extant) marriage contracts that were entered into by the members of the Genizah society, or the actual practice of the time. After all, available texts tell us only about the texts themselves, and they do not necessarily reflect other texts that have not been discovered, or the lifestyles of the majority of people in a given society. Moreover, the very fact that certain people in the Genizah society found it necessary to include

Economic conditions curtailed it to some extent and moral aversion also came to the surface.” Ibid., 17-20.

¹⁵ Falk, 3.

¹⁶ See “Stipulations Against Polygyny in Marriage Contracts Found in the Cairo Genizah” on pages 139-141 of Chapter Five. In fact, Goitein contends that “the Geniza society was essentially monogamous.” Goitein, 205.

stipulations prohibiting bigamy in their marriage contracts may in fact indicate that bigamy was not only legal, but that it was the normal practice in their society.

In sum, when reading this thesis and its general conclusion that polygyny was never widely practiced throughout Jewish history, one should keep in mind the alternative possibility that polygyny was perhaps quite common among Jews – at least in some places at some times. Based on the available evidence, we cannot entirely rule out the possibility that polygyny was widely practiced even in Ashkenazic Jewish communities up until the time of the *Cherem of Rabbenu Gershom*.¹⁷ While I believe that the ban was enacted in order to make the law conform to and strengthen the general practice, the opposite is also possible – i.e., that “[t]he mere fact that it was necessary to proclaim a ban was proof that polygamy was still practised, and there existed no other means of abolishing it.”¹⁸ I have come to one conclusion based on the extant sources, but it is not the only conceivable legitimate conclusion.

¹⁷ Leopold Loew contends that polygyny existed in Ashkenazic communities both before and after the issuing of the *Cherem of Rabbenu Gershom*. Falk, 1.

¹⁸ Ibid.

Chapter One: The Bible and the Ancient Near East

Introduction

In reading the narrative and genealogical sections of the Bible, one comes across numerous references to polygynous marriages and concubinage. Additionally, there are quite a few Biblical laws that presuppose the existence of polygyny. But before one can begin to understand the context of marriage in general, and polygyny and concubinage in particular, in the Bible, one must have an understanding of the ancient Near Eastern context from which the Bible emerged. Thus, this chapter will begin with a brief summary of the standards and legal norms relating to marriage, polygamy and concubinage in the ancient Near East. Following this summary, there will be a more detailed discussion of marriage, polygamy and concubinage in the Bible.

THE ANCIENT NEAR EAST

Marriage in the Ancient Near East: The Importance of Progeny and The Issue of Barrenness

The societies in the ancient Near East emphasized the importance of progeny – especially male progeny. For example, the Egyptian *Instructions of Ani* state:

“...Take to thyself a wife while thou art (still) a youth, that she may produce a son for thee.”¹⁹

¹⁹ James Pritchard, *Ancient Near Eastern Texts* (Princeton: Princeton University Press, 1950), 420.

The *Instructions of Ani* also state:

“[o]ne becomes renowned by creating progeny. Happy is the man whose people are many. He is fulfilled because of his children.”²⁰

And a Sumerian proverb claims:

“Marrying several wives is human; begetting many children is divine.”²¹

The primary purpose of marriage (although not its sole purpose) in the ancient Near East was to provide a male with a sufficient number of progeny, particularly male offspring, at a time of high mortality rates. A son served many purposes in the ancient Near East. First of all, he assisted his father during the father’s lifetime. But the son’s role did not end upon his father’s death – the son also assisted his father posthumously. A son performed the prescribed rites after his father’s death, and he performed services for the spirit of his father. For example, it was commonly believed in the ancient world that the living could assist the dead by offering food and drink to their spirits,²² a responsibility which a son would perform on behalf of his deceased father (and sometimes mother as well).²³ Additionally, a male heir assured that the father’s property would be kept within the fold, and that the father’s name would not be blotted out.²⁴ In fact, male offspring

²⁰ Claire Gottlieb, “Varieties of marriage in the Bible: and their analogues in the ancient world” (Ph.D. diss., New York University, 1989), 17.

²¹ Ibid.

²² Jeffrey Tigay, *The JPS Torah Commentary: Deuteronomy* (Philadelphia: The Jewish Publication Society, 1996), 244, 482.

²³ Ibid., 482.

²⁴ In ancient Israel, if a man left no sons, but did leave daughters, the daughters could inherit his property and thereby preserve his name. See Numbers 27:1-11.

were considered so essential in the ancient Near East that the Bible²⁵ and some other ancient Near Eastern legal codes provide for levirate marriage. Levirate marriage occurs when the widow of a deceased man who dies without a son unites with a brother of the deceased in order to provide a son for the deceased.²⁶

In cases where a wife was barren, or did not produce a sufficient number of offspring, in particular male children, it was not unusual for a man to take a second wife, or a concubine, maidservant or other female consort (sometimes provided by the barren wife) with whom he would attempt to produce offspring. For example, a Nuzi marriage agreement states:

“If Belt-akkadi-ummi bears a son, Hurazzi may not take another wife. If Belt-akkadi-ummi does not bear a son, Hurazzi may take another wife.”²⁷

And a Nuzi adoption document provides:

“Kelim-ninu has been given in marriage to Shennima. If Kelim-ninu bears (children), Shennima not take another wife; but if Kelim-ninu does not bear, Kelim-ninu shall acquire a woman of the land of Lullu [i.e., a slave girl] as wife for Shennima, and Kelim-ninu may not send the offspring away.”²⁸

Other examples of married men in the ancient Near East being permitted to take second wives, concubines or other female consorts with the goal of producing progeny include a

²⁵ Deuteronomy 25:5-10.

²⁶ See discussion of levirate marriage in the Bible on pages 43-49 of this chapter.

²⁷ Gottlieb, 90-91, citing the marriage tablet of Akkul-enni, son of Akiia, with Hurazzi, son of Ennaia, concerning Hurazzi's marriage to Akkul-enni's sister, Belt-akkadi-ummi, from *Harvard Semitic Series. Excavations at Nuzi V* 80.

²⁸ Pritchard, 220.

19th century B.C.E. Old Assyrian Marriage contract, which stipulates that if a wife does not provide offspring for her husband within two years, she shall purchase a slave woman for that purpose.²⁹ Additionally, C. H. No. 145 provides:

“If a seignior married a hierodule and she did not provide him with children and he has made up his mind to marry a lay priestess, that seignior may marry the lay priestess, thus bringing her into his house...”³⁰

Polygyny and Concubinage in the Ancient Near East

Clearly, it was not unusual for a married man living in the ancient Near East to take a second wife, at least in certain circumstances. The failure of the first wife to bear children (or at least male children) was not the only such circumstance. For example, while C. H. generally assumes that marriage shall be monogamous, it does allow a man to take a second wife (without divorcing his first wife) when “a fever has...seized” the first wife.³¹

The grounds on which polygyny was permitted and the extent to which it was practiced varied among different societies. Ancient Egypt, for example, appears to have been largely monogamous, and while polygyny was apparently permitted, non-royal polygyny

²⁹ Ibid., 543. The marriage contract further provides that after the slavewoman (or perhaps the wife – the meaning of the pronoun is not clear) produces a child by the husband, then the husband (or perhaps the wife – again, the meaning of the pronoun is not clear) may dispose of the slavewoman by sale.

³⁰ Ibid., 172. C. H. further provides that when this occurs, the “lay priestess [shall rank] in no way with the hierodule.”

³¹ Ibid., No. 148. In such a case, the first wife “shall live in the house which he built and he shall continue to support her as long as she lives.”

was extremely rare. But among the ruling class in Egypt polygyny was apparently quite common. For example, Ramses II already had two “royal consorts” when he concluded his treaty with the Cheta king and brought the Cheta king’s daughter home to Egypt as his wife.³²

As has been noted above, taking a second wife was not the only way that a man in the ancient Near East could become a polygynist. It was also common for married men living in the ancient world to acquire concubines or other female consorts of a status lower than the first wife.³³ For example, the possession of concubines is attested to at Ugarit, where men acquired concubines in order to produce children and thereby complete their families.³⁴ One tablet found at Ugarit lists men possessing an *att* (wife; four men are listed who are *b’l att* – master or husband of a wife/wives) or a *sslmt* (concubine; six men are listed who are *b’l sslmt* – master of a concubine/s).³⁵

Also, in classical Greece, where the goal of the Homeric heroes was to breed many warrior sons, when Helen failed to give Menelaus a son, Menelaus sired a son from a

³² Edward Westermarck, *The History of Human Marriage* (New York: The Allerton Book Company, 1922), 3:40-41.

³³ In addition to having married more than one wife, the Egyptian Pharaohs are also famous for having had large harems. Westermarck contends that most likely concubinage also existed among the common people, but there is no evidence to prove this. *Ibid.*, 40-41.

³⁴ Gottlieb, 88, citing Anson F. Rainey, “Family Relationships in Ugarit,” *Orientalia* 34-1 (1965), 16.

³⁵ *Ibid.*, citing Cyrus H. Gordon, *Ugaritic Textbook* (Roma: Pontificium Institutum Biblicum, 1965), 229. Text No. 177.

slave concubine. Menelaus' son with the slave concubine was to inherit his father's position in Sparta.³⁶

In fact, Claire Gottlieb suggests:

"The children of concubines are often proud of their parentage and frequently rise to high status. On his return home Odysseus, who is disguised as an old man, announces to his swineherd Eumaios: 'I am the son of a rich man, and there were many other sons who were born to him and reared in his palace. These were lawful sons by his wife, but a bought woman, a concubine was my mother, yet I was favored with the legitimate sons...'"³⁷

In many ancient societies, a concubine or slave woman could be elevated in status or receive special protections, especially if she bore children. In C. H. No. 146 it says that when a hierodule gave a female slave to her husband and the female slave bore children, later the female slave may claim equality with her mistress because she bore children. In such a case, the law provides that "her mistress may not sell her."³⁸ However, the hierodule "may mark [the female slave] with the slave-mark and count her among the slaves"³⁹ – i.e., although the female slave could not be sold, she could be reduced again to the status of slave. According to the Assyrian Laws, a man could even elevate his

³⁶ Ibid., citing W. K. Lacey, *The Family in Classical Greece* (New York: Cornell University Press, 1968), 41-42.

³⁷ Ibid., 93, citing Richard Lattimore, trans., *The Odyssey of Homer* (New York: Harper & Row, 1977), 215. Book 14, lines 200-204.

³⁸ Pritchard, 172. According to No. 147: "If [the female slave] did not bear children, her mistress may sell her."

³⁹ Ibid. No. 146.

concubine to the status of wife. One law states that a wife must be veiled if she goes out in public,⁴⁰ and another law states:

“if a man veils his concubine in the presence of his neighbors while saying ‘she is my wife,’ she then becomes his wife. If he does not perform both of these formalities, however, she remains a concubine.”⁴¹

THE BIBLE

Introduction to Biblical Marriage

The first commandment in the Bible after the creation of Adam and Eve is “*peru urevu*” (“be fertile and increase”).⁴² This command is repeated to Noah and his sons after the flood,⁴³ and it is then repeated often throughout the Bible. In the Bible, as in the ancient Near East as a whole, the creation of progeny was of the utmost importance. As Claire Gottlieb notes, in addition to the creation of progeny:

“marriages were contracted for reasons of political alliance, protection of property, and protection of widows and children. The element of romance is also not entirely lacking in the Biblical saga, especially from the Patriarchal narratives to the end of the United Monarchy.”⁴⁴

⁴⁰ G. R. Driver and J. C. Miles, *The Assyrian Laws* (Germany: Scientia Verlag Aalen, 1975), 407. Law No. 40.

⁴¹ Gottlieb, 410-411. Law No. 41.

⁴² Genesis 1:28. God blesses Adam and Eve and says to them: “Be fertile and increase, fill the earth and master it.”

⁴³ Genesis 9:1. After blessing Noah and his sons, God says to them: “Be fertile and increase and fill the earth.”

⁴⁴ Gottlieb, ix.

There are a number of different varieties of marriage reflected in the Bible, many of which were found throughout the ancient Near East. For example, in the Bible we read not just of the “customary type of marriage in which the woman leaves her home and joins her husband either in his own home or in that of his family,”⁴⁵ but also of *erebu* marriage (where the “bridegroom leaves his home and takes up residence in the household of his father-in-law or mother-in-law”),⁴⁶ marriage by capture and purchase, and levirate marriage.⁴⁷

Is Monogamy the Biblical Ideal?

Biblical Passages that Indicate a Preference for Monogamy

The prototypical Biblical “marriage” is that of Adam and Eve, the first man and the first woman. But it is noteworthy that the Bible itself never uses the term “marriage” when speaking of Adam and Eve.

In the second Biblical account of Creation,⁴⁸ God fashioned the rib that God had taken from the man “*le’ishah*” (“into a woman”). God then “brought her to the man [i.e., Adam],” and Adam said: “...This one shall be called ‘*ishah*.’ For ‘*me’ish*’ (‘from man’)

⁴⁵ Ibid., 117.

⁴⁶ Ibid.

⁴⁷ For a detailed discussion of the varieties of marriage in the Bible and the ancient Near East, see Gottlieb.

⁴⁸ The second Biblical account of Creation is found in Genesis 2:4b-24.

was she taken.”⁴⁹ “*Ish*” and “*ishah*” are usually translated “man” and “woman,” respectively. Thus, Genesis 2:22-23 is commonly translated as follows:

“And the Lord God fashioned the rib that He had taken from the man into a woman; and He brought her to the man. Then the man said, ‘This one at last/ Is bone of my bones/ And flesh of my flesh./ This one shall be called Woman,/ For from man was she taken.’”⁵⁰

However, “*ish*” and “*ishah*” can also be translated as “husband” and “wife,” respectively. Hence, these same verses could just as well be translated to read:

“And the Lord God fashioned the rib that God had taken from the man into a wife [*le’ishah*]; and he brought her to the man. Then the man said, ‘This one at last/ Is bone of my bones/ And flesh of my flesh./ This one shall be called wife [*ishah*],/ For from husband [*me’ish*] was she taken.’”

According to this second, alternative (though valid) translation, Adam and Eve are clearly husband and wife.

Regardless of the aforementioned technicalities, the relationship between Adam and Eve was obviously monogamous, as Adam and Eve were the only two people on earth. Some scholars have argued that the story of Adam and Eve indicates a Biblical preference for monogamy, since God created only one wife for Adam, and “they become one flesh.”⁵¹

Lawrence Schiffman, for example, believes that the Bible:

⁴⁹ Genesis 2:22-23.

⁵⁰ JPS, 5.

“began by introducing monogamy as the ideal of the Garden of Eden and then accepted polygamy as a compromise, illustrating the difficulties entailed with examples from the lives of the patriarchs.”⁵²

Additionally, there are a number of passages in the prophetic books that presuppose an essentially monogamous society. It is common in the Books of the Prophets for Israel to be depicted as God’s often unfaithful but beloved single wife.⁵³ There are also numerous verses from the Writings that indicate a preference for monogamy, such as Psalms 128:3;⁵⁴ Proverbs 31:10-31; and Ecclesiastes 9:9.⁵⁵

Biblical Passages that Presuppose Polygyny

While there is no case in which the Bible praises a man for having multiple wives,⁵⁶ there are a number of Biblical passages that presuppose polygyny – if not seeing it as an ideal, at least acknowledging and approving of it. For example, the Bible assumes that female slaves will become concubines either of their owner or his son,⁵⁷ apparently even if the owner or his son is already married. Additionally, Exodus provides:

⁵¹ Genesis 2:24. Gottlieb, 84.

⁵² Lawrence H. Schiffman, *From Text to Tradition: A History of Second Temple and Rabbinic Judaism* (Hoboken: Ktav Publishing House, 1991), 257.

⁵³ See discussion on “The Prophetic Metaphor of Israel as an Adulterous Wife” on pages 37-38 of this chapter.

⁵⁴ Psalms 128:3: “Your wife shall be like a fruitful vine within your house; your sons, like olive saplings around your table.”

⁵⁵ Ecclesiastes 9:9: “Enjoy happiness with a woman you love all the fleeting days of life that have been granted to you under the sun....”

⁵⁶ Gottlieb, 85.

⁵⁷ Exodus 21:7-9. “In the ancient world, a father, driven by poverty, might sell his daughter into a well-to-do family in order to ensure her future security. The sale presupposes marriage to the master or his son. Documents recording legal arrangements of this kind have survived from Nuzi.” Nahum M. Sarna, *The JPS Torah Commentary: Exodus* (Philadelphia: The Jewish Publication Society, 1991), 120.

"If [a man who is already married to one woman] marries another, he must not withhold from [his first wife] her food, her clothing or her conjugal rights."⁵⁸

And Deuteronomy provides:

"If a man has two wives, one loved and the other unloved, and both the loved and the unloved have borne him sons, but the first-born is the son of the unloved one – when he wills his property to his sons, he may not treat as first-born the son of the loved one in disregard of the son of the unloved one who is older."⁵⁹

Additionally, the rules regarding levirate marriage compel a man to marry his childless brother's widow, presumably regardless of whether or not the man is already married.⁶⁰

Furthermore, in Deuteronomy 17:17 God tells the Israelites that if they appoint a king over themselves after they settle in the Promised Land, the king shall not have many "*nashim*"⁶¹ – which is usually translated as "wives."⁶² However, "*nashim*" could also be translated to mean "women," in which case Deuteronomy 17:17 would mean (probably

⁵⁸ Exodus 21:10. Similarly, the laws of Lipit Ishtar stipulate: "If a man has turned his face away from his *first* wife...(but) she has not gone out of the [house], his wife which he married *as his favorite* is a second wife; he shall continue to support his first wife." Pritchard, 160, paragraph 28.

⁵⁹ Deuteronomy 21:15-16.

⁶⁰ Deuteronomy 25:5-10. See discussion of levirate marriage on pages 43-49 of this chapter.

⁶¹ According to Rashi, who cites Sanhedrin 21a and Sifre, "and [the king] shall not have many wives" means that the king may have no more than eighteen wives. See pages 90-91 of Chapter Three for a discussion of this passage in Mishnah Sanhedrin 2:4.

According to the Temple Scroll found at Qumran, the king is limited to having only one wife. Tigay, 168, citing 11QTemple 57:17-18. See discussion of the Temple Scroll found at Qumran on page 63 of Chapter Two.

⁶² See, for example, JPS, 302.

more accurately) that the king must not have many women (i.e., wives and concubines).⁶³

Regardless of whether “*nashim*” is taken to mean “wives” or “women” (wives and concubines), this prohibition against polygyny is stated so that it clearly applies only to the king, and not to all Israelite males.⁶⁴

Deuteronomy 21:10-14, another Biblical passage which seemingly presupposes polygyny, states:

“When you take the field against your enemies, and the Lord your God delivers them into your power and you take some of them captive, and you see among the captives a beautiful woman and you desire her and would take her to wife, you shall bring her into your house, and she shall trim her hair, pare her nails, and discard her captive’s garb. She shall spend a month’s time in your house lamenting her father and mother; after that you may come to her and possess her, and she shall be your wife.⁶⁵ Then, should you no longer want her, you must release her outright. You must not sell her for money: since you had your will of her, you must not enslave her.”⁶⁶

⁶³ Richard Friedman understands Deuteronomy 17:17 to mean that the king “must not have many women (wives and concubines).” Richard Elliot Friedman, *Who Wrote the Bible* (San Francisco: HarperSanFrancisco, 1997), 118.

⁶⁴ Neufeld, however, sees the prohibition against a king’s having many wives in Deuteronomy 17:17 not as an indication that *only* the king is prohibited from having many wives, but rather as an indication that “the king should be an example to his people.” Neufeld, 199. The Damascus Document of the Dead Sea Scrolls treats the king as an example, holding that this prohibition applies to all Israelite males. See discussion on page 63 of Chapter Two.

⁶⁵ Marriage was established upon the expiration of the month by cohabitation, without any marriage ceremony or formal marriage settlement. But this law did not apply to the Canaanites, since Deuteronomy 7:3 provides regarding Canaanites (as well as Hittites, Gergashites, Amorites, Perizzites, Hivites and Jebusites): “You shall not intermarry with them: do not give your daughters to their sons or take their daughters for your sons.” Neufeld, 78-79.

⁶⁶ The practice of a soldier taking a female captive whom he desired as a wife or concubine was also known in Homeric Greece and early Arabia. Tigay, 194, citing W. Robertson Smith, *Kinship and Marriage in Early Arabia* (Boston: Beacon, 1903), 89-92; *Iliad* 1:30-31, 112-114; 2:689-693; 19:297-299; *Odyssey* 9:40-41. Marriage by capture was also practiced by the Hittites, and possibly by the Assyrians, though no Babylonian sources regarding marriage to captives have been found. Neufeld, 77, 83.

This law regarding marriage to a woman captured in war contains no explicit requirement that the Israelite captor who takes the captive woman as his wife be unmarried. Thus, presumably a man who was already married who captured a woman in war and desired her could, after the appropriate acts had been done and a month had passed, take her as his wife in a polygynous manner.⁶⁷ However, E. Neufeld writes:

“generally speaking it would appear that her [the captive woman that was taken, according to Deuteronomy 21:13, “*le’ishah*” (literally, “as a wife”)] status was [not in fact that of a “wife”, but more] similar to that of a concubine....The position of such a captive [upon] actual marriage was definitely socially inferior to the position of a wife under any other form of marriage.”⁶⁸

Interestingly, this passage from Deuteronomy mentions only the captive woman’s lamenting her father and mother – no husband is mentioned. It is possible that the law had only unmarried women in mind.⁶⁹ However, according to Rashi and others, the captive woman could be taken as a wife by the Israelite captor even if she were already married.⁷⁰ Possibly it could be assumed that the captive woman’s husband had been killed in the war.⁷¹ But, why, then, is her husband not mentioned in Deuteronomy 21:13,

⁶⁷ Rashi points out in his commentary to Deuteronomy 21:11 that the Torah only allows the captor to take the captive woman as his wife as a concession to the evil inclination, since the man would marry the captive woman anyway, even if she were forbidden to him. Rashi then notes that the provisions regarding marriage with a woman captured in war (Deuteronomy 21:10-14) are immediately followed by the provision regarding the right of the firstborn in a polygynous family (Deuteronomy 21:15-17, which begins: “If a man has two wives, one loved and the other unloved....”) to show that in the end the Israelite captor will hate the captive woman that he has married.

⁶⁸ Neufeld, 79-80.

⁶⁹ Tigay, 194, citing Keter Torah.

⁷⁰ In his commentary to Deuteronomy 21:11 Rashi states that the captive may be taken as a wife “even if she is a married woman.” Josephus and a number of rabbinic sources also presume that married women were permitted, as in Homeric Greece. Tigay, 381, citing Josephus, Ant. 4.257; Sifrei 211; *Iliad* 19:295-299.

⁷¹ Neufeld, 79.

along with her mother and father, as a close relative for whom she would mourn?

Perhaps since the husband of the captive woman was a pagan and not an Israelite, the Israelite captor could not be expected to show any consideration for him.⁷²

The Benefits of Polygyny

The benefits to a man of having multiple wives or concubines in ancient Israelite society were many. As has already been discussed, polygyny increased the man's chances for having more offspring. Moreover, multiple wives and/or concubines served as a sign of wealth and power. And in the mixed seminomadic and agricultural society of ancient Israel, the maintenance of multiple wives and concubines supplied a man with an abundant work force to tend flocks and work fields.

At times, even women in ancient Israel may have found living in a polygynous relationship to be beneficial. As Gottlieb notes:

“During periods of political turmoil a woman may have found polygyny preferable to spinsterhood. She would have had the status as a wife rather than living under the jurisdiction of her father or brother. Isaiah informs us that during

⁷² It would appear to constitute adultery if the captive woman were already married to another man when the Israelite captor took her either as a wife or a concubine. (See discussion of polyandry and adultery on pages 30-34 of this chapter). But apparently if the first husband were not an Israelite, the Israelite captor was not considered to be guilty of adultery – i.e., only marriages to other Israelite males were relevant, whereas marriages to non-Israelites were considered, in effect, to be irrelevant for purposes of determining adultery and polyandry.

a period of national strife seven women will be content to take the name of one husband.”⁷³

Examples of Polygyny in the Bible

The Bible gives no specific instructions as to which men may have more than one wife,⁷⁴ nor does it give any limit to the number of wives a man may have. Polygyny appears to have been more common in ancient Israel than it was in many of the surrounding societies, although, as in the surrounding cultures, it is likely that the majority of the people in ancient Israel lived monogamously.⁷⁵ As was the case throughout the ancient Near East, in some cases a man in ancient Israel had more than one wife of the same legal status, and in other cases a man with a wife (or wives) also had one or more concubines, of inferior status to the man’s wife or wives.

The first example of polygyny in the Bible is that of Lamech,⁷⁶ who had two wives, Adah and Zillah.⁷⁷ Interestingly, Lamech was a murderer, though it would be impossible to

⁷³ Gottlieb, 86. See Isaiah 4:1: “In that day, seven women shall take hold of one man saying, ‘We will eat our own food/ And wear our own clothes;/ Only let us be called by your name -/ Take away our disgrace!’”

⁷⁴ Although, as noted above, Deuteronomy 17:17 states that after the Israelites settle in the Promised Land, if they appoint a king over themselves, the king may not be a polygynist.

⁷⁵ Westermarck, 41-42.

⁷⁶ Genesis 5:28-29 says that Lamech is the father of Noah, while in an earlier genealogy (Genesis 4:19-22) Lamech is mentioned as the father of Jabal, Jubal, Tubal-cain and Naamah, but Noah is not mentioned. According to Friedman, Genesis 4:19-22 and Genesis 5:29 were written by “J” (between 848-722 B.C.E.), whereas Genesis 5:28 is drawn from the “Book of Generations,” which apparently was originally a separate document. Friedman, 87, 246, 256.

⁷⁷ Genesis 4:19.

prove any connection between Lamech's polygyny and the fact that he was a murderer.⁷⁸

Although Rashi states that having two wives was the custom of "the generation of the flood,"⁷⁹ it is noteworthy that Lamech's bigamy is the only case of polygyny recorded in the antediluvian period.

Other polygynous men in the Torah include Abraham (he was married to Sarah, who gave him her handmaid Hagar as a concubine);⁸⁰ Abraham's brother Nahor (who sired eight children with his wife Milcah, and four children with his concubine Reumah);⁸¹ Jacob (who in addition to his two wives Leah and Rachel, had two concubines, Zilpah and Bilhah, the maidservants of Leah and Rachel, respectively); Esau;⁸² and Esau's son Eliphaz.⁸³

In First and Second Samuel, the only recorded case of polygyny aside from the kings is that of Samuel's father Elkanah⁸⁴ (who had two wives, Hannah and Peninnah).⁸⁵ In

⁷⁸ In Genesis 4:23 Lamech says: "'...I have slain a man for wounding me, and a lad for bruising me....'"

⁷⁹ See Rashi's comment to Genesis 4:19.

⁸⁰ By the time Abraham took Keturah as a wife ("ishah") in Genesis 25:1, Sarah had already died. Genesis 23:1-2. At no point in time was Abraham simultaneously married to both Sarah and Keturah.

⁸¹ Genesis 22:20-24.

⁸² According to Genesis 26 and Genesis 28, Esau had three wives, Judith daughter of Beeri the Hittite, Basemath daughter of Elon the Hittite (Genesis 26:24) and Mahalath the daughter of Ishmael, sister of Nebaioth (Genesis 28:9). According to Genesis 36:1-3, Esau's three wives were Adah daughter of Elon the Hittite, Oholibamah daughter of Anah daughter of Zibeon the Hivite and Basemath daughter of Ishmael, sister of Nebaioth.

⁸³ According to Genesis 36:11, Eliphaz's sons (apparently borne by his wife) were Teman, Omar, Zepho, Gatam and Kenaz. Then Genesis 36:12 tells us that "Timna was a concubine of Esau's son Eliphaz; she bore Amalek to Esau."

addition to Elkanah, examples of polygynous men in the Prophets and Writings include: Gideon, who had many wives;⁸⁶ King David, who had seven wives before he reigned in Jerusalem,⁸⁷ and who then took more concubines and wives in Jerusalem after he left Hebron;⁸⁸ King Solomon, who had seven hundred royal wives and three hundred concubines;⁸⁹ and King Rehoboam of Judah, who had eighteen wives and sixty concubines, and who sired twenty eight sons for whom he sought many wives.⁹⁰

None of these polygynous men are ever criticized in the Bible for having multiple wives. King David, for instance, is condemned by God for committing adultery and arranging for the death of Uriah the Hittite so that he could marry Uriah's wife Bathsheba.⁹¹ But even though Deuteronomy 17:17 prohibits a king from having many wives, David is not punished or criticized in any way for marrying more than one wife.

⁸⁴ Gottlieb, 86, citing Roland de Vaux, *Ancient Israel Vol. I – Social Institutions* (New York: McGraw-Hill Book Co., 1965), 25. Elkanah traces his ancestry back to Levi's son Kohath, so in reality he is not an ordinary commoner. See I Chronicles 6:4-8.

⁸⁵ I Samuel 1:2. As has been explained in the Introduction to this thesis, the fact that only one case of polygyny aside from that of the kings is recorded in no way proves that polygyny was not practiced among the common men of ancient Israel. I Samuel, like all Biblical books, records the marriages and other activities of the elite, and not of average citizens. Still, it is generally believed that most men in ancient Israel did not in fact practice polygyny, or even bigamy. *Encyclopedia Judaica* (Jerusalem: Keter Publishing, 1982), 12:258. Neufeld, 119.

⁸⁶ Judges 8:30: "Gideon had seventy sons of his own issue, for he had many wives."

⁸⁷ II Samuel 3:2-5, 14.

⁸⁸ II Samuel 5:13.

⁸⁹ I Kings 11:3.

⁹⁰ II Chronicles 11:21, 23.

⁹¹ II Samuel 11:27 states: "...But the Lord was displeased with what David had done." This statement refers to David's actions in II Samuel 11 – i.e., committing adultery with Bathsheba (who was at the time married to another man, Uriah the Hittite) and arranging for the death of her husband.

Similarly, King Solomon is not criticized in the Bible for having multiple wives. Rather, he is criticized for marrying women who were unsuitable, because they were from among the nations (Moabite, Ammonite, Edomite, Phoenician and Hittite) with which God had prohibited the Israelites from intermarrying, “lest they turn [the Israelites’] heart away to follow their gods.”⁹² And sure enough, the Book of I Kings reports that when Solomon grew old:

“his wives turned away Solomon’s heart after other gods, and he was not as wholeheartedly devoted to the Lord his God as his father David had been. Solomon followed Ashotoreth the goddess of the Phoenicians, and Milcom the abomination of the Ammonites.”⁹³

So, Solomon is criticized in the Bible not for having too many wives *per se*, but for allowing many of his wives to turn his heart away from God.

Polyandry Was Absolutely Forbidden by Biblical Law (It Was Adultery)

The seventh commandment, which is set forth in both Exodus and Deuteronomy, includes the prohibition: “*lo tinaf*” – “you shall not commit adultery.”⁹⁴ The prohibition against adultery is listed between the prohibition against murder and the prohibition against theft. According to the Bible, and throughout the ancient Near East as a whole, “adultery” consisted of sexual intercourse between a married woman and a man other

⁹² I Kings 11:1-2.

⁹³ I Kings 11:4-5.

⁹⁴ Exodus 20:13; Deuteronomy 5:17.

than her husband.⁹⁵ Adultery was considered a crime against the married woman's husband, who had exclusive rights of possession over his wife.⁹⁶

Leviticus informs us:

“If a man commits adultery with a married woman, committing adultery with another man's wife, the adulterer and the adulteress shall be put to death.”⁹⁷

And we are told in Deuteronomy:

“If a man is found lying with another man's wife, both of them – the man and the woman with whom he lay – shall die. Thus you will sweep away evil from Israel.”⁹⁸

Thus, while in most of the ancient Near East it was up to the husband whether to punish or to pardon the adulterous couple,⁹⁹ the Biblical books of Leviticus and Deuteronomy

⁹⁵ Numbers 5:11-31 describes the case of the suspected adulteress. Numbers 5:12-13 states: “If a man's wife has gone astray and broken faith with him in that a man has had carnal relations with her unbeknown to her husband....” See also Numbers 5:19-20 (“The priest shall adjure the woman, saying to her,... ‘But if you have not gone astray in defilement while married to your husband....’”); Numbers 5:29 (“This is the ritual in cases of jealousy, when a woman goes astray while married to her husband and defiles herself...”). There is no recorded equivalent case involving a man who has “gone astray and broken faith” with his wife, as such would not be considered adultery.

⁹⁶ *Encyclopedia Judaica*, 2:313. Extra-marital intercourse on the part of the husband was not considered a sin against his wife, because a wife had no right of possession of her husband. Neufeld, 163.

⁹⁷ Leviticus 20:10.

⁹⁸ Deuteronomy 22:22.

⁹⁹ For example, The Middle Assyrian Laws (Tablet A, paragraph 15) state: “If a seignior has caught a(nother) seignior with his wife, when they have prosecuted him (and) convicted him, if the woman's husband puts his wife to death, he shall also put the seignior to death, but if he cuts off his wife's nose, he shall turn the seignior into a eunuch and they shall mutilate his whole face. However, if he let his wife go free, they shall let the seignior go free.” Pritchard, 181. See also C. H., No. 129: “If the wife of a seignior has been caught while lying with another man, they shall bind them and throw

make it clear that in ancient Israel the husband had no such discretion – adulterers must be put to death (due to the sacral dimension of the marriage bond).¹⁰⁰

The prophets, particularly Jeremiah and Hosea, criticized the Israelites for committing the terrible crime of adultery, and moreover, they used adultery as a metaphor for Israel's (the wife's) disloyalty to God (her husband).¹⁰¹ Additionally, the Writings often refer to adultery, which is always viewed negatively.¹⁰²

The Case of a Married Woman

An example of the dangers inherent in adultery can be found in Genesis 20.¹⁰³ In the incident reported in this chapter, Abraham told King Abimelech of Gerar that Sarah was

them into the water. If the husband of the woman wishes to spare his wife, then the king in turn may spare his subject." Ibid., 171.

¹⁰⁰ Sarna, *The JPS Torah Commentary: Exodus*, 114. See also Neufeld, 169, and *Encyclopedia Judaica*, 2:313.

¹⁰¹ See, for example, Jeremiah 5:7 ("Why should I forgive you?/ Your children have forsaken Me/ And sworn by no-gods./ When I fed them their fill,/ They committed adultery/ And went trooping to the harlot's house."); Jeremiah 23:10 ("For the land is full of adulterers,/ The land mourns because of a curse;/ The pastures of the wilderness are dried up./ For they run to do evil,/ They strain to do wrong."); Jeremiah 23:14 ("But what I see in the prophets of Jerusalem/ Is something horrifying:/ Adultery and false dealing...."); Hosea 4:2 ("[False] swearing, dishonesty, and murder,/ And theft and adultery are rife;/ Crime follows upon crime!"); Hosea 4:13 ("...[a]nd their daughters-in-law commit adultery!"). See discussion on "The Prophetic Metaphor of Israel as an Adulterous Wife" on pages 37-38 of this chapter.

¹⁰² See, for example, Psalms 50:18 ("When you see a thief, you fall in with him,/ and throw in your lot with adulterers."); Proverbs 6:32 ("He who commits adultery is devoid of sense;/ Only one who would destroy himself does such a thing.").

¹⁰³ According to Friedman, the story involving Abraham and Sarah reported in Genesis 20 is attributed to "E" (who composed in Israel between 922-722 B.C.E., most likely in the last twenty-five years of that period), whereas two similar stories, another one involving Abraham and Sarah (Genesis 12:10-20) and one involving Isaac and

his sister, and the king had Sarah brought to him. Then God came to Abimelech in a dream, saying to him:

“You are to die because of the woman that you have taken, *for she is a married woman.*”¹⁰⁴

The sin Abimelech was about to commit and for which God was going to kill him was *not* having sexual intercourse with another woman even though he was already married,¹⁰⁵ but rather that he would (unknowingly) be having sexual intercourse with a woman (Sarah) who was married to another man (Abraham). In the Biblical understanding of marriage, while God could allow Abimelech to knowingly engage in a polygynous relationship, having sexual relations with Sarah even though Abimelech already had a wife, God could *not* allow Abimelech to commit adultery, even unknowingly. Adultery is referred to in this story as “a great sin” (“*chata’ah gedolah*”)¹⁰⁶ – which was in fact a technical term for adultery throughout the ancient Near East.¹⁰⁷

Rebekah (Genesis 26:1-11) were both composed by “J” (who composed in Judah between 848-722 B.C.E.). Friedman, 87, 247-248, 265.

¹⁰⁴ Genesis 20:3.

¹⁰⁵ Genesis 20:17 informs us that Abimelech already had a wife.

¹⁰⁶ Genesis 20:9.

¹⁰⁷ For example, four Egyptian marriage documents from the ninth century label adultery as the “great sin,” and in Babylonia the adulterer is listed among those who have offended Ninurta by his “weighty sin.” Jacob Milgrom, *The JPS Torah Commentary: Numbers* (Philadelphia: The Jewish Publication Society, 1990), citing J. J. Rabinowitz, “The ‘Great Sin’ in Ancient Egyptian Marriage Contracts,” *Journal of Near Eastern Studies* 18 (1959), 73 and W. G. Lambert, *Babylonian Wisdom Literature* (Oxford: Clarendon Press, 1960), 119, 130f.

Polyandry would necessarily be considered adultery in ancient Israelite society (as well as in other ancient Near Eastern societies). For as soon as a woman engaged in sexual intercourse with her second husband, the second husband would be guilty of having sexual intercourse with a woman who was another man's wife – and this would be adultery, punishable by death in ancient Israel. Thus, while polygyny was accepted and practiced in ancient Israel, polyandry was absolutely prohibited, and there are no recorded cases of it.

The Case of an Engaged Virgin

In addition to prohibiting sexual intercourse with a married woman by providing that if a man is found lying with a married woman both of them shall die,¹⁰⁸ Deuteronomy also prohibits sexual intercourse with an engaged virgin, since, according to the Bible, once a girl is engaged by the payment of the bride-price to her family, she is considered to be her fiancé's wife.¹⁰⁹ Deuteronomy 22:23-27 provides the following two hypothetical cases:

“In the case of a virgin who is engaged to a man – if a man comes upon her in town and lies with her, you shall take the two of them out to the gate of that town and stone them to death: the girl because she did not cry for help in the town, and the man because he violated another man's wife. Thus you will sweep away evil from your midst. But if the man comes upon the engaged girl in the open country, and the man lies with her by force, only the man who lay with her shall die, but you shall do nothing to the girl. The girl did not incur the death penalty, for this case is like that of a man attacking another and murdering him. He came upon her in the open; though the engaged girl cried for help, there was no one to save her.”

¹⁰⁸ Deuteronomy 22:22.

¹⁰⁹ Tigay, 207, citing Deuteronomy 20:7, 22:24.

According to the Bible, if the act of sexual intercourse between the engaged virgin and the man took place in a town – where the girl could have called for help and been heard by a passerby – the engaged virgin is presumed to have been a willing participant in the sexual act. Therefore, both she and the man would be guilty of adultery. If, however, the act of sexual intercourse took place in the open country, where there are few passersby and a call for help would probably not have been heard, it is presumed that the man raped the betrothed virgin. In such a case, the man would be put to death, but the girl (a victim of rape, rather than an adulteress, like the girl in the first scenario) would not be punished.¹¹⁰

Thus, Deuteronomy treats engaged virgins and married women the same way in regard to adultery – i.e., the engaged virgin is considered to be her fiancé's wife, and consensual sexual intercourse with either the engaged virgin or the married woman is considered adulterous, with both parties receiving capital punishment. Hence, engaged virgins were presumably treated in the same way as married women in regard to polyandry – i.e., marriage to an engaged virgin would be prohibited.¹¹¹

¹¹⁰ For further discussion of this passage, see Tigay, 207.

¹¹¹ Yet interestingly, while Deuteronomy deals with the possibility of rape in both the case of girls who are engaged (Deuteronomy 22:25-27) and girls who are not yet engaged (Deuteronomy 22:28-29), it does not deal with the possibility of the rape of a married woman. Tigay asserts that “[u]nquestionably, evidence that a married woman was raped would clear her too, as the halakhah rules.” Tigay notes that in general ancient Near Eastern laws, like Deuteronomy, tended to deal with the issue of rape in connection with engaged and unmarried girls instead of married women since married women tended to be more sexually mature, and thus “of those who had been involved in extramarital sex, it was the engaged and unmarried girls who were most likely to have been forced....” Ibid., 207-208.

The Case of a Concubine

As has already been discussed, there was a great difference between the status of a wife and the status of a concubine in ancient Israel. According to Neufeld, if a man's concubine were to have sexual intercourse with another man:

"The question...is not strictly one of adultery as no state of marriage existed in biblical times between a man and his concubine. The conception of a violation of property rights, however, forms a sufficiently strong link between the two cases [(i.e., a man's having sexual intercourse with another man's wife, which constitutes "adultery," and a man's having sexual intercourse with another man's concubine) that they are certainly analogous.]"¹¹²

Neufeld writes:

"In view of the essentially proprietary nature of the crime of adultery it would seem only logical that sexual interference with a man's concubine was not left unpunished. A concubine's status as a *persona* was far below that of a wife, and she can be regarded merely as chattel purchased for the primary purpose of sexual intercourse and bearing children so that her infidelity would defeat the main object for which she was acquired. The Bible, however, has no direct reference to an offence of this nature."¹¹³

Notably, in the Book of Genesis, Jacob's son Reuben had sexual intercourse with Bilhah, his father's concubine.¹¹⁴ While this act of Reuben's is never called "adultery" in the Bible, and Reuben and Bilhah were not killed for this indiscretion,¹¹⁵ Reuben was

¹¹² Neufeld, 165.

¹¹³ Ibid., 164.

¹¹⁴ Genesis 35:22: "While Israel stayed in that land, Reuben went and lay with Bilhah, his father's concubine, and Israel found out...."

¹¹⁵ According to Friedman, the incident regarding Reuben and Bilhah reported in Genesis 35:22 was written by "J" (between 848-722 B.C.E.). The seventh commandment prohibiting adultery, contained in Exodus 20:13 and Deuteronomy 5:17, was written by

punished: Even though Reuben was Jacob's first-born, he was deprived of the birthright because of his inappropriate actions with Bilhah.¹¹⁶ Neufeld writes that, in this case:

“[where] a son had intercourse with his father's concubine the practice was considered *contra bonos mores* and one can hardly expect a father to enforce his proprietary rights to the full as against his own son.”¹¹⁷

The Prophetic Metaphor of Israel as an Adulterous Wife

“The exclusive loyalty which Israel must give God is analogous to the exclusive fidelity a wife owes her husband.”¹¹⁸ With this in mind, the prophets frequently used monogamous marriage as a symbol of the union between God and Israel, with God as the husband and Israel as the wife.¹¹⁹ God, the faithful husband, was never disloyal to His wife Israel, so the issue of polygyny was not relevant for the prophets. Israel, however, was often portrayed by the prophets as an adulterous wife.¹²⁰ The prophets used adultery as a semantic device to show just how awful and disloyal Israel was to God, her husband.

different sources (“P” and “Dtr¹,” respectively), both of which were not written until later. Friedman, 87, 249, 251, 254.

¹¹⁶ In Jacob's farewell address, he says to Reuben: “Reuben, you are my first-born/ My might and first fruit of my vigor,/ Exceeding in rank/ And exceeding in honor./ Unstable as water, you shall excel no longer;/ *For when you mounted your father's bed,/ You brought disgrace* – my couch he mounted!” Genesis 49:3-4 (emphasis added).

¹¹⁷ Neufeld, 164.

¹¹⁸ *Encyclopedia Judaica*, 2:315.

¹¹⁹ See, for example, Ezekiel 18:8 (...“So I spread My robe over you and covered your nakedness, and I entered into a covenant with you by oath, declares the Lord God; thus you became mine.”); Hosea 2:18 (“And in that day/ – declares the Lord –/ You will call [Me] Ishi (“my husband”)....”); Hosea 2:21-22 (“And I will espouse you forever;/ I will espouse you with righteousness and justice,/ And with goodness and mercy,/ And I will espouse you with faithfulness;/ Then you shall be devoted to the Lord.”).

¹²⁰ See, for example, Ezekiel 16:32: “[you were like] the adulterous wife who welcomes strangers instead of her husband.”

This portrayal of Israel is perhaps most commonly seen in the Book of Hosea, where the unfaithfulness of Hosea's adulterous wife Gomer represents Israel's unfaithfulness to God. Hosea often used the term "harlot" in a figurative sense, referring to Israel's political and religious promiscuity.¹²¹

The prophetic metaphor of Israel as a disloyal and adulterous wife indicates how truly negatively the prophets viewed adultery and, by extension, polyandry.

Co-Wives and Concubines

Co-Wives

It was possible for a man in ancient Israel to have multiple wives of equal position. For example, Esau's three wives were apparently of the same rank.¹²² Jacob's wives Rachel and Leah were also of equal status, as were Elkanah's wives Hannah and Peninnah.

Perhaps inevitably, polygyny in ancient Israel, as elsewhere, often resulted in antagonism between the wives. Antagonism could result from one wife being barren, while another wife was able to bear children. Antagonism could also result from one wife being favored over another. Deuteronomy 21:18, recognizing the potential problems that could

¹²¹ See, for example, Hosea 2:7; 9:1. See also, for other examples, Ezekiel 16:15 ("But confident in your beauty and fame, you played the harlot: you lavished your favors on every passerby...."); Ezekiel 16:35 ("Now, O harlot, hear the word of the Lord. Thus said the Lord God: Because of your brazen effrontery, offering your nakedness to your lovers for harlotry....").

¹²² Gottlieb, 87.

arise from polygyny, in fact begins by stating: “If a man has two wives, one loved and the other unloved....” This verse presumes that if a man has more than one wife, one wife may be favored by the husband over another.

For example, Elkanah had two wives, Hannah and Peninnah,¹²³ and although the two wives were of equal status, Hannah was Elkanah’s favorite wife. Hannah was barren, and Peninnah, who is called “*tsaratah*”¹²⁴ (“her ‘rival’ wife”), would taunt Hannah, making Hannah miserable, so that she would weep and she would not eat. Hannah prayed to God, and God remembered her and she bore a son, Samuel.

Like Elkanah, Jacob had two wives, the sisters Rachel and Leah.¹²⁵ Although the two sisters were wives of equal status, Rachel was Jacob’s favorite wife.¹²⁶ And just as

¹²³ I Samuel 1:1-6.

¹²⁴ I Samuel 1:6. The root of the word “*tsarah*” (“co-wife” or “rival wife”) is “*tsar*” (“enemy”). One explanation for this is that “co-wives are natural enemies, rivalling each other for their husband’s affection.” Yoseif Rabniowitz, trans. and Rabbi Yehezkel Danziger, ed., *The Artscroll Mishnah Series: Seder Nashim*, vol. 1(a), *Yevamos* (Brooklyn: Mesorah Publications, 1984), 14.

¹²⁵ Jacob was married to two sisters, Rachel and Leah. Leviticus 18:18 forbids marriage to sisters, stating: “Do not marry a woman as a rival to her sister and uncover her nakedness in the other’s lifetime.” As Sarna notes, Jacob’s simultaneous marriage to two sisters is “a situation repugnant to the morality of another [later] age.” Nahum M. Sarna, *Understanding Genesis: The Heritage of Biblical Israel* (New York: Schocken Books, 1966), 87.

¹²⁶ Genesis 29:30: “...indeed, he loved Rachel more than Leah.” Genesis 31:33 reports that when Laban was searching for his stolen household idols, “Laban went into Jacob’s tent and Leah’s tent and the tents of the two maidservants; but he did not find them. Leaving Leah’s tent, he entered Rachel’s tent.” Clearly, Rachel and Leah, as well as Bilhah and Zilpah (Jacob’s two concubines, as well as the maidservants of Rachel and Leah, respectively) each had their own tent. Perhaps this arrangement took place in order to give each of the women her own space, and to attempt to mitigate any antagonism between Jacob’s co-wives and concubines. However, in his commentary to Genesis 31:33, Rashi says that “Jacob’s tent” is “the tent of Rachel, for Jacob was constantly with her [Rachel]....” Such favoritism of Rachel on the part of Jacob, which is also made

Elkanah's favorite wife Hannah was barren, so was Jacob's favorite wife Rachel.¹²⁷ The Biblical story of Jacob and his wives tells us that God opened the womb of the unloved Leah, causing her to bear Reuben, Simeon, Levi and Judah.¹²⁸ Watching her sister Leah bear children while she herself was unable to do so, Rachel became envious of Leah, and she said to Jacob: "Give me children, or I shall die."¹²⁹ In fact, Rachel became so frustrated by her inability to bear children that she gave Jacob her handmaid Bilhah as a concubine, telling Jacob:

"Consort with her, that she may bear on my knees¹³⁰ and that through her I too may have children."¹³¹

The practice of a barren wife giving her husband her handmaid to bear children "on [the wife's] knees" – i.e., as a surrogate for the wife, with the child counted as belonging to the wife – was common in the Bible. For example, when Leah stopped bearing, she gave her handmaid Zilpah to Jacob as a concubine, and Zilpah bore Gad and Asher.¹³²

clear in the text of Genesis itself, would certainly have served to exacerbate any antagonism between the two sisters.

¹²⁷ Genesis 29:31.

¹²⁸ Genesis 29:31-35.

¹²⁹ Genesis 30:1.

¹³⁰ In his commentary to Genesis 30:3, Rashi states that the phrase "[that she may bear] on my knees" should be understood according to the Targum, which says: "and I will rear him."

¹³¹ Genesis 30:3.

¹³² Genesis 30:9-13.

Concubines

In addition to having co-wives, men in the Bible also commonly had one or more concubines. No legal formalities regarding concubinage are set forth in the Bible. In the Bible, the terms *amah* (handmaid), *shifchah* (handmaid or slave) and *pilegash* (concubine) are often used interchangeably,¹³³ and any difference between the three terms is superficial.¹³⁴ For purposes of this thesis, the English term “concubine” will be used to refer to the *amah*, the *shifchah* and the *pilegash*.

The concubine was not “married” to the master, and while her status was higher than that of a slave, it was much lower than that of a wife.¹³⁵ Although a man could have a concubine who had no relationship with his wife, usually the concubine was the handmaid, and therefore personal possession, of the wife (e.g., Sarah and Hagar, Leah and Zilpah, Rachel and Bilhah).

Like having multiple wives, having many concubines increased a man’s chances of having many children, which, as has been noted above, was considered to be of great importance in ancient Israel as well as throughout the entire ancient Near East. While multiple wives alone would have served this purpose, concubinage played a vital role in

¹³³ Gottlieb, 94. See also Sydney B Mintz, “An Analysis of the Relationships between Co-Wives, Sisters and Concubines in the Genesis Narratives and Rabbinic Literature” (thesis submitted in partial fulfillment of requirements for ordination, New York: Hebrew Union College-Jewish Institute of Religion Graduate Rabbinic Program, 1997), 9.

¹³⁴ Neufeld, 121. See Neufeld 121-124 for a description of the philological differences between the three terms.

¹³⁵ Ibid., 124.

ancient Israelite society because the maintenance of multiple wives could be prohibitively expensive, whereas the maintenance of concubines, who also served to provide a man with progeny, was less expensive and, as Neufeld writes:

“at the same time provided the master with servants to assist in the labour of the field and the household. Further, looking at the wife’s point of view, concubinage, in part at least, was popularised by the natural anxiety of a wife not to have her dignity as mistress of the household shared by other wives.”¹³⁶

Just as when Rachel was unable to conceive she gave her handmaid Bilhah to her husband Jacob to bear children as her surrogate, when Sarah was unable to conceive¹³⁷ she gave her Egyptian maidservant Hagar to her husband Abraham, saying to him:

“Look, the Lord has kept me from bearing. Consort with my maid; perhaps I shall have a son through her.”¹³⁸

According to Genesis 16:3, Sarah gave her handmaid Hagar to Abraham “*le’ishah*” – literally, “as a wife.” But Hagar was not Abraham’s wife in the way that Sarah was his wife; rather, she served as a concubine. In fact, “*le’ishah*” is often translated in this instance as “as concubine,” so that the verse reads that Sarai (who later became Sarah):

¹³⁶ Ibid., 128-129.

¹³⁷ We know from modern science that a couple’s being unable to produce children is not necessarily due to biological problems on the part of the woman, but may be due to biological problems on the part of the man. However, in the Bible a lack of progeny never resulted from sexual problems of the male; it was always the wife who was “barren.” For example, while Rachel and Hannah were barren, their husbands, Jacob and Elkanah, were able to produce offspring with their other wives (and in the case of Jacob, concubines as well). Similarly, Abraham and Sarah’s inability to have children was attributed to Sarah’s barrenness, and Abraham was able to sire a child with Hagar.

¹³⁸ Genesis 16:2.

“gave [Hagar] to her husband Abram [who later became Abraham] as concubine.”¹³⁹

Yet as soon as Hagar conceived, domestic harmony was disturbed.¹⁴⁰ Just as antagonism existed among co-wives of equal status when one was barren, antagonism existed between a wife and a concubine when the wife was barren and the concubine was able to conceive (even when the concubine’s conception was originally the wife’s idea).

In sum, while having multiple wives and concubines was often viewed as beneficial from the husband’s point of view, providing him with prestige and with a greater number of offspring, such relationships could be very difficult for the women involved. Polygynous marriages tended to produce antagonism rather than harmony among the women that were part of such marriages.

Levirate Marriage

Deuteronomy 25:5-10 sets forth the rules for what has come to be called “levirate marriage.” Deuteronomy 25:5-6 states:

“When brothers dwell together and one of them dies and leaves no son, the wife of the deceased shall not be married to a stranger, outside the family. Her husband’s brother shall unite with her: take her as his wife and perform the levir’s duty.”¹⁴¹ The first son that she bears shall be accounted to the dead brother,

¹³⁹ JPS, 22.

¹⁴⁰ Genesis 16:4-6: “...when [Hagar] saw that she had conceived, her mistress [Sarah] was lowered in her esteem.” Sarah then blamed Abraham for the situation, and she treated Hagar harshly, causing her to run away.

¹⁴¹ The provision of Deuteronomy 25:5 which states that a childless brother’s widow “shall unite with her: take her as his wife and perform the levir’s duty” seems to require a violation of the marital restrictions of Leviticus 18, since Leviticus 18:16 provides: “Do not uncover the nakedness of your brother’s wife; it is the nakedness of your

that his name may not be blotted out in Israel.”¹⁴²

The following verses, Deuteronomy 25:7-10, provide for a means of avoiding the levirate obligation – by means of a ceremony that has come to be known as “*chalitsah*” – if the surviving brother does not wish to marry his brother’s widow.¹⁴³

brother.” Similarly, Leviticus 20:21 provides: “If a man marries the wife of his brother, it is indecency. It is the nakedness of his brother that he has uncovered; they shall remain childless.” The prohibition against marrying a brother’s wife contained in Leviticus 18:16 and Leviticus 20:21 apparently applies even after the death of the brother, since “[a] man and his wife are one flesh (Genesis 2:24), even if he should die or divorce her.” JPS, 183. According to Friedman, the Deuteronomic law code (consisting of chapters 12-26 of Deuteronomy, and thereby including the provision for levirate marriage) was written after Leviticus 18:16 and Leviticus 20:21 (Friedman writes, 208: “P [who wrote Leviticus] had to have been written by the time of the Deuteronomistic writer. And the Deuteronomistic writer had to have been familiar with it.”), so it is possible that Deuteronomy 25:5 contains an exception to the prohibition contained in Leviticus 18:16 and Leviticus 20:21. However, it is also possible, as so often happens in the Bible, that Leviticus 18:16 and Leviticus 20:21 are simply inconsistent with Deuteronomy 25:5 and irreconcilable. According to *The Artscroll Mishnah Series*: “The prohibition [of Leviticus 18:16] is one of the twenty-one ‘*ervah* prohibitions (marriages forbidden because of kinship) listed in chapter 18 of Leviticus. In the case of a *childless* brother’s death, however, the Torah suspends this prohibition, and commands the brother to marry her, or to use the Scriptural and Mishnaic term, to perform *yibum*.” Rabinowitz and Danziger, 14.

¹⁴² The talmudic tractate Yebamot deals with the halakhah arising from the prescriptions contained in Deuteronomy 25:5-10. Note that Deuteronomy 25:5 provides: “When brothers dwell together and one of them dies ‘*uven ein lo*’....” The Hebrew is generally translated, as it is by JPS, to mean “and leaves *no son*.” If this translation is accepted, then the Biblical law explicitly mandates levirate marriage only in the case where the deceased husband has left no male offspring. However, the halakhah and the Septuagint translate “*ben*” not as the masculine “son,” but as the gender neutral “offspring” (male or female). Hence, levirate marriage takes place only if a man leaves no child of either gender. Tigay, 231.

¹⁴³ “The interesting question arises whether, on the death of the husband the widow automatically became espoused to her brother-in-law, so that the *chalitsah* was a form of divorce which dissolved this automatic union, or whether no more than a duty devolved on the brother-in-law on his brother’s death as a result of which he was compulsorily engaged to be married to his sister-in-law....Furthermore, no mention is made in the Bible of any ceremony necessary to complete the levirate marriage. In consequence it seems in the highest degree likely that the widow became the legal wife of the brother-in-law immediately on, and by virtue of, the husband’s death, and her new husband

In the case of levirate marriage the Torah seems to mandate a second marriage in certain circumstances, compelling a man to marry his childless brother's widow, apparently irregardless of whether or not the surviving brother is already married.

The Purpose of Levirate Marriage in the Bible and Throughout the Ancient Near East

The Bible explicitly states that the purpose of levirate marriage is "that [the deceased brother's] name may not be blotted out...."¹⁴⁴ Tigay suggests:

"Perhaps the reasoning was that just as the mention of a person's name can conjure up a very real mental picture of him, wherever a person's name was present his spirit was present."¹⁴⁵

Moreover, as mentioned above, in the ancient Near East having a son was considered to be of the utmost importance because it was the son who performed the prescribed rites after the father's death, and who performed services for the spirit of his father.¹⁴⁶

Furthermore, levirate marriage had the effect of ensuring the continuance of the family and thereby the ancestral property and the ancestral cult.¹⁴⁷

received, together with the automatic acquisition of a wife, the right to disclaim her and dissolve the union which had been thrust upon him." Neufeld, 47-48.

¹⁴⁴ Deuteronomy 25:6.

¹⁴⁵ Tigay, 482.

¹⁴⁶ But Neufeld contends that ancestor worship was not the motive for the Deuteronomic law regarding levirate marriage. He writes that "[a]t the stage where the lawgiver formulated definite provisions, raising the usage to the level of an obligatory law, the significance of ancestor worship had ceased to be a factor in considering the practice of the levirate from the legislative point of view." Neufeld, 26.

¹⁴⁷ Driver and Miles, 249. According to Josephus, levirate marriage "will be for the benefit of the public, because thereby families will not fail, and the estate will continue

Levirate marriage was not unique to ancient Israel. In fact, it existed in various forms throughout the ancient world, but its function varied in different societies.¹⁴⁸ Provisions for levirate marriage can be found in the Hittite Laws, where levirate marriage serves as an exception to the laws of incest, and in the Middle Assyrian Laws. In both of these cases levirate marriage is treated as part of the inheritance system, with the purpose of maintaining the investment of the father (who paid a bride-price for his deceased son's wife) and providing support for the widow, rather than providing the deceased posthumously with a son,¹⁴⁹ as is the purpose of the Biblical provision regarding levirate marriage.

Pre-Deuteronomic Cases of Levirate Marriage: Judah and Tamar; Boaz and Ruth

We see an example of an early, pre-Deuteronomic form of levirate marriage – involving a male relative who was not the brother of the deceased husband – in the story of Judah and Tamar, which is recorded in Genesis 38.¹⁵⁰ In Genesis 38, Judah denied his third son to

among the kindred; and this will be for the solace of wives under their affliction, that they are to be married to the next relation of their former husbands.” Ant. 4.254.

¹⁴⁸ Driver and Miles, 483.

¹⁴⁹ Ibid. See also Neufeld, 26-27.

¹⁵⁰ According to Friedman, the story of Judah and Tamar was written by “J” (between 848-722 B.C.E.). The Deuteronomic law code (consisting of chapters 12-26 of Deuteronomy, and thereby including the provision regarding levirate marriage) was not written until later. Friedman, 87, 118, 249.

the childless Tamar after his first and second sons died;¹⁵¹ but ultimately Judah, the father of Tamar's deceased husband, was tricked by Tamar into performing the levirate duty.¹⁵²

We see another example of an early, pre-Deuteronomic form of levirate marriage – again involving a male relative who was not the brother of the deceased husband – in the Book of Ruth, which tells the story of Ruth and Boaz. In the Book of Ruth, the childless Ruth's deceased husband Mahlon had no living brothers,¹⁵³ the unnamed “redeeming relative” was unwilling to marry Ruth,¹⁵⁴ and Boaz was next in line.¹⁵⁵

According to Neufeld, in pre-Deuteronomic times:

“Failing brothers, the duty devolves upon the father of the deceased. Failing father and brother, the next of kin, however remotely related he may be, becomes subject to the obligation. The Deuteronomic law...[later] reformed the ancient Hebrew levirate marriage custom by strictly limiting the persons affected and by providing a means of escape from the levirate marriage obligation [i.e., *chalitsah*].”¹⁵⁶

¹⁵¹ Genesis 38:11.

¹⁵² Genesis 38:12-19. Tigay suggests that Tamar's tricking her father-in-law Judah into performing the levirate duty “may imply that in that period the deceased man's father was one of those who might perform this duty, as in the Middle Assyrian Laws and the Hittite Law. Possibly, however, this was not the norm and Tamar was improvising out of desperation, since Judah had failed to give her his surviving son.” Tigay, 483. Neufeld asserts that “[i]t must be assumed that there was no actual marriage in [the case of Judah and Tamar]. Yet the story does clearly bring out that failing sons a father-in-law was involved in the levirate obligation. Whether the obligation in the case of a father-in-law was to become the husband of his son's widow remains an open question.” Neufeld, 36.

¹⁵³ Not only did Ruth's deceased husband Mahlon leave no surviving brothers, but Naomi, Mahlon's mother, told Ruth that there was no way she would bear any more sons who could possibly be a husband to Ruth (and thus perform the levirate duty). Ruth 1:11.

¹⁵⁴ Ruth 4:1-8.

¹⁵⁵ Ruth 3:12-13; Ruth 4:9-10.

¹⁵⁶ Neufeld, 34.

The Reference to "Brothers Dwelling Together"

The reference in Deuteronomy 25:5 to the "brothers dwell[ing] together" is noteworthy. Certainly such was not the case when the levirate duty was performed in the earlier cases of Judah and Tamar or Boaz and Ruth. (In fact, as has been discussed, the "redeemers" in both of those cases, in addition to not "dwelling together," were not even brothers.) Why, then, is this limitation included in Deuteronomy 25:5, and what does it mean? Gunther Plaut claims that "when brothers dwell together" refers to brothers who dwell "on common family property."¹⁵⁷ Tigay suggests:

"[this] could mean that the brothers are living on the same family estate, either because their father is still alive or because they have not yet divided the estate after his death. But it could also mean that they are living near each other, in the same vicinity."¹⁵⁸

Driver and Miles offer another explanation, suggesting that levirate marriage is rooted in a form of polyandry, and that the reference to "brothers dwell[ing] together" in the law regarding levirate marriage is possibly a relic of a system of polyandry in which "a woman was married or mated by several brothers at the same time."¹⁵⁹ Others, however, believe that group marriage, not polyandry, was the origin of levirate marriage.¹⁶⁰

¹⁵⁷ W. Gunther Plaut, ed., *The Torah: A Modern Commentary* (New York: Union of American Hebrew Congregations, 1981), 1506.

¹⁵⁸ Tigay, 21, citing Z. W. Falk, *Hebrew Law in Biblical Times* (Jerusalem: Wahrman, 1964), 88.

¹⁵⁹ Driver and Miles, 243. According to this view, levirate marriage would be a relic of the Tibetan type of polyandry, whereby "a group of brothers living together keep a common wife, and the children of the brotherhood are all...reckoned as belonging to the eldest brother....[In ancient Israelite levirate marriage] the levir-child was ascribed to the dead man by virtue of the same idea by which in Tibet the eldest brother and ruler of the house was held to be the father of all children of the household." Neufeld, 24.

Regardless of whether or not the reference to “brothers dwell[ing] together” in Deuteronomy 25:5 is a reference to some earlier form of polyandry or group marriage in which the law of levirate marriage is rooted, this reference does indicate a development of the custom of levirate marriage from the earlier times of Judah and Tamar and of Ruth and Boaz to the later time of Deuteronomy, when the levirate duty became significantly more limited.¹⁶¹

Conclusion

The Bible seems to vacillate between a preference for monogamy as the ideal state of marriage on the one hand and a general acceptance of polygyny on the other. In some sections of the Bible, the Biblical authors seem to favor monogamy, viewing it as an ideal. The prototypical Biblical “marriage,” that of Adam and Eve, was monogamous, and numerous passages in the Prophets and Writings indicate a preference for monogamy. Moreover, the Bible reports the great strife that arose among the wives in polygynous marriages of men such as Abraham, Jacob and Elkanah. If monogamy was in fact the Biblical ideal, then the polygynous lifestyles of the patriarchs and others that are reported in the Bible must be viewed as a less desirable, though legally and socially acceptable, way of life.

¹⁶⁰ Neufeld writes that “in the case of the Semites...it cannot be denied that there is evidence that the formation of brotherhoods was attempted in which wives as well as chattels were held in common ownership, which, in actual fact, amounts to group marriage.” Neufeld, 25.

¹⁶¹ Ibid., 41.

But it can also be argued that, although the Bible never praises a man for having many wives, polygyny was not necessarily viewed by the Biblical authors as being less desirable than monogamy. Cases of polygyny are frequently mentioned in the Bible without critique. Moreover, in ancient Israel, as in the ancient Near East as a whole, polygyny provided a man with the benefit of an increased likelihood of producing a large number of offspring, as well as serving as a sign of wealth and power.

It seems most likely that these two views – one favoring monogamy and one accepting polygyny as an equally valid lifestyle – are reflective of different positions of different Biblical authors, which possibly reflect two different social systems that functioned simultaneously. The Bible as a whole does not appear to take a single, unified stance either for or against polygyny. Yet whether or not monogamy was seen as an ideal, it is likely that the majority of marriages among the ancient Israelites were, for practical and economic reasons, monogamous.

Chapter Two: The Second Temple Period

Introduction

Following the destruction of the First Temple in 586 B.C.E. many Jews went into exile in Babylonia. Some Jews, however, remained in Judea, while still others went to Egypt and other areas. When the Persian king Cyrus defeated Babylonia in 539 B.C.E., he offered the Jews living in Babylonia the opportunity to return to their homeland in Judea and to rebuild their Temple. A number of Jews returned to Judea, where they reestablished a Jewish state under Persian rule. Other Jews remained in Babylonia and other areas in which they had settled following the destruction of the First Temple. Thus, a study of the Jews in the Second Temple period (ca. 539 B.C.E.–70 C.E., when the Second Temple was destroyed by the Romans), must consider not only Judea, but also (to the extent sources are available) areas of the Diaspora in which Jewish communities were located.

The sources that will be discussed in this chapter include a marriage document from Elephantine, a Jewish military colony in Egypt, as well as the writings of Philo (20 B.C.E.-50 C.E.), Pliny the Elder (23-79 C.E.) and Josephus (37-100 C.E.), which purport to describe Jewish life in Judea. The Dead Sea Scrolls found at Qumran, as well as the Apocrypha, a collection of non-canonical Jewish works, will also be explored. These documents reflect Jewish views toward marriage in general, and polygyny in particular, in the Second Temple period.

Elephantine¹⁶²

During the Second Temple period some men did not take a second wife because of an explicit agreement they had made with their first wife.¹⁶³ For example, an Aramaic marriage contract from the Jewish military colony at Elephantine that is probably from around the year 441 B.C.E.¹⁶⁴ (relatively early in the Second Temple period) provides that if the husband (Ashor) arbitrarily divorced his wife (Miphtahiah), claiming that he had another wife or other children, he had to pay his wife a heavy fine. The relevant provision in the marriage contract reads as follows:

“And I shall have no right to say I have another wife besides Miphtahiah and other children than the children whom Miphtahiah shall bear to me. If I say I have children and wife other than Miphtahiah and her children, I will pay to Miphtahiah the sum of 20 kerashin, royal weight, and I shall have no right to take away my goods and chattels from Miphtahiah; and if I remove them from her [erasure] I will pay to Miphtahiah the sum of 20 kerashin, royal weight.”¹⁶⁵

This provision contained in the marriage contract from Elephantine is similar to the condition that Laban imposed upon his son-in-law Jacob in Genesis 31:50, where Laban insisted that Jacob take no other wives other than Laban’s daughters, Rachel and Leah.¹⁶⁶

¹⁶² Elephantine is located at the southern end of a small island in the Nile. *Encyclopedia Judaica*, 6:604.

¹⁶³ *Ibid.*, 12:259.

¹⁶⁴ A. Cowley, ed., *Aramaic Papyri of the Fifth Century B.C.* (Osnabruck: Otto Zeller, 1967), 44.

¹⁶⁵ *Ibid.*, 45-46, no. 15, lines 31-36. Such agreements (i.e., whereby a man refrains from taking more than one wife because of an explicit agreement he has made with his first wife) have also been preserved in Babylonian and Assyrian documents. *Encyclopedia Judaica*, 12:259. Falk, 5.

¹⁶⁶ Genesis 31:50: “If you ill-treat my daughters *or take other wives besides my daughters* – though no one else be about, remember, God Himself will be witness between you and me.” (Emphasis added.)

While admittedly Jacob was not a monogamist (in addition to his two wives he had two concubines, Bilhah and Zilpah) the technique used by Laban to protect the status of his daughters, Jacob's two main wives, against possible further marriages on Jacob's part is analogous to the protection of Miphtahiah provided for in the Elephantine marriage contract.¹⁶⁷

According to Ze'ev Falk, the clause in the Elephantine marriage contract prohibiting polygyny may be due to the strong influence of the non-Jewish environment surrounding the Jews at Elephantine. But Falk is careful to point out that just because the format of inserting a specific clause in a marriage contract to restrict polygyny may have been borrowed by the Jews from their gentile neighbors, "[i]t does not necessarily follow that the tendency to monogamy was also a result of foreign influences."¹⁶⁸ It is quite possible that the tendency toward monogamy came from within the Jewish community, which then borrowed from its non-Jewish neighbors "the formal medium intended to define the family-structure, which both parties desired in the light of their cultural and religious convictions."¹⁶⁹

¹⁶⁷ Falk, 4-5.

¹⁶⁸ Ibid., 5.

¹⁶⁹ Ibid.

The Schools of Philosophy of the Second Temple Period

In the First Temple period, the Torah had been the exclusive possession of the priests, who “kept to themselves the decision on matters of ritual and of morals.”¹⁷⁰ By the Second Temple period, factors such as the radical decline of the priests’ power due to the destruction of the First Temple, as well as the influence of the splintered philosophies of the Greek world in which the Jews lived, resulted in the existence of diverse schools of Jewish philosophy, each of which professed to possess the true understanding of the law.

In Ant. and Wars, Josephus writes of three schools of philosophy¹⁷¹ among the Jews: the Pharisees, the Sadducees and the Essenes,¹⁷² and in Ant. he also mentions a fourth Jewish philosophical school,¹⁷³ “The Fourth Philosophy.” Philo, in addition to writing about the Pharisees, the Sadducees and the Essenes, also writes about an ascetic sect called the Therapeutae that flourished near Alexandria.¹⁷⁴ According to the JT, there were twenty-four Jewish sects at the time of the destruction of the Second Temple.¹⁷⁵

¹⁷⁰ Elias Bickerman, *From Ezra to the Last of the Maccabees: Foundations of Postbiblical Judaism* (New York: Schocken Books, 1962), 17.

¹⁷¹ Martin Cohen points out that Josephus presented the major Jewish ideological positions of his time “in the dress of Greek *haereses*, or ‘schools of thought.’ Josephus’ emphasis on the philosophical differences among the Jewish ‘schools of thought’ obscures the no less important fact that politically they were quite different from one another.” Martin Cohen, *Two Sister Faiths: Introduction to a Typological Approach to Early Rabbinic Judaism and Early Christianity*. Based on the Second Annual Rabbi Joseph Klein Lecture 14 October 1979 Assumption College (Assumption College, 1985), 15.

¹⁷² See, for example, Ant. 13.171-173; Ant. 18:11-22; Wars 2.119.

¹⁷³ Ant. 18.23-25.

¹⁷⁴ Philo, *De Vita Contemplativa* 8.64-11.90. Unless otherwise indicated, the text and translation of Philo used is from the Loeb Classical Library edition, trans. by F. H. Colson and G. H. Whitaker, 10 vols. (Cambridge: Harvard University Press, 1929-53).

¹⁷⁵ JT Sanhedrin 10:6, 29c.

The Essenes

Three major historians from the Second Temple period help to shape our current view of the Essenes: Pliny the Elder, Philo and Josephus.¹⁷⁶ In his *Natural History*,¹⁷⁷ Pliny the Elder, who was a Roman historian, naturalist, and administrator, described a “solitary tribe of the Essenes.” This “tribe of Essenes,” wrote Pliny, “has no women and has renounced all sexual desire.”¹⁷⁸ This celibate group of Essenes must have continued their sect not through procreation, but through the admission of adult members or the adoption of children.¹⁷⁹

Philo and Josephus also wrote about these celibate Essenes.¹⁸⁰ Philo reported that the Essenes set aside the Biblical commandment of Genesis 1:28 to “be fruitful and multiply” so that their sect could be free of women and thereby appropriately conduct its affairs.¹⁸¹

Philo, writing in his *Hypothetica*, said that the Essenes saw women as a threat to communal life. He wrote:

¹⁷⁶ Martin Cohen writes: “Josephus claims to have been a direct observer of the Essenes, even a participant in their activities during his youth. Pliny also appears to have been a direct observer, though he could hardly have been intimately conversant with the context of their lives. Philo clearly knew about the Essenes only second-hand, at best...” Cohen, 23.

¹⁷⁷ *Natural History* is the only extant work of Pliny the Elder. It contains many references to Jews and Judaism.

¹⁷⁸ Pliny the Elder’s *Natural History* 5, xv:73. According to Pliny, this “tribe of the Essenes” was located “[o]n the west side of the Dead Sea...[above] Engedi.” Ibid.

¹⁷⁹ Lena Cansdale, *Qumran and the Essenes: A Re-Evaluation of the Evidence* (Tubingen: J. C. B. Mohr, 1997), 30.

¹⁸⁰ Whereas Pliny the Elder claimed that the Essenes were located near the Dead Sea, Philo wrote that the Essenes “live in many cities of Judea and in many villages and grouped in great societies of many members.” *Hypothetica* 11:1.

¹⁸¹ Lawrence H. Schiffman, *Reclaiming the Dead Sea Scrolls* (Philadelphia: The Jewish Publication Society, 1994), 128.

“Furthermore they [the Essenes] eschew marriage because they clearly discern it to be the sole or the principal danger to the maintenance of the communal life, as well as because they particularly practise continence. For no Essene takes a wife, because a wife is a selfish creature, excessively jealous and an adept at beguiling the morals of her husband and seducing him by her continued impostures. For by the fawning talk which she practices and the other ways in which she plays her part like an actress on the stage she first ensnares the sight and hearing, and when these subjects as it were have been duped she cajoles the sovereign mind....For he who is either fast bound in the love lures of his wife or under the stress of nature makes his children his first care ceases to be the same to others and unconsciously has become a different man and has passed from freedom into slavery.”¹⁸²

Josephus claimed that the Essenes were misogynists, writing that they viewed women as behaving in a “lascivious” manner, in that women were unable to remain faithful to a single man. In *Ant.* Josephus wrote of the Essenes’ view toward marriage that they do not “marry wives...as thinking...[that wives give] the handle to domestic quarrels....”¹⁸³ In his description of the view of the Essenes towards marriage in *Wars*, Josephus reported:

“These Essenes reject pleasures as an evil, but esteem continence, and the conquest over our passions, to be virtue. They neglect wedlock, but choose out other persons’ children, while they are pliable, and fit for learning; and esteem them to be of their kindred, and form them according to their own manners. They do not absolutely deny the fitness of marriage, and the succession of mankind thereby continued; but they guard against the lascivious behaviour of women, and are persuaded that none of them preserve their fidelity to one man.”¹⁸⁴

While Pliny the Elder and Philo depicted all Essenes as celibate, Josephus also wrote, in *Wars*, about a group of Essenes who did marry. Josephus wrote:

¹⁸² *Hypothetica* 11.14-17. See “Philo’s Views on Marriage,” on pages 66-69 of this chapter, for a discussion of this statement and the fact that it may represent Philo’s own negative view towards women rather than being an accurate assessment of the Essenes’ rationale for celibacy.

¹⁸³ *Ant.* 18:21.

¹⁸⁴ *Wars* 2.120-121.

“another order of Essenes, who agree with the rest as to their way of living, and customs, and laws, but differ from them in the point of marriage, as thinking that by not marrying they cut off the principal part of the human life, which is the prospect of succession; nay rather, that if all men should be of the same opinion, the whole race of mankind would fail. However, they try their spouses for three years; and if they find that they have their natural purgations thrice, as trials that they are likely to be fruitful, they then actually marry them. But they do not use to accompany with their wives when they are with child, as a demonstration that they do not marry out of regard to pleasure, but for the sake of posterity....”¹⁸⁵

Most likely, this text describes a three year probationary period of betrothal, to ensure that the bride was appropriate, which was “followed by a three month investigation to confirm that the woman was at least on the surface able to give birth,” since non-procreative sexual relations were forbidden.¹⁸⁶

The Dead Sea Sect at Qumran and Documents Found at Qumran (“The Dead Sea Scrolls”)

Many modern scholars believe that the Dead Sea sect at Qumran was identical to the Essenes. Lena Cansdale, however, contends:

“[it is more likely] that the Scroll Community, or at least one of the scroll communities, sprang from the ranks of the Sadducean High Priesthood.”¹⁸⁷

¹⁸⁵ Ibid., 2.160-161.

¹⁸⁶ Schiffman, *Reclaiming the Dead Sea Scrolls*, 129. As Schiffman notes, “[r]abbinic sources give evidence of a similar idea held by some early Jewish pietists.” See BT Niddah 38a.

¹⁸⁷ Cansdale, 70. In support of her contention, Cansdale notes the following reasons, among others: (1) The Temple Scroll found at Qumran “surely show[s] the Sadducean or priestly preoccupation of its author” in its “emphasis on the building of the Temple and the detailed instructions as to the order and kind of sacrifices....”; (2) The name “Sons of Zadok” appears often in the scrolls to designate the priests of the community; and (3) The priests played a dominant role in the life of the Scroll Community. Ibid., 70-71.

Lawrence Schiffman also maintains that the Dead Sea sect at Qumran consisted of a Sadducean break-off group¹⁸⁸ founded some time in the second century B.C.E.,¹⁸⁹ insisting that the Dead Sea sect could not have been composed of Essenes. For one thing, while the Essenes abstained from marriage and were celibate, having no women at all in their communities, excavations of the cemeteries at Qumran have turned up skeletons of both women and children.¹⁹⁰

Furthermore, the view that the Dead Sea sect at Qumran was identical to the Essenes is contradicted by certain texts discovered at Qumran. As Lena Cansdale notes:

“There are many instances of rules and regulations being given for the women within the [community reflected by the documents found at Qumran] and the behaviour of the male members of the community towards women belonging to the community and those outside it.”¹⁹¹

For example, the texts discovered at Qumran condemn marriage to one's niece,¹⁹² divorce and polygyny, all of which are termed “fornication.”¹⁹³ And the texts found at Qumran do not include any regulations mandating celibacy for members of the sect.¹⁹⁴

¹⁸⁸ Schiffman writes: “Sadducean offshoots played a leading role in the formation of the Dead Sea sect.” Schiffman, *Reclaiming the Dead Sea Scrolls*, 76. Schiffman further writes: “I am not claiming that the Dead Sea sect as we know it is Sadducean, only that its origins and the roots of its halakhic tradition lie in the Sadducean Zadokite priesthood.” Ibid., 89.

¹⁸⁹ Ibid., 91.

¹⁹⁰ Cansdale, 49.

¹⁹¹ Ibid., 50.

¹⁹² The rules regarding forbidden marriages contained in the documents found at Qumran are similar to the rules regarding forbidden marriages contained in Leviticus 18:6-18; but marriage with a niece, which is forbidden in the Qumran documents, is not forbidden by the Torah. The Damascus Document 5:8ff reasons that a man's marriage to his niece should be prohibited by logical deduction since Leviticus 18:13 prohibits a woman's marriage to her nephew. The issue of marriage with one's niece was “a point of

The Essenes further differed from the sect reflected in the scrolls found at Qumran in “their disinclination to take an oath, their initiation rites, and other details.”¹⁹⁵

Additionally, the Qumran scrolls do not mention the name “Essenes.”¹⁹⁶

When evaluating the documents found in the caves at Qumran (“the Dead Sea Scrolls”) one must be careful not to overestimate their importance to the Second Temple period Dead Sea sect living at Qumran. True, it is possible – and probably most likely – that the Dead Sea Scrolls reflect the philosophy of the Dead Sea sect that lived at Qumran, and that the scrolls guided the sect’s way of life. It is also possible, however, that the scrolls were collected as part of a large library,¹⁹⁷ or that they reflected the philosophy not of the entire community living at Qumran, but rather just of a small group, or perhaps even an individual.

contention between the Pharisees and other Jewish groups in Second Temple times.” Schiffman, *Reclaiming the Dead Sea Scrolls*, 129-131.

¹⁹³ Robert Eisenman, *James the Brother of Jesus: The Key to Unlocking the Secrets of Early Christianity and the Dead Sea Scrolls* (New York: Viking Books, 1997), 40, 81, 104.

¹⁹⁴ Schiffman, *Reclaiming the Dead Sea Scrolls*, 129.

¹⁹⁵ Cohen, 25.

¹⁹⁶ Schiffman, *Reclaiming the Dead Sea Scrolls*, 129.

¹⁹⁷ Schiffman insists that “[t]he notion that the collection of scrolls at Qumran is not representative of a sect but is a balanced collection of general Jewish texts must...be rejected. [He contends that t]here is by now too much evidence proving that the community that collected those scrolls emerged out of sectarian conflict and that that conflict sustained it throughout its existence....Further, the nature of the collection, even if it contains many texts not explicitly sectarian, which might have been acceptable to all Jews in Second Temple times, is still that of a subgroup with definite opposition to the political and religious authorities of the times.” *Ibid.*, 89.

The Dead Sea Scrolls on Polygyny: The Damascus Document and the Temple Scroll

One of the Dead Sea Scrolls found at Qumran is commonly referred to by modern scholars as the “Damascus Document.”¹⁹⁸ As Lawrence Schiffman explains:

“[the text of the Damascus Document] “begins by declaring that in ancient times Israel went astray. As a result, God ‘hid His face’ and allowed the destruction of the First Temple.... Yet a remnant of the defeated people remained, and it is they who ultimately formed the sect. In this narrative, the sectarians regard their way of life and belief as a direct continuation of biblical tradition, claiming to be the tradition’s true recipients.”¹⁹⁹

The Damascus Document never criticizes the institution of marriage itself, but it does criticize polygyny and other practices that it determines to be in violation of Jewish marriage laws.²⁰⁰ The Damascus Document 4:20-5:5 attacks those who practice polygyny, stating:

“[4:20] [They]...are caught...[b]y unchastity [“*zenut*” – usually translated here as “fornication”]²⁰¹ (namely,) taking [4:21] two wives in their lives, while the foundation of creation is ‘male and female he created them.’²⁰² [5:1] And those who entered (Noah’s) ark went two by two into the ark. And of the prince (“*nasi*”) it is written, [5:2] ‘Let him not multiply wives for himself.’²⁰³ And

¹⁹⁸ This scroll is called the “Damascus Document” because of its symbolic reference to Damascus as the land of the sect’s exile.

¹⁹⁹ Schiffman, *Reclaiming the Dead Sea Scrolls*, 90.

²⁰⁰ *Ibid.*, 130.

²⁰¹ *Zenut* is translated as “fornication” in Florentino Garcia Martinez, *The Dead Sea Scrolls Translated: The Qumran Texts in English* (Leiden: E.J. Brill, 1994), as well as in most other translations. This term is used by the author of the Damascus Document “(and by those like-minded) of those who married two wives simultaneously or who married their nieces. To have two wives at once is, for the author, a breach of the ordinance of creation [according to 4:21].” *Encyclopedia Judaica*, 5:1247-1248.

²⁰² Genesis 1:27.

²⁰³ Deuteronomy 17:17. James Charlesworth notes that “‘prince’ (“*nasi*”) [is here] a deflated substitute for ‘king’ [“*melekh*” (which is the word used in Deuteronomy 17:17)].” James H. Charlesworth, ed., *The Dead Sea Scrolls: Hebrew, Aramaic, and*

David did not read the sealed book of the Torah which was in the Ark (of the Covenant), for it [5:3] was not opened in Israel since the day of the death of Eleazar and [5:4] Joshua and the elders. For (their successors) worshiped the Ashtoreth, and that which had been revealed was hidden [5:5] until Zadok²⁰⁴ arose, so David's works were accepted,²⁰⁵ with the exception of Uriah's blood²⁰⁶²⁰⁷

Obviously, this text is unclear and leaves room for a variety of interpretations. Most importantly, it is not clear who is the subject of "in their lives" in verse 4:21. Is it referring to the life of the husband (whereby it would be implied that there is only one woman who is destined to be with each man, and a man would be guilty of "fornication" if he took a second wife in his lifetime, even if his first wife had died), or is it referring to the life of the wife (whereby the husband would be guilty of "fornication" only if he took

Greek Texts with English Translations, vol. 2, *Damascus Document, War Scroll, and Related Documents* (Louisville: Westminster John Knox Press, 1995), 21. Another possibility is that "prince" is used instead of "king" in order to "belittle the Davidic dynasty." R. H. Charles, ed., *The Apocrypha and Pseudopigrapha of the Old Testament in English* (Oxford: Clarendon Press, 1913), II:810.

²⁰⁴ "Zadok" most likely refers to Zadok the priest of the time of Solomon. H. H. Rowley, *The Zadokite Fragments and the Dead Sea Scrolls* (Oxford: Basil Blackwell, 1952), 82.

²⁰⁵ Although the author of this passage views having two wives as a breach of the ordinance of creation, the author finds that "[t]he example of David cannot be pleaded as a defense, because in [David's] day the Torah was inaccessible; it had been sealed and hidden in the Ark 'until Zadok arose.'" *Encyclopedia Judaica*, 5:1247-1248.

²⁰⁶ As noted on page 29 of Chapter One, King David is not punished or even criticized in the Bible for having multiple wives, but he is criticized (and punished) for having Bathsheba's husband, Uriah the Hittite, killed.

²⁰⁷ Translation is taken from Charlesworth, 19, 21. Verses 7:1-7 of the medieval manuscripts known as the "Zadokite Fragments" (discovered by Solomon Schechter among the manuscripts of the Cairo Genizah and commonly dated in the tenth and eleventh or twelfth centuries B.C.E.) contain language that is identical to verses 4:20-5:5 of the Damascus Document. See Chaim Rabin, ed. and trans., *The Zadokite Documents* (Oxford: Clarendon Press, 1954), 17-19. This is not surprising in light of the fact that the discovery of the Dead Sea Scrolls at Qumran has made it clear that the medieval manuscripts discovered by Solomon Schechter in the Cairo Genizah and referred to as the "Zadokite Fragments" were closely related to the Damascus Document. No one knows how the Zadokite Fragments, or Damascus Document, came into the Cairo Genizah in fragments of two medieval copies. *Encyclopedia Judaica*, 16:1336.

a second wife while his first wife was still alive)? Most likely, it is the life of the first wife that is referred to in 4:21. As Schiffman writes:

“I take the passage to categorically forbid polygamy and, furthermore, to forbid a man to take another wife during his current wife’s lifetime. In defining marriage as a lifetime commitment, the text’s author clearly interpreted the biblical right of divorce to permit separation but not remarriage. The man or woman had to wait until the other died before taking a new spouse.”²⁰⁸

Assuming that Schiffman’s interpretation is correct, then this indicates that at least the author(s) of this passage and the adherents thereto, if not the entire Qumran community, were opposed to a man’s taking another wife during his current wife’s lifetime, let alone while he was still married to his current wife.

It is noteworthy that the Damascus Document was apparently written late in the first century B.C.E.,²⁰⁹ which was the same time that Herod ruled as king of Judea (Herod ruled from 37–4 B.C.E.). It is thus possible the Damascus Document’s absolute prohibition of polygyny was in fact intended as a criticism of the members of the Herodian family and their supporters, who practiced polygyny.²¹⁰

Verses 5:1-2 of the Damascus Document refer to the law of Deuteronomy 17:17 that states regarding the king: “*lo yarbeh lo nashim*” (“let him not multiply wives for

²⁰⁸ Schiffman, *Reclaiming the Dead Sea Scrolls*, 130.

²⁰⁹ Ibid., 91.

²¹⁰ Eisenman, 40. See pages 65-66 of this chapter, which records Josephus’ account of Herod’s polygyny in *Ant.* and *Wars*.

himself").²¹¹ In the original Biblical text of Deuteronomy 17:17, it appears that the prohibition against polygyny is stated so that it applies *only* to the king, and not to all Israelite males.²¹² The same is true (i.e., there is no application of this prohibition to Israelite males other than the king) when this prohibition is repeated in the Temple Scroll found at Qumran.²¹³ However, when the same passage from Deuteronomy is quoted in the Damascus Document, it is, based on its context, apparently used for a different purpose – i.e., to show “that the king serves as an example to his subjects. Just as [the king] is not permitted to have more than one wife, so others are not.”²¹⁴

As discussed in Chapter One, the Bible permits polygyny, and many cases of polygyny are reported without criticism in the Bible, including those of Abraham, Jacob, and Kings David and Solomon. The Damascus Document’s explicit legal prohibition of polygyny, in fact claiming that polygyny was Biblically prohibited, “was a complete innovation.”²¹⁵ Whether the intent of the author(s) of the ban on polygyny contained in the Damascus Document was to condemn Herod, to copy other ascetic communities in the Mediterranean basin, to benefit women, to promote stable marriages “or was more in keeping with general community attitudes in the Second Temple period is difficult to determine.”²¹⁶

²¹¹ The Damascus Document 5:1 says that this commandment applies to the “*nasi*” (“prince”), whereas Deuteronomy 17:17 says that it applies to the “*melekh*” (“king”). See pages 60-61 of this chapter (footnote 203) for a discussion of this issue.

²¹² See discussion of Deuteronomy 17:17 on pages 23-24 of Chapter One.

²¹³ The Temple Scroll, Column LVI, verse 18. Garcia Martinez, 173.

²¹⁴ Schiffman, *Reclaiming the Dead Sea Scrolls*, 130.

²¹⁵ *Encyclopedia Judaica*, 1:259.

²¹⁶ Cansdale, 53.

Josephus' View of Marriage and His Reports of Herod's Polygyny

Though Josephus wrote in Wars that it is "of old permitted to the Jews to marry many wives,"²¹⁷ and in Ant. that "it is the ancient practice among [the Jews] to have many wives at the same time,"²¹⁸ Josephus himself, who was married to three different women throughout his lifetime, was never married to more than one woman at a time. His first wife, whom he apparently married in the late sixties C.E., was a native of Caesarea who had been taken captive by the Roman general Vespasian's army. This first wife separated from Josephus when he accompanied Vespasian to Alexandria. In Alexandria, Josephus married for a second time. Later, in Rome, Josephus divorced his second wife, and there he married a woman whom he describes as being from a distinguished Jewish family that had settled in Crete.²¹⁹

While he did not reveal a great deal about the women to whom he himself was married in his writings, Josephus did write about the view of the Essenes towards marriage. As noted earlier in this chapter, Josephus viewed the Essenes, who did not marry, as misogynists. But despite the fact that Josephus was a direct observer of the Essenes,²²⁰ Schiffman points out that:

²¹⁷ Wars 1.477.

²¹⁸ Ant. 17.14.

²¹⁹ James L. Bailey, "Josephus' Portrayal of the Matriarchs," in *Josephus, Judaism and Christianity*, ed. Louis H. Feldman and Gohei Hata (Detroit: Wayne State University Press, 1987), 155. Bailey notes that Josephus does not give the names of any of his wives. "In recounting his family history, [Josephus] thus reveals that the male members carry more importance than do the females." Ibid.

²²⁰ Cohen, 23.

"we cannot be sure that the Essenes described by Josephus...held such negative views about women, because such ideas were commonplace in the Hellenistic milieu and may simply reflect the desire of [Josephus] to describe Jewish sectarian practices in terms understandable to non-Jewish readers."²²¹

In addition to describing the asceticism of the Essenes, Josephus also wrote, in both *Ant.* and *Wars*, of the polygyny of Herod. In *Ant.*, Josephus reported:

"Now Herod the king had at this time nine wives; one of them Antipater's mother, and another the high priest's daughter, by whom he had a son of his own name. He had also one who was his brother's daughter, and another his sister's daughter;²²² which two had no children. One of his wives also was of the Samaritan nation, whose sons were Antipas and Archelaus, and whose daughter was Olympias; which daughter was afterward married to Joseph, the king's brother's son; but Archelaus and Antipas were brought up with a certain private man at Rome. Herod had also to wife Cleopatra of Jerusalem, and by her he had his sons Herod and Philip: which last was also brought up at Rome; Pallas also was one of his wives, which bare him his son Phasaelus; and besides these, he had for his wives Phedra and Elpia, by whom he had his daughters Roxana and Salome."²²³

In *Wars*, Josephus reported that:

"[Alexander's wife, Glaphyra] frequently reproached Herod's sister and wives with the ignobility of their descent; and that they were every one chose by him for their beauty, but not for their family. Now these wives of his were not a few; it

²²¹ Schiffman, *Reclaiming the Dead Sea Scrolls*, 129. Furthermore, Schiffman contends that Josephus' account of the Essenes in *Wars* 2.120-121 "echoes the same notion expressed by Philo and may not really involve direct knowledge of the group, because Josephus's account here seems to be influenced by that of Philo." *Ibid.*, 128. See discussion of Philo's views on marriage on pages 66-69 of this chapter.

²²² Herod's marriage to two of his nieces prompted no comment by Josephus. Perhaps Josephus' mention of such marriages alone would have caused his readers to think negatively of Herod. Marriage to one's niece was not outlawed by the Bible itself, although it was outlawed by documents found at Qumran. See Damascus Document 5:7-11.

²²³ *Ant.* 17.19-21.

being of old permitted to the Jews to marry many wives, and this king delighting in many....²²⁴

Just as Josephus mentioned in this passage from Wars that it was “of old permitted to the Jews to marry many wives,” Josephus also included alongside his comments about Herod’s wives in Ant. (set forth above) the explanation that “it is the ancient practice among [the Jews] to have many wives at the same time.”²²⁵ Isaiah M. Gafni suggests that Josephus was forced to include these explanatory notes in his text because of the monogamy of the Roman Empire.²²⁶

Philo’s Views on Marriage

In his commentary on the Essenes in *Hypothetica* 11:14-17, cited on page 56 of this chapter, Philo wrote that women were a threat to communal life and wives were selfish creatures, who seduced and beguiled the morals of their husbands. But Philo, who lived in Alexandria, probably had little, if any, direct contact with the Essenes. Dorothy Sly contends that the passage in *Hypothetica* 11:14-17, rather than accurately reflecting what the Essenes may have said about women, more likely reveals Philo’s own assessment of women in general, and wives in particular.²²⁷ The basis for Sly’s contention is that Philo’s argument and the language he uses in *Hypothetica* 11:14-17 have a number of elements in common with Philo’s other remarks about women.²²⁸ For example, in

²²⁴ Wars 1.477.

²²⁵ Ant. 17.14.

²²⁶ Isaiah M. Gafni, “The Institution of Marriage in Rabbinic Times,” in *The Jewish Family*, ed. David Kraemer (New York: Oxford University Press, 1989), 21.

²²⁷ Dorothy Sly, *Philo’s Perception of Women* (Atlanta: Scholars Press, 1990), 207-208.

²²⁸ Ibid.

explaining the requirement of Deuteronomy 21:10-14 that a man must grant full freedom to a captive wife of whom he has grown tired, Philo wrote in *De Virtutibus* ("On the Virtues") 115:

"For it bids him not sell her, nor yet keep her as a slave, but grant her freedom, and grant her, too, the right to depart in security from the house, lest if another wife comes in to supersede her, and quarrels ensue as they often do, this jealousy, with the master too under the sway of the charms of a new love and neglectful of the old, may bring her some fatal disaster."

This passage from *De Virtutibus*, stating that jealousy frequently occurs between wives when an older wife is superseded by a newer wife, reflects Philo's view that jealousy is a female characteristic.²²⁹ Moreover, it is possible that the Essenes remained celibate not because they viewed women negatively, but for entirely different reasons; for example, they may have remained celibate so that they would always be in a proper condition to take part in worship.²³⁰

Lena Cansdale agrees that Philo's statement on the Essenes' banning marriage because they saw the presence of women as a threat to communal life is perhaps not based on the Essenes' true reasons for being celibate, but rather on Philo's "own negative stance towards women."²³¹ The question thus arises: Why did Philo himself have such a "negative stance towards women"? Just as Josephus' views toward women in general and toward marriage in particular probably reflected one stream of the pervasive attitudes

²²⁹ Sly notes that Philo "frequently implies that women use unfair tactics in attracting men: trapping, ensnaring, employing love potions. The words 'ensnares,' 'cajoles' and 'love lures' [all used by Philo in *Hypothetica* 11:14-17] are of this genre." Ibid.

²³⁰ Sly, 207.

²³¹ Cansdale, 30.

of the time and place in which he lived (Palestine from 37–ca. 70 C.E., and then Rome), the same can be said of Philo. Most likely, Philo's view towards women was influenced by the Hellenistic environment in which he lived in Alexandria in the first century C.E.

In fact, Philo's description of the Essenes' views towards women in general and marriage in particular were probably even more reflective of his own cultural environment than were Josephus', since Philo never even lived in Palestine and was thus physically further removed from the Essenes than Josephus, and less likely to have personally observed their activities.²³²

In addition to writing about the Essenes and their celibacy, Philo also made other references to marriage, and he acknowledged that a man could have more than one wife. For example, in *De Virtutibus* 115, cited above, Philo encourages a man to give full freedom to a captive wife of whom he has grown tired so that jealousy will not result if another wife supersedes her. However, Philo simply wrote that "it bids" the husband to do this, implying that it would be acceptable (at least legally) for the man to keep his captive wife when he takes another wife. Additionally, Philo frequently quoted the passage from Deuteronomy 21:15-17 regarding a man who "has two wives, one loved and the other unloved."²³³

²³² According to Martin Cohen, Philo's knowledge about the Essenes was at best second hand. Cohen, 23.

²³³ Deuteronomy 21:15-17 provides: "If a man has two wives, one loved and the other unloved, and both the loved and the unloved have borne him sons, but the first-born is the son of the unloved one – when he wills his property to his sons, he may not treat as first-born the son of the loved one in disregard of the son of the unloved one who is older...." For examples of Philo's quoting this passage, see *Legum Allegoriae* ("Allegorical Interpretation") 2.48; *De Sobrietate* ("On Sobriety") 21-25, where Philo argues that the

Philo apparently did not see marriage as something beneficial, but rather as something necessary. In his *Quod Deterius Potiori Insidiari Soleat* ("That the Worse is Wont to Attack the Better"), Philo wrote that the institution of marriage was merely a means for perpetuating the human race.²³⁴ However, it must be remembered that Philo's negative view toward marriage is not, as has been discussed, reflective of the view of the majority of extant Jewish texts from the Second Temple period.

The Apocrypha

The Apocrypha does not refer to polygyny often, but polygyny is mentioned in I Esdras, where reference is made to Apame, the concubine of the king.²³⁵ Polygyny is also

age of the two sons is shown by the order in which the motherhood of the two wives is mentioned. Philo wrote: "And yet at the very beginning of the commandment he has shewn us that the birth of the former [i.e., "the son of her that is hated is the first born"] comes first and the birth of the later ["the son of her whom he loves"] afterwards."; *De Sacrificiis Abelis et Caini* ("On the Sacrifices of Abel and Cain") 19-44, where Philo calls the law of Deuteronomy 21:15-17 "a law both excellent and profitable." Here, Philo uses the Biblical law as a starting-point for a discussion on pleasure and virtue. He writes: "For each of us is mated with two wives, who hate and loathe each other, and they fill the house of the soul with their jealous contentions. And one of these we love, because we find her winning and gentle, and we think her our nearest and dearest. Her name is pleasure. The other we hate; we think her rough, ungentle, crabbed and our bitter enemy. Her name is virtue."; *Quis Rerum Divinarum Heres* ("Who is the Heir of Divine Things") 47-49, where Philo again writes symbolically of the children of virtue ("the hated one") and pleasure ("the beloved"); *De Specialibus Legibus* ("On the Special Laws") 2.133-139, here Philo does not actually quote Deuteronomy 21:15-17, but he refers to it.

²³⁴ *Quod Deterius Potiori Insidiari Soleat* 27.102. Philo wrote: "And because you, with a view to the persistence of the race, you were endowed with generative organs, do not run after rapes and adulteries and other unhallowed forms of intercourse but only those which are the lawful means of propagating the human race."

²³⁵ I Esdras 4:29.

mentioned in the Apocryphal Book of Ecclesiasticus, or The Wisdom of Ben Sira, which was probably written by an upper-class Jerusalemite around 180 B.C.E.²³⁶

The author of Ecclesiasticus apparently had a generally negative view towards women.

He wrote:

“Do not give your soul to a woman,/ So that she will trample on your strength./ Do not meet a prostitute./ Or you may fall into her snares./ Do not associate with a woman singer./ Or you may be caught by her wiles./ Do not look closely at a girl./ Or you may be entrapped in penalties on her account./.../ Many have been led astray by a woman’s beauty,/ And love is kindled by it like a fire.”²³⁷

The author of Ecclesiasticus also wrote:

“A daughter is a secret cause of sleeplessness to her father./ And his concern for her robs him of his rest;/.../ Do not look at anybody for her beauty,/ And do not sit among women./ For as a moth comes out of clothing./ A woman’s wickedness comes from a woman./ A man’s wickedness is better than a beneficent woman,/ Or a woman that disgraces you shamefully.”²³⁸

And he wrote:

“Sin began with a woman,/ And because of her we all die./ Do not give water an outlet/ Nor a wicked woman freedom to speak./ If she does not act as you would have her,/ Cut her off from your person.”²³⁹

²³⁶ Edgar J. Goodspeed, trans., *The Apocrypha* (New York: Vintage Books, 1989), 222.

²³⁷ Ecclesiasticus 9:2-8. All translations of Ecclesiasticus are from Goodspeed.

²³⁸ Ecclesiasticus 42:9-14; See also 26:10 (“Keep a close watch over a headstrong daughter,/ for if she is allowed her liberty, she may take advantage of it.”).

²³⁹ Ecclesiasticus 25:24-26.

The author of Ecclesiasticus condemned fornication (i.e., a man having intercourse with a woman who was not his wife), writing:

“There are two kinds of men that multiply sins./ And a third that incurs wrath:/.../ One who is a fornicator in his physical body;/.../ A man who goes astray from his own bed./ And says to himself, ‘Who can see me?/ Darkness is around me, and the walls hide me;/ So no one can see me; what risk do I run?/ The Most High will not remember my sins.’/.../ Such a man will be punished in the streets of the city,/ And caught where he least suspects it.”²⁴⁰

And he cautioned against the danger of association with a married woman, warning his reader:

“Do not ever sit at table with a married woman,/ And do not feast and drink with her,/ Or your heart may turn away to her,/ And you may slip into spiritual ruin.”²⁴¹

Moreover, he warned against adultery, informing his reader:

“But three kinds of men my soul hates,/ And I am greatly angered at their existence:/ A poor man who is proud, and a rich man who lies,/ And an old man who is an adulterer and lacks understanding.”²⁴²

However, while the author of Ecclesiasticus wrote negatively of a woman who is not a good wife,²⁴³ he also praised marriage²⁴⁴ and emphasized the importance of a good wife, with verses such as the following:

²⁴⁰ Ecclesiasticus 23:16-21.

²⁴¹ Ecclesiasticus 9:9.

²⁴² Ecclesiastics 25:2. See also Ecclesiasticus 23:22-26 (“It is also with a wife who leaves her husband./ And provides an heir by a stranger./ For, first, she disobeys the law of the Most High,/ And, second, she wrongs her husband,/ And, third, she commits adultery through her fornication,/ And provides children by a stranger./...”); 41:21-22

"Happy is the man who has a good wife! The number of his days is doubled./ A noble wife gladdens her husband./ And he lives out his years in peace./ A good wife is good fortune./ She falls to the lot of those who fear the Lord./ Whether rich or poor, he has a stout heart;/ And always a cheerful face."²⁴⁵

Ecclesiasticus' emphasis on a good wife could, arguably, imply that its writer saw monogamy as the ideal. Moreover, while acknowledging the existence of polygyny in his time, the author of Ecclesiasticus made a further case in favor of monogamy with the statement in Ecclesiasticus 37:11: "[Do not consult with] a woman about *tsaratah*...."²⁴⁶ The Hebrew word "*tsaratah*"²⁴⁷ is the same word used in I Samuel 1:6 to describe Hannah's relationship with Peninnah, and there, as here, it does not simply mean her

("[Be ashamed]...to stare at a married woman;/ To meddle with another man's maid,/ (And do not stand over her bed);...").

²⁴³ Ecclesiasticus 25:23 ("A humbled mind and a downcast face,/ And a wounded heart mean a wicked wife./ A woman who does not make her husband happy/ Means palsied hands and paralyzed knees."); 42:6 ("It is well to put a seal on a wicked wife,/ And where there are many hands, lock things up.").

²⁴⁴ Ecclesiasticus 36:24-26 ("The man who gets a wife enters upon a possession,/ A helper like himself, and a pillar of support./ Where there is no hedge, a piece of property will be plundered,/ And where there is no wife, a man will wander about and groan./..."); 40: 23 ("A friend and a comrade meet opportunely,/ But a wife with her husband is better than both of them.").

²⁴⁵ Ecclesiasticus 26:1-4. See also Ecclesiasticus 25:1 ("In three things I show my beauty and stand up in beauty/ Before the Lord and men;/ Harmony among brothers, and friendship among neighbors,/ And wife and husband suited to each other."); 26:14-18 ("A silent wife is a gift from the Lord./ And a well-trained spirit is beyond estimation./ A modest wife is blessing after blessing,/ And a self-controlled spirit no scales can weigh./ Like the sun rising on the Lord's loftiest heights,/ Is the beauty of a good woman as she keeps her house in order./ Like gold pillars on silver bases/ Are beautiful feet with shapely heels."); 40:19 ("Children or the building of a city perpetuate a man's name,/ But an irreproachable wife is counted better than both of them.").

²⁴⁶ The Hebrew is from Moshe Tsvi Segel, *Sefer Ben Sira Ha-Shalem* (Jerusalem: Bialik Institute, 1997), 230.

²⁴⁷ But it must be noted that Ecclesiasticus was apparently originally written in Greek, and thus the Hebrew is not the language of the author of Ecclesiasticus himself, but rather a translation into Hebrew from the Greek. Goodspeed, 177.

“co-wife,” but has the further negative connotation of “her rival wife.”²⁴⁸ And in Ecclesiasticus 26:6 it says: “It is a heartache and sorrow when one wife is the rival (“*tsarah*”)²⁴⁹ of another....”

Statements such as the ones in Ecclesiasticus 37:11 and 26:6 imply that while the author of Ecclesiasticus viewed monogamous marriage to a good wife positively, he viewed polygyny negatively, believing that having more than one wife was bound to result in tension between the rival wives.

Conclusion

The celibacy of the Essenes, described by Philo, Pliny the Elder and Josephus, is not something that is found in the majority of extant Jewish texts from the Second Temple period. In fact, the majority of available material from the period reflects a positive view toward marriage.

As for the issue of polygyny, it is not addressed in most of the extant texts from the Second Temple period. We know from the writings of Josephus that the members of the Herodian family and their supporters practiced polygyny. But overall, the available texts seem to reflect a pervasive attitude favoring monogamy. The Damascus Document of the Dead Sea Scrolls is the most extreme example, as it contains an explicit legal prohibition

²⁴⁸ In fact, Goodspeed translates Ecclesiasticus 37:11 as: “[Do not consult with] a woman about her rival.” The term “*tsarah*” is also used frequently in the Mishnah and the Talmud.

²⁴⁹ Segel, 159.

against polygyny. But while the Damascus Document prohibited polygyny outright (a wife could not even consent to let her husband take a second wife), the majority of extant texts from the Second Temple period indicate that polygyny was not outlawed in the Second Temple period, but simply viewed negatively. This view is reflected in the agreement inserted into the Jewish marriage contract found at Elephantine, as well as in the Apocryphal Book of Ecclesiasticus.

It is most likely that while polygyny was not outlawed by the majority of extant Jewish texts from the Second Temple period (as it was in the Damascus Document), it was not widely practiced. This concept of polygyny being legal, yet viewed negatively and not commonly practiced, continued in Jewish communities in the following centuries.

Chapter Three: The Tannaitic Period

Introduction

The primary sources of Jewish law in the Tannaitic period (ca. 70-200 C.E.) are the Mishnah and the Tosefta. According to rabbinic tradition, the Mishnah was redacted by Rabbi Judah HaNasi (ca. 175-217 C.E., sometimes referred to simply as “Rabbi”).²⁵⁰ The final redaction of the Mishnah occurred in Palestine around the year 200 C.E. The majority of the material in the Mishnah is attributed to the Tannaim (sages from the late first century BCE through the end of the second century C.E.), although the Mishnah contains some material that is attributed to sages dating back as early as the third century B.C.E.²⁵¹

The Tosefta, which contains many *baraitot* that are attributed to the Tannaim but not cited in the Mishnah, serves as a supplement to the Mishnah.²⁵² According to rabbinic

²⁵⁰ Strack and Stemberger point out that the Mishnah cannot have been entirely redacted by Rabbi Judah HaNasi. Many additions were made over time, including passages in which Judah HaNasi himself is named and his opinion is contrasted with that of others, as well as passages mentioning teachers who lived after Judah HaNasi. Such additions “do not present a decisive objection against the assumption of [Judah HaNasi] as the redactor of [the Mishnah], as long as we suppose that for a time the text retained a certain flexibility....[T]he term ‘redactor’ must be broadly understood, and [Judah HaNasi] must be seen as the main figure under whose authority [the Mishnah] essentially took its shape.” H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash* (Edinburgh: T&T Clark, 1991), 149-150. For further discussion of the Mishnah, see *Ibid.*, 119ff.

²⁵¹ Schiffman, *From Text to Tradition*, 10.

²⁵² “...[T]he question of the relationship between [the Tosefta] and [the Mishnah] cannot be answered unequivocally. In how far is [the Tosefta] indeed a ‘supplement’ to [the Mishnah]; in how far is it an independent work...? An ‘either-or’ will hardly do....[An] historical development must be considered. [The Tosefta] could at first have been a halakhah collection parallel to [the Mishnah] but independent from it, which however with the canonization of [the Mishnah] was increasingly seen only as a function and

tradition, the Tosefta was redacted by Rabbi Chiyya bar Abba (a Palestinian Amora who was active from 290-320 C.E.),²⁵³ a student of Rabbi Judah HaNasi. The final redaction of the Tosefta probably took place in the late third or fourth century C.E. in Palestine.²⁵⁴

Jewish material from the Tannaitic period can also be found in the Gemara of the BT and the JT. Although the Gemara itself was compiled and redacted in the Amoraic period, it preserves numerous *baraitot* from the Tannaitic period, as well as references to and rulings of many Tannaim.

Another extant Jewish source from the Tannaitic period is the Aramaic Targum of Ruth. Additionally, the New Testament sheds light on the views of early Christianity during the Tannaitic period, and non-canonical Christian literature such as Justin Martyr's *Dialogue with Trypho* provides useful information about the Tannaitic period in general and Jewish law and practice during the period in particular.

While the authors of the Targum of Ruth and the New Testament apparently viewed polygyny negatively, an analysis of the Mishnah and Tosefta, as well as Justin Martyr's

complement of [the Mishnah]; this in turn would have had a corresponding influence on the further textual development, but without resulting in a uniform and thorough revision of [the Tosefta]. Or one may think of a separate genesis of the individual [Tosefta] tractates, which led respectively to different relationships with [the Mishnah]. Both possibilities could also be combined." Strack and Stemberger, 176. For further discussion of the Tosefta, see *Ibid.*, 167ff.

²⁵³ Adin Steinsaltz, *The Talmud, The Steinsaltz Edition: A Reference Guide* (New York: Random House, 1989), 33.

²⁵⁴ Strack and Stemberger point out that the final version of the Tosefta is post-mishnaic and therefore Amoraic (probably from the beginning of the Amoraic period). As with the Mishnah, textual alterations were made to the Tosefta even after its "final redaction." Strack & Stemberger, 176.

Dialogue with Trypho, reveals that polygyny, though it may not have been common *de facto*, was approved of *de jure* among the Jews of the Tannaitic period. The issue of polygyny was most likely to arise in cases where a wife was barren (and a man was therefore unable to fulfill his obligation to propagate the human race) or where a man who was already married was required to perform the levirate duty with his deceased brother's wife. There are numerous references to *tsarot* ("co-wives") in the **Mishnah and Tosefta**, especially in tractate Yebamot (which deals with issues relating to levirate marriage). Additionally, the Tosefta and JT report an amusing case of polygyny involving Rabbi Tarfon, whose purported motive in taking many wives was to provide all of the women with food in a time of drought. Another Tannaitic passage in the JT and Tannaitic passages in the BT also report cases of polygyny.

A Preference for Monogamy: The Targum of Ruth and Ta'anit 31a

Scholars have debated over the dating of the Aramaic Targum of Ruth, with many believing it to be a talmudic²⁵⁵ or post-talmudic composition, and others claiming that it originated much earlier, among the Sadducees or perhaps some other non-Pharisaic sect.²⁵⁶ However, D. R. G. Beattie claims that "while a definitive judgment on the origin of the Targum cannot yet be pronounced,"²⁵⁷ the Tosafists (in their contradiction of

²⁵⁵ Moses Mielziner, *The Jewish Law of Marriage and Divorce in Ancient and Modern Times and its Relations to the Law of the State* (New York: Bloch Publishing Company, 1901), 29.

²⁵⁶ D. R. G. Beattie, trans., *The Aramaic Bible*, vol. 19, *Targum of Ruth*, with introduction, apparatus and notes by D. R. G. Beattie (Collegeville, Minn.: The Liturgical Press, 1987), 11.

²⁵⁷ *Ibid.*, 12. For a discussion of the Targum of Ruth, including its contents and its origin, see *Ibid.*, 9-12.

Rashi's statement that there was no Targum of the Writings) claimed that the Targum of Ruth is from Tannaitic times. According to Beattie, the opinion of the Tosafists regarding the origin of the Targum of Ruth, in addition to being the "oldest known opinion on the origin of the Targum...may very well be right."²⁵⁸

The Biblical Book of Ruth 4:5-6 reads as follows:

"Boaz continued [speaking to the redeemer, saying]: 'When you acquire the property from Naomi and from Ruth the Moabite, you must also acquire the wife of the deceased, so as to perpetuate the name of the deceased upon his estate.' The redeemer replied, 'Then I cannot redeem it for myself, lest I impair my own estate. You take over my right of redemption, for I am unable to exercise it.'"

In the Biblical account of this incident, the only reason that the unnamed redeemer gives for being unable to exercise his right to redeem the estate and acquire Ruth as his wife is that doing so will "impair [his] own estate." The unnamed redeemer's estate would be impaired because by marrying Ruth he would be required to expend capital for property that would go to the first son Ruth bore to him, who would be legally regarded not as the son of the redeemer, but as the son of Ruth's deceased husband Mahlon.²⁵⁹ Therefore, the unnamed redeemer offers his right of redemption to Boaz.

The Targum to Ruth 4:5-6, in contrast to the Biblical account, reads as follows:

"Boaz said: 'On the day that you buy the field from the hand of Naomi and from the hand of Ruth the Moabite, wife of the deceased, you are obliged to redeem

²⁵⁸ Ibid.

²⁵⁹ See JPS, 1423, footnote c.

and required to act as her brother-in-law and to marry her²⁶⁰ in order to raise up the name of the deceased upon his inheritance.' The redeemer said, 'In such circumstances I am not able to redeem for myself. *Because I have a wife, I have no right to marry another in addition to her lest there be contention in my house* and I destroy my inheritance. You, redeem my inheritance for yourself, *for you have no wife*, for I am not able to redeem."²⁶¹ (Emphasis added.)

Unlike in the Biblical Book of Ruth, in the Targum of Ruth the unnamed redeemer says that he cannot redeem for himself not only because he will "destroy [his] inheritance," but also because he is already married. Thus, he suggests that Boaz, who is unmarried, become the redeemer. It is noteworthy that the unnamed redeemer does not say that he is not *allowed* to marry a second wife (in fact, polygyny was legal for Jews in the Tannaitic period, when this Targum was probably written). Rather, he says that if he takes a second wife, it may result in "contention in [his] house." The idea of contention resulting when a man has more than one wife is a common theme in the Bible²⁶² and in Second Temple period literature,²⁶³ as well as in the Tannaitic period.²⁶⁴ Hence, Targum of Ruth 4:5-6 most likely indicates the view of its author that polygyny, while not illegal, is not advisable because it may result in antagonism between the wives.

²⁶⁰ Beattie notes that the Targum of Ruth differs from rabbinic exegesis, which did not consider Ruth's second marriage to be a case of levirate marriage. "The Karaites [a break-off Jewish group who formed a separate sect in the eighth century C.E. in Baghdad], however, who interpreted the levirate law of Deut[eronomy] 25:5f. as applying not to an actual brother but to a more distant relative, found in Ruth an example of the practice exactly as they understood it." Beattie, 30.

²⁶¹ Ibid., 30.

²⁶² See discussion of Co-Wives on pages 38-40 of Chapter One.

²⁶³ See, for example, Ecclesiasticus' view of co-wives on pages 72-73 of Chapter Two.

²⁶⁴ See, for example, Mishnah Yebamot 15:4 (discussed on pages 85-86 of this chapter), where a woman's co-wife is listed as one of five relations who is disqualified from testifying on the woman's behalf that her husband is dead because (according to the commentators on this mishnah) co-wives generally tend to dislike each other.

A *baraita* contained in BT Ta'anit 31a also seems to indicate a preference for, as well as the practice of, monogamy. After mentioning the legend about the daughters of Israel going out to dance in the vineyards, the Gemara reports: "A Tanna taught: He who did not have a wife turned to there." In other words, only young unmarried men would go out to the vineyards on the fifteenth of Av to choose a bride from the young women dancing there. Men who were already married did not go out to the vineyards to find additional wives, at least not on the fifteenth of Av.

Monogamy and Polygyny in the Mishnah and Tosefta

There are a number of mishnayot, to be discussed below, which refer to the issue of polygyny in a legal context. In contrast, vast sections of the Mishnah reflect a society that appears to have been by and large monogamous in practice. For example, see the first nine chapters of Mishnah Ketubot. Of the thirteen chapters in Mishnah Ketubot, only the tenth chapter sets forth laws relating to cases where the deceased husband leaves two or more wives.²⁶⁵

Mishnah Avot 2:7: A Negative View of Polygyny

While polygyny is generally referred to in the Mishnah and Tosefta without any value judgment being made, the danger of polygyny is noted in Mishnah Avot 2:7. This mishnah reports:

²⁶⁵ See discussion on Chapter 10 of Ketubot on page 89 of this chapter.

“[Hillel (ca. 50 B.C.E. – ca. 10 C.E.)] used to say: The more flesh, the more worms; the more possessions, the more worry; the more wives (*nashim*) the more witchcraft....”

The connection between wives and witchcraft is not obviously apparent. In his commentary to this mishnah, Pinchas Kehati cites BT Sanhedrin 67a, which says that women are more often practitioners of witchcraft than are men. Kehati further points out that there are commentators who explain that each wife would want to be seen by her husband as favorable, and would use witchcraft to accomplish this goal. Thus, Hillel’s statement suggests that a man’s having many wives would result in the wives being rivals who might use witchcraft to compete for their husband’s attention.

Although Mishnah Avot 2:7 attributes the above saying to Hillel, Jacob Neusner contends that it is unlikely that this saying, or the other wise sayings attributed to Hillel in the previous mishnayot, circulated in Hillel’s name before the Mishnah was redacted in 200 C.E. To support his contention, Neusner points out that neither this saying nor any of the prior sayings “is ever quoted, referred to, or attributed to [Hillel] prior to the third-century masters.”²⁶⁶ Yet regardless of whether or not Hillel himself was the author of this statement, it is noteworthy that the statement is included in the Mishnah, which indicates that it reflects a view held during the Tannaitic period.

²⁶⁶ Jacob Neusner, *Judaism in the Beginning of Christianity* (Philadelphia: Fortress Press, 1984), 69. Neusner believes that the fact that none of these sayings are quoted, referred to or attributed to Hillel prior to the third century is “prima facie evidence that the whole is late.” Ibid.

It is further noteworthy that while this passage from Mishnah Avot 2:7 reflects a **negative** view of polygyny, it does not say that polygyny is forbidden. In fact, it implies that polygyny, to some extent, must have been practiced.

Passages Relating to Levirate Marriage and Chalitsah

Deuteronomy 25:5-6 contains the rules for what has come to be called “levirate marriage.” This passage provides that when a man dies without leaving a “*ben*,”²⁶⁷ the deceased man’s brother should take his brother’s widow as his wife, and their firstborn shall be accounted to the dead brother. The succeeding verses, Deuteronomy 25:7-10, provide a means for avoiding the levirate obligation – by means of a ceremony that has come to be known as “*chalitsah*.” This is a ceremony that releases a surviving brother from his levirate obligation if the surviving brother does not wish to marry his deceased brother’s widow. The mishnaic tractate Yebamot deals with the legal issues that arise from the prescriptions regarding levirate marriage contained in Deuteronomy 25:5-10.

In addition to the obvious polygyny that could arise when a man (who may already be married) is required to marry his deceased brother’s wife, there are a number of passages in Mishnah Yebamot that apparently presuppose polygyny in their discussion of levirate marriage. For example, Yebamot 1:1 provides that there are fifteen women who exempt

²⁶⁷ See discussion on page 44 of Chapter One (footnote 142) for an explanation of the understanding of the word “*ben*” in this context. In sum, Biblical law appears to mandate levirate marriage only when the deceased husband has left no *male* offspring, whereas the halakhah mandates levirate marriage if a man has left no offspring of either gender.

their co-wives (*tsaroteihen*)²⁶⁸ and their co-wives' co-wives (and so on, *ad infinitum*) from *chalitsah* and from levirate marriage. The mishnayot which follow, Yebamot 1:2-4, also refer to co-wives (*tsarot*), as do many other mishnayot. Similarly, many of the *baraitot* in Tosefta Yebamot Chapter One refer to co-wives (*tsarot*). For example, see Tosefta Yebamot 1:1-10.

Mishnah Bekorot 1:7 teaches the following regarding levirate marriage and *chalitsah*:

“The duty of levirate marriage takes precedence over the duty of *chalitsah* – in the early days, when their intention was to perform a *mitzvah* [i.e., to fulfill a religious obligation]; but now when their intent is not to perform a *mitzvah*, the duty of *chalitsah* takes precedence over the duty of levirate marriage.”²⁶⁹

It is clear from this mishnah that levirate marriage was originally preferred to *chalitsah*.

Even though Leviticus 18:16 states: “Do not uncover the nakedness of your brother’s wife....” (a man’s brother’s wife is an *ervah*, a forbidden relation with whom he may not unite),²⁷⁰ a man was permitted to marry the widow of his childless deceased brother in

²⁶⁸ The Hebrew word used in the Mishnah is “*tsaroteihen*,” which is here translated into English as “their co-wives,” although it could also be translated as “their rival wives.” The term “*tsarah*” is also used in the Bible (I Samuel 1:6), where it refers to Elkanah’s two wives, Hannah and Peninnah, meaning “co-wife” or “rival wife.” For further discussion of the meaning of the word “*tsarah*,” see page 39 of Chapter One (footnote 124).

²⁶⁹ The view set forth in Mishnah Bekorot 1:7 (that *chalitsah* is preferable to levirate marriage) is the view adopted by Abba Shaul (a Palestinian Tanna who was active during the two successive generations of Tannaim that ranged from 110-170 C.E.), who is cited in the Gemara of BT Yebamot 39b.

²⁷⁰ Similarly, Leviticus 20:21 provides: “If a man marries the wife of his brother, it is indecency. It is the nakedness of his brother that he has uncovered; they shall remain childless.”

order to fulfill the positive religious obligation of levirate marriage set forth in Deuteronomy 25:5-6. However, by the time that the statement of the anonymous Tanna of Mishnah Bekorot 1:7 was made, it appears that men were sometimes marrying their deceased brothers' widows not with the intent of performing a religious obligation, but rather with an ulterior motive – i.e., for sensual or financial reasons. According to the commentators, a man who performs the levirate duty with such ulterior motives (rather than with the intent of performing a religious obligation) is indulging in an *ervah* (a forbidden union).²⁷¹ Thus, when it seemed that levirate marriage was no longer taking place purely for the sake of performing a religious obligation, the rabbis ruled that *chalitsah* was preferable to levirate marriage.²⁷²

But levirate marriage was not outlawed in the Tannaitic period. At times, a man could choose between levirate marriage and *chalitsah*. For example, Mishnah Sanhedrin 2:1 states that if a high priest dies without issue, his brothers may either submit to *chalitsah* or perform the levirate duty and marry his wife.²⁷³

²⁷¹ See commentaries of Obadiah Bartinuro and Pinchas Kehati on Mishnah Bekorot 1:7.

²⁷² Mishnah Yebamot 6:4 provides: “A high priest whose brother dies [must] perform *chalitsah*, and not contract a levirate marriage [with his sister-in-law].” In the case of the high priest, his intent is irrelevant. He is absolutely prohibited from marrying his sister-in-law under any circumstances, since Leviticus 21:14 provides that a high priest is prohibited from marrying a widow. In fact, Mishnah Yebamot 6:4 even provides that if while a woman is “*shomeret yavam*” (i.e., waiting for her brother-in-law to perform the levirate duty), her brother-in-law who is a common priest is appointed high priest, the high priest may not consummate the marriage (because of the prohibition of Leviticus 21:14), even though he had made a statement of betrothal.

²⁷³ Not surprisingly, Mishnah Sanhedrin 2:1 also provides that if a brother of the high priest dies without issue, the high priest may not perform the levirate duty, but rather he must submit to *chalitsah*, because the high priest is prohibited from marrying a widow (Leviticus 21:14). See discussion regarding the high priest in the previous footnote.

While this change of priorities, making *chalitsah* preferable to levirate marriage, meant that even a bachelor whose deceased brother died childless was no longer obligated to marry his brother's widow, as Ze'ev Falk points out:

“naturally the main effect concerned those already married, who were now at liberty to remain monogamous. An internal factor encouraging bigamy among Palestinian Jewry was thus neutralized while there remained the external opposition to polygamy on the part of the administration.”²⁷⁴

Other Passages in Yebamot that are Related to Polygyny

There are also other passages in Mishnah Yebamot that are related to polygyny. For example, in Mishnah Yebamot 15:4 a woman's co-wife (*tsaratah*) is listed (along with the woman's mother-in-law, her mother-in-law's daughter, her sister-in-law and her husband's daughter) as one of five relations who is disqualified from testifying on behalf of a woman that her husband is dead.²⁷⁵ Pinchas Kehati explains, in his commentary to Mishnah Yebamot 15:4, that even though a woman is permitted to marry on the testimony of one witness (even a woman and a relative) that her husband has died, in the case of a co-wife, or any of the other four women whose testimony is disqualified, their testimony is not permitted, since they generally dislike the woman, and “there is a fear that they intend to ruin her, so that she will marry someone else and thus she will be

²⁷⁴ Falk, 9.

²⁷⁵ Mishnah Sotah 6:2 and Mishnah Gittin 2:7 also mention co-wives in regard to testimony. Mishnah Sotah 6:2 provides that a woman's co-wife (*tsaratah*) is among those who are considered trustworthy to testify that a woman should not have to drink from the “bitter waters,” but not trustworthy to disqualify the woman from receiving her *ketubah* (marriage settlement). Mishnah Gittin 2:7 provides that a woman's co-wife (*tsaratah*) is among those who are not considered trustworthy to testify that a woman's

prohibited to her husband.” Hence, in Mishnah Yebamot 15:4 we see not just a reference to polygyny (i.e., the existence of co-wives), but an acknowledgement that when a man has more than one wife, the wives tend to dislike each other and to want to ruin one another.

In Mishnah Yebamot 6:5 the anonymous sage who is first quoted in the mishnah (the *tanna kamma*)²⁷⁶ provides that a *kohen hedyot* (an ordinary, or common, priest) may not marry an *ailonit* (a woman who is incapable of conception) unless he already has a wife and/or²⁷⁷ children.²⁷⁸ As Kehati explains in his commentary to Mishnah Yebamot 6:5, the concern of the *tanna kamma* is that the priest sire children – which can be done either by having a wife (with whom he can fulfill the command to procreate) or children (by which he would have already fulfilled the command). Thus, presumably this mishnah permits a priest who already has a wife who apparently will be able to bear him children

husband is dead, but who are considered trustworthy when they bring the woman’s *get* (bill of divorce).

²⁷⁶ Rabbi Yehudah disagrees with the *tanna kamma*, saying that “even if he [the *kohen hedyot*] has a wife and children, he may not marry an *ailonit*, since she is the harlot mentioned in the Torah.” (Leviticus 21:7 says that a priest “shall not marry a woman defiled by harlotry.”)

²⁷⁷ The Hebrew phrase used in this mishnah is “*ishah uvanim*.” This could be translated either as “a wife and children” or “a wife or children” (in which case the priest would be required to have *either* a wife who is capable of childbearing or two children). See discussion on pages 87-88 of this chapter (footnote 281) regarding the requirement that a man must have two children in order to fulfill his duty to propagate the human race.

²⁷⁸ The prohibition against marrying a sterile woman applied not only to priests, but to all Israelite men who did not already have a wife (who is presumably capable of bearing children) and/or two children, since all Israelite men are commanded to propagate the human race. See discussion of Mishnah Yebamot 6:6 on pages 87-88 of this chapter. In fact, the Gemara to this mishnah (BT Yebamot 61a/b) recognizes that the duty of procreation applies to all Israelite men, but explains that the mishnah refers only to a priest because of the statement of Rabbi Yehudah, who disagrees with the *tanna kamma* (that a priest can ever marry an *ailonit*) and is stricter in the case of a priest than in the

to take an *ailonit* as his second wife. It is noteworthy, however, that while the text of this mishnah cited in both Talmuds (as well as the text of this mishnah cited by Bartinuro, Kehati and Albeck) says that the priest cannot marry an *ailonit* unless he already has a “wife and/or children” the text of this mishnah used by Rashi does not mention the priest having a wife, but simply reads: “...unless he already has children.”²⁷⁹ Hence, Rashi’s text of this mishnah would not, on its face, permit a priest who is already married to take an *ailonit* as a second wife.

Mishnah Yebamot 6:6 provides that men²⁸⁰ are commanded to propagate the human race.²⁸¹ According to Yebamot 6:6, if a man has lived with his wife for ten years and she has not borne him children, the man is not permitted to abstain from procreation – i.e., he must fulfill the command to propagate the human race by taking another wife. The mishnah does not state whether or not the man must divorce his first wife before taking another wife. Thus, one possible reading of the mishnah is that the man could stay married to his first wife, while taking a second wife with whom he could fulfill his duty to propagate the human race. A second possible reading of the mishnah is that the man must divorce his first wife (who has not borne him children) before marrying another

case of an Israelite. This Gemara is explained by Pinchas Kehati in his commentary to Mishnah Yebamot 6:5.

²⁷⁹ See Rashi’s comment on this mishnah at BT Yebamot 61a.

²⁸⁰ The *tanna kamma* holds that the command to procreate does not apply to women. Rabbi Yochanan ben Beroka disagrees with the *tanna kamma*, holding that the command to procreate applies to women as well as men. In the Gemara, the rabbis rule that procreation, while a commandment for men, is not a commandment, but rather an act of choice and free will, for women. BT Yebamot 65b-66a.

²⁸¹ In Yebamot 6:6, the School of Shammai says that a man must have two sons in order to fulfill the duty to propagate the human race; this requirement is based on the fact that Moses had two sons. (See Tosefta Yebamot 8:4.) The School of Hillel, on the other

woman. This second reading appears to be parallel to Tosefta Yebamot 8:5, which provides that the man must divorce the first wife and pay her *ketubah* (marriage settlement) before marrying another wife (with whom he can perform his duty to propagate the human race). Rashi, on the other hand, allows for the possibility of both readings of Mishnah Yebamot 6:6, saying that after a man has been with a woman for ten years, if she has not borne children, “he must either divorce her or take another wife alongside her.”²⁸²

Numerous other mishnayot contained in Mishnah Yebamot also make reference to cases in which a man has or may potentially have more than one wife. Such references can be found, for example, in Yebamot 4:11 (which provides that if four married brothers die without children, their oldest surviving brother may perform the levirate duty with all four of his deceased brothers’ wives; the mishnah further provides that if a man who was married to two women dies, sexual relations or *chalitsah* with one of the wives exempts her co-wife); Yebamot 13:8 (which refers to cases in which a man is married to two minor orphans, two deaf mutes, a minor and a deaf mute, one who is sound of hearing and a deaf mute, and an adult and a minor); and Yebamot 16:1 (which refers to the case of a woman whose husband and co-wife went overseas, and the husband died).

hand, says that a man must have a son and a daughter in order to fulfill this duty; this requirement is based on Genesis 5:2, which says: “Male and female, He created them.”

²⁸² Rashi’s commentary to the mishnah on BT Yebamot 64a.

Passages in Other Tractates that are Related to Polygyny

In addition to the mishnayot discussed above from Mishnah Yebamot, there are a number of other mishnayot that refer to a legal system in which the potential for polygyny was assumed. For example, Chapter 10 of Mishnah Ketubot contains laws relating to cases where a deceased man leaves two or more wives. Ketubot 10:1²⁸³ and 10:2²⁸⁴ deal with inheritance claims of surviving wives and children in the case of a man who had been married to two wives simultaneously. Ketubot 10:4 and 10:5 deal with inheritance claims of surviving wives in the cases of a man who had three or four wives, respectively. Ketubot 10:6 also deals with the case of man who has two wives.

Mishnah Gittin 8:7 refers to a case involving a co-wife (*tsarah*). And there are other mishnayot, such as Kiddushin 2:6 (which begins: "One who has betrothed two women..."); Kiddushin 2:7 (which reports a case in which a man attempted to betroth five wives simultaneously);²⁸⁵ and Gittin 3:1 (which refers, in the context of divorce, to a man who had two wives), that do not make sense unless we assume that polygyny existed. Similarly, in Mishnah Sotah 4:3 Rabbi Eliezer states that a man whose wife is sterile, aged or incapable of bearing children may marry another woman and procreate

²⁸³ Mishnah Ketubot 10:1 provides: "If [a man] were married to two wives and he died, the first [wife] comes before the second [in payment of her *ketubah*], and the heirs of the first [wife] come before the heirs of the second [wife]...."

²⁸⁴ Mishnah Ketubot 10:2 provides: "If [a man] were married to two wives and they died, and then he died, and the orphans [of both mothers] requested the *ketubot* of their mothers, and there is only enough available for the two *ketubot*, they divide equally...."

²⁸⁵ Two of the women in the case reported in this mishnah were sisters, and since a man cannot betroth a woman and her sister (Leviticus 18:18), the sages held that the man did not become betrothed to the sisters. However, as Kehati points out in his commentary to Kiddushin 2:7, the three other women, who were not related, did become betrothed to the man.

with her. Rabbi Eliezer's view, though not accepted by later authorities, similarly indicates that polygyny must have existed to some extent.

Chapter Two of Mishnah Sanhedrin deals in part with the rights of the king. Mishnah Sanhedrin 2:4 reads, in relevant part, as follows.

“He [the king] shall not multiply wives to himself [Deuteronomy 17:17], only eighteen. Rabbi Yehudah says: ‘He may so multiply, so long as they do not turn away his heart [from God].’ Rabbi Shimon says: ‘Even one, if she turns away his heart, he may not marry her.’ If this is so, why does it say [in Deuteronomy 17:17] ‘he [the king] shall not multiply wives to himself’? Even if [they are] like Abigail [who was virtuous].”²⁸⁶

On its face, the Biblical prohibition contained in Deuteronomy 17:17 appears to limit the king to having only one wife. But the *tanna kamma* of Sanhedrin 2:4 interprets Deuteronomy 17:17 to mean that the king can have up to, but no more than, eighteen wives.²⁸⁷ Rabbi Yehudah disagrees with the *tanna kamma*, holding that the king may have an unlimited number of wives, so long as the wives “do not turn away his heart [from God].” Rabbi Shimon then disagrees with both the *tanna kamma* and Rabbi Yehudah, stating that the king may not marry *any* wife who would turn away his heart from God. But the views of Rabbi Yehudah and Rabbi Shimon are rejected by the mishnah, since the prohibition against the king having many wives set forth in

²⁸⁶ Abigail is regarded in the aggadah as one of the most remarkable women in Jewish history. I. Epstein, trans. and ed., *The Babylonian Talmud: Seder Nezikin* (London: The Soncino Press, 1938), 111.

²⁸⁷ The Gemara to this mishnah (BT Sanhedrin 21a) explains that the number eighteen is derived from the prophet Nathan's statement to King David, who already had six wives (II Samuel 3:2-5) in II Samuel 12:8: “...and if that were not enough, I would give you twice as much more [i.e., two more times the present total – which is six – of your wives, which equals eighteen].”

Deuteronomy has to do with the quantity, not the quality, of the king's wives. Thus, a king is permitted only eighteen wives total, even if the wives are virtuous like Abigail.

Recorded Cases of Polygyny in Tannaitic Times

A specific example of polygyny is cited in Tosefta Ketubot 5:1 and in JT Yebamot 4:12. The man involved in the case reported is Rabbi Tarfon, a Tanna who was active in the years 80-110 C.E. In addition to being one of the leading scholars of Yavneh, Rabbi Tarfon was also a priest. This passage reports that during a year of drought Rabbi Tarfon betrothed three hundred women. Rabbi Tarfon's motive for marrying so many women was not hedonistic, nor did it have anything to do with his need to procreate or with a levirate obligation. Rather, Tosefta Ketubot 5:1 and JT Yebamot 4:12 both report that Rabbi Tarfon betrothed the three hundred women due to exceptional circumstances – i.e., so that during the time of drought they would be able, as wives of a priest, to eat of the *terumah* (the heave offering that was to be given to the priest in accordance with the Biblical injunctions). It is likely, however, that the case of Rabbi Tarfon's many wives reported in Tosefta Ketubot 5:1 and JT Yebamot 4:12 is not a reflection of reality, but rather a legend intended for a moral purpose.²⁸⁸

JT Yebamot 4:12 also reports another example of polygyny from the Tannaitic period. The JT tells of the case of thirteen brothers, twelve of whom died childless. The widows of the twelve deceased brothers came before Rabbi Judah HaNasi, who told the surviving

brother that he should enter into levirate marriage with all twelve of the widows.²⁸⁹ In the next three years, the surviving brother sired thirty six children with the twelve women. But like the case of Rabbi Tarfon in Tosefta Ketubot 5:1 and JT Yebamot 4:12, the story of the man who performed the levirate duty with twelve of his sisters-in-law in JT Yebamot 4:12 is probably not literally true.

The BT reports two cases of bigamous Tannaitic Palestinian marriages, in BT Sukkah 27a and BT Yebamot 15a. In BT Sukkah 27a the *epitropos* (major domo) of King Agrippa (who is Jewish),²⁹⁰ in the process of trying to ascertain his obligation regarding dwelling in the sukkah on the festival of Sukkot, mentions that he has two wives, one in Tiberias and one in Sepphoris (which were both important centers in the Tannaitic period). And in BT Yebamot 15a we are told:

“Come and Hear: It happened that Rabban Gamliel’s daughter was married to his brother Abba, and he died without children. And Rabban Gamliel married her co-wife (*tsaratah*) [in fulfillment of his levirate obligation].”

Apparently, the Rabban Gamliel referred to here is Gamliel II of Yavneh (a Tanna who was active from 80-110 C.E.).²⁹¹ This statement informs us that that Rabban Gamliel’s

²⁸⁸ Salo Baron insists that Rabbi Tarfon’s betrothal to three hundred women was “clearly intended only to drive home a legal doctrine.” Salo Wittmayer Baron, *A Social and Religious History of the Jews* (New York: Columbia University Press, 1958), 2:227.

²⁸⁹ Lowy writes: “Even if we assume that this legend has a historical basis there is no evidence that, were it not for the need of fulfillment of the levir’s duties, such a demand would ever be made. On the contrary, [in BT Ketubot 62b] Rabbi Judah the Prince advised his son not to marry a second wife on moral grounds, even in a case where the first wife was barren.” Lowy, 119.

²⁹⁰ “[T]he major domo, *epitropos*, is identified with Joseph b. Simai mentioned in Shab. 121b.” I. Epstein, trans. and ed., *The Babylonian Talmud: Seder Mo’ed* (London: The Soncino Press, 1938), 118.

brother was a bigamist, as he was married to both his niece (Rabban Gamliel's daughter)²⁹² and another woman.

The story of Rabbi Tarfon marrying three hundred wives and the story of the man who entered into levirate marriage with his twelve sisters-in-law were more likely cases of rabbinic legend than actual fact. But the reports of the bigamy of King Agrippa's *epitropos* and Rabban Gamliel's brother Abba, although they may be fictitious situations created to make legal points, are more likely to be factual accounts of reality. Regardless of whether these statements regarding polygyny are factually correct, they do indicate that the Tannaim who wrote them did not have a problem with the legality of polygyny, and that positive reasons could be found for taking more than one wife. It is thus likely that polygyny, though it may not have been common, must have been legal, and practiced (at least to some extent) by Jews in Tannaitic times.

Christianity: The New Testament

The Tannaitic period of early rabbinic Judaism corresponds to the time of early Christianity and the writing of much of the New Testament. Thus, in exploring early rabbinic views of marriage in general, and polygyny in particular, one must also consider the views of early Christianity on these subjects.

²⁹¹ Steinsaltz, 33.

²⁹² Uncle-niece marriage is not explicitly prohibited in the Torah. While such marriages were considered incest by all the sectarians, they were encouraged by the rabbis. Lowy, 136-137.

The Gospels are relatively silent about marriage, containing no detailed discussion on the subject. But some scholars infer from discussions in the Gospels regarding divorce that Jesus viewed monogamy as the ideal. For example, according to Matthew, after prohibiting divorce, Jesus says:

“...if a man divorces his wife for any cause other than unchastity, and marries another, he commits adultery.”²⁹³

If polygyny were permitted, then there would be no reason for marriage to a second wife after divorce to be considered adultery.²⁹⁴

Moreover, other passages – such as John 2:1-12, which describes Jesus and his disciples’ attendance at a wedding at Cana-in-Galilee, where Jesus purportedly turned water into wine – can be used in support of the argument that Jesus had a positive view toward marriage, seeing monogamy as the ideal.²⁹⁵

In fact, there are very few references to polygyny (and no references to polyandry) in the New Testament, which never expressly condemns polygyny for the general population.²⁹⁶

However, passages in the New Testament written during the Tannaitic period do mandate

²⁹³ Matthew 19:9. All translations of the New Testament are from *Sacred Writings – Christianity: The Apocrypha And The New Testament From The Revised English Bible* (New York: Quality Paperback Book Club, 1992).

²⁹⁴ Lowy, 132, citing D. Daube, *The New Testament and Rabbinic Judaism* (London, 1956), 75. Tertullian, who was one of the Church Fathers, went even further than the New Testament in that he not only opposed simultaneous polygyny, but he tried to ban even remarriage after the death of a spouse. Ibid., 134.

²⁹⁵ Bruce M. Metzger and Michael D. Coogan, eds., *The Oxford Companion to the Bible* (New York: Oxford University Press, 1993), 497.

²⁹⁶ Mielziner, 32.

that an elder, bishop or deacon may have only one wife.²⁹⁷ In Titus 1:6, it is written that elders in each town should be appointed according to the following principles:

“Are the men of unimpeachable character? *Is each the husband of one wife?*”²⁹⁸
Are their children believers, not open to any charge of dissipation or
indiscipline?” (Emphasis added.)

In I Timothy 3:2, in describing the qualities necessary for a bishop, it says:

“A bishop, therefore, must be above reproach, *husband of one wife*, sober, temperate, courteous, hospitable, and a good teacher.” (Emphasis added.)

And in I Timothy 3:12, in describing the qualities necessary for a deacon, it says:

²⁹⁷ Titus and I Timothy, both of which are cited here, are, along with II Timothy, known as “the Pastoral Letters.” These works have traditionally been attributed to Paul, but this attribution has been challenged in the last two hundred years. One suggested alternative is that the Pastoral Letters were written by a “close Pauline disciple carrying out the implicit designs of the master.” Raymond E. Brown, *An Introduction to the New Testament* (New York: Doubleday, 1997), 662. Other scholars, however, “place a greater distance between Paul and the writer of the Pastorals. Some would see them as written not by a disciple of Paul but by a sympathetic commentator on the Pauline heritage....” Ibid. If the Pastoral Letters of Titus and I Timothy were in fact written by Paul, or a close disciple carrying out Paul’s designs, then they must have been written ca. 65 C.E. If, on the other hand, they were written after Paul’s lifetime (as believed by about eighty to ninety percent of modern critical scholarship), then they were most likely composed in the period from 80-100 C.E., or (less likely) in the early second century C.E. Ibid., 639, 654, 662-668. For a more detailed discussion of the authorship and dating of Titus and I Timothy, see Ibid., 662ff. See also Metzger and Coogan, 574.

²⁹⁸ According to Brown, “[h]usband of one wife” not only means that each of these men cannot be polygynous (even where such is permitted by society), but “that he cannot have had more than one wife, i.e., cannot have remarried after divorce or the death of a spouse.” Brown, 647. Lowy concurs that “[t]here is no doubt that these expressions speak about successive, and not simultaneous wives....[as] the church dignitaries [practiced] a more restricted type of monogamy....While a second marriage after the death of the spouse was not considered adultery, it might be regarded as a ‘spot, wrinkle or blemish,’ from which the Church as a whole must be spared, and the clergy even more.” Lowy, 133.

“A deacon *must be the husband of one wife*, and good at managing his children and his own household.” (Emphasis added.)

Thus, the New Testament only explicitly prohibits polygyny for elders, bishops, and deacons. Since the New Testament is silent on the issue of polygyny in the case of laypersons, it could be argued that the New Testament permits polygyny for laypersons. However, the above passages imply that polygyny was viewed negatively by the authors of the New Testament, and it is more likely that these clergymen for whom polygyny was prohibited were to be seen as role-models for all men, who should imitate the clergy by themselves being “the husband of one wife.”

It is certainly possible that the Tannaim were influenced by the views of their early Christian neighbors on the issue of polygyny, or that the early Christians were influenced by the views of the Tannaim. If one group did not directly influence the view of the other, then the groups were at least exposed to similar ideas and values regarding polygyny.

Justin Martyr’s Account of Jewish Polygyny

Justin Martyr, one of the Church Fathers, lived in Palestine in the middle of the second century C.E. (he died in 165 C.E.). Justin was an important Christian apologist, and his *Dialogue with Trypho*, the first anti-Jewish polemic written in Greek,²⁹⁹ is an adaptation of a debate (that perhaps actually took place at Ephesus shortly after the Bar Kochba revolt) between Justin himself and a Jewish philosopher who lived in Palestine, who

some claim may have been the famous Tanna Rabbi Tarfon.³⁰⁰ In Chapter 134 of his *Dialogue with Trypho* Justin reports that the Jewish sages in “all lands,” even in his own day, “permit [marriage to] four or five wives.” Justin condemns the rabbis who, he claims, permit their followers to practice polygyny rather than obey God. He writes regarding these “blind and stupid teachers”:

“...if any of you [Jews] see a beautiful woman and desire to have her, they [the rabbis] cite the example of Jacob, who was Israel, and the other Patriarchs to prove that there is no evil in such practices. How wretched and ignorant they are even in this respect! For...in each such action certain divine plans were mysteriously fulfilled. I will explain what divine design and prophecy were accomplished in the marriages of Jacob, that you may finally come to know that even in this your teachers never considered the more divine in the purpose for which each thing was done, but rather what concerned base and corruptible passions.”³⁰¹

Justin then explains that “[t]he marriages of Jacob were types of what Christ would do.”³⁰²

In Chapter 141 of the *Dialogue with Trypho* Justin again notes that “the Patriarchs took many wives.” And again he points out, as he did in Chapter 134, that there was a unique

²⁹⁹ *Encyclopedia Judaica*, 5:551.

³⁰⁰ Many scholars maintain, however, that the Trypho of Justin’s *Dialogue with Trypho* could not have been Rabbi Tarfon. See, for example Thomas B. Falls, *The Fathers of the Church: Saint Justin Martyr* (New York: Christian Heritage), 139. (Falls writes that Trypho “was probably a Jewish refugee who fled from Palestine to Ephesus during Bar Kocheba’s uprising.”) See also *Encyclopedia Judaica*, 15:811; and Strack and Stemberger, 80, citing M. Freimann, “Die Wortfuhrer des Judentums in den altesten Kontroversen zwischen Juden und Christen,” *Monatsschrift fur Geschichte und Wissenschaft des Judentums* 55 (1911), 555-86, 565ff; L. W. Barnard, *Justin Martyr: His Life and Thought* (London, 1967), 24f. J. D. Gereboff, *Rabbi Tarfon: The Tradition, the Man and Early Judaism* (Missoula, 1979), among others.

³⁰¹ Justin Martyr, *Dialogue with Trypho*, Chapter 134. All translations of *Dialogue with Trypho* are from Falls.

reason for the Patriarchs' taking many wives. The purpose of their polygyny was "not to commit adultery, but that certain mysteries might thus be indicated by them." Justin then writes:

"For had it been permissible to take any wife whomever, or as many as one desired (as women are taken under the name of marriage by your countrymen all over the world, wherever they live or are sent), David certainly would have been permitted this by much greater right."³⁰³

Ze'ev Falk writes that, while it must be admitted that Justin Martyr wrote for polemical purposes, criticizing Judaism in order to elevate Christianity:

"[n]evertheless, we may infer [from Justin Martyr's writings] that the rabbis of that generation did not discount [polygyny] on principle."³⁰⁴

But Justin Martyr's polemical writings about the Jews must be treated with the utmost caution when used as an historical source. Although Justin Martyr claims in Chapter 134 of his *Dialogue with Trypho* to be reporting about Jewish sages in "all lands"³⁰⁵ who permit marriage to four or five wives, it is possible that he is in fact just reporting some anomaly or rare occurrence with which he is personally familiar in order to degrade the Jews.

³⁰² Ibid.

³⁰³ Ibid., Chapter 141.

³⁰⁴ Falk, 6.

Conclusion

Aggadic Tannaitic sources such as the Targum of Ruth and BT Ta'anit 31a indicate a preference for monogamy and perhaps even reflect a society which was by and large monogamous in practice. While Tannaitic sources rarely portray polygyny being practiced in the Tannaitic period, a few cases of polygynous Tannaim are reported in the Tosefta, the JT and the BT. However, these few cases stand out as obvious exceptions to the general rule of practice,³⁰⁶ and they often reflect exceptional cases, such as the need to fulfill a levirate duty or to provide women with sustenance. Moreover, early Christian sources express a tendency toward monogamy, and it is certainly possible that the Jews of the Tannaitic period were influenced by the views of their Christian neighbors, or were at least exposed to similar ideas and values regarding polygyny.

The great discrepancy between the many discussions of polygyny in a legal context and the apparently rare occurrence of polygyny *de facto* that is seen in the sources of the Tannaitic period continues in the sources of the Amoraic period. The possible reasons for this discrepancy are discussed in detail in Chapter Four.³⁰⁷

³⁰⁵ Lowy contends that references by Greeks and Romans that speak of Jews in "all lands," such as Justin Martyr's here, is really only valid testimony for the Graeco-Roman world. Lowy, 116.

³⁰⁶ Lowy writes: "The paucity of [stories of polygamous marriages in Tannaitic times], the contexts in which they are mentioned, and the details of most of them make them invalid as the basis of generalisations. It is rather the other way round, they reflect the exceptions to the prevailing rule." Ibid., 118.

³⁰⁷ See "Conclusion" on pages 117-119 of Chapter Four.

Chapter Four: The Amoraic Period

Introduction

Polygyny continued to be legal according to Jewish law during the Amoraic period (ca. 200-500 C.E.). In practice, however, as during the prior Tannaitic period, polygyny was probably rare, and becoming more so. Talmudic legislation regarding multiple wives seems to have been, for the most part, academic. While the two Talmuds contain a great deal of biographical information about many sages, there is not a single reference to any of the Amoraim having more than one wife.³⁰⁸

Many scholars contend that during the Amoraic period, the Jews in Palestine began to develop different views about polygyny than their fellow Jews in the Babylonian exile.³⁰⁹ The Jews who remained in Palestine during this period were living under Roman rule, and they were exposed to Roman views, and eventually subject to Roman laws, on monogamy. The Jews living in the Babylonian exile, on the other hand, were in close contact with the polygynous culture of the Zoroastrian religion of Persia.³¹⁰ Thus, the Jewish communities in Palestine and the Babylonian exile during the Amoraic period, each of which produced their own Talmud (the JT and the BT, respectively), must be examined separately regarding the issue of polygyny.

³⁰⁸ Lowy, 125. Biale, 49. See, however, the discussion of Rav and Rav Nachman's "wives for a day" on pages 113-116 of this chapter.

³⁰⁹ See, for example, Gafni, 21-25.

³¹⁰ Falk, 7.

The JT and the BT are the major sources available from the Amoraic period. Other sources include midrashim such as Genesis Rabbah, Leviticus Rabbah and Avot de Rabbi Natan.

The Jewish Community in Palestine

Societal Context

In 212 C.E., all Jews living in the Roman Empire became Roman citizens, and when Jews became Roman citizens they were “theoretically subjected to severe penalties for polygamy.”³¹¹ In 285 C.E., Diocletian specifically extended the prohibition against polygamy over all of the inhabitants of the Roman Empire. In 324 C.E., Constantine the Great became ruler of the Roman Empire and Christianity became the official religion of the Roman Empire. For the first time, Jews, in both Palestine and in many Diasporan communities, were subjects of a Christian emperor.

A law from December 30, 393 C.E., which reflected the monogamous structure of Christian European society, prohibited various aspects of Jewish marriage, including polygyny. The law stated:

“...None of the Jews shall keep his custom in marriage unions, neither shall he contract nuptials according to his law, or enter into several matrimonyes at the same time.”³¹²

³¹¹ Baron, 2:226.

Many scholars believe that Roman legislation such as the aforementioned law served to deter Jewish polygyny in Palestine. S. Lowy, however, contends that "the whole theory that Roman legislation was a deterrent to [Jewish polygyny] has no foundation."³¹³ In support of his contention, Lowy points out that the Jews in Palestine did not always follow Roman legislation. For example, while marriages between an uncle and a niece were considered incest according to Roman law, the rabbis nevertheless encouraged such marriages.³¹⁴

But Lowy's view does not reflect the majority of scholarship on the Palestinian Jewish community's reaction to Roman views and legislation regarding polygyny in the Amoraic period. More reflective of the general view is the view of Salo Baron, who writes:

"No matter how little Jews were inclined to obey Roman legislation when it differed from their own, public violation of imperial criminal law throughout a lifetime, open to denunciation from any quarter, necessarily became unusual."³¹⁵

The Jerusalem Talmud

JT Kiddushin 2:6 sets forth the mishnah which reports the case of a man who attempted to betroth five women simultaneously.³¹⁶ According to the mishnah, one of the women accepted the proposal for all of them. The Gemara to this mishnah begins by citing Rabbi Chiyya bar Abba (a Palestinian Amora who was active from 290-320 C.E.), who

³¹² *Codex Justinianus*, 1:9:7. Amnon Linder, *The Jews in Roman Imperial Legislation* (Detroit: Wayne State University Press, 1987), 192-193.

³¹³ Lowy, 116.

³¹⁴ Ibid.

³¹⁵ Baron, 2:226.

derives five rules from the case reported in the mishnah. Two of Rabbi Chiyya bar Abba's rules are relevant to the issue of polygyny. The first rule derived by Rabbi Chiyya bar Abba from the mishnah is that five women may be betrothed simultaneously by one man.³¹⁷ The second rule is that a woman may accept a token of betrothal for herself and her friend – again indicating that a man may have more than one wife.

These two rules of Rabbi Chiyya bar Abba are not the only legal references to polygyny in the JT. For example, the Gemara to JT Yebamot makes numerous references to co-wives (*tsarot*).³¹⁸

Palestinian Statement in the Babylonian Talmud

During the Amoraic period there was constant contact between the Jewish centers in Palestine and Babylonia. Scholars moved back and forth between the two centers, and they regularly shared their views through correspondence.³¹⁹ Thus, it is not surprising that the BT contains numerous Palestinian statements.³²⁰

³¹⁶ For a discussion of this mishnah, see page 89 of Chapter Three (footnote 285).

³¹⁷ In contrast, the anonymous sage of the Gemara in BT Yebamot 44a states that a man should never take more than four wives. See discussion of BT Yebamot 44a on page 112 of this chapter.

³¹⁸ See, for example, JT Yebamot 1:1, 1:6, 2:1, 3:3, 3:5, 3:10, 4:1 and 5:3.

³¹⁹ For a further discussion of the contact and mutuality between the two centers, see Cohen, 39.

³²⁰ For purposes of clarity, the statement of the Palestinian Rav Ammi in BT Yebamot 65a will be discussed in this section, on the Jewish community in Palestine, rather than in the later discussion on the BT contained within the section regarding the Jewish community in Babylonia.

BT Yebamot 65a reports that Rav Ammi (a Palestinian Amora who was active from 290-320 C.E.)³²¹ held that if a husband whose wife has not borne him children wants to take another wife (who will hopefully bear children for him):

“He must in this case pay her [his present wife] the amount of her *ketubah*. For I hold that whoever marries a wife in addition to his [present] wife must pay [the present wife] the amount of her *ketubah*.”

Ze'ev Falk contends that Rav Ammi's ruling “expresses a fundamental change of outlook....a new precept, based on his own personal conclusions.”³²² According to Falk, all of the cases in the Mishnah in which the court obliges the husband to grant his wife a divorce and pay her *ketubah* have in common the fact that relations between the couple are strained, “either because the husband treats his wife in an oppressive manner, or as the result of a grave infirmity on his part.”³²³ But in BT Yebamot 65a, Rav Ammi imposes similar sanctions on a man who marries a second wife, even though the purpose of the marriage is to provide the man with offspring, which his first wife has been unable to bear. According to Falk, Rav Ammi's statement “for the first time, reflects a belief in monogamy on principle, as expressed by a rabbinical teacher, without any support from the law or from tradition.”³²⁴ Falk insists that Rav Ammi's ruling must have been “inspired by beliefs and customs common in the Roman world of that time, which were also propagated by the provincial administration.”³²⁵

³²¹ Steinsaltz, 32.

³²² Falk, 8.

³²³ Ibid.

³²⁴ Ibid.

³²⁵ Ibid.

Palestinian Aggadic Statements on Polygyny

The fifth century C.E. midrash *Genesis Rabbah*³²⁶ describes the bigamy of Lamech, whose bigamy is the only case of polygyny recorded by the Bible in the antediluvian period, in an unflattering manner. The midrash points out that Lamech, like other men of the generation of the flood, took two wives so that one could be used for procreation and the other for sexual pleasure. According to the midrash, the wife whose purpose was to procreate (in Lamech's case, Adah) was "like a widow," and the wife whose purpose was to provide sexual pleasure (in Lamech's case, Zillah) was "like a harlot."³²⁷

Another aggadic statement, contained in *Avot de Rabbi Natan*,³²⁸ also comments negatively on polygyny. The statement, attributed to the Tannaitic sage Yehudah ben Betera, is as follows:

"Rabbi Yehuda ben Betera says: Job thought to himself, 'for what would be my portion from God above, and my heritage from the Almighty on high?'³²⁹ If Adam was intended to have ten wives, they would have been given to him. But he was intended to marry only one wife. So too my wife is enough for me. My portion is enough."³³⁰

BT *Baba Kama* 60b also contains an aggadic statement relating to polygyny. The Talmud reports that Rav Ammi and Rav Assi (both of whom were Palestinian sages

³²⁶ The final redaction of *Genesis Rabbah* took place in the fifth century C.E., probably in the first half of the century. Strack and Stemberger, 304. For further discussion of redaction and date of *Genesis Rabbah*, see *Ibid.*, 303-305.

³²⁷ *Genesis Rabbah* 23:2.

³²⁸ For a discussion of *Avot de Rabbi Natan*, one of the "minor tractates" of the BT, see Strack and Stemberger, 245-247.

³²⁹ Job 31:2.

active between 290-320 C.E.)³³¹ were sitting before Rav Isaac, who told them the following parable about a man who had two wives, one young and one old:

“The young one used to pluck out his white hair, and the old one used to pluck out his black hair. Finally he was bald on both sides.”

Despite the fact that polygyny was still discussed and approved of in the legislation of the JT during the Amoraic period, these Palestinian Amoraic aggadic statements reflect a progressively more negative view toward polygyny on the part of the rabbis.

The Jewish Community in Babylonia

Societal Context

Unlike in Roman society, where monogamy was the norm, in Persia polygyny “continued down to the Sassanian period, at least among the aristocracy that could afford a plurality of wives.”³³² In fact, an extant source refers to one Persian king who had no fewer than three thousand wives.³³³

³³⁰ S. Schechter, ed., *Avot DeRabbi Natan*, in two versions (Vienna, 1887), Version B, Chapter 2, 9.

³³¹ Steinsaltz, 32.

³³² Gafni, 21, citing M. Shaki, “The Sassanian Matrimonial Relations,” in *Archiv Orientalni* 39 (1971), 338.

The Babylonian Talmud

In BT Yebamot 65a, the following statement is attributed to Rava (a Babylonian Amora who was active from 320-350 C.E.):³³⁴

“A man may marry wives in addition to his [first] wife; so long as he has the means to maintain them.”

The first part of this statement (“a man may marry wives in addition to his [first] wife”) is in Hebrew, and the second part (“so long as he has the means to maintain them”)³³⁵ is in Aramaic. According to Isaiah Gafni, Rava’s Hebrew statement that “a man may marry many wives in addition to his [first] wife” seems “to indicate his stand regarding marriages in *general* and not just the specific case at hand” in BT Yebamot 65a.³³⁶ In support of his argument, Gafni points out that “other Babylonian pronouncements connected with Rava appear to support this idea.”³³⁷ Gafni claims that the specific Aramaic qualification (i.e., a man can only marry as many wives as he is able to support) to the general Hebrew statement “is most likely an additional gloss.”³³⁸ Ze’ev Falk, in contrast, claims that it was apparently Rava himself who added the Aramaic clause to the

³³³ Baron, 2:226.

³³⁴ Steinsaltz, 32.

³³⁵ This second part of the statement, that a man must possess sufficient means to maintain each of his wives, reflects the requirement of Exodus 21:10 that if a married man takes another wife, he must not withhold from his first wife her food, clothing or conjugal rights.

³³⁶ Gafni, 23.

³³⁷ Ibid., 23, 30. Gafni cites, as other examples of Babylonian pronouncements connected with Rava that support this idea, BT Ketubot 80b and BT Kiddushin 7a.

³³⁸ Ibid., 30.

preexisting rule regarding polygyny.³³⁹ Falk's view seems the more likely of the two, since Rava, a Babylonian Amora, was likely to use Aramaic. Yet regardless of whether the Aramaic qualification is an additional gloss, as claimed by Gafni, or was written by Rava himself, as claimed by Falk, the statement preserved in BT Yebamot 65a and attributed to Rava reflects the view that, at least if he can afford it, a man may have multiple wives.

It is noteworthy that the statement of Rava (who lived in Babylonia) approving of polygyny is immediately preceded by the ruling of Rav Ammi (who lived in Palestine) that if a husband whose wife has not borne him children wants to take another wife, he must first divorce his present wife and pay her the amount of her *ketubah*.³⁴⁰ If one accepts the view that during the Amoraic period different attitudes developed toward polygyny in the Jewish communities of Palestine and Babylonia then it is not surprising that the Palestinian Rav Ammi favors monogamy, while the Babylonian Rava sees nothing inherently problematic with polygyny. The two different views appear to reflect the differing views of the Jewish communities in which each of the rabbis lived, which in turn reflect the larger societies in which those Jewish communities were situated.

Lowy, however, rejects this notion that the statements of Rav Ammi and Rava in BT Yebamot 65a represent the opinions of the Palestinian and Babylonian Jewish communities, respectively. Lowy points out that while Rav Ammi was the head of the academy at Tiberias in Palestine, he also exercised great influence in Babylonia. And

³³⁹ Falk, 7.

while many of Rav Ammi's statements are found in identical form in both the BT and the JT, there is no parallel in the JT to Rav Ammi's statement in BT Yebamot 65a – a parallel which would be expected if Rav Ammi's statement in BT Yebamot 65a were an exclusive Palestinian tradition.³⁴¹ According to Lowy:

“It is impossible to presume the Rabha [Rava] contradicts R. 'Ammi. While the [Babylonian] Talmud opposes them to each other for the purpose of analysing the *Sughya*, it is almost certain that their original sayings were not meant in this sense, and that only for the final literary redaction were their respective sayings made into a controversy. Not only do we never find elsewhere in the Talmud a controversy between them, but Rabha always accepts the authority of R. 'Ammi.³⁴² Rabha's words 'a man may marry as many wives simultaneously as he can afford to maintain' are merely his own way of repeating the ancient tradition about this legal freedom.”³⁴³

It is not surprising that while Rava's statement in BT Yebamot 65a and other statements of Rava approve of polygyny (so long as the man has the proper means to support each of his wives), Rava explicitly disapproves of polyandry. The following statement is contained in BT Kiddushin 7a:

“Rava said: [If a man declares:] ‘You are betrothed to half of me,’ she is betrothed. [If a man declares:] ‘Half of you is betrothed to me,’ she is not betrothed. Abaye said to Rava: What difference is there [between ‘you are betrothed to half of me’ and] ‘half of you is betrothed to me,’ that she is not betrothed? The Torah said [Deuteronomy 24:1]: ‘[A man takes] a wife,’ but not ‘half a wife’? So too the Torah said ‘a man,’ but not ‘half a man’? How now, he rejoined. There, a woman is not eligible to two [men]; but is not a man eligible to two [women]? Thus he said to her: ‘Should I desire to marry another, I may do so.’ Mar Zutra, son of Rav Mari, said to Ravina: Yet let the *kiddushin* spread through all of her [i.e., when the man says ‘half of you is betrothed to me’].”

³⁴⁰ See discussion of Rav Ammi's statement in BT Yebamot 65a on page 104 of this chapter.

³⁴¹ Lowy, 120. For further discussion of this issue, see Lowy, 121-124.

³⁴² Here Lowy cites, for example, BT Gittin 63b.

³⁴³ *Ibid.*, 124.

Thus, Rava finds that half of a man can be betrothed to a woman (i.e., a man can have more than one wife), but half of a woman cannot be betrothed to a man (i.e., a woman cannot have more than one husband).

BT Yebamot 39b: Levirate Marriage Verses Chalitsah

Mishnah Bekorot 1:7 states that *chalitsah* is preferable to levirate marriage.³⁴⁴ However, this issue was not entirely resolved in the Tannaitic period, as is evident when reading the BT.³⁴⁵ For example, in BT Yebamot 39b, the Tanna Abba Shaul, who is cited in the Gemara, holds that a levir's intent is relevant, and if he has ulterior motives in marrying his deceased brother's widow, such as her beauty or a desire to fulfill his own sexual needs, he should perform *chalitsah*. Amoraic sages of the BT disagree with Abba Shaul, holding that the levir should perform the levirate duty since it is a Biblical commandment – the levir's intent is irrelevant.

This debate over which is preferable (at least when the levir's motive is questionable), levirate marriage or *chalitsah*, has interesting implications for the issue of polygyny. It could be argued that the mention in the Gemara of the position of the Tanna Abba Shaul, which emphasizes the preference for *chalitsah* in certain circumstances, reflects a general trend (also seen in Mishnah Bekorot 1:7) favoring *chalitsah*, and therefore levirate marriage was not seen as being of the utmost importance.

³⁴⁴ See discussion of Mishnah Bekorot in particular and Tannaitic views toward levirate marriage in general on pages 82-85 of Chapter Three.

³⁴⁵ The issue of levirate marriage was also relevant in Palestine, and it is addressed in tractate Yebamot of the JT.

The other opinion expressed in the Gemara of BT Yebamot 39b – i.e., that the surviving brother-in-law should perform the levirate duty (regardless of intent) reflects the opposite position – that the Biblically commanded levirate duty is of the utmost importance, regardless of extenuating circumstances. This position would seem to imply that, since polygyny was legal, even a man who is already married should perform the levirate duty with his sister-in-law if his brother died without offspring. In fact, however, the issue of whether a surviving brother who is already married should marry his sister-in-law in order to fulfill his levirate duty or whether he must perform *chalitsah* is not addressed directly in the BT. This issue is addressed, however, by later authorities in the post-Talmudic period.³⁴⁶

Statements in the Babylonian Talmud Regarding the Appropriate Number of Wives That a Man Should Have

BT Yoma 13a makes it clear that the high priest in Jerusalem should only have one wife at a given time.³⁴⁷ However, this applies only to the high priest. While not mandating the number of wives any other man can have, there are sections of the BT that provide some guidance.

³⁴⁶ See discussion of levirate marriage on pages 133-135 of Chapter Five. This issue became particularly relevant in Ashkenazic communities that adopted the *Cherem of Rabbeinu Gershom*, where the question arose as to which took precedence, the Biblical commandment regarding levirate marriage or the ban prohibiting polygyny.

³⁴⁷ Falk notes: “The source is admittedly late, but it would seem that the rule was established while the Temple was still standing.” Falk, 6. Falk also points out that the requirement that the high priest marry only one wife is similar to the priestly law of

The Gemara of BT Yebamot 44a discusses Mishnah Yebamot 4:11, which states that when four married brothers have all died, the surviving brother may, if he chooses, contract levirate marriage with all four of his deceased brothers' widows. According to the anonymous sage of the Gemara, the surviving brother may in fact choose to marry all four women – but only if he can afford to support all four wives.³⁴⁸ The anonymous sage of the Gemara further states that regardless of his financial means, a man should not take more than four wives, so that each wife can receive one marital visit a month.³⁴⁹

But even before declaring the appropriate number of wives a man may have and the related financial requirement, the Gemara cites a *baraita* that states that a young man should not marry an old woman, and an old man should not marry a young woman. In order to avoid discord in his home, the *baraita* declares, a man should marry a woman who is like him (in age). Thus, the Gemara of BT Yebamot 44a comments on the quality of the husband/wife relationship (i.e., the husband and his wife/wives should be compatible), as well as the quantity of wives (i.e., no more than four) that a man may have.

Egypt as described by Diodorus (first century C.E.). Ibid., citing R. Taubenschlag, *The Law of Graeco-Roman Egypt in the Light of the Papyri* (New York, 1944), 77.

³⁴⁸ This is consistent with the Aramaic statement attributed to Rava in BT Yebamot 65a – i.e., that a man must possess the necessary means if he is to take more than one wife.

³⁴⁹ In contrast, JT Kiddushin 2:6 provides that a man may simultaneously be betrothed to five women. See discussion of JT Kiddushin 2:6 on pages 102-103 of this chapter.

In BT Pesachim 113a, the Gemara reports that Rav (a Babylonian Amora who was active from 220-250 C.E.)³⁵⁰ said to Rav Assi (a Palestinian Amora who was active from 290-320 C.E.):³⁵¹

“[D]o not marry two [women], [but] if you do marry two [women, then] marry a third.”

According to Rashi,³⁵² the reason Rav says that a man should not marry two women is that they may devise plots against their husband. But if there is a third wife, Rashi says, she will reveal to the husband the plots devised by the other two wives. Thus, the statement of Rav, at least as interpreted by Rashi, means that a man should not marry only two wives because the wives will conspire against the husband. Rashi's interpretation is interesting in that it assumes cooperation among two wives, rather than rivalry, as is implied by the term *tsarot* when it is understood to mean not just “co-wives,” but “rivals.” But a third wife, according to Rashi's interpretation of the Gemara, would provide the husband with protection against a conspiracy by the other two wives.

Rav and Rav Nachman's “Wives For A Day”

BT Yoma 18b tells the following story about the two great sages Rav³⁵³ and Rav Nachman (a Babylonian Amora who was active from 250-290 C.E.):³⁵⁴

³⁵⁰ Steinsaltz, 32.

³⁵¹ Ibid.

³⁵² BT Pesachim 113a.

³⁵³ As has been previously noted, Rav was a Babylonian Amora who was active from 220-250 C.E.

“Whenever Rav came to Ardashir, he would announce: ‘Who will be [my wife] for a day?’ Whenever [Rav Nachman] would come to Shekhannesibh³⁵⁵ he would announce: ‘Who will be [my wife] for a day?’”

BT Yebamot 37b also recounts this story of Rav and Rav Nachman and their “wives for a day.” Since Rav and Rav Nachman were both married,³⁵⁶ taking “wives for a day” would have made them bigamists. Perhaps not surprisingly, many commentators and modern scholars have focused on this bizarre passage, offering a myriad of explanations for Rav and Rav Nachman’s unusual practice.

Some scholars suggest that Rav and Rav Nachman only took their “wives for a day” so that they could escape a Persian royal “gift” of a concubine when they visited a city, since some Persian princes are known to have taken the refusal of their “gift” as a serious affront. Thus, in order to avoid complications, Rav and Rav Nachman would declare themselves married, going so far as to marry a local wife “for a day” in able to escape the royal “gift.” According to this view, Rav and Rav Nachman’s taking of “wives for a day” would have been for a particular reason, and would not necessarily have constituted a general approval of bigamy.³⁵⁷

Other scholars have suggested that:

³⁵⁴ Steinsaltz, 33. Aharon Oppenheimer, *Babylonia Judaica in the Talmudic Period* (Weisbaden, 1983), 399.

³⁵⁵ Ardashir and Shekhannesibh, both on the Tigris, were both “frequently visited by sages including” Rav and Rav Nachman. Lowy, 128.

³⁵⁶ See, for example, BT Yebamot 63a and BT Berachot 51b.

³⁵⁷ See, for example, R. Margoliot, “Who Will be My Wife?” (In Hebrew), *Sinai*, XI, 176-179.

“[Rav and Rav Nachman] were really issuing proclamations stressing the importance of arranged marriages, or that they married for the day only when their primary wives had their period.”³⁵⁸

Another suggestion is that when Rav and Rav Nachman had trouble with their primary wives, they would take a secondary “wife for a day” to threaten their primary wives.³⁵⁹

The aforementioned explanations of the accounts of Rav and Rav Nachman’s “wives for a day” found in BT Yoma 18b and BT Yebamot 37b are probably no more than fanciful apologetics. The same can be said of the explanation of Lowy, who contends that that these anecdotes about Rav and Rav Nachman should not be taken literally.³⁶⁰ Lowy bases his contention on the fact that among the vast biographical data in the BT there is not a single reference to any of the Amoraim living in a polygynous manner,³⁶¹ and that Rav and Rav Nachman, who were both known to be of saintly character,³⁶² already had wives,³⁶³ and thus the practice they each had of taking “wives for a day” would have made them bigamists.

But it is possible that the accounts of Rav and Rav Nachman’s “wives for a day” are in fact true. The BT itself did not have a problem with the story, which reflected a fairly

³⁵⁸ Gafni, 24.

³⁵⁹ Ibid., See also Lowy, 129. We know from stories reported in the BT that both Rav and Rav Nachman had difficult wives. See, for example, BT Yebamot 63a, regarding Rav’s wife, and BT Berachot 51b, regarding Rav Nachman’s wife.

³⁶⁰ Lowy, 125ff. Lowy writes: “Not only do their personalities make the contraction of such temporary marriages impossible to credit in them, but the sources themselves indicate that their so-called advertisement for a temporary mate never resulted in a consummated marriage.” Ibid., 127-128.

³⁶¹ Ibid., 125.

³⁶² Ibid., 125-126.

³⁶³ Ibid., 126-127.

widespread practice in the area.³⁶⁴ The story of “wives for a day” is set forth in both BT Yoma 18b and BT Yebamot 37b in contrast to the holding of Rabbi Eliezer ben Ya’akov (a Tanna who was active from 80-110 C.E.)³⁶⁵ that a man should not have wives in two different countries. Following the story of Rav and Rav Nachman’s “wives for a day” the Gemara of BT Yoma 18b states:

“But surely it has been taught [in a *baraita*]:³⁶⁶ Rabbi Eliezer ben Ya’akov says: A man should not marry a woman in one country and then go and marry a woman in another country, lest [the children from the two marriages one day] meet each other and [unknowingly] a brother will marry his sister (or a father marry his daughter) [and thus the brother and his sister (or the father and his daughter) would produce illegitimate children]....They say: The rabbis were famous.”³⁶⁷

Thus, the anonymous Amora of the Gemara holds that while the *baraita* of Rabbi Eliezer ben Ya’akov would normally prohibit a man from marrying two women in different countries (since two children of the man might unknowingly marry each other one day and then produce illegitimate children), the rule set forth in the *baraita* does not apply to rabbis such as Rav and Rav Nachman. The reason behind the anonymous Amora’s holding is that “the rabbis were famous” – i.e., any children that they sired would be well known as their offspring.

³⁶⁴ Gafni, 24. Gafni notes that “marriage ‘for a definite period’ was...known in Sassanian Persia. The major collection of legal decisions...describes instances when a woman...might be given through a formal procedure to...[a] man as a temporary wife for a definite period. A father could also bestow his daughter in temporary marriage.... [Talmudic] phrases such as ‘who will be [my wife] for the day?’ might...reflect types of marriage ‘for a definite period’ that existed in the surrounding culture.” Ibid., 25.

³⁶⁵ Steinsaltz, 33.

³⁶⁶ Yebamot 37b.

³⁶⁷ The same *baraita* is set forth in BT Yebamot 37b, but in BT Yebamot 37b the *baraita* is found before, rather than after, the story of Rav and Rav Nachman’s “wives for a day.”

Concubinage in the Amoraic Period

Genesis Rabbah and Leviticus Rabbah³⁶⁸ both report the same parable about a king who has both a wife and a concubine.³⁶⁹ The king goes openly to his wife, but when he goes to his concubine, he goes secretly, “as if it were a shameful and illegal act.”³⁷⁰ This negative view of concubinage reflected in these Amoraic midrashim most likely reflects the views of the period in which it was written.

While the problem of concubinage is dealt with in both Talmuds,³⁷¹ both the BT and the JT present no evidence of the actual practice of concubinage,³⁷² and it is most likely that the institution of concubinage was discussed purely on an academic level, but was not practiced in reality during the Amoraic period.³⁷³

Conclusion

The major question which remains after analyzing the texts of the Tannaitic and Amoraic periods is: Why, in an age when aggadic material in the midrashim and the Talmuds reflects a preference for monogamy, and in which it is likely that most Jews were living

³⁶⁸ For the dating of Genesis Rabbah, see page 105 of this chapter (footnote 326). Leviticus Rabbah was redacted between ca. 400–500 C.E. For further discussion of the redaction and time of origin of Leviticus Rabbah, see Strack and Stemberger, 316-317.

³⁶⁹ Genesis Rabbah 53:5; Leviticus Rabbah 1:13.

³⁷⁰ Lowy, 117.

³⁷¹ Ibid., citing JT Ketubot 5:2, 29d and BT Sanhedrin 21a.

³⁷² *Encyclopedia Judaica*, 5:863.

³⁷³ Lowy writes that “the whole manner of the discussion and the divergence of opinions as well as the different traditions in both Talmuds indicate [the] unreality” of the practice of concubinage. Lowy, 116-117.

monogamously, do the Talmuds contain so much legal material regarding polygyny?

What prevented the rabbis from outlawing polygyny entirely – or at the very least, from not devoting so much legal discussion to the topic? Baron suggests:

“Possibly talmudic Judaism clung to this unrealistic legal theory in conscious opposition to Graeco-Roman monogamy. Trying to maintain the ancestral heritage against the influx of foreign ideas and institutions, the Jews insisted on the continued validity of the positive principle – man’s liberty to marry more than one wife.”³⁷⁴

Lowy, on the other hand, who contends that the sources do not indicate much of a difference in attitude regarding polygyny between the Jewish communities in Palestine and in Babylonia,³⁷⁵ believes that while the rabbis favored monogamy, they kept polygyny alive (at least academically and legally) not so much as a reaction to the Graeco-Romans, but rather as a response to Jewish sectarians. Lowy writes:

“[In order] to counterbalance [the Jewish sectarians who claimed to recognise a Biblical commandment in monogamy], the Rabbis clung rigidly to ancient legal freedom as expressed in the law, even if it was out of keeping with their own ethical feeling. It seems that, although they were opposed to polygamy on grounds principally moral, because the sectarians had proscribed polygamy on the basis of an alleged biblical injunction, they could not themselves openly and explicitly condemn it. Social conditions did not warrant such radical preaching, since in reality Jewish family life was, as a rule, monogamous. They were thus in the happy position of being able to afford to retain in their legal doctrine the traditional right of polygamy, and this academic tendency was even emphasised, so as ‘to lend no support to the words of them that say’ that monogamy was a biblical commandment.”³⁷⁶

³⁷⁴ Baron, 2:227-228.

³⁷⁵ Lowy, 115.

³⁷⁶ Ibid., 130-131.

In fact, the great deal of legal material regarding polygyny during the Tannaitic and Amoraic periods may have been a result not solely of the rabbis' opposition to Graeco-Roman monogamy, as suggested by Baron, or of their opposition to the Jewish sectarians who claimed that the Bible commanded monogamy, as suggested by Lowy. It is perhaps most likely that the vast amount of legislation regarding polygyny was a result of a combination of these two factors. Even if the rabbis agreed in theory that monogamy was preferable to polygyny, and general Jewish practice reflected such a belief, the rabbis probably felt a need to maintain their traditional Jewish legal doctrine in the face of opposing legislation, gentile and Jewish alike.

Whatever the reason for the rabbis' emphasis on polygyny in their legal writings – whether it resulted from their reaction to the Graeco-Romans, their reaction to the Jewish sectarians, a combination of these two factors, or from some entirely different source – it is likely that by the Amoraic period polygyny was rarely practiced by Jews in Palestine, and it probably was not widely practiced by the Jews in Babylonia either.

Chapter Five: The Geonic and Rishonic Periods

Introduction

Polygyny continued to be rare among the Jews of the Geonic period (ca. 500-1000 C.E.), especially among those who lived in Christian areas such as Germany and northern France. In Islamic dominated areas, such as Spain and North Africa, polygyny was more common among the Jews, although it probably was still not very widely practiced.

Some time in the eleventh or twelfth century C.E. polygyny was prohibited for the Jews of Germany and northern France. The ban against polygyny has been attributed to Rabbenu Gershom (960-1028 C.E.), and is commonly referred to as the *Cherem* (ban) of *Rabbenu Gershom*, but in fact scholars are divided as to whether Rabbenu Gershom was truly, in fact, the originator of this ban. Eventually, the ban against polygyny was extended to all of Ashkenazic Jewry, though it was not adopted by Sephardic Jewry.

The primary sources regarding polygyny in Jewish communities during the Geonic and Rishonic (ca. 1000-1575 C.E.) periods are responsa (*teshuvot*) literature (records of legal questions posed to rabbis and their answers) and legal codes.

Polygyny in the Geonic Era Prior to the Ban Against Polygyny

Responsa of Babylonian Geonim

During the Geonic period, Babylonian Judaism was dominated by two major academies, one in Pumbedita and the other in Sura. Sherira ben Hanina Gaon (ca. 906-1006 C.E.) was the Gaon (head of the academy) of Pumbedita from 968-1006 C.E.³⁷⁷ In one of his responsa, Sherira held that if a man was married for ten years and his wife did not produce offspring, but the man could not afford to divorce his wife (i.e., to pay her *ketubah*) and he could not afford to support two wives, then the man must remain with the first wife and not take a second wife.³⁷⁸ While it does not say so explicitly, this responsum of Sherira's implies that if a man could afford to support two wives, it would be acceptable for him to take a second wife in addition to his first. Such a policy was consistent with the teaching of the Babylonian Amora Rava, the historic progenitor of the academy at Pumbedita,³⁷⁹ who approved of polygyny so long as the man had the proper means to support each of his wives, and who gave the wife no right to object to her husband's polygyny.

Another responsum from the Pumbedita academy, written by Hai Gaon (939–1038 C.E.) explicitly holds that the halakhah follows Rava, and that a man can have more than one wife.³⁸⁰

³⁷⁷ *Encyclopedia Judaica*, 14:1381.

³⁷⁸ B. M. Lewin, *Otsar HaGeonim, Yebamot* (Haifa, 1928), 143.

³⁷⁹ Louis Epstein, 21.

³⁸⁰ Joseph HaKohen Ardit, ed., *Sha'arei Tsedek* (1792), 4:30.

In contrast, Hilai, a ninth century C.E. Gaon of Sura, wrote in one of his responsa that if a man's first wife is not agreeable to his taking a second wife, she can force him to pay her *ketubah*, even against his will.³⁸¹ The position taken by Hilai of Sura gave the first wife a greater ability to interfere with her husband's becoming a bigamist than did the position taken by the Geonim of Pumbedita. However, Hilai did not prohibit polygyny entirely – but rather only when the first wife disapproved of it. If the first wife agreed to her husband's taking a second wife, then, according to Hilai, it was perfectly acceptable for him to do so.³⁸²

Similarly, although the Sura tradition favored levirate marriage to *chalitsah*,³⁸³ Hilai held in another responsum that if a widow did not want to marry her brother-in-law because he was already married, the brother-in-law could be compelled to perform *chalitsah*.³⁸⁴ However, here again it is implied that if the widow agreed to marrying her brother-in-law, she could become his second wife.

³⁸¹ Ibid., 4:60.

³⁸² Ibid.

³⁸³ Louis Epstein, 21.

³⁸⁴ *Sha'arei Tsedek*, 1:52.

Responsa of Other Rabbis; Stipulations in Marriage Contracts

References to cases of polygyny are found in the responsa of Spanish rabbis such as Isaac Ben Jacob Alfasi³⁸⁵ (1013-1103 C.E.).³⁸⁶ However, although polygyny was legally permissible for the Jewish community in Spain, it was not widely practiced.³⁸⁷

Some Jews in Spain and other areas regulated bigamy by inserting clauses into their marriage contracts to protect the first wife in case the husband decided to take another wife.³⁸⁸ For example, Joseph ben Meir Ha-Levi ibn Migash (1077-1141 C.E.) mentions a woman whose husband undertook that in the event that he married another wife, he would be obliged to pay the first wife her *ketubah*.³⁸⁹ And Alfasi, in one responsum,

³⁸⁵ For example, in *She'elot U'Teshuvot HaRif* (S'dilkov, 1825), 282, Alfasi addresses a question regarding a man who had two wives. In his discussion of the question and his response to it Alfasi never takes issue with the fact that the man had more than one wife.

³⁸⁶ Alfasi, a native of Algeria, spent time in both Kairouan and Fez before fleeing to Spain at the age of 75. *Encyclopedia Judaica*, 2:600-601.

³⁸⁷ Falk, 12.

³⁸⁸ Falk claims that clauses of this nature (called "The Kairouan clause," after the city in which the clause originated) are "characteristic of a society where polygamy is the rule, yet which nevertheless evinces trends towards monogamy." He notes that such clauses also found their way into Muslim practice. Falk contends that "[s]ince there are no signs of a continuous tradition, stretching from the Aramaic documents in which this clause features all the way through to its reappearance in medieval times, we must assume that it is due to the example of the Arabs" (though it is "probable that the Arabs acquired this form – common to all the Semitic peoples – from their Jewish neighbors"). Falk further notes that "we may presume that educated families in Spain often stipulated such conditions, so as to protect their daughters." *Ibid.*, 12.

³⁸⁹ *Teshuvot Yosef Ibn Migash* (Russia: Rabbinic Press, Natan Shripteiger, 1870), 129. In this case, after the husband undertook the obligation to pay his first wife's *ketubah* should he take another wife, circumstances changed regarding the wife's monthly period in such a way that she was forbidden to have sexual relations with her husband. Ibn Migash held that in such a case, the husband was no longer obligated to pay his first wife's *ketubah*, on the grounds that the husband could not have expected that his wife would be unable to have sexual relations with him. According to Ibn Migash, the obligation to pay the first wife's *ketubah* was only to apply in normal situations, but once

deals with the case of a woman who, upon hearing that her husband had married a second wife, insisted that her husband pay her a *kenas* (fine) of two hundred *dinars*, which Alfasi reports was the custom in Spain from early times.³⁹⁰

The Ashkenazic Jewish Communities in Germany and Northern France

Unlike in Spain, in Germany, Northern France and other western countries, no mention is found of stipulations in Jewish marriage contracts to protect the first wife in case the husband decided to take another wife.³⁹¹ However, polygyny was apparently rare in the Jewish communities of Germany and Northern France even prior to the *Cherem of Rabbenu Gershom*.³⁹² This is probably due in large part to the influence of the Christian

the first wife could no longer have intercourse, the obligation became irrelevant, and the husband could marry another wife without having to pay the first wife her *ketubah*. Thus, Ibn Migash had no problem with the man being a bigamist, and, since his first wife could not have sexual relations with him any longer, he did not even have to pay her *ketubah* when he took a second wife.

³⁹⁰ *She'elot U'Teshuvot HaRif*, 120. In this case, the husband had left his first wife and gone to Eastern Spain, where he stayed for ten years and then married another woman, leaving his first wife behind as an *agunah* (a wife whose husband has deserted her). When the first wife heard that her husband had married someone else, she sued him for a *kenas* (fine) of two hundred *dinars*, which was the customary penalty in Spain from early times. Alfasi held in his responsum that the husband either had to go back and live with his first wife or pay the fine. But it is noteworthy that Alfasi never said that the man had to divorce his second wife. To Alfasi, the problem was that the man was neglecting his first wife, not that fact that he had taken a second wife. Apparently Alfasi saw no problem with the man being a bigamist.

³⁹¹ Falk, 13.

³⁹² Scholars such as Zacharias Frankel insist that monogamy “had been accepted previously as a general custom and was merely reinforced by the imposition of the ban....polygamy had in any event begun to disappear from medieval Jewish society, since public opinion had come to disfavour it, and Gershom *Me’or HaGolah* merely summarized this attitude.” But others, such as Leopold Loew, insist “that polygamy existed both before and after the issuing of the ban.” *Ibid.*, 1.

environment in which these Jews lived,³⁹³ and it also reflects a continuation of the Jewish trend toward monogamy of earlier periods.

The Ban Against Polygyny

The Ban in Light of Biblical and Talmudic Law Permitting Polygyny

Whatever conclusions one may draw as to the Biblical and talmudic views regarding polygyny, the fact remains that the Bible and the Talmuds do not make polygyny illegal. When the rabbis wanted to issue legislation permitting polygyny, they could not ignore the prior statements of Jewish law that allowed plural marriages. Thus, the prohibition against polygyny was introduced in the form of a *cherem* (ban), which is a type of *takanah* (rabbinic ordinance). As Rachel Biale explains:

“The rabbis derived much of their power and legal authority from the fact that they could order a person who breaks the rules of the community to be excommunicated and ban any contact with him. When new legislation such as the prohibition on polygyny is introduced there is a problem: one cannot go back and change the Talmud and the statements there which permit this practice. The prohibition is therefore introduced as a new layer, a new ruling called a *takanah*. Since the Bible and the Talmud do not forbid it, the prohibition on polygyny must be backed up with a different source of authority, namely, the authority of the community and its leading rabbis. Anyone who violates the *takanah* cannot be threatened with appropriate retribution since neither the Bible nor the Mishnah and Talmud prescribe punishment for polygyny. Therefore the violator must be threatened by being banned from the community whose *takanah* he has violated.”³⁹⁴

³⁹³ Louis Epstein, however, points out that “the moral level of family life among the Christians of the Rhineland at that time, and even centuries later, was not above polygamy.” Louis Epstein, 25, citing M. Gudemann, *Geschichte des Erziehungswesens* (Wien, 1888), III:115-119.

³⁹⁴ Biale, 50-51.

Rabbenu Gershom and His Connection to the Ban Against Polygyny

Rabbenu Gershom ben Judah (960-1028 C.E.), known as *Me'or Ha-Golah* ("the light of the exile"), was one of the first great German talmudic scholars. Rabbenu Gershom's name is connected with numerous *takkanot*. The most famous of the *takkanot* attributed to Rabbenu Gershom is the *cherem* against polygyny, commonly referred to as the *Cherem of Rabbenu Gershom*.

There is a debate among scholars as to whether in fact Rabbenu Gershom was the initiator of this famous ban. And even if Rabbenu Gershom did establish the ordinance, it is most likely that he did not do so alone, but rather that he was "a prime mover" behind its establishment.³⁹⁵ According to Louis Finkelstein, the ordinance must have been established "by a synod [that met under the direction of Rabbenu Gershom] representing the various communities for whom it was intended."³⁹⁶ Finkelstein explains:

"...these synods were usually held in connection with large fairs....When we recall that the members of the synods of whom we speak ordinarily as rabbis, were quite often not salaried officials at all, but business men and workers of sufficient learning to be the leaders of their respective communities, we will readily see that a trade gathering would offer a most fitting opportunity for the discussion of intercommunal problems. These synods often were called upon to decide matters of a judicial nature in which the complainant found himself unable to obtain the help of his local officials."³⁹⁷

³⁹⁵ Louis Finkelstein, *Jewish Self-Government In The Middle Ages* (Westport: Greenwood Press, 1972), 25.

³⁹⁶ Ibid.

³⁹⁷ Ibid.

No text of the *Cherem of Rabbenu Gershom* has been preserved, and no reference is made to the ban until more than a century after its purported promulgation.³⁹⁸ In fact, a responsum written by the French commentator Rashi (1040-1105 C.E.) regarding the case of a man who married a second wife because his first wife had borne him no children in their ten year marriage makes no mention of the problem of the ban or the need to lift the ban.³⁹⁹

The oldest extant source linking the ban against polygyny with Rabbenu Gershom is from ca. 1160 C.E. In recounting a controversy that took place during his childhood, the German rabbinic scholar Eliezer ben Joel HaLevi of Bonn (1140-1225 C.E.) reports the story of an elderly widow who wanted her two surviving brothers-in-law⁴⁰⁰ to perform the ceremony of *chalitsah* so that she would not have to marry them. The brothers-in-law, however, who were both already married, wanted to fulfill their levirate obligation. Both parties to the controversy assumed that it was Rabbenu Gershom who had banned polygyny. The brothers-in-law argued that Rabbenu Gershom's ban did not nullify the Biblical commandment of levirate marriage. The Communal Council of Speyer, Worms and Mainz ruled that the brothers-in-law must perform *chalitsah* rather than marry their widowed sister-in-law. But the council's decision was not based on a decision that the *Cherem of Rabbenu Gershom* nullified the commandment regarding levirate marriage;

³⁹⁸ Ibid. See also Falk, 15-16.

³⁹⁹ Yoel HaKohen Muller, *Teshuvot Chakhmei Tsarfat VeLothair*, 28 (New York: Menorah Institute for Research and Publishing of Manuscripts and Rare Books, 1881), 14.

⁴⁰⁰ V. Aptowizer, *Mavo LeSefer Ravyah* (Jerusalem: Mekize Nirdamim, 1938), 203. Aptowitzer explains in his notes to the responsum that the reason that both brothers are mentioned is that they apparently were twins. See pages 133-135 of this chapter for a discussion of levirate marriage and the *Cherem of Rabbenu Gershom*.

rather, the council simply based its decision on the fact that the widow was old (i.e., she was no longer capable of bearing children).

The ban against polygyny was also attributed to Rabbenu Gershom by other authorities, such as Meir ben Baruch of Rothenburg (ca. 1215-1293 C.E.),⁴⁰¹ in the following centuries.

But not all authorities attribute the ban to Rabbenu Gershom, and many scholars have questioned the historical accuracy of ascribing authorship of the ban to Rabbenu Gershom.⁴⁰² For one thing, it is said that the ban was imposed on the Jewish communities of Speyer, Worms and Mainz.⁴⁰³ However, the Jewish community of Speyer was not founded until 1084 C.E., more than fifty years after Rabbenu Gershom's death.⁴⁰⁴ So, if the ban was in fact originally connected with the community of Speyer, then it must have been promulgated some time after Rabbenu Gershom had died.

Moreover, in one of his responsa Meir ben Baruch of Rothenburg cites a judgment of Rabbenu Gershom's in which Rabbenu Gershom allowed polygyny. The case involved a

⁴⁰¹ See, for example, Irving A. Agus, *Rabbi Meir of Rothenburg* (New York: Ktav Publishing House, 1970), 282-283, 307. In two of the responsa collected by Agus, Nos. 245 and 273, Meir ben Baruch of Rothenburg attributes the prohibition against bigamy to Rabbenu Gershom. See also *Teshuvot Maharam* (Prague, 1608), 866.

⁴⁰² *Encyclopedia Judaica*, 4:986. H. H. Ben-Sasson writes that "it is not certain that the ordinances attributed to Rabbenu Gershom the Light of the Exile were actually his. It is even possible that their final form developed in the course of several generations and reached crystallization only [later]." H. H. Ben-Sasson, *A History of the Jewish People* (Cambridge: Harvard University Press, 1976), 437.

⁴⁰³ Falk, 13.

⁴⁰⁴ *Ibid.*, 14; Finkelstein, 24.

man who took a second wife because his first wife was old and not capable of bearing children. The first wife demanded a divorce and the payment of her *ketubah*. Rabbenu Gershom held in favor of the husband, citing Rava's ruling from BT Yebamot 65a that a man may marry several wives, so long as he has the means to maintain them.⁴⁰⁵ This judgment of Rabbenu Gershom's cited by Meir ben Baruch of Rothenburg makes no mention of the ban against polygyny. Ze'ev Falk argues:

"At the time of this case, then, no ban or reform against polygamy was known, a fact which proves that the author of the *responsum* [i.e., Rabbenu Gershom] did not originate the ban."⁴⁰⁶

However, it is also possible that the *responsum* was written in Rabbenu Gershom's early years, before he pronounced the ban against polygyny.⁴⁰⁷

Many scholars believe that the ban against polygyny was not issued until the beginning of the twelfth century C.E., and it was then retroactively attributed to the highly respected Rabbenu Gershom. Another possibility is that Rabbenu Gershom made informal pronouncements against polygyny, but never himself actually issued a formal ban against plural marriages, and such a ban was later enacted in his name by his students. Yet regardless of whether the ban originated with Rabbenu Gershom himself, whether it originated with his students, or whether it originated a century or so later and was then retroactively attributed to Rabbenu Gershom, the validity of the ban was unquestioned.⁴⁰⁸

⁴⁰⁵ *Teshuvot Maharam*, 865.

⁴⁰⁶ Falk, 14.

⁴⁰⁷ For Falk's discussion of this issue, see Falk, 14-15.

The Duration of the Ban

The various sources that refer to Rabbenu Gershom's ban against polygyny give differing reports as to the intended duration of the ban. Many authorities held that the duration of the ban was restricted, and that it was to expire at the end of the fifth millennium in the year 5000 of the Jewish calendar – i.e., 1240 C.E.⁴⁰⁹ Other authorities, in contrast, held that the ban was not at all limited in regard to its duration. For example, Asher ben Yehiel (ca. 1250-1327 C.E.), a leader of German Jewry who settled in Spain in 1303 C.E., said that the *takkanot* of Rabbenu Gershom were “permanent and deeply rooted as if they had been given on Sinai.”⁴¹⁰ Regardless of whether or not the ban was originally intended to expire in 1240 C.E. or at any other specific time, it remained in force after such time, and later generations accepted it as binding.⁴¹¹ Thus, wherever the ban was accepted, it now appears to have the force of law for all time.⁴¹²

⁴⁰⁸ *Encyclopedia Judaica*, 4:986.

⁴⁰⁹ Solomon ibn Adret (ca. 1235-ca. 1310 C.E.), a Spanish scholar, declared that the ban lapsed automatically in the year 5000 of the Jewish calendar. This statement by Ibn Adret is not found in his published responsa, but is quoted by R. Joseph Colon. While Ibn Adret claimed to have heard of the expiration of the ban from French scholars, Finkelstein writes that “in all the French and German discussion of the Ordinance of R. Gershom, there never occurs any reference to this time limit....[Thus, o]ne is forced to the conviction that Ibn Adret's authority was inaccurate.” Finkelstein, 29, 142-143, citing Adret as quoted by R. Joseph Colon in *Responsum* 101. Louis Epstein in contrast, contends that even though “we have not even the testimony of R. Solomon himself, but of a later scholar quoting him...legally, because of the great weight of Adret in Jewish law, even such uncertain testimony given in his name is granted full authority, and the herem is regarded as having lesser binding force in law since the end of the fifth millennium.” Louis Epstein, 26.

⁴¹⁰ Baron, 6:136-137.

⁴¹¹ *Encyclopedia Judaica*, 4:987.

Release from the Ban

There is a debate among scholars as to whether the original ban against polygyny contained a clause allowing for suspension of the ban (a *hetter*) in exceptional cases,⁴¹³ or whether the clause allowing for suspension of the ban in exceptional cases was attached to the ban some time after the original declaration of the ban.

In his book *Jewish Self-Government in the Middle Ages*, Louis Finkelstein sets forth three variant texts of the regulation concerning the suspension of the ban against polygyny. The beginning and ending sections of the three texts are essentially the same, but the middle sections (underlined below) vary among the texts.

The first text, which is the oldest representative of the German text,⁴¹⁴ reads as follows:

“The *herem* of the ordinance of the communities established by R. Gershom *Meor Ha-Golah* against marrying two wives may not be suspended except by one hundred men from three countries and from three communities. These men shall not agree to suspend the *herem* unless a cogent reason is given for the request and unless the payment of the *Ketubah* is assured either by cash or other guarantee.”⁴¹⁵

⁴¹² See, for example, *Shulchan Arukh, Even HaEzer* 1:10.

⁴¹³ Finkelstein contends that the original ordinance seems not to have made a provision for exceptional cases. Finkelstein, 25. Baron, in contrast, argues that an escape clause for exceptional cases may have existed from the origination of the ordinance. Baron, 6:136.

⁴¹⁴ It is an old German recension found in responsa of Meir ben Baruch of Rothenburg (ed. Prague).

⁴¹⁵ Translation from Finkelstein, 142-143.

The second text, which is the oldest representative of the French text,⁴¹⁶ reads:

“The *herem* declared by R. Gershom against marrying two wives may not be suspended except by one hundred men from three provinces like Anjou, Normandy, and Isle de France. These men shall not agree to suspend the *herem* unless a cogent reason is given for the request and unless the payment of the *Ketubah* is assured either by cash or other guarantee.”⁴¹⁷

And the third text⁴¹⁸ reads:

“The *herem* declared by R. Gershom against marrying two wives may not be suspended except by one hundred men from three communities and from three countries, like Aragon, Lombardy and France. These men shall not agree to suspend the *herem* unless a cogent reason is given for the request, (and unless the payment of the *Ketubah* is assured either by cash or other guarantee).”⁴¹⁹

These three regulations seem to be later than the ban itself, since they attribute the ban (in the third person) to Rabbenu Gershom. The regulations indicate that, at least by the time the first of them was written, an escape clause was included as part of the ban, providing release from the ban under certain circumstances.

As for the “cogent reason” that had to be given for marrying a second wife, such would include, for example, when the first wife had become insane; in such a case the husband, though not permitted to divorce his first wife (because she lacks the legal capacity to consent), could be allowed by appropriate suspension of the ban to take a second wife.⁴²⁰

⁴¹⁶ The version used for the establishment of this text is Munich Talmud Ms. (Strack's photographic edition, also printed in Taussig's *Meleket Shelomoh*, II. p. 13.)

⁴¹⁷ Translation from Finkelstein, 142-143.

⁴¹⁸ The version used for the establishment of this text is *Kol Bo*, section 116.

⁴¹⁹ Translation from Finkelstein, 142-143.

⁴²⁰ Finkelstein, 29-30. See also Louis Epstein, 28.

Other “cogent reasons” would include: the first wife was suspected of being or had been proven to be unfaithful; or the first wife had converted to Christianity.⁴²¹

The Ban Does Not Annul the Second Marriage of a Man who Disregards the Ban

The ban against polygyny does not include a clause that annuls the second marriage of a man who breaks the law by disregarding the ban. If a man were to disregard the ban and take a second wife, his second marriage would still be considered legally valid.⁴²²

However, since the second marriage, though legally valid, was a prohibited marriage, the first wife could require the court to compel her husband to divorce his second wife, or she could ask the court to order her husband to give her a divorce.⁴²³

When the Ban Against Polygyny Came into Conflict with a Biblical Commandment or Talmudic Law: The Issues of Levirate Marriage and The Barren Wife

There is an inherent conflict between the Biblical commandment regarding levirate marriage and the *Cherem of Rabbenu Gershom* prohibiting polygyny. In those areas which were subject to the *Cherem of Rabbenu Gershom*, when a man died without

⁴²¹ Louis Epstein, 27.

⁴²² Moses ben Israel Isserles, *Darkhei Moshe*, notes on *Tur, Even HaEzer* 44. Falk writes: “It is a well-known weakness of Jewish law that, although it prohibited certain marital relationships, it still laid down that once the nuptials had been celebrated they could not be annulled. Only in rare cases was it decided to render the nuptials entirely invalid, while for the most part the rabbis were fearful of issuing such an order.” Falk, 33-34.

⁴²³ Abraham Tsevi Hirsch Ben Jacob, *Pitchei Teshuvah* 5 notes on *Shulchan Arukah, Even HaEzer* 154.

offspring and was survived by his widow and an already married brother, the following question arose: Which takes precedence, the Biblical commandment regarding levirate marriage or the ban prohibiting polygyny?

This issue was not really a problem in France, where *chalitsah* was preferred to levirate marriage even in cases that did not involve polygyny.⁴²⁴ The issue did arise, however, for the Jews of Germany, where levirate marriage was still practiced.⁴²⁵ While some authorities tended to suspend the ban in the case of levirate marriage, others held that the ban took precedence, and *chalitsah* should be performed when polygyny would be involved.⁴²⁶

In the fifteenth century, the German authority Jacob ben Moses Moellin (ca. 1360-1427 C.E.) allowed a man to take a second wife for the purpose of performing his levirate obligation, claiming that the ban against polygyny did not apply in the case of levirate marriage.⁴²⁷ Similarly, Spanish authorities (who did not accept the *Cherem of Rabbenu Gershom* as binding on their own communities, but who enforced it upon German Jewish immigrants),⁴²⁸ held that the ban does not apply in cases where it comes into conflict with Biblical law.⁴²⁹ In contrast, in the sixteenth century, the Italian authority Judah Mintz

⁴²⁴ Finkelstein, 27. See also Louis Epstein, 26.

⁴²⁵ Louis Epstein, 26.

⁴²⁶ Ibid., 27.

⁴²⁷ *Sefer Maharil, Hilkhos Chalitsah* (Shklov, 1796), 4.

⁴²⁸ According to *Otsar HaPoskim, Even HaEzer* 1:75, a man who goes from a place where the *Cherem of Rabbenu Gershom* is in effect to a place where the *cherem* is not in effect cannot marry two wives, because the *cherem* "goes on the head" of the individual when he moves from the place where it is in effect to the place where it is not.

⁴²⁹ Finkelstein, 27-28.

insisted that the *Cherem of Rabbeinu Gershom* overrides the commandment of levirate marriage.⁴³⁰

Related to the issue of levirate marriage is the case where the wife is barren. According to Mishnah Yebamot 6:6, if a man has lived with his wife for ten years and she has not borne him children, the man must fulfill the command to propagate the human race by taking another wife. So, the question arose: Which takes precedence, the mishnaic/talmudic commandment regarding procreation or the ban prohibiting polygyny? As with the issue of levirate marriage, the authorities were divided as to whether or not the ban against polygyny should be suspended to fulfill the duty of procreation in the case of a barren wife. While some authorities held that the ban should be suspended in the case of a barren wife,⁴³¹ other authorities held that the ban applied even if the result was that the husband would remain childless.⁴³²

⁴³⁰ *Sefer She'elot U'Teshuvot Me'Ha-Rav Yehudah Mintz* (Krakow, 1882), 10. Mintz wrote that the *cherem* overrides the commandment regarding levirate marriage, even though levirate marriage is decreed from heaven. According to Mintz, the *cherem* has the force of a talmudic *takanah*.

⁴³¹ Louis Epstein, 27.

⁴³² For example, the sixteenth century Italian R. Judah Mintz insisted that the *Cherem of Rabbeinu Gershom* overrides the commandment regarding procreation – i.e., a man may not take a second wife in order to have children without giving the first wife her *ketubah*. *Sefer She'elot U'Teshuvot Me'Ha-Rav Yehudah Mintz*, 10.

Acceptance of the Ban Against Polygyny in Countries in which Christianity was the Dominant Religion

In general, over time the ban against polygyny was accepted as binding among Ashkenazic Jewish communities, where polygyny was forbidden by the dominant religion, Christianity, and was therefore forbidden by government law.⁴³³

Polygyny in Countries in which Islam was the Dominant Religion

Unlike Christianity, which prohibits polygyny, Islam allows polygyny,⁴³⁴ with Koranic sura 4:3 providing that a man may have up to four wives.⁴³⁵ However, the permission given in the Koran to marry up to four wives is limited, being followed immediately in

⁴³³ *Encyclopedia Judaica*, 4:987.

⁴³⁴ Islam, like Judaism, prohibits polyandry, and under no circumstances may a Muslim man marry a woman who is already married to another man. Mircea Eliade, ed., *The Encyclopedia of Religion*, vol. 7 (New York: Macmillan Publishing Company, 1987), 477.

⁴³⁵ Koranic sura 4:3, limiting a man's total number of wives to four, echoes the ruling in BT Yebamot 44a that a man should not marry more than four wives. Koranic sura 4:3 was given legal force by classical Muslim jurists. Ibid., 311. "Modern legislation in Muslim countries has either sought to restrict the practice of polygamy [e.g., in countries such as Syria, Iraq and Pakistan official permission is required before a polygynous marriage may be contracted] or to abolish it altogether [e.g., the Tunisian law of 1957, which entirely prohibits polygyny]." Ibid., 449. According to Leila Badawi, in Islam today, "[o]ptions range from the claim that only monogamy fulfils the criteria for a Muslim marriage, through the notion that polygamy is possible, but only with the permission of the women in question, to the assertion that Muslim marriage necessarily includes the possibility of polygamy and that this is fundamental to its nature. Such a view does not, however, demand that all, or even most, Muslim marriages be polygamous, only that they are potentially so." Leila Badawi, "Islam," in *Women in Religion*, edited by Jean Holm with John Bowker (London, New York: Pinter Publishers, 1994), 103.

the same verse by the condition that if a man cannot deal justly with the co-wives,⁴³⁶ then he must marry only one woman. In those countries where polygyny was permitted by the dominant religion of Islam, the ban against polygyny was not adopted by Jewish communities.⁴³⁷

Polygyny in the Mishneh Torah of Maimonides

The great Sephardic rabbi Moses ben Maimon, or Maimonides (1135-1204 C.E.), never even mentions the *Cherem of Rabbeinu Gershom*.⁴³⁸ In fact, in his legal code, the *Mishneh Torah*, Maimonides makes several references to polygyny.⁴³⁹ Maimonides states in *Mishneh Torah, Hilkhoh Ishut* 14:3:

“A man may marry several wives, even one hundred, either at the same time or one after the other, and his wife may not prevent him, provided that he can supply each one with the food, clothing and conjugal rights that are due to her. But he may not compel them to dwell in one courtyard, but rather each one [must be allowed to reside] by herself.”

However, while polygyny – even to a great abundance of wives – is approved of in this section of the *Mishneh Torah*, it certainly could not have been practiced by the average Jewish man. The requirement that a man who has multiple wives must be able to supply each wife with adequate food, clothing and conjugal rights (which reflects the

⁴³⁶ According to Islamic law, each of the co-wives is entitled to a separate dwelling and an equal portion of the husband's time and companionship. Eliade, 448-449.

⁴³⁷ *Encyclopedia Judaica*, 4:987; Biale, 50-51.

⁴³⁸ *Encyclopedia Judaica*, 4:987.

⁴³⁹ See, for example, *Mishneh Torah, Hilkhoh Ishut* 6:14 (“He whose brother dies leaving two wives....”); *Mishneh Torah, Hilkhoh Ishut* 6:15 (“Therefore, if Reuben dies leaving

requirement set forth in Exodus 21:10 that if a married man takes another wife he must not withhold from his first wife her food, clothing or conjugal rights, as well as Rava's view in BT Yebamot 65a that a man may marry only as many wives as he is able to maintain) means that it would only have been possible for men possessing sufficient financial means to practice polygyny. The further requirement that a man provide separate homes for each wife obviously made the practice of polygyny even more expensive, so that only extremely wealthy men could ever afford to have more than one wife.⁴⁴⁰

Moreover, Maimonides placed a further limit on plural marriages in the next paragraph of the *Mishneh Torah*. In *Mishneh Torah, Hilkhhot Ishut* 14:4, Maimonides explains that the conjugal rights to which a wife is due depend not only upon the husband's profession,⁴⁴¹ but also upon the number of wives that he has. Maimonides concludes *Mishneh Torah, Hilkhhot Ishut* 14:4 by stating:

"Therefore the sages have commanded [in BT Yebamot 44a] that a man shall not marry more than four wives, even if he has a lot of money, so that he can provide them [each wife] with conjugal relations once a month."

two wives...."); *Mishneh Torah, Hilkhhot Ishut* 17:1 ("If a man married to several wives dies....").

⁴⁴⁰ In a fifteenth century C.E. responsum, the North African rabbinical authority Solomon ben Simeon Duran (ca. 1400-1467 C.E.) took the position of BT Yebamot 65a and of Maimonides that a man cannot be forced to divorce his first wife upon marrying a second wife, so long as he can provide for both wives. Duran then repeated the holding of the *Mishneh Torah* that a man may marry several wives, even a hundred, so long as he can provide each wife with food, clothing and conjugal rights, and so long as he provide a separate home for each wife. Hence, while allowing polygyny *de jure*, Duran, like Maimonides, certainly made it so that polygyny would not be practiced *de facto* except among the wealthiest of men. *She'elot U'Teshuvot HaRashbash*, 75 (Livorno, 1968).

⁴⁴¹ See *Mishneh Torah, Hilkhhot Ishut* 14:1 for a list of how often men in various professions must provide their wives with conjugal relations.

Thus, Maimonides further limited polygyny by restating the talmudic ruling that a man, no matter how wealthy he may be, shall not marry more than four wives.

Stipulations Against Polygyny in Marriage Contracts Found in the Cairo Genizah

Even though the *Cherem of Rabbenu Gershom* was not adopted by Jewish communities in Islamic countries, and it was never even mentioned by Maimonides, polygyny was probably never very common among those Jews who lived in Islamic lands.⁴⁴² In fact, it was not unusual for polygyny among Jews to be limited in such communities by Jewish women insisting that their husbands include stipulations in their marriage contracts prohibiting the husband from taking a second wife without the consent of his first wife or permission of a rabbinic court.⁴⁴³

Among the manuscripts found in the Cairo Genizah,⁴⁴⁴ which date from the tenth through twelfth centuries C.E., were two documents containing "conditions" under which a marriage was arranged.⁴⁴⁵ One document, written during the period that Nagid (head of

⁴⁴² Biale, 51. Goitein reports that "the Geniza society was essentially monogamous." Goitein, 205.

⁴⁴³ *Encyclopedia Judaica*, 4:987; *Encyclopedia Judaica*, 12:259-260. See also Louis Epstein, 31. But whereas in communities that did not adopt the *Cherem of Rabbenu Gershom* polygyny could take place with the consent of the first wife, the *cherem* prohibited polygyny even with the wife's consent.

⁴⁴⁴ The material of the Cairo Genizah was found in Fustat, or Old Cairo, the ancient Islamic capital of Egypt. Goitein, vii.

⁴⁴⁵ Similarly, a responsum written by the Sephardic authority David Ben Solomon Ibn Abi Zimra (1479-1573 C.E.) refers to a condition in a marriage contract that prohibits the husband from taking a second wife. To further guard against polygyny, in addition to the condition in the *ketubah*, an oath was taken by the husband at the time of the signing of

the Jewish community in Egypt) Mevorakh b. Saadya was in office (ca. 1095-1112 C.E.),⁴⁴⁶ which appears to be an instruction given to a clerk by the judge or other official who presided over the proceedings (who would then have written out the final agreement).⁴⁴⁷ provided:

“These conditions were agreed between us, namely: No other wife; no concubine; no slave girl⁴⁴⁸ may be purchased except if she [the wife] chooses so.”⁴⁴⁹

Another document, which was a betrothal agreement, provided: “He will not marry another wife [nor keep a slave girl disliked by her (i.e., the wife)].”⁴⁵⁰

Legal documents and letters reporting or referring to cases of bigamy were found in the Cairo Genizah. However, the reasons given for the bigamy, whether implicit or explicit, were the same reasons that bigamy may have been allowed even in Ashkenazic communities, such as: the first wife was barren after ten years of marriage; a married man needed to fulfill the levirate obligation with the widow of his brother who died

the *ketubah* that he would not take a second wife. *She'elot U'Teshuvot Radbaz HaShalem*, 221 (New York: S. Goldman Otsar HaSefarim, 1967).

⁴⁴⁶ Goitien, 148.

⁴⁴⁷ *Ibid.*, 143.

⁴⁴⁸ Unlike in Judaism, Islamic practice during the Genizah period did not prohibit sexual relations between a master and his slave girl. “Since the social customs of a surrounding majority are apt to be accepted by a minority, the prohibition of marrying another wife, included in a Genizah marriage contract, was regularly accompanied by the provision that the husband should not keep a maidservant disliked by his wife or should not acquire any without her approval. There even exist marriage agreements that contain the clause concerning the slave girl but not that against polygyny, which seems to demonstrate that the latter was less a threat to a wife than the former.” *Ibid.*, 147.

⁴⁴⁹ *Ibid.*, 143.

⁴⁵⁰ *Ibid.*, 144.

childless; or the first wife was insane.⁴⁵¹ Thus, while polygyny was not officially outlawed in the Genizah society, it apparently was only rarely practiced in circumstances under which it had been outlawed by the *Cherem of Rabbenu Gershom* in Ashkenazic societies. This is most likely due to the fact that even though polygyny was practiced by the surrounding peoples, a moral aversion to polygyny had been growing throughout the Jewish world in the prior centuries – even in communities where polygyny was legally acceptable.

Conclusion

The *Cherem of Rabbenu Gershom*, which was widely adopted by Ashkenazic Jewish communities, essentially put an end to polygyny among Ashkenazic Jewry. Regardless of the original intent of the author of the ban as to its duration, the ban eventually came to be accepted as having the force of law for all time. Polygyny was still permitted by some authorities in certain exceptional cases. For example, some authorities suspended the ban in the case of levirate marriage, or to allow fulfillment of the duty of procreation when the first wife was barren. But other authorities held that the ban took precedence even over the duties of levirate marriage and procreation. Additionally, although a release from the ban could be obtained in individual extreme cases, such a release required the approval of one hundred men (i.e., rabbis), and on a practical level must have been quite difficult to obtain.

⁴⁵¹ Ibid., 206. Interestingly, levirate marriage was a custom in Islamic society in the Genizah time and region, but it was not a law as it was in Judaism. Ibid., 210.

Sephardic Jewish communities, on the other hand, did not adopt the ban against polygyny. However, even in Sephardic Jewish communities polygyny was apparently rarely practiced. While Sephardic Jewish authorities were not willing to go as far as their Ashkenazic contemporaries and outlaw polygyny entirely, they perhaps shared their Ashkenazic contemporaries' generally negative attitude toward polygyny more than they openly admitted in their writings. For example, Maimonides legally allowed polygyny in his *Mishneh Torah*, but he adopted a number of talmudic restrictions protecting the wife that created obstacles to polygyny on a practical level. Additionally, polygyny was commonly prohibited in Sephardic communities through the mechanism of restrictive provisions in marriage contracts.

Both the communities that did adopt the *Cherem of Rabbenu Gershom* and those that did not seemed to be moving toward greater protection of the first wife. Perhaps the major difference between Sephardic Jewish communities that did not adopt the *Cherem of Rabbenu Gershom* and Ashkenazic communities that did adopt the ban has to do with the role of the wife in consenting to live in a polygynous marriage. In communities where the ban was not in effect the first wife could, if she chose to do so (or was pressured to do so), allow her husband to take a second wife. But in communities where the ban did apply, the husband could not take a second wife under any circumstances (except for the exceptional cases mentioned above), even with the consent of his first wife.

Conclusion

“Hence a man leaves his father and mother and clings to his wife, so that they become one flesh.”⁴⁵² This verse from Genesis reflects the Biblical ideal of marriage – the relationship between a man and woman, bound together as “one flesh.” Yet as the Biblical narrative unfolds, we read over and over of men who have more than one wife, or a wife (or wives) and concubine(s). Two of our patriarchs, Abraham and Jacob, practiced polygyny, as did the great Kings David and Solomon, to name but a few. Moreover, while polyandry (which would have constituted adultery) was prohibited by Biblical law, there is some Biblical legislation that specifically refers to cases in which a man has more than one wife,⁴⁵³ while other Biblical legislation seems to presuppose, or at least not outlaw, polygyny.⁴⁵⁴

Could a man in Biblical times only live in the ideal state of marriage with one wife? Or was it equally acceptable for a man to have multiple wives – to “become one flesh” with more than one woman?

It could be argued that monogamy was seen by the Biblical authors as the ideal, with polygyny viewed as a tolerated, though less desirable, lifestyle. After all, polygyny and concubinage in the Bible often resulted in antagonism between co-wives, and sometimes between a wife and a concubine. On the other hand, it could also be argued that the

⁴⁵² Genesis 2:24.

⁴⁵³ See, for example, Exodus 21:10 and Deuteronomy 21:15-16.

⁴⁵⁴ See, for example, Exodus 21:7-9; Deuteronomy 17:17 (which prohibits polygyny only for the king); Deuteronomy 21:10-14; and Deuteronomy 25:5-10 (the rules regarding

Biblical authors saw polygyny as a valid alternative lifestyle – different from monogamy, though equally acceptable. For one thing, the Bible could have, but never did, outlaw polygyny. Moreover, in addition to multiple wives and/or concubines serving as a sign of wealth and power, the benefits of polygyny, at least from the perspective of the male involved, included a greater chance of producing progeny, in particular male offspring, (especially if the first wife was barren) in a time of high mortality rates, as well as an abundant workforce (consisting of wives and concubines) to tend flocks and work fields or be involved in cottage industry.

Ultimately, the Bible as a whole does not take a unified stance either for or against polygyny. While some sections of the Bible seem to favor monogamy, others seem to approve of, or at least accept or tolerate, polygyny. Regardless, the fact that the Bible did not outlaw polygyny had a tremendous impact on Jewish legislation, if not attitudes and practice, for many years into the future.

While the Damascus Document (ca. late first century B.C.E.), one of the Dead Sea Scrolls found at Qumran, goes so far as to claim that polygyny was Biblically prohibited, such a claim was a complete innovation. In fact, in post-Biblical times, the rabbis could not ignore the fact that polygyny was legal according to the Bible. And while vast sections of the Mishnah reflect a society that was monogamous in practice, and there are no references in either Talmud to any of the Amoraim having more than one wife, the rabbis of the Mishnah, Tosefta and the Talmuds did not doubt the legality of polygyny.

levirate marriage compel a man to marry his childless brother's widow, presumably regardless of whether or not the man is already married).

Mishnah Yebamot in particular contains numerous passages that are related to polygyny, and there are many passages in other tractates that refer to a legal system in which the potential for polygyny was assumed.

Non-legal post-Biblical Jewish sources, in contrast, tend to depict polygyny in a more negative light. For example, Ecclesiasticus and the Targum of Ruth reflect the view (also seen in the Bible) that polygyny is not advisable because it may result in antagonism between the wives. Mishnah Avot 2:7 warns of the dangers of polygyny, claiming that more wives result in more witchcraft. A *baraita* contained in BT Ta'anit 31a reflects a rabbinic preference for monogamy. And later aggadic passages found in Genesis Rabbah 23:2, Avot de Rabbi Natan and BT Baba Kama 60b also reflect a negative view toward polygyny.

It has been argued by many scholars that during the Amoraic period the Jews living in Palestine, who were living under the rule of the Roman Empire (which advocated monogamy) began to develop different views about polygyny from the Jews living in the Babylonian exile, who were in close contact with the polygynous culture of the Zoroastrian religion of Persia. In support of this argument, it should be noted that BT Yebamot 65a sets forth the statement of the Palestinian Rav Ammi that if a husband whose wife has not borne him children wants to take another wife, he must first divorce his present wife and pay her the amount of her *ketubah*. The statement of the Palestinian Rav Ammi is immediately followed by the statement of the Babylonian Rava that a married man may take additional wives (so long as he has the means to maintain each of

his wives).⁴⁵⁵ Yet it is noteworthy that even during the Amoraic period the Palestinian rabbis did not outlaw polygyny. Moreover, while the Babylonian rabbis may have shown a more favorable attitude toward polygyny than their Palestinian counterparts, at least in their legislation, in truth polygyny was probably not widely practiced even among the Jews of Babylonia.

So why did the rabbis of the two Talmuds, especially the BT, devote so much legal discussion to the topic of polygyny? Probably the vast amount of legislation regarding polygyny was not simply due to the outside influence of the surrounding Persian culture. After all, if the Jews in Babylonia were so heavily influenced by the polygyny of Persia, they probably would have practiced polygyny to a greater extent. Instead, as suggested in the Conclusion to Chapter Four, the great deal of legislation regarding polygyny was probably in large part due to the rabbis' hatred of Graeco-Roman culture and its inherent monogamy.

It is well known that the rabbis of the Mishnah and the two Talmuds devote an overwhelming amount of space to the Temple precincts in Jerusalem, discussing everything from the dimensions of the Temple to the nature and purposes of the sacrifices performed there. Although the Temple and the sacrificial system were a reality that no longer existed in the rabbis' own time, the rabbis refused to allow even the slightest memory of the Temple to be erased by a Roman culture that sought to destroy any traces

⁴⁵⁵ It should be noted, however, that Lowy rejects the notion that the statements of Rav Ammi and Rava in BT Yebamot 65a are representative of the opinions of the Palestinian and Babylonian Jewish communities, respectively. See Lowy's argument as set forth on pages 108-109 of Chapter Four.

of Jewish worship on its ancestral Jewish homeland. The rabbis of the two Talmuds preserved the heritage of the Temple and the sacrificial system in order to make sure that the hated Roman destroyers and overlords were incapable of claiming victory over anything Jewishly sacred.

Similarly, it could be argued that the vast amount of mishnaic and talmudic legal discussion devoted to the topic of polygyny was intended by the rabbis as a way of preserving another ancestral heritage – a heritage that a monogamously-oriented Roman culture would perhaps, over time, consign to oblivion. It was a heritage that the Jews of rabbinic times may no longer have practiced to a great extent, and which some rabbis even found objectionable; but still, it was a heritage of which they were not prepared to let go in the face of an overwhelming Roman cultural onslaught.

Opposition to the Graeco-Romans and their monogamous legislation was probably not the only reason for the rabbis' maintenance of a tradition that accepted the legality of polygyny. As was further suggested in the Conclusion to Chapter Four, the maintenance of this heritage may have also been due to the rabbis' opposition to Jewish sectarians, such as those who wrote the Damascus Document, who claimed that the Bible commanded monogamy.

In contrast to the rabbis of earlier eras, who clung to their legal heritage of polygyny in the face of Graeco-Roman and sectarian opposition, the rabbis of the Geonic era, at least in Ashkenazic Jewish communities, no longer felt the same need to cling to this heritage.

Perhaps once the Jews were no longer living under the rule of the Roman Empire, their fear that Jewish national and cultural identity would be overtaken subsided. Moreover, sectarian influence had died out. Hence, there was no longer such a compelling reason for Ashkenazic Jews to add to the vast body of legal material dealing with polygyny. Eventually, with the *Cherem of Rabbenu Gershom*, which was ordained some time in the eleventh or twelfth century C.E., polygyny was outlawed for the Jews of Germany and northern France. This ban against polygyny was within time accepted as binding among all Ashkenazic communities. Probably, the ban just made legal what was already in effect the practical reality of the day – i.e., the law was made to conform to and strengthen the general practice. However, as can be seen in some of the responsa discussed in Chapter Five, polygyny was still permitted by some Ashkenazic authorities before the *Cherem of Rabbenu Gershom*, and it was still permitted in exceptional cases even after the ban became law (e.g., in cases of levirate marriage and when the wife was barren).

While Sephardic Jewish communities did not adopt the *Cherem of Rabbenu Gershom*, it is likely that polygyny was not widely practiced even in Sephardic communities during the Geonic and Rishonic periods. Sephardic communities often regulated the practice of polygyny by the use of such devices as provisions in marriage contracts and other restrictive measures.

Polygyny is practiced today by a small minority of Sephardic Jews, but for most Jews it is no more than a relic from our distant past. However, even now, almost 1,000 years

after the *Cherem of Rabbeinu Gershom*, a study of the practice of polygyny and the discussion of polygyny in legal as well as non-legal sources from Biblical through Rishonic times can be quite enlightening. The topic of polygyny spans over 3,000 years of Jewish history and legislation, and is certainly worthy of our attention. Our tradition regarding polygyny reflects our people's journey through time and place. It reflects the ways in which at some times we resisted the attitudes of surrounding cultures, and at other times we conformed to them. But, perhaps most importantly, it reflects the constant Jewish struggle that results from our attempts to hold on to tradition, while simultaneously adapting to new morals as times change. This is a struggle which we Jews face in regard to many issues – a struggle that keeps us rooted in tradition, yet allows our religion to be living and vibrant.

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