BARREN WOMEN:
THE INTERSECTION OF BIOLOGY, MEDICINE, AND RELIGION IN THE TREATMENT OF INFERTILE WOMEN IN THE MEDIEVAL MIDDLE EAST

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ABSTRACT

Barrenness has often had profound legal, social, and medical implications for women. This dissertation explores some of those implications in the context of the medieval Middle East, focusing on three aspects of infertile women’s experiences: the disparate impact of Islamic family law on childless women; how physicians understood the etiology and treatment of infertility; and religious attitudes towards the pursuit of healing. Chapter 1 examines the ways in which Islamic law could influence the experiences of infertile women over the course of a lifetime. It begins with an examination of what Islamic religious texts had to say about the role of fertility in marriage. It then goes on to explore aspects of fertility which had legal significance including puberty, menarche, amenorrhea, and menopause. The chapter further explores the prospects and mechanisms of divorce and remarriage, and how reproductive dysfunctions complicated these procedures. It concludes with an exploration of how childlessness affects the application of Islamic inheritance laws. Chapter 2 explores how infertility is addressed in the Greco-Arabic medical tradition. It explores how medieval physicians adopted and modified Greek principles of gynecology and methodologies for diagnosing and treating infertility. It then addresses the question of how much contact existed between female patients and the writers of medieval gynecological texts, and hence how practically significant those texts are. Chapter 3 begins with an examination of the competition between the Arabo-Galenic medical tradition, the “medicine of the Prophet,” and folk medicine, from the point of view of medieval jurists. It addresses religious attitudes toward the respectability and piety of engaging in the process of seeking healing, particularly for women. Not only were interactions between male healers and female patients fraught, so also were interactions between female healers and their female
patients. It shows that discomfort with women’s intimate interactions and rituals that had religio-
medical significance reflects broader concerns about the search for healing and its potential
religious impact. Taken together, these chapters shed light on institutions and modes of thought
that played an important role in shaping medieval women’s experiences.
For my mother and father
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Introduction

STUDYING INFERTILITY IN THE MEDIEVAL ISLAMIC WORLD: WHY AND HOW

This study began with an assumption and a question. Assuming that producing children was the primary source of women’s value and women’s power in medieval Islamic societies, what happened when women failed to produce children? There were good reasons to make this first assumption. After all, anthropological accounts from modern communities, from the same region and sharing the same religion as the medieval ones, and believing themselves to be operating in accordance with centuries of tradition, describe the importance of motherhood for women and the anxiety surrounding infertility. Moreover, throughout the world, arguments in favor of “traditional, patriarchal” laws, as well as those rejecting them, have hinged upon the notion that the limitations placed on women are there to either force them or support them in their role as producers and nurturers of children. Surely this was also true of the medieval Islamic world. It begs the question of how those women who could not fulfill that role were treated.

Clearly, however, these formulations are problematic. From the beginning of this inquiry it has also been evident that there are profound problems with the initial assumption. There are the definitional problems: what do we mean by “power,” “medieval,” and “Islamic,” and what is the significance of the plural in the phrase “Islamic societies”? These problems are real, but they represent a detour from the discussion at hand, not an actual contradiction or problematization of the thesis that
motherhood was the primary role assigned to women, around which the traditional system, particularly as enshrined in Islamic law, was organized. Here, however, even a cursory knowledge of Islamic family law suggests a possibly fatal flaw with this argument: Islamic law barely mentions infertility and in no way overtly penalizes barren women.¹ Indeed, it makes rather little mention of maternity itself.² How then could it play a role in shaping the experiences of infertile women? Ultimately, it is the answer to this question which constitutes the subject of this dissertation.

I. Why study the treatment of barren women in the medieval Middle East?

For students of medieval Islamic societies, the study of barren women offers two benefits. First, it illuminates a phenomenon that is important in and of itself, as it was experienced by women in all eras and places, and with life-changing consequences. Secondly, in exploring the factors that shape the experience of infertility, we shed light on related issues in Middle Eastern and Islamic history. In studying reproduction, we gain insight into the interplay between the medical and religious explanations of biological events and the significance attributed to them. In studying medical interventions, we gain insight into the anxieties some people felt with respect to the multiplicity of authorities and forms of knowledge that competed with each other in the medieval world. We see competition and anxiety expressed by religious authorities against medical authorities and practitioners of healing magic, male medical practitioners against female ones, and male

¹ The case of slave women represents something of an exception to this rule, as such women stood to gain some legal protections if they bore their masters’ children.
² The most recent scholarship on motherhood in the medieval Islamic world, Kathryn Kueny’s *Conceiving Identities: Maternity in Medieval Muslim Discourse and Practice* (Albany: State University of New York Press, 2013), does not include any extended discussion of Islamic law.
religious culture against female religious culture. In studying women’s sources of healthcare, we gain new insights into the meaning behind regulations governing women’s modesty and social interactions. Finally, in studying the options available to childless women throughout their life-cycles, we can fine-tune our understanding of some aspects of the institutions of Islamic marriage, divorce, and polygamy in ways that make us re-examine and at times contradict certain assumptions about patriarchy, paternity, motherhood, and women’s vulnerability and empowerment within the Islamic legal system.

The picture of patriarchy that emerges from this study of infertility is a complex and somewhat surprising one. While much ink has been spilled by others in describing patriarchal attempts to exert male control over women’s sexual organs so as to ensure fathers’ confidence in their own paternity, this study shows the extent to which men relied on individual women to monitor and to interpret their own reproductive statuses. It also shows both the legal and medical willingness to tolerate and even embrace reproductive uncertainty and ambiguity. However, it also suggests that the social constraints urged upon women were understood by many jurists as existing for reasons beyond the need to guard against sexual and reproductive violations. Rather they were also put in place to guard against the threat of religious and intellectual syncretism, a threat to which they thought women were particularly at risk, and particularly so during their experiences of events connected with health, birth, and death.
The importance of infertility as a phenomenon

Writing in Tunis in the 1970s, the sociologist Abdelwahab Bouhdiba produced this dramatic and damning depiction of the importance of fertility and the prospect of sterility for women in contemporary “Arabo-Muslim” society.

We should not forget that in a society in which repudiation is widespread and so easy, husbands change, but children stay. Children very often constitute therefore the only factor of stability. They alone give the ṣilat al-raḥim its true meaning and value . . . Children are loved for other than practical and immediate reasons. For the mother they constitute a veritable system of insurance for old age and illness, a guarantee against destiny that is all the more effective in the case of repudiation. What could the fate of a woman be who did not have the good fortune to become a mother? A sterile woman has scarcely any other prospects than that of being an unwanted, inopportune burden on her father or brothers. Married without children, she can hardly aspire to be anything but a servant of her younger, more beautiful or more fruitful co-wives. On the other hand, a mother is guaranteed that at least her children will not “drop” her and that everywhere she will be protected from poverty and need. Not to mention the prestige, honor, and ‘presence’ conferred on a woman by children, especially male children. Besides every mother hopes to become in turn a venerated, ‘protective’ (ḥumā) mother-in-law. By reigning over her daughters-in-law she will reach the summit of glory before dying, respected and surrounded by her grandchildren. Having children in the traditional Arabo-Muslim society is the fundamental element of security for a woman. Woe betide the sterile woman. On her weighs the threat of repudiation. The best she can hope for will be to be lucky enough to have a rich and ‘charitable’ husband and to share his bed with other co-wives. But if one of these wives gives birth to a son, she will be forgotten and sent home!

There are problems too concerning inheritance. Sons inherit most of the patrimony. Mothers are given a mere eighth. In view of this the son’s mother will prepare a better ‘retirement’ for herself. But the situation can be worse still: Muslim inheritance law lays it down that in the absence of male descendants the collaterals of the first or second degree have a right to the inheritance. So it is understandable how fear of the ghāṣib (intruder) could be the source of so much conflict and transform the situation of a sterile wife into a tragedy. For her brothers-in-law will scarcely entertain such tender feelings towards her as she might expect from her own male children.

Motherhood, then, was a protection. It was the only security for a woman – there was practically no other. The Quran may affirm that “wealth and children are essential to earthly life”, but children are certainly the way to material happiness and a sense of security. So, given the “system” and the structures of the environment, the Arab woman tries to increase her chances by having as many pregnancies as possible. Hence that obsession with children – have children, more children and still more children!

It is noteworthy here that Bouhdiba highlights the role played by Islamic legal norms in making the fate of women contingent upon their reproductive success. Because of the weakness of a woman’s position as a wife, a woman must seek safety through the

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institution of motherhood. Polygamy, divorce, and inheritance law all conspire to pressure women into producing children, as a means of obtaining loyalty, respect, care, and financial security in a system which is otherwise lacking in those things. Bouhdiba argues that even in The Thousand and One Nights, the classic story of the triumph of feminine brains over masculine brawn, what enables Shahrezad to survive is not her storytelling abilities, but rather her providing the king with three sons in the space of 33 months. “One of them walked, one of them crawled, and one was at the breast.”

Other sociologists and ethnographers describing their findings in Iran, Turkey, Palestine, Jordan, Egypt, and Morocco place emphasis on the role familial honor and social pressure play in shaping the experience of childless women, in addition to the fear of divorce. The French sociologist Paul Vieille, based on interviews with urban and rural

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4 For an overview of Islamic texts that refer to the honor due to mothers, see A. Giladi, Muslim Midwives: The Craft of Birthing in the Premodern Middle East (New York: Cambridge University Press, 2015), 37-56.
5 Bouhdiba, Sexuality in Islam, 216.
6 C. Delaney, The Seed and the Soil: Gender and Cosmology in Turkish Village Society (Berkeley: University of California Press, 1991), 59. Among all the accounts of women’s experiences in the Middle East that I have come across, Delaney’s places the least emphasis on the stresses caused by infertility and the anxiety to have children. Writing about her fieldwork in a Turkish village in the early 1980s, she also mentions that abortion is common, and quite dangerous for the mother. However, she does note that, “If a child is not produced within a reasonable amount of time, the man is free to divorce or take a second wife. Although polygyny is forbidden in modern Turkish law, it sometimes occurs in villages where traditions of the Seriat (Islamic law) still operate. The system of beliefs implies that the marriage bond is less important than physiological paternity.” Ibid., 53.
7 H. Granqvist, Marriage Conditions in a Palestinian Village I: 117; II: 116, 244-6, and idem, Child Problems Among the Arabs (Södorström, 1950), 76-7, 224. T. Canaan, “Unwritten Laws Affecting the Arab Woman of Palestine,” Journal of the Palestine Oriental Society 11 (1931), 175.
women living in Iran in the 1960s, vividly depicts the shame associated with infertility and the pressure brought to bear in compelling young women to pursue fertility.

After marriage all those who surround a young wife await with anxiety the announcement of a pregnancy. The event releases an anxiety; thenceforth the young wife will be cherished by her husband and her in-laws. If, on the contrary, there is a delay, anxiety grows on all sides. The father of the young girl has given a product for reproduction; he is discredited by his daughter who does not immediately promise a child. The husband’s family, on its side, has acquired a young wife to increase its descendants; if her sterility continues, the husband loses interest in his wife and threatens to send her back or to take a second wife. The household is constituted to procreate; sterility is a broken contract. The young wife who is, habitually and without proof, taken to be responsible for the sterility of the couple, will do everything to change her state: pilgrimages, magic practices, potions, and so forth. If she does not succeed, she will have only a diminished status, and her family will feel dishonored by it.

Social incitements to childbirth continue after the first birth. There are, notably, the uncertainties of the position of the wife in the household; the marriage is easily broken by the will of the husband alone. Even if this does not happen in the countryside, the option left to the husband to send back his wife easily leads the latter to look for means to attach her to her home. Children are reputed to be “nails” that attach the wife to the home. After marriage, women hasten to multiply these ties which guarantee them against repudiation . . . .

. . . the group of women: they actively surround the young wife, initiate her, guide her through the first pregnancies, welcome the newborn, and combat sterility. In them are transmitted ancient popular practices regarding magic, pharmacy, and medicine. They help the young wives and exert a considerable pressure in favor of fecundity.

The effects of such pressure lead women to engage in a “quest for conception,” memorably depicted by Erika Friedl in *Women of Deh Koh*, where she dedicates a chapter to portraying the experience of a childless young wife seeking aid in the wake of the Iranian Revolution, and by Marcia Inhorn, in her books *The Quest for Conception: Gender, Infertility, and Egyptian Medical Traditions* and *Infertility and Patriarchy: The Cultural Politics of Gender and Family Life in Egypt*. In the course of such quests, infertile women seek assistance from ethnomedical practitioners, religious saints, and

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11 Erika Friedl’s account of a remote Iranian mountain village in the 1970s and early 1980s confirms this: “There aren’t many childless couples in Deh Koh, and of the few not one ever split up, and no husband ever took a second wife because of his first wife’s barrenness. Indeed after the first few rough years of crushed expectations, attempted cures, amulets and accusations, pilgrimages, travels to doctors, fights, sneers, and humiliating pity, and after hope has dimmed to a faint flicker deep in the couple’s hearts, they tune in to each other as companions in misery and live more peacefully and leisurely than most of their neighbors harassed by large families.” E. Friedl, *Women of Deh Koh* (London: Penguin Books, 1991), 48.


practitioners of bio-medicine. A study from modern Egypt shows that concerns about infertility, and the perception that pregnancy is not occurring quickly enough, account for more than half of all women’s reasons for visits to physicians and practitioners of indigenous medicine.¹⁴

Throughout this process too, women encounter Islamic legal culture in complex ways. The delivery of medical attention and care to women is fraught as a result of modesty concerns. Moreover, medical systems and treatments, such as bio-medical healing, humoral healing, magical healing, prayer, and pilgrimage rituals to attain saintly blessing, baraka, are subject to religious categorizations on the basis of theological orthodoxy and heresy as well. In thinking about the line separating “orthodox” Islamic attitudes towards medical care from other contemporary attitudes, historical precedent and indigeneity appear to have little obvious correlation. As Inhorn writes, in regards to Egypt:

Interestingly, contemporary Islamists tend to condone most biomedical therapies as the creation of God – as being “God’s medicine.” Yet, it is truly ironic that only modern, Western-based biomedicine is deemed religiously acceptable, given the rich history of Yūnānī-inspired Islamic and prophetic medicine in Egypt. As we shall see, many of the contemporary ethnomedical practices found in Egypt derive from these early, religiously acceptable medical traditions, which are now viewed as unorthodox by Islamist elements in Egyptian society.¹⁵

All of these characterizations of modern Muslim women’s experiences highlight the importance of the Islamic legal tradition for understanding contemporary familial relations, gender roles, and attitudes toward medical treatment.¹⁶ And yet, due to the paucity of scholarship,¹⁷ anthropologists have largely skipped over the medieval Islamic

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¹⁴ H. Khattab, N. Younis, and H. Zurayk, Women, Reproduction, and Health in Rural Egypt (Cairo: American University in Cairo Press, 1999), 65.
¹⁶ Inhorn, Infertility and Patriarchy, 26.
¹⁷ In an unusual dissertation, Egyptologist Nicole Hansen attempted to study 5000 years worth of fertility rituals in Egypt, from the Old Kingdom to the present. The pre-colonial Islamic era is the most sparsely
period when describing the significance and consequences of infertility, reaching instead for literature from the Greco-Roman or even Biblical periods.\(^\text{18}\)

Where scholarship about the intersection of Islamic law, science, and gender exists, it has been very useful. Thus Basim Musallam’s masterful work on the approaches of medieval Islamic physicians towards the “one-seed” and “two-seed theories” of conception, and the intertwined relationship between Islamic holy texts and those medical theories, has become the go-to text, almost the only one, for those wishing to provide some medieval Islamic context for contemporary studies of gender, medicine, and Islam.\(^\text{19}\) More recently, Avner Giladi’s book on midwives\(^\text{20}\) and the roles they played (or must have played) in providing healthcare, officiating ritual activities, and testifying before courts, uses modern anthropological accounts to flesh out meager medieval sources. Still lacking, however, are studies of how medieval Islamic law addressed issues of female modesty during medical treatment, medieval attitudes toward the “quest for conception” and orthodox and heretical forms of medical treatment, and the extent to which modern women’s experiences of disempowerment or fear of disempowerment were shared by their medieval counterparts. My study represents a first foray, among what I hope will be many future ones, into filling those gaps in our knowledge.

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\(^{18}\) E.g., Taufik Canaan, “Unwritten Laws Affecting the Arab Woman of Palestine,” 175, 203. R. Patai, *Sex and Family in the Bible and the Middle East* (New York: Doubleday, 1959), 76-84.


\(^{20}\) A. Giladi, *Muslim Midwives: The Craft of Birthing in the Premodern Middle East.*
The usefulness of a study of infertility to shed light on related issues in Middle Eastern and Islamic history

The exploration of infertility has much to offer students of medieval Islam generally, well beyond specific information about barren women. Infertility represents an extreme case in which a woman’s multiple roles as a possessor and object of sexual desire, as a conduit that binds families together through marriage, and as a mother, are in direct conflict with each other. By examining this extreme case, we can gain insights into the significance of, and tensions between, those roles. This sort of analysis is particularly fruitful when discussions hinge on legal interpretations of the significance of biological phenomena. Other scholars have demonstrated the usefulness of such an approach. Paula Sanders’ study of the treatment of hermaphrodites in medieval Islamic law not only provides information about what hermaphrodites might have experienced, but also illuminates the process, purpose, and scope of gender differentiation in Islamic law more generally.21 The above-mentioned article by Basim Musallam, on medieval embryology, not only explains specific claims about genetics, but also shows how important scientific beliefs were in framing large branches of Islamic law, as it pertains to sexuality, contraception, and abortion.22 Moreover, he shows that existing Islamic texts and laws favored and promoted certain scientific theories over others. My own study of infertility sheds light on a host of issues surrounding the physiology of pubescence, menstruation, and amenorrhea and their importance for understanding Islamic marriage and divorce law.

Exploring infertility also draws our attention to medieval medical treatment, both generally and with regard to women specifically. Because infertility was a long-term problem, rather than an emergency, and because it was an affliction which could be attributed to multiple sources, in theory a medieval childless woman would have ample opportunity to seek an array of treatment options, just as modern childless women do today. And, just as they do today, the practitioners offering treatment existed in an environment in which they competed for the exclusive trust of their patients, while their patients often availed themselves of a hybrid system for understanding what, precisely, was wrong with their bodies. An analysis of infertile women’s treatment options therefore leads us to examine who was offering explanations and treatments for ill health, how and why the relationships between patients and medical practitioners are often depicted negatively by competing practitioners, and to what extent male authorities expected their views and writings about women’s bodies to reach and influence women themselves.

Finally, studying infertility provides us with an opportunity to re-examine aspects of Islamic law which are regularly mentioned in medieval texts, but which have been ignored or at times misinterpreted in modern scholarship. For example, a great deal of attention has been paid to juristic concerns about interaction between women and unrelated men. However, little attention has been paid to the frequently expressed medieval concerns about women interacting with their fellow women. Similarly understudied are the frequent mentions of the legal outcomes of biologically unexpected circumstances – wives who are not old and yet do not menstruate regularly, husbands and wives who are in some way impotent and unable to engage in normal sexual activity, and
women who claim to be pregnant with a fetus for years on end. Our study of infertility brings to the fore and helps to contextualize the significance of these legal discussions.

II. Methodological Considerations in this Study

*Previous studies as methodological models*

At the end of his life, the historian of medicine, Michael Dols, produced a magnum opus, *Majnūn: The Madman in Medieval Islamic Society* with the objective of placing “the subject of insanity in its historical context, to examine its significance, not only within the fields of medicine, theology, magic, and law, but also within the social milieu of Islamic society.” In his book, Dols traces the history of medical thinking about the causes and treatments of mental illness in the Greek medical tradition and the Arabic one, as well as in Jewish, Christian, and Islamic texts. He goes on to describe the institutions built to provide care for the mentally ill. He then addresses moral perceptions of the significance of madness, as depicted by poets, mystics, and belle-lettrists. Finally, he explores the legal significance and consequences of insanity. In its ideal form, a study of medieval infertility would be structured using a similar template. This dissertation is far more limited than Dols’ book, focusing specifically on the medical and legal discussions of the condition at hand. It is, however, written with Dols’ scope in mind, both in terms of the use of sources and in terms of the larger questions it seeks to illuminate.

The comparisons between infertility and madness are striking. The causes of both were simultaneously attributed to both “natural” biological dysfunction and divine intervention, and the onset of the disease was difficult to pinpoint. Both posed long-term

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problems, and therefore there was time in the course of a single patient’s lifetime to attempt multiple forms of treatment. Both affected not just the ill person themselves, but the families and communities that surrounded them. And for both, the historian lacks first-person narratives of the experience of the unfortunate patients.

In his introduction, Dols describes how the nature of the sources available shaped his project. He notes that the paucity of descriptive resources necessitates pulling together sources that come from a wide range of locations and times. This means that “the fragmentary nature of the source material makes it quite difficult to delineate the subtle changes in the beliefs and practices concerning insanity or, conversely to avoid a static view of the subject.”

Moreover, in both the medical and legal literature, the depictions of mental disturbances are “prescriptive rather than descriptive,” meaning that the depictions of the phenomenon in these texts are there to provide a rationale for a particular method of treatment, rather than a clinical description, and therefore mapping contemporary diagnoses onto medieval medical descriptions requires making some interpretive assumptions. The medical data also does not lend itself to quantification at

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24 Dols, Majnūn, 2.
25 Ibid., 1.
26 Among Dols’ assumptions are: (a) That mental illnesses found in medieval Islamic societies are similar to the ones recognized by modern medicine. (b) That based on biology, geography, trade, and war, we can assume that mental illness caused by tropical diseases, malnutrition, and narcotics caused mental illness to be widespread and to probably increase over time. (c) That certain sociological factors pertaining to the segregation of minorities and women “may have produced a greater incidence of psychoneuroses and personality disorders than would be found in modern Western society” (p.3n5). My assumptions for my own work are similar to (a) and (b), but have nothing comparable to (c). Medieval infertility was due to the same sorts of causes as modern infertility, though most likely the prevalence of each particular cause was different (e.g. infertility or diminished fertility due to malnutrition or anemia would have been more prevalent in the past when more communities experienced periods of famine). In the contemporary period, a common cause of infertility is sexually transmitted infections. The bacillus which causes gonorrhea, which was rampant in the pre-modern world, in particular is known to cause female infertility, even in women who have had only limited exposure to the infection and who are otherwise asymptomatic. At the moment, no scholarship exists to make an argument as to whether such infections were more or less prevalent in medieval populations in the Middle East. For an example of what such scholarship might look
all. Most importantly, “nor are there, to my knowledge, any reliable personal records of the insane that would allow them to speak for themselves; the rarity of authentic voices robs this work of immediacy, comfortably distancing us from what was often, surely, a painful reality.”

All of these methodological complications also pertain to the study of the treatment of barren women in the medieval Middle East. For Dols, these complications do not preclude scholarly analysis. He writes, “What can be expected, however, is a relatively firm grasp of the interpretations of irrationality, and a tessellated picture of the madman in medieval society.” This is also my task – to explore how infertility was understood and learn about the experiences of and attitudes towards infertile women from as many perspectives as are available to us.

Discussions of infertility include several components not present with regard to discussions of madness. Infertility is one place where social and religious expectations of gendered roles, scientific disputes about conception and reproduction, and familial dynamics, all intersect. For this reason, I have also looked to Basim Musallam’s *Sex and Society in Islam: Birth Control Before the Nineteenth Century*, as a model for my own work. Among Musallam’s achievements in this work is his use of the specific issue of contraception as an entry-point into a broader analysis of Islamic attitudes generally toward sexual activity and marriage. In doing so, he demonstrates how very large a role negative and positive evaluations of sexuality played in defining the institution of

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27 Dols, *Majnūn*, 2
28 Ibid.
marriage, in both the Christian and Islamic worlds, even though this might not be intuitive given that both Christianity and Islam permitted sexual activity within the confines of marriage. Additionally, he shows how Islamic law responded to the biological reality that contraceptives were known to not always be reliable, and to competing medical theories of conception. His book also offers insights into how having children or avoiding childbirth was alternately understood as potentially both desirable and undesirable from the point of view of women’s well-being. All of this stems from the discussion of contraception, that is, the voluntary decoupling of sexual relations from reproduction. My contribution to these topics stems from the study of the involuntary decoupling of sexual relations from reproduction.

**The scope and nature of the sources included in this study**

The scope, methodology, and precision of this study have been influenced by the sources currently available. None of the medieval sources upon which I draw were produced by Muslim women. As Kathryn Kueny states, “it is impossible to assume that [women’s] voices and contributions to Muslim discourse and practice, if any, may be fully uncovered.” For our purposes, this means that the goal of this research is not to extract or “liberate” women’s voices from men’s writings, but rather to explore how certain men, belonging to particular sectors of society, perceived women’s experiences, vulnerabilities, and choices. Most of my sources are medical encyclopedias, religious advice books, and legal manuals.

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29 Kueny, *Conceiving Identities*, 3.
From the medical texts, I have attempted to draw out information about the Arabo-Galenic gynecological heritage. Among the questions I ask are: what did physicians think it signified when a woman did not bear children? What did they think could have gone wrong? Were men blamed for infertility? Did gynecology serve as a field of discourse for reinforcing socially-approved gender roles? What sort of treatment options did physicians and pharmacists offer? How much contact did male medical practitioners have with female patients and female practitioners? Did male physicians expect that their writings on gynecological issues would ever be read, known, or applied by women themselves? The answers to these questions are described in chapter two of this dissertation.

The bulk of this study is based on the writings produced by the fuqahā’, Muslim jurists. The genres I make use of include theoretical law codes, fatwās (in which specific cases are referred to a jurist who clarifies the relevant points of law for the case at hand), books of advice and ethics based on Islamic sources (legal adab), hisba manuals (which instruct market inspectors how to go about ensuring public well-being), and anti-bid’a literature which decries “innovations” in social or religious life which are at odds with the author’s views of Islamic orthodoxy.

The jurists’ writings contain a treasure trove of information and yet are also full of shortcomings from the point of view of the social historian. In theory, the law was an institution which touched everyone, rich and poor, male and female, the educated and the uneducated – in a way which perhaps the Galenic medical tradition did not. Even better, in their moralistic writings, the jurists reflect on the behaviors of people whom they feel they are unable to reach. Their writings thus, in theory, provide a window on to the lives
of a broad swath of society. However, legal writings give us little information about those who were not in legal conflict and did not fear potential future conflict. When childless couples and their extended families took care of each other, they had no reason to have encounters with the legal system. This means that this study necessarily focuses on areas of conflict, the assertion or curbing of (usually male) power, and the transactional trading of familial privileges. That does not mean, of course, that medieval marriages and families necessarily lacked harmony, or functioned on an entirely transactional basis.

Even more overtly inspirational moralistic literature, such as Ibn Muflîḥ’s *al-Adāb al-sharʿīya*, Ibn al-Jawzī’s *Aḥkām al-nisā’,* or Ibn al-Ḥājj’s *Madkhal*, each of which describes ideal behavior (while emphasizing the prevalence of misbehavior), tend to describe ideal marital life in terms of the assertion of a husband’s responsibility and noblesse oblige, which is requited by his wife’s surrender of power to him. This too should not be taken as indicative of typical family dynamics. Indeed, as will be shown in the last chapter, the authors themselves complain that both husbands and wives blithely ignore their advice on marital relationships. However, the unfortunate result is that this study does not and cannot address what are surely some of the most salient features of the experience of infertility: love, pity, and companionship.

A second significant shortcoming in the legal material that I use is that, unlike court records, it is not locale and time specific. Legal manuals, and even *fatwās*, do not privilege the accurate depiction of local and contemporary practices. The ‘ulamā’, the scholars who produced the legal manuals, legal documents, and moralistic literature upon which much of my research is based, were also not primarily concerned with producing an accurate account of the prevalent behavior or local customs found in their own
communities. Rather they were more concerned with categorizing various behaviors as commendable or reprehensible and establishing an intellectual pedigree for those categorizations. When it comes to legal matters that affect infertile women, the ‘ulamā’ do depict diversity, but generally with respect to intellectual strands and schools of thought, rather than with respect to locality and period.

There are a few types of cases in which these authors do focus on changes over time or place. This occurs most prominently when there is a significant break between the views attributed to the Prophet Muḥammad himself and the consensus of the subsequent schools of law, as with the issue of the desirability of women’s prayer in mosques. It also occurs frequently in anti-‘bida’ literature, in which the author distinguishes between “the pure law” and the degenerate practices which he attributes to his own local community. In this literature, the diversity of practice is depicted as a novel occurrence, a recent deviation from a previously univocal norm, rather than a product of deeply-rooted multivocal traditions. Confirming whether the so-called “degenerate” practices are common, rare, or entirely hypothetical is not always possible.30

This brings the reader back to the concerns about the fraught use of the term “medieval Middle Eastern Islamic societies.” The problems with such a phrase are manifest: it refers to communities separated by vast gaps in time and space, and which themselves draw on local traditions which may vary considerably and which may have no relation to Islam. Can it be appropriate to write a sweeping overview of a topic through the use of sources from such diverse populations? The question becomes even more

30 E.g. In Ibn al-Ḥājj al-‘Abdārī’s Madkhal written in the early eighth/fourteenth in Egypt, the author claims that Muslims women in Egypt, under the influence of their Christian and Jewish counterparts, have started observing “sabbaths” three days per week. Ibn al-Ḥājj al-‘Abdārī, Madkhal (Beirut: Dār al-Kutub al-‘Ilmiyya, 1995), 1/2: 201-2.
challenging because discourses on the principles of Islamic law and women are so often associated with attempts to depict the women of the Islamic world as “subjugated” and in need of “liberation” at the hands of the “Modern West.” In response to this concern, Leila Abu-Lughod specifically cautioned against writing in broad strokes.

Much of the best recent literature in Middle East women’s history and anthropology can be conceived of as working against universalizing discourses about patriarchy, Islam, and oppression. Scholars have been seeking to specify, to particularize, and to ground in practice, place, class, and time the experiences of women and the dynamics of gender.\footnote{L. Abu Lughod, “Feminist Longings and Postcolonial Conditions,” in \textit{Remaking Women, Feminism and Modernity in the Middle East}, ed. L. Abu Lughod (Princeton: Princeton University Press, 1988), 22.}

It is doubtless worthwhile to examine how infertile women experienced Islamic law in specific communities, however, it would be a mistake to therefore conclude that our knowledge of history cannot benefit from engaging in “universalizing discourses.” Broad discussions, such as those featured in Katherine Kueny’s \textit{Conceiving Identities: Maternity in Medieval Muslim Discourse and Practice} and Basim Musallam’s \textit{Sex and Society in Islam: Birth Control Before the Nineteenth Century}, lay out the contours of the intellectual landscape. They provide a framework which leads us to begin to answer what was \textit{important}, what was \textit{axiomatic}, what was \textit{conceivable}, what was \textit{widespread}, and what was \textit{controversial}, even if they may potentially mislead us as to relative frequency of different modes of dealing with any particular issue. Indeed, it is only in the context of such a framework that we can hope to pinpoint and appreciate the extent to which local practices represent a deviation from, an alternative to, or a renegotiation of, the norms propounded by juristic writings.

While the experiences of medieval Muslim women constitute the main topic of study, I also cite parallels and divergences between medieval Middle Eastern Muslim
communities and medieval Christian European ones, as well as between Muslim and non-Muslim communities in the Middle East. My reasons for doing so are three-fold. First, there are some forms of historical data available from certain communities in medieval Christian Europe which are currently not available from any medieval Middle Eastern community. For example, scholars of European history have been able to start drawing conclusions about the age at which women in medieval communities reached various stages of physical maturity, based on data from exhumed skeletons. Secondly, because medieval Christian and Jewish communities shared both medical beliefs and economic conditions with their Muslims counterparts, but had different legal options when it came to infertility, at times it is easier to parse the factors motivating non-Muslim women’s legal strategies, and to thereby gain some sense of what factors mattered most to them. These are factors which they may have shared with their Muslim counterparts, and they therefore shed light on what may have been women’s concerns universally, regardless of religious boundaries.

Thirdly, it is worthwhile to note that many aspects of medieval women’s experiences, which modern egalitarian readers find most distasteful, crossed confessional boundaries. In all three of the Abrahamic religions women could be married off at very young ages. All three subordinated unmarried daughters to their fathers, and wives to their husbands. All three claimed that women’s biological functions both determined and reflected their spiritual and social inferiority. This will come as no surprise to even the most casual student of medieval history. However, it bears repetition given the contentious history of people denigrating Islam by drawing attention to the “plight” of Muslim women. It is my hope that if I can demonstrate the commonalities and
peculiarities of the attitudes manifested by the different religious communities, honest assessments of women’s comparative vulnerabilities and sources of power in those communities will not be viewed as a weapon to be wielded in contemporary ideological battles.

This study also makes extensive use of sources from other time periods, including from the modern Middle East. In particular, in the tradition of such historians of medieval social history as S. D. Goitein\textsuperscript{32} and Avner Giladi,\textsuperscript{33} I draw on modern ethnographies. Where I have located a legal or social strategy that is employed by both modern women and medieval ones, I draw attention to how modern women characterize their thought process in employing that strategy. For example, accounts of modern women claiming to be experiencing years-long pregnancies strongly resemble medieval claims. There are many medieval examples of such claims, but they do not generally explicate the mindsets of the people involved. How and why did such claims gain social acceptance among people who generally considered gestation to last approximately nine months? How can one begin to understand what appears to require a community-wide suspension of disbelief? The medieval texts give us only oblique insights into the thought-processes of community members who accepted such claims. Similarly, contemporary studies include interviews with women who have chosen to forfeit the inheritance which is their legal due, a choice which medieval women also made but did so without providing an explanation for their doing so. Modern ethnographies offer us a persuasive and intimate portrayal of how such consensuses and choices come about, and of their legal and social


\textsuperscript{33} Giladi, \textit{Muslim Midwives}, 137.
purpose, although these explanations must necessarily be used with caution. It would be highly problematic to assume that ethnographic accounts from Morocco, Egypt, Iraq, and Iran depict age-old social practices, and I do not use them to project modern practices back in time. For example, I do not make the assumption that the biological ideas espoused by rural Turkish women in Carol Delaney’s *The Seed and Soil* or by poor Egyptian women in Inhorn’s *The Quest for Conception* necessarily coincide with the beliefs of these women’s predecessors from centuries ago. Their perspectives are not less valuable for being ungeneralizable.

**Sources excluded from this study which merit further inquiry: fictional literature, magic, and pilgrimage literature**

There are several genres in medieval literature which can perhaps provide us with insights into the topic at hand, but which have been excluded from this particular study. These include magical texts and artifacts, pilgrimage literature and histories describing festival observances, and popular literature. I intend to examine these genres in future studies, particularly depictions of pilgrimage and festive practices, for evidence of women’s fertility rituals. However, I have excluded these genres from this work because of the methodological complications involved. Among these complications is the difficulty of evaluating the veracity of what are often vague or unsympathetic descriptions of women’s fertility rituals, written by men who view such rituals with disdain. Even modern academic and sympathetic observers of fertility rituals are often quite shocked by them, and when depicted by such moralists as Ibn al-Ḥājj, we might be tempted to dismiss certain descriptions of fertility rituals. Determining the meaning of

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34 A useful example of this can be found in Inhorn’s description of her observations of one such ritual at the tomb of Shaikh al-Khibari near Alexandria. Inhorn, *Quest for Conception*, 228-231.
ritual performances is even more fraught, and it requires a greater degree of openness to speculation than the rest of this study does. Hence, it will be saved for a future one. The attractions and pitfalls of such speculation can be observed in Nicole Hansen’s dissertation, “Motherhood in the Mother of the World: Continuity and Change of Reproductive Concepts and Practices in Egypt from Ancient to Modern Times.”

Other complications stem from the repetitions of tropes and the expectations of certain literary conventions, which in turn make it more difficult to explore fictional stories in search of clues to historical reality. However, certain celebrated stories, such as those pertaining to “Dalīla the Crafty” in *One Thousand and One Nights* do depict infertile characters with elements that will appear over and over again in the legal literature too. Consider Dalīla’s victim Khātūn, the childless wife of a wealthy emir.

. . . Emir Hasan Sharr al-Tarik . . . was married to a fair damsel, Khātūn, whom he loved and who had made him swear, on the night of his going in unto her, that he would take none other to wife over her nor lie abroad for a single night. And so things went on till one day, he went to the Divan and saw that each Emir had with him a son or two. Then he entered the Hammam-bath and looking at his face in the mirror, noted that the white hairs in his beard overlay its black and he said to himself, “Will not He who took thy sire bless thee with a son?” So he went in to his wife, in angry mood, and she said to him, “Good evening to thee”; but he replied, “Get thee out of my sight; from the day I saw thee I have seen naught of good.” “How so,?” quoth she. Quoth he, “On the night of my going in unto thee, thou madest me swear to take no other wife over thee, and this very day I have seen each Emir with a son and some with two. So I minded me of death; and also that to me hath been vouchsafed neither son nor daughter and that whoso leaveth no male hath no memory. This, then, is the reason of my anger, for thou art barren; and knowing thee is like planing a rock.” Cried she, “Allah’s name upon thee. Indeed, I have worn out the mortars with beating wool and pounding drugs, and I am not to blame; the barrenness is with thee, for that thou art a snub-nosed mule and thy is sperm is week and watery and impregnateth not neither getteth children.” Said he, “When I return from my journey, I will take another wife;’ and she, “My luck is with Allah!” Then he went out from her and both repented of the sharp words spoken each to other . . .

. . . Khutun [told Dalilah], “I made my husband swear, on my wedding-night, that he would wive none but me, and he saw others with children and longed for them and said to me, “Thou art a

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35 Hansen, “Motherhood in the Mother of the World,” 41. Throughout her work, Hansen notes the similarities between aspects of ancient and current fertility rituals in Egypt. She notes the similarity between circumambulation rituals, segregation of post-partum women, celebrations of week-old newborns, and the use of honey in medicines. However, without information as to what the women believe they are achieving through the use of these rituals it is virtually impossible to tell whether we are seeing an inherited continuity, a faux-continuity (in which rituals which originated in the modern period are backdated), or simply the convergence of practices which are common to many societies.
barren thing!" I answered, "Thou art a mule which begetteth not;" so he left me in anger, saying "When I come back from my journey, I will take another wife," for he hath villages and lands and large allowances, and if he begat children by another, they will possess the money and take the estates from me." Said Dālīlah, "O my daughter, knowest thou not of my master the Shaykh Abū al-Ḥamlāt, whom if any debtor visit, Allah quitteth him his debt, and if a barren woman, she conceiveth?" Khatun replied, "O my mother, since the day of my wedding I have not gone forth the house, no, not even to pay visits of condolence or congratulation." 37

As shall be shown in the subsequent chapters, many elements of this story correlate with what we see in the medical and legal literature. As part of his marriage contract, the Emir commits himself to monogamy, a very common stipulation in medieval Islamic marriage contracts. 38 The pain of the Emir’s childlessness is deepened by the fact that he is also fatherless and the pain stems from the sense that no one will remember him after his own death. At this point the husband blames the wife not only for being barren, but for closing off the possibility of a second marriage, and he seeks to renegotiate this part of the contract. This too is attested to elsewhere. The wife in turn blames her husband for their childlessness. The belief that infertility could stem from either husbands or wives is also well-attested to in medieval medical literature. The wife’s concern that her husband’s children by another wife would eventually appropriate her share of his estate is also reflected in the legal sources. And finally, the wife’s remark that she has been constrained from seeking a treatment for her infertility at the hands of a holy man because she is so virtuous that she does not leave the house even for women’s social activities, such as wedding celebrations and the paying of condolence calls, is also described in the jurists’ writings.

36 The name is a pun, referring to both pregnant women and debtors.
III. Chapters and Structure

Chapter 1 of this dissertation explores the ways in which Islamic law could influence the experiences of infertile and childless women over the course of a lifetime, excluding the experience of the “quest for conception” itself. It begins with an examination of the significance of fertility as it is depicted in the early Islamic non-legal religious sources, particularly in the sīra and the ḥadīth, and explores the contrast between those texts and legal discussions of the role of fertility in marriage. It then goes on to explore aspects of fertility that were the subject of a great deal of legal thought, including adolescent maturity, menarche, amenorrhea, and menopause. It shows how legal expectations of the reproductive cycle were in some ways at odds with the biological realities of many women. This, in turn, confused legal expectations about who was and was not likely to be infertile, pregnant, or potentially pregnant. The chapter further explores the prospects and the mechanisms of divorce and remarriage, and how reproductive dysfunctions complicated those procedures. It concludes with an exploration of how childlessness affects the application of Islamic inheritance laws.

The second chapter explores the perspectives we can gain on infertility from medical literature in the medieval Islamicate world. It begins with an overview of Greco-Roman gynecological concepts and frameworks for understanding infertility. It then explores how medieval physicians, working in the Galenic tradition, adopted and subtly modified previous medical understandings of women’s reproductive systems. It then describes the forms of diagnosis and treatment of infertility that appear in medical and pharmacological literature. From there the chapter addresses the question of how much contact existed between the male writers of medieval gynecological texts and female
patients, and suggests that there was in fact potentially a great deal of contact. I analyze medical texts to describe the relationships between male physicians, female midwives, and female patients, and then explain the extent to which male medical writers thought that the information contained in their writings would make its way into the hands of women patients and practitioners.

The final chapter approaches the question of medical access from the point of view of the medieval jurists. It begins with an examination of the relationship between Arabo-Galenic medicine, “Medicine of the Prophet,” and folk medicine, from the point of view of medieval jurists. It argues that some jurists were concerned by the intellectual hybridity found in the medieval medical scene, and that this impacted their writings about women, both in medical and in other significant situations. I argue that the jurists’ stated preferences when it comes to who provides medical care to Muslim women demonstrate a concern with more than just modesty and the sexual dangers of female-male contact. Rather, they are motivated by a concern about intellectual influence, the dangers of female-female contact, and the rise of what they believe to be a gulf between Muslim women’s culture, particularly as it relates to biology and the management of life-cycle events, and the culture propagated by the jurists.

IV. My findings

The experience of infertility in the medieval Islamic world was characterized first and foremost by uncertainty. The uncertainty occurred on multiple levels. From the point of view of the uncertainty of medical diagnoses, there was a pronounced resistance in the medieval Islamic world to labeling either female infertility or male sterility as a likely permanent condition. One could not legally label one’s spouse as infertile in the way one
could, for example, label them as leprous. One could not be certain that a person who did not reproduce while they were young would also fail to reproduce while they were old. Indeed, as we shall see, even more obvious labels pertinent to reproduction, such as that of yā'īsa (the post-menopausal woman) were often not conferred upon women until very old age. The significance of diagnostic uncertainty is also readily apparent when we analyze how, in both the medical and legal realms, the symptoms of pregnancy and infertility were conflated. So too were the therapies intended to promote conception and those intended to promote abortion or contraception. This resulted in both legal and medical confusion, but also provided potentially vulnerable women with room to maneuver in their own perceived self-interest, both legally and medically.

There was also uncertainty about the marital consequences of infertility. Infertility could precipitate polygamy, divorce, remarriage, social disconnection, or disinheritance. These uncertainties also provided a broad range of opportunities for individuals to exercise choice, and to be influenced by the choices of their spouses and family members. This provided a flexibility which was not present to the same extent in societies dominated by Jewish or Christian views of marriage.

There was a tremendous amount of uncertainty surrounding the respectability and the piety of engaging in the process of seeking healing, particularly for women. The literature I have pieced together suggests that male physicians interacted with female patients and had few compunctions in doing so, yet there is also evidence that both women patients themselves and some jurists could view this interaction as improper. Not only were interactions between male healers and female patients fraught, so also were interactions between female healers and their female patients, especially but not
exclusively when the healers were non-Muslims. In chapter three, I show that this discomfort with women’s intimate interactions, at weddings, in bathhouses, and in cemeteries, parallels broader ambivalence toward the legitimacy of Muslims seeking out treatment from both Galenically-trained physicians and magical healers.

Finally, this study highlights the multiple legal areas, pertaining specifically to women, in which there appears to be a profound mismatch between legal theory and social practice in many locales and time-periods. These areas include: female socializing and ritual practices in gender-segregated settings, the role of women in transferring and preserving property between generations and families, and the public demonstration of menstrual status. This mismatch is profoundly important when attempting to understand the impact of Islamic law on shaping the experiences of Muslim women, and when considering the malleability of Islamic law as it pertains to the treatment of women. Ultimately, this mismatch suggests that while it may be argued that medieval Islamic law promoted a framework which ultimately encouraged dissatisfaction with childless women and placed pressure on them, it is perhaps even more true to say that the situation of childless women and their families prompted dissatisfaction with Islamic law and placed pressure on its institutions.
Chapter 1

INFERTILITY AND ISLAMIC LAW THROUGHOUT THE LIFE CYCLE

‘Ā’isha said, “I asked the Prophet, what person has the greatest claim over a woman? He said, “Her husband.” I said, “What person has the greatest claim over a man?” He said, “His mother.”

Classical Islamic law does not grant infertility a particular legal status. A pre-pubescent girl, a virgin, a pregnant woman, a breastfeeding woman, and an old woman all have special laws attached to their situation, but neither infertility nor childlessness is a legal category. Nevertheless, in a variety of areas, Islamic laws have potentially distinct consequences for infertile women, in part because infertility often correlates with other physical and social conditions, such as irregular menstruation, which in turn has legal implications. These laws do not target infertile women and, indeed, infertility rarely enters into Islamic legal discourse. Each area of the law is its own unit, defined by its own set of nusūṣ (scriptural bases) and its own maqāṣid (principles), onto which are mapped individual cases. As a result, they are rarely considered together as contiguous topographical features that together form a legal landscape which a single person, such as an infertile woman, might traverse over the course of a lifetime. This chapter attempts to lay out just such a grand landscape by piecing the discrete units together.

39 Al-Haythamī (d. 807/1405), Majma’ al-zawā’id (Beirut: Dār al-Kutub al-’Ilmiya, 2001), 4: 405.
40 Only in the modern period are there exceptions. See Aharon Layish, Marriage, Divorce, and Succession in the Druze Family (Leiden: Brill, 1982), 205 and Vardit Rispler-Chaim, “Ḥasan Murād Mannā: Childbearing and the Rights of a Wife,” Islamic Law and Society 2 (1995), 92. The article refers to a fatwā which can be found in Ḥasan Murad Mannā, Fatāwā wa-tawjīḥāt (Cairo: Dār al-Ṣafwa, 1990), 201-2.
I. Infertility and the Principles of Marriage: Three Conflicting Views

In the Household of the Prophet Muḥammad

Some Islamic laws concerning women are traditionally considered to have been derived from the Prophet Muḥammad’s family life. These include laws pertaining to seclusion and veiling, adoption and kinship, sexual etiquette and negotiation within polygamous marriages, the procedure for dealing with accusations of marital infidelity, and others. Traditionally, women’s forms of purification from menses in preparation for prayer are also traced back to the practices of the Prophet’s own family. The tradition of permitting young girls to play with dolls is based on ‘Ā’isha’s (d. 58/678) childhood in the Prophet’s home. Some have attributed the willingness to allow Muslim women to participate in the transmission of ḥadīth to the belief that many hadith were transmitted by the Prophet’s wives and daughters. Some limits were, however, placed upon the degree to which law could be derived on the basis of imitation of the Prophet. For example, the number of the Prophet’s simultaneous marriages is held to be exceptional rather than paradigmatic for the Islamic law of marriage. With this in mind, the question arises as to whether Islamic legal attitudes toward infertility have any relation to the Prophet Muḥammad’s example.

Two remarkable aspects of the Prophet’s familial life are that most of his marriages were childless and that there is such a scant record of people commenting on

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42 Here as elsewhere, Islamic calendar dates (A.H.) are followed by Christian ones (A.D.).
43 Al-Bukhārī (d.256/870), Ṣaḥīḥ al-Bukhārī (Vaduz, Liechtenstein: Thesaurus Islamicus Foundation, 2000), 78 (adab): 81 = no. 6130.
44 This too had its limits, as there were those who believed that the Prophet’s wives represented the exception rather than the rule. Sayeed, Women and the Transmission of Religious Knowledge in Islam, 63ff.
45 Katz, Body of the Text, 73.
that childlessness. Only two of Muḥammad’s many marriages and liaisons resulted in children, and of the children he did produce, no son survived childhood and only one daughter, Fāṭima (d. 11/633), survived her father.\(^{46}\) Muḥammad is reported to have impregnated two women, Khadija (d. 619) and Māriya the Copt (d. 16/637).\(^{47}\) Some of the other women with whom he had sexual relations did have children from previous marriages, but not from him. With the exception of ‘Ā’isha, all of his wives had been in previous marriages, but some of those marriages were of short duration and during times of war. In total, approximately half of the wives and concubines associated with Muḥammad had no children at all, or there are conflicting reports about them.\(^{48}\) In part, this can be attributed to the unusual patterns of fertility that occur in a society with high rates of divorce, premature death, and warfare which separated spouses for long periods of time and killed off husbands.\(^{49}\) For all of these reasons, it is difficult to determine the exact reason for the high number of childless unions in Muḥammad’s family.

\(^{46}\) In addition to his descendants through Fāṭima, Muḥammad also had two grandchildren from his daughter Zaynab and one from his daughter Ruqayya. Zaynab’s son ‘Alī died young while her daughter Umāma survived into adulthood and married ‘Alī ibn Abī Ṭālib, after the death of her aunt Fāṭima. She bore him a son, Hilāl. Muḥammad’s grandson from his daughter Ruqayya and ‘Uthmān died in childhood. The marriage between the Prophet’s daughter Umm Kulthūm and ‘Uthmān was childless. The ahl al-bayt thus remained small. Ibn Sa’d (d. 230/845), al-Tabaqāt al-kubrā (Beirut: Dār Iḥya’ al-Turāth al-‘Arabī, 1996) 8: 252-262. On Muḥammad’s children, see Ibn Qayyim al-Jawzīya (d. 751/1350), Zād al-ma‘ād fī hady khayr al-‘ibād (Beirut: Mu’assasat al-Risāla, 1998), 1: 101.

\(^{47}\) There are some traditions in which ‘Ā’isha is said to have told Muḥammad that Māriya’s son Ibrāhīm was not his. Some Shiʿī commentators on Q. 24:11, e.g. Tafsīr al-Qummī say that the verse refers to this incident. Al-Qummī, Tafsīr al-Qummī (Qum: Mu’assasat al-Imām al-Mahdī, 2014) 2: 702.

\(^{48}\) These are ‘Ā’isha, Hafṣa, Zaynab bt. Khazayma, Zaynab bt. Jaḥsh, Juwayriya, Ṣafiya, Maymūna, and Rayhāna.

\(^{49}\) There is a large body of scholarly literature about the extent to which polygyny, as it is practiced in the twentieth century, itself reduces the fertility of women in such marriages in comparison to women in monogamous marriages. The correlation between depressed fertility in polygynous families is sometimes attributed to chemical-biological factors and sometimes to socio-economic factors, while other scholars deny that there is a significant correlation at all. See K. Effah, “A Reformulation of the Polygyny-Fertility Hypothesis,” Journal of Comparative Family Studies 30 (1999), 381-408.
Some modern feminist Muslims have pointed to the “mothers of the believers” as icons demonstrating the value of childless women although, to my knowledge, no medieval source makes this positive connection. There is no record of Muḥammad’s wives or enemies overtly accusing the Prophet himself of diminished fertility. There is little mention of childlessness as a source of strain in his marriages. Also, while there are many traditions which report discussions between Abū Bakr and his daughter ‘Ā’isha, and ‘Umar and his daughter Ḥafṣa (d. 45/665), regarding their marriages to Muḥammad, I have not found one that addresses their childlessness.

**Infertility in the Ḥadīth**

In spite of the Prophet’s personal example, many hadīths associated with Muḥammad and ‘Umar (d. 23/644), father of Muḥammad’s childless wife Ḥafṣa, reference fertility as an essential trait to seek out in a spouse. Fertility is correlated with several other desirable traits, including virginity and amiability. There are numerous references in the hadīths to infertility, many of which have legal potential which never

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50 See, for example, Ayesha S. Chaudhry, “Unlikely Motherhood in the Qur’ān: Oncofertility as Devotion” in *Oncofertility: Reflections from the Humanities and Social Sciences*, ed. T. K. Woodruff et al. (New York: Springer, 2010), 287-94.

51 See Kathryn M. Kueny, *Conceiving Identities: Maternity in Medieval Discourse and Practice*, 110-14. Kueny shows that even those medieval commentators who had positive attitudes toward ‘Ā’isha still noted her infertility as an imperfection.

52 The one time Muḥammad’s fertility is addressed is in a hadīth in which he argues that he has proof that he is not the anti-Christ (dajjāl). Muḥammad says that whereas the anti-Christ is infertile and cannot sire children, he (Muḥammad) has sired children. Muslim ibn al-Ḥajjāj (d. 261/875), *Ṣaḥīḥ Muslim* (Beirut: Dār Iḥyā’ al-Ṭurāt al-ʻArabī), 4:1783 = no. 2927.

53 The most prominent exceptions include the tradition in which Muhammad contrasts ‘Ā’isha with Khadijā, who bore him children. Ibn Ḥanbal (d. 241/855), *Musnad* (Beirut: ‘Ālam al-Kutub, 1998), 8: 204 = no. 25376. Another exception occurs in a tradition where ‘Ā’isha says of Māriya Umm Ibrāhīm: “Then God granted him a child through her and kept us from having one.” Ibn Sa’d, *Ṭabaqāt*, 8: 213. One could also perhaps interpret the following passage from Ibn Sa’d’s biography of ‘Ā’isha, a passage which is immediately preceded by discussions of the consummation of her marriage, as a request for a child: “I said to him, ‘O messenger of God, women are supposed have a kunya, so give me a kunya.’ He said, ‘Take on as your kunya your son ‘Abdallāh,’” i.e. her nephew’s name. Ibn Sa’d, *Ṭabaqāt*, 8: 274, 275. See D.A. Spellberg, *Politics, Gender and the Islamic Past* (New York: Columbia University Press, 1994), 41.

54 E.g. al-Bukhārī (d. 256/870), *Ṣaḥīḥ*, no. 2468.
seems to have been exploited in the formulation of Sunnī family law. A few of these *ḥadīths*, particularly those referencing male infertility, are quoted extensively in Islamic law only to be circumscribed so as to limit or negate their impact.

The following are some of Muḥammad and ‘Umar’s statements about infertile women. Many of these are reproduced in Ghazzālī’s (d. 505/1111) *Iḥyā ‘ulūm al-dīn*:

Ma‘qil b. Yasār (d. 59/679 in Baṣra) said: A man came to the Prophet and said “I have found a noble and beautiful woman, but she is infertile, 55 should I marry her?” He said: “No.” Then he came to him a second time and he [again] forbade him. Then he came to him a third time and [the Prophet] said: “Marry amiable, fertile women so that I [God] may make you abundant among the nations.”

And from Ibn Jurayj (d. 150/767 in Mecca): A man came to the Prophet and said: “O Messenger of God, I have a cousin who is the most noble-minded of women but she is barren. The Messenger of God said: “Do not marry her.” Then he said. “Marrying a fertile black woman is better than marrying a fair woman who is infertile. I taught you that a miscarried fetus who is the offspring of Muslims is told: ‘Enter Paradise!’ He remains, full of indignation, at the gate of Paradise and says: ‘I will not enter paradise until my parents do.’ So he is told: ‘Then enter Paradise, by the grace of the mercy of God.’”

From Anas b. Malik (d. 91/709 in Baṣra): [The Prophet] said, “Marry amiable, fertile women and multiply, for I will make great the number of prophets among you on the Day of Resurrection. Beware of the barren woman, for [one married to] her is like a man ensconced at the top of a well, who waters his land daily, but whose land does not bloom, the stream [of water] is not absorbed.”

Abū Dāwūd said: ‘Umar said: “A mat in the house is better than a woman who does not produce children.”

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57 ʻAbd al-Mālik ibn Ḥabīb (d. 238/852), Kitāb adab al-nisā’ al-mawsūm bi-kitāb al-ghāya wa’l-nihāya (Paris: Dār al-Gharb al-Islāmī, 1992), 152. This statement indicates that the cousin in question is unable to conceive and the Prophet responds that she is useless, even in comparison to a lowly wife. He says that conception is itself useful even if no live baby results, since the fetus can compel God to allow his parents into heaven. In so doing, the Prophet differentiates between a woman who is unable to conceive and a woman who is unable to carry a fetus to term, even though in almost all other places in Arabic and Islamic literature, the diagnosis of infertility encompasses both conditions. See, for example, al-Shaybānī’s (d. 189/804) commentary on Q. 19:5 in which he glosses the word “barren woman” (‘aqīr) saying, “she does not menstruate, does not get pregnant, and does not give birth.” Muḥammad ibn al-Ḥasan al-Shaybānī, Nahj al-bayān ʻan kashf ma’ānī al-Qur’ān (Tehran: Nashr al-Ḥādī, 1998) 3:303.

58 Ibn Ḥabīb (d. 238/852, Andalusian), Kitāb adab al-nisā’ al-mawsūm bi-kitāb al-ghāya wa’l-nihāya, 152-3. There are many versions of this *ḥadīth* which do not include the final sentence or which have a different conclusion, see al-Bayhaqī (d. 458/1066), al-Sunan al-ṣubrā (Beirut: Dār al-kutub al-ʻilmīya, 2003), 7: 131.

59 Abū Dāwūd, Sunan, 589 = no. 3922.
The attitude manifested in these statements is summarized by al-Ghazzālī.60

The second purpose [of having children] is endearing oneself to the Messenger of God and pleasing him by increasing that which he takes pride in. For the Messenger of God stated this explicitly, and everything which is said of ’Umar clearly indicates an emphasis on the obligation of procreation. For he married a lot and said, “I marry for procreation.” It is related in the akhbār regarding the disparagement of the barren woman (maddhammat al-mar‘a al-‘aqīm) that he, peace be upon him,61 said “A mat in the corner of the house is better than a woman who is infertile.” He also said, “The best of your women are those who are fertile and amiable (al-wulūd al-wudūd).” He also said, “A fertile black woman is better than a fair woman who does not produce children.”62 This indicates that procreation is a superior virtue of marriage [in comparison to the virtue of] taming sexual excess, since fair women are more suitable for securing chastity, lowering one’s gaze, and curbing desire.

All of the above statements point to a tradition of forbidding, discouraging, and disdaining marriage to infertile women. It should be noted, however, that fertility is certainly not the only, or even the most common, virtue attributed to a good prospective wife. Other ḥadīths instruct men to seek out wives who are, among other things, believers, modest, beautiful, well-born, thrifty, wealthy, appreciative, and soft spoken.

Among the most commonly mentioned, highly-prized attributes is that of virginity, which will be discussed below.

We thus have Muḥammad’s personal legacy of contracting and remaining in non-procreative marriages standing in contrast to the statements attributed to him and to ‘Umar, father of the celebrated but childless Ḥafṣa, that disparage and forbid such marriages. These statements are frequently found in adab al-nisā’ literature, but they do not seem to have had a significant legal legacy. Instead, the ḥadīth most often cited in legal literature pertains to the infertile man:

61 I have included the benediction here as there is some disagreement as to whether al-Ghazzālī attributes this statement to ’Umar or to Muḥammad himself. This formulation would indicate that the Prophet himself is meant, however the statement is elsewhere attributed to ’Umar. It is possible that the benediction was inserted by a later copyist, rather than by al-Ghazzālī himself.
[Reported from] Ibn Sīrīn: ‘Umar b. al-Khaṭṭāb sent a man on a tax collecting mission, and he married a woman. But he was infertile (‘aqīm), and when he was brought before ‘Umar this was mentioned to him and he said, “Did you inform her that you are infertile?” He said, “No.” He said, “Then divorce her and inform her, then give her the choice.”

Although this hadīth is often cited in legal manuals, it is usually immediately circumvented, as will be explained later in this chapter, in discussions of laws pertaining to marital defects.

In order to appreciate the significance of the radical divergence between Islamic law on the one hand, and the adab al-nisā‘ literature culled from these hadīths on the other hand, it is worth examining the consequences of infertility in other religions.

**Infertility in the Islamic Legal Framework of Marriage**

In *Sex and Society in Islam: Birth Control Before the Nineteenth Century*, Basim Musallam began his study of Islamic attitudes toward contraception by contrasting Christian and Islamic attitudes toward sexuality and its role in marriage. It would serve us well to do the same here regarding attitudes toward infertility. Musallam noted the following elements of Islam’s sexual morality: marriage could be polygamous and legitimate sexual intercourse could be had not only with wives, but also with concubines; marriage was not viewed as a permanent relationship because divorce was easy to obtain and could occur at any point; marital sexual intercourse was based on the right to sexual fulfilment, it needed no procreative justification, and therefore contraception and abortion were tolerated.64

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63 The *hadīth* is found in a section on marriage to an impotent man, but the *hadīth* text is ambiguous as to whether this is so in the case in question. Logically, it is doubtful that the man is impotent because the issue seems to hinge upon the question of disclosure rather than consummation. Sa‘īd b. Manṣūr (d. 227/843), *Sunan* (Bombay: Dār al-Salafīya, 1982) 2: 81 = no: 2021.

Musallam contrasted these features of Islamic thought with Christianity’s repressive approach to sexuality, except as a prerequisite for reproduction, and Christianity’s dedication to the idea of permanent, monogamous marriages. Looking at these same features with respect to infertility and marriage law, one can see that, in a Christian framework, one of the tragedies of childlessness was its seeming permanence and the remarkably few options that were available to a childless Christian couple, due to the restrictions on divorce and remarriage.65 In some cases the childless couple might be able to enter a religious order, or possibly remarry following the death of one of the spouses, or retroactively annul their marriage on the basis of either impediments or consanguinity, but otherwise they were unlikely to experience a change in their marital status. Thus they could not hope to procreate with someone else or to leave a marriage that was marred by childlessness.66 Infertility thus accentuated the inherent rigidity of late medieval Christian concepts of marriage.67 By contrast, due to the very same factors that Musallam outlines, in Islamic societies much of the tragedy associated with childlessness

65 There is a history of Catholics criticizing Middle Eastern Christians for practicing bigamy in order to obtain a child, in spite of their own religious precepts. For an example involving polygamy due to childlessness (after the death of an only child), see A. Jaussen, Coutumes des Arabes au pays de Moab (Paris: V. Lecoffre, 1908), 15-16. See also, J. P. Thompson, Photographic Views of Egypt, Past and Present (Boston: J. P. Jewett, 1856), 139.

66 Consider the writings of the late 7th century East Syrian bishop of Fars, Isō’bōkt. “Isō’bōkt notes that many people think that the Christian ban on divorce is harsh, especially in cases where, “because of sterility (‘aqrūtā) or sickness (kurhānā)… a woman is unable to sleep with her husband, [and] he remains deprived of sons.” Isō’bōkt replies that this is harsh, but it is equally harsh ‘that, when a man is taken hold by similar infirmities (mūmē), a wife is compelled to bear this affliction (uṣānā).’ Accordingly, even if a woman cannot bear children because of her husband’s natural physical defects, she must remain married to him.” L. Weitz, “Syriac Christians in the Medieval Islamic World: Law, Family, and Society,” (Ph.D. Dissertation: Princeton University, 2013), 258. Cf. V. Garver, “Childbearing and Infancy in the Carolingian World,” Journal of the History of Sexuality 21 (2012), 214.

67 Historians of the medieval Catholic church have noted that many of the restrictions on the dissolution of marriage became canonized and enforced in a process which began only in the eleventh century and continued through the thirteenth. R. M. Karras, Sexuality in Medieval Europe: Doing Unto Others (New York: Routledge, 2005), 62, 68.
is the very fluidity and precariousness of the childless woman’s situation. Infertility highlighted the inherent uncertainty and flexibility embedded in Islamic marriages.

Two factors in Islamic family law play a particularly significant role in shaping the legal position of infertile couples: easily obtainable divorce and the acceptance of polygamy. Because infertility was acknowledged to have multiple potential causes, including sexual dissatisfaction (as will be seen in the following chapter), spouses in childless marriages could hope that a different pairing would be more fruitful. The fact that husbands were legally able to divorce their wives for any or no cause, so long as they had the financial and social wherewithal to do so, meant that a childless wife could hope that her husband would divorce her so that she would be free to remarry someone with whom she could conceive. A childless wife in that same situation, however, could just as easily fear that her husband would divorce her and marry another woman, leaving his childless divorcée without long-term support.

The existence of the institution of polygamy similarly meant that a childless wife could hope that her husband would not divorce her, but would rather keep her and supplement her with a more fertile spouse.\(^{68}\) Equally, a childless wife could fear that her husband would not set her free, but would rather have her supplanted with a more fertile wife with whom she would be in (losing) competition.\(^{69}\) Polygamy could also diminish the force of the religious duty to produce children, for a man could hope to fulfil that

\(^{68}\) See A. Bouhdiba, *La Sexualité en Islam*, 263. This is not to say that polygamy was the predominant form of marriage.

\(^{69}\) Some examples of women making this calculation can be seen in Jewish documents from the Cairo Geniza, which will be discussed below.
requirement through some of his marriages and not through others.\textsuperscript{70} This, of course, was true of the Prophet Muḥammad himself.

In addition to divorce and polygamy – institutions explicitly enshrined in Islamic law – a third factor had a substantial role in defining the legal experience of infertile women in their marriages which I will call the legal distaste for nebulousness. The Sunnī framework for marriage is defined by specific points in the timeline of a marriage. At the beginning of a marriage these include the point when there is a transfer of the dower, the point where the bride is transferred to the groom’s custody, and the act of consummation. At the dissolution of a marriage, defining points occur when a man pronounces a formula of repudiation, when a wife renounces a debt owed her or returns a property to her husband, the death of the spouse, the menstrual cycles marking the ‘idda in which both spouses still have financial claims upon each other, and the end of the ‘idda when the ties between them have been severed. However, the realization that a marriage will likely not yield children does not occur, \textit{as a legal assumption}, at any particular point in an Islamic marriage. Legal sources point this out frequently, particularly when citing the above-mentioned \textit{ḥadīth} about the ‘Umar’s “sterile” tax-collector, and deny that he could be labeled as such. By contrast, in the Rabbinic Jewish tradition, the ten-year anniversary of the marriage marks a point at which the marriage itself is considered sterile, and there are attendant legal consequences, including legally mandated divorce.\textsuperscript{71}


\textsuperscript{71} Mishna Yevamot 6: 6, and Babylonian Talmud, Tractate Yevamot, 65b-66a. See J. Baskin, “Rabbinic Reflections on the Barren Wife,” \textit{Harvard Theological Review} 82 (1989), 101-14. This theoretical requirement was likely not often practiced as such. Cf. Yevamot 64a. However, there is some evidence that it could be brought to bear on practical matters when the wife wanted to obtain a divorce from a reluctant husband. A legal question was addressed to Hai Ben Sherira (939-1038), the gaon of the Yeshiva of Pumbedita in Iraq: “Regarding one who has lived with his wife for ten years, which are not continuous, and who was intermittently in a different city and intermittently with her, and by whom she has not had children, is he obligated to divorce her when she asks for a divorce, and to give her her ketubba when she
No medieval Islamic legal school has a binding test for either male or female fertility. Some 'ulamā' comment briefly on the difficulty of establishing the fertility of a sexually inexperienced woman. For example, in commenting on the ḥadīth, “Marry amiable and fertile women,” early Shīʿī writers explain that one gages the fertility of a virgin based on the fertility of her kinswomen. This is summarized in the Jawāhir al-kalām which states:

claims “[I want a child] to be a support for my hand and an axe to bury me”? Or does there need to be ten years in which he continuously lived in the same city with her?” Judeo-Arabic fragment in Friedman, Jewish Polygyny in the Middle Ages, 169ff. The requirement is also cited in cases brought by medieval Jewish plaintiff husbands, who wanted to use it to override the clauses in their marriage contracts which stipulated that if they were marry a second wife, they would divorce the first and pay her the money due to her in her ketubba and to return her trousseau. These husbands wanted to either engage in bigamy, or to divorce their wives without penalty. The argument was that the clause was invalid if it necessitated them violating the Biblical commandment to be fruitful and multiply. See, for example, Shimon b. Tsemah Duran (d. 1444 in Algiers), Sefer ha-Tashbets (Lemberg: Uri Ze’ev Salat, 1891), §94-95. In those places where the “Ban of Rabbenu Gershom,” the 11th century prohibition on both polygamy and unwanted divorce, was enforced there were medieval attempts to override it in cases of infertility. In response, the late 12th / early 13th century German rabbi, Eliezer b. Yoel ha-Levi (Ravyah) wrote that Jewish communities no longer even promote divorce in cases of infertility, let alone use the commandment of being fruitful to override the polygamy ban. He notes that this is due in part to the prevalence of infertility: “We are not at liberty to waive the Ban of the illustrious Rabbenu Gershom, for there are so many unhealthy and barren women, yet no one opens his mouth to complain.” Translation from E. Westreich, “Infertility as Ground for Polygamy in Jewish Law in Italy: Interaction among Legal Traditions at the time of the Renaissance,” in Ollir – Osservatorio delle libertà ed istituzioni religiose 2 (2003), 12. 72 Abīd al-Karīm Zaydān, al-Mufaṣṣal fī ḥikām al-marʾa waʾl-bayt al-Muslim fī al-sharʿīya al-Islāmīya (Beirut: Muʾassasat al-Risāla, 1994) 6: 51. 73 There are many more shīʿī hadīths attributed to both Muḥammad and ‘Alī disparaging marriage to infertile women, as well as providing advice on how to promote fertility. Interestingly, among the modern Druze community which banned polygamy a millennium ago but which does permit divorce, these hadīths have formed the basis for some significant legal disagreements. A. Layish writes: “… the Druze Court of Beirut held that proven barrenness of the wife was a sharʿī ground for divorce, without the husband being liable (as to the financial consequences), on the strength of two religious-legal rules which provided that ‘the supreme purpose of marriage is the production of offspring’ and ‘a barren wife should be avoided.’ A majority of the Lebanese Druze Supreme Court of Appeal also held, in one case in which the wife’s barrenness had been proved by medical documents, that the question of offspring was of great importance in a marriage; the husband might invoke barrenness as a ground for dissolution because he has a legitimate right to children ‘for the preservation of the name and continuance of the memory [of the family] and the retention of the family property by the agnates in accordance with established tradition’; the court decided by a majority of votes that the husband might divorce the wife without this being regarded as arbitrary repudiation entitling her to compensation. On the other hand, the minority of the court held that sterility of the wife (or husband) was not a secular or religious-legal ground for divorce because it did not constitute non-fulfilment of a marital duty the fulfilment of which depends on the will; in fact, in the particular case in question, the wife had done all she could: she had undergone prolonged medical treatment to become fertile.” Layish, Marriage, Divorce, and Succession in the Druze Family, 205.
It is said that the combination of fertility and virginity occurs in one who is not too young nor menopausal, and who has nothing in her temperament which indicates a tendency to barrenness, such as absence of menstruation. I say, the primary way of knowing whether a virgin is fertile is referring to [the reproductive history of] her kinswomen, her mothers and sisters.\textsuperscript{74}

A similar concept of gaging the fertility of virgins based on their kinswomen is found in some late medieval Sunnī sources such as the \textit{Asnā al-maṭālib fi sharḥ Rawḍ al-ṭālib}\textsuperscript{75} and the \textit{Kashshāf al-qinā’},\textsuperscript{76} but none of these suggests that there exists a specific or formal means of implementing this concept.

There is some legal discussion of whether the prospect of childlessness due to a spouse’s infertility can serve as a basis for either a husband or a wife to \textit{annul} a marriage, on the grounds that their spouse’s infertility is a defect (‘ayb). There is also some discussion of whether a husband who knows himself to be physically infertile or simply uninterested in procreating, has an obligation to give his wife a choice (khiyār) to annul the marriage. This will be discussed below, in the section on marital defects.

\section*{II. Law and Biology: Menstruation and Pregnancy}

Certain aspects of Islamic marital law had the potential to exacerbate or mitigate tensions surrounding fertility. As previously mentioned, this was true of Islamic legal tolerance for both polygamy and divorce. However, there were additional concepts which helped shaped the experience of infertility. The legal significance attached to menarche, menstruation, pregnancy, amenorrhea, and menopause also played a consequential role. So did the legal dependence on, and distaste for, the mediating role played by midwives and other experts in female anatomy. In this section, we will examine medieval legal

\footnote{\textsuperscript{74} Al-Najafī (d. 1266/1855), \textit{Jawāhir al-kalām fi sharḥ Sharā‘ i‘ al-Islām} (Beirut: Mu‘assasat al-Murtaḍā al-‘Ālamīya, 1992), 10: 360.}

\footnote{\textsuperscript{75} Zakarīyā ibn Muhammad al-Anṣārī (d. 926/1520), \textit{Asnā al-maṭālib fi sharḥ Rawd al-ṭālib} (Beirut: Dār al-Kutub al-‘Ilmīya, 2000), Chapter 14, no: 263.}

\footnote{\textsuperscript{76} Al-Bahūfī (d. 1051/1641), \textit{Kashshāf al-qinā’} (Beirut: Dār al-Fikr, 1982) 5: 9.}
assumptions about what constitutes child-bearing age, the legal ramifications attached to
a woman’s menstrual cycles and their interruption, and how, counter-intuitively, social
and legal flexibility regarding the length of gestation sometimes helped to protect not
only women who experienced “inconvenient” pregnancies, but also those who did not
conceive at all.

**Menarche**

The medieval jurists understood menarche as being one of the ultimate signs of
female legal physical maturity (*bulūgh*). The other indicators are: *iḥtilām* (wet dreams),
pubic hairs, pregnancy, and reaching a maximum age for the onset of adulthood (usually
15, occasionally up to 18 for women). The minimum age for *bulūgh* in a girl is
generally accepted to be nine years, and that is also considered to be the lowest possible
age at which a girl can menstruate. The jurists, like the physicians, equate menarche
with fertility, though they also suggest that for some wives, the first sign of their fertility
could well be pregnancy. I have not found any evidence in the Islamic legal sources of a
concept of post-menarchal adolescent infertility or sub-fecundity or menstrual
irregularity. This means that women were theoretically expected to be potentially fertile
and experiencing regular menstruation from the onset menarche onward. Biologically,

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77 For references to the application of maximum-age rulings, see L. Peirce, *Morality Tales: Law and
Gender in the Ottoman Court of Aintab* (Berkeley: University of California Press, 2003), 151.
(d.1088/1677), *Durr al-Mukhtār in Hāshiyat Radd al-Muḥtār ‘alā al-Durr al-Mukhtār* (Cairo: Muṣṭafa al-
79 The late 18th-century scholar Ibn ‘Ābidīn says, regarding the purchasing of a slave woman, that a girl
who is between 15 and 17, and has not yet menstruated, is considered defective, since lack of menstruation
is indicative of disease. He then says that if she menstruates, but only every 6 months, that too is a defect
for which she can be returned to the seller. Ibn ‘Ābidīn (d. 1252/1836), *Hāshiyat Radd al-muḥtār* (Riyadh:
however, we have reason to believe that many healthy medieval (and early modern) post-menarchal adolescents would have experienced neither fertility nor menstrual regularity. Moreover, on average they were likely to reach menarche somewhat later in life than is assumed by many medieval jurists.

Calculating the Age and Fertility of Medieval Women at the Point of Marriage and Menarche

Recent scholarship in the history of human physical development in medieval Europe has significant ramifications for our study of legal attitudes towards menarche in the medieval Middle East. There was, and in some parts of the non-academic world still is, a presumption that African and Asian girls mature and experience menarche at earlier ages than European girls.\(^8^0\) There was also a presumption that, in pre-modern times, the onset of adolescence occurred even earlier than it does today. These assumptions are undermined by both modern medical anthropology and by the osteological historical record. While the order of the physical stages of adolescence has been well established by the biomedical community for some time, only recently have archaeologists been able to develop methods of independently dating the age and sex of adolescent skeletons and correlating bone structure to elements of the maturation process such as growth spurts, muscular development, and menarche. In females, breast growth is associated with the

\(^8^0\) There is some evidence that the idea that “oriental” women living in hot climates reach puberty earlier than do European women is itself an “orientalist” fantasy in the Said-iain sense. Such claims were advanced by such noted 18\(^{th}\)-century scientists as Boerhaave and Haller, and were refuted in the nineteenth and twentieth centuries. See K. Bojlén and M. W. Bentzon, “The Influence of Climate and Nutrition on Age at Menarche: A Historical Review and a Modern Hypothesis,” *Human Biology* 40 (1968), 69. Twentieth-century scientific evidence about the role climate plays in menstruation suggests that either climate does not have much effect at all, or women in northern climes menstruate earlier, possibly due to vitamin-D deficiency, and those living closer to the equator tend to menstruate later. L. Zacharias and R. Wurtman, “Age at Menarche: Genetic and Environmental Influences,” *New England Journal of Medicine* 280 (1969), 868-75.
peak height velocity (PHV), while menarche occurs after the growth spurt has reached peak velocity and has begun to decelerate. Studies of adolescence in living women from genetically similar but economically divergent populations have found that nutrition, rather than genetics, plays the more significant role in determining the duration of adolescence and the onset of menarche. Higher caloric intake and, in particular, access to protein and fat from animal products, correlates with earlier menstruation, while low caloric intake and general malnourishment is associated with more prolonged puberty and later menstruation. Thus, in the late-twentieth century, there is only moderate variation between the mean age of menarche of middle-class girls in European urban centers and their middle-class counterparts in Middle East and North African cities. The mean age ranges between 12.2 years and 13.4 years. By contrast, the age of menarche ranges far more among those from varying economic backgrounds within the same region. For example, a modern study comparing wealthy urban adolescents in Kenya with their impoverished rural peers shows that, on average, rural girls experienced menarche more than two years later than wealthy girls. Urban well-nourished girls reached menarche at the median age of 13.2 years, while their rural counterparts did so at the age of 15.3 years. In Western populations, where there are historical statistics available, the mean age of menarche has fallen dramatically even in the past century. “In Western societies,

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81 In males, this coordinates with voice break.
where there are relatively reliable historical data, a reduction in the age of menarche of about 3 years has taken place since the end of the nineteenth century. This decline is believed to be associated with an increase in body size and an improved diet."\(^{85}\) A similar, if more rapid, decline of average age of menarche is currently being seen in populations in developing West African countries such as Gambia, Senegal and Mali, where that age has declined from more than 16 years to less than 15 years in fewer than three decades.\(^{86}\)

Turning to the middle ages, to my knowledge there are no studies of human remains from anywhere in the medieval Middle East. However, in the past decade, there has been a great deal of osteological study of medieval and ancient European skeletons, especially in England and Italy, and there are also some studies comparing diets in medieval European and Middle Eastern populations. The evidence suggests that prior to the Black Death, throughout Europe, girls began puberty at the same time as they do in the 20th century, but that menarche occurred later and the maturation and growth process occurred over a much longer timeframe.

The ages at which individuals reached puberty, or achieved full adult maturity, were significantly different from those of modern people. . . In adverse conditions, juvenile growth can continue up to the mid 20s . . . Measurement of the length of the femoral shaft in children from Barton suggests that they lacked the growth spurt that is indicative of puberty, from which we can infer that puberty was not experienced until the later teens . . . The skeletal evidence suggests that young adults continued to grow into their early 20s, rather than reaching full physical maturity in their late teens. This has implications for our understanding of the lives of young medieval men and women. The age of menarche is assumed to have been around 15 years on the basis of medical texts from across medieval Europe . . . however, the age of menarche is determined principally by nutrition. It is likely that the poor nutrition experienced by young women in medieval Yorkshire and Lincolnshire would have delayed the onset of menarche until their late teens. In modern societies menarche is usually followed by up to three years of adolescent infertility.\(^{87}\)

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Adolescent infertility is caused by irregular menstrual cycles, of which many may be anovulatory. In modern populations, the later the onset of menarche for an individual female, the longer the post-menarchal length of time for menstrual cycles to become regular. Thus a girl who begins menstruating relatively late in her teen-years will experience a longer post-menarchal period in which she is less prone to becoming pregnant. It is not currently known how to evaluate whether this correlation between late menarche and longer subfecundity held true for medieval populations.

The most comprehensive attempt to chart medieval adolescent development comes from a study of four urban cemeteries with corpses from the years 900 to 1550, one with “high status” occupants and the rest with “low status” occupants. With a total of 994 skeletons of people aged 10-25, Mary Lewis and Fiona Shapland analyzed the stages and ages of pubertal growth. Their sample indicated that there is a mismatch between what the medieval European legal and literary sources imply about the age menarche, and the osteological record. I would argue that the same is likely true in the Middle Eastern context.

Adolescents began puberty at a similar age to modern children at around 10–12 years, but the onset of menarche in girls was delayed by up to 3 years, occurring around 15 for most88 in the study sample and 17 years for females living in London. Modern European males usually complete their maturation by 16–18 years; medieval males took longer with the deceleration stage of the growth spurt extending as late as 21 years . . . This period of physical and sexual development is at odds with medieval canon law, where the legal age at which boys and girls could consent to marriage was 14 and 12 years, respectively. This encompasses a time when both would have experienced the onset of puberty, but predates the period in which the majority of females would have been fertile (c.15–16 years). In practice, it seems males and females in 13th to 15th century England married between 18 and 23 years . . . with urban females marrying slightly later . . .89

88 According to this study, 86% of females reached menarche when they were 15 years old.
While there are no direct studies of skeletons in the medieval Middle East to compare with these findings, there have been a couple of studies of medieval Middle Eastern diet. It may be hypothesized, based on evidence from medieval Europe, that nutritional factors had a significant effect on the maturation process for Middle Easterners just as they did for Europeans. Evidence from Iraq, Syria, and Egypt in the middle ages, both before and after the Black Death, suggests that – while there were significant differences in the specific diets of these populations, as compared to each other and as compared to the diets of those in Western and Southern Europe – certain nutritional elements were largely the same. Thus the content of bread differed quite substantially between the Middle East and Europe, but the high proportion of bread in the diet and in the budgets of most of the population did not. Prior to the Black Death, the price of meat, as well as other sources of fat and protein was so high as to be normally prohibitive for the working poor of Iraq, Syria and Egypt.\(^90\) In comparison to their European counterparts, the lower and middle classes of Egypt are thought to have consumed a similar amount of calories, but less meat.

The high cost of meat (mutton) in the Near East explains that the specialized workers (and probably also the small merchants) in the Near East had to allot one-fourth or even one-third of their income for it through all periods of the Middle Ages. In Southern and Western Europe the expenses for meat were relatively smaller. The nutritive value of the food which the working classes could afford was very small both in the Moslem East and in the Latin West. But since apparently until the Black Death, meat in Europe was much cheaper, the lower strata of the population had more proteins and lipids.\(^91\)

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There has been an interesting hypothesis based on skeletal evidence from England that children there had somewhat different diets from their parents, and that these diets consisted of even less meat. This would in fact be in keeping with Galenic humoral principles of the appropriate diet for the ages of man. While such Galenic dietetic principles are mentioned in medical literature from the medieval Arab world, there is no evidence to either confirm or deny that such principles reflected or influenced common practice.

While no statistics from the Middle East are readily available, what evidence we have from both Muslim and Jewish communities suggests that women were often

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92 Gilchrist, *Medieval Life*, 52: “The nutritional risk to children may have been further exacerbated by medieval childcare practices. Isotopic analysis of skeletal remains from Wharram Percy showed a lower level of nitrogen for children aged between four to eight years, in comparison with older children and adults. This result was interpreted as indicating that children in this age group were fed a diet which was more plant-based, with a lower proportion of marine foods and meat or animal-based products . . . In other words, medieval childcare practices may have specifically denied children the foods rich in B12 which would have protected them from megaloblastic anaemia.”

93 One of earliest censuses which attempts to account for all women in the population comes from Egypt, in a government study conducted between 1846-1848. See P. Fargues, “The Stages of the Family Life Cycle in Cairo at the End of the Reign of Muḥammad ʿAlī, According to the 1848 Census,” *Harvard Middle Eastern and Islamic Review* 5 (2000), 1-39. Focusing on Cairo, Fargues notes that the ages of women at the time of marriage are recorded only in one district, that of Old Cairo. There “the average age of women upon their first marriage is 13.8 years, compare to 20.3 years for men” (ibid. 12). Among women between the ages of 10-14, 49.1% had ever been married. For women between the ages of 15-19, 89% had ever been married (ibid. 33). The unpublished census is currently being digitized by Mohamed Saleh.

94 We do not have statistical sources for most periods. Rapoport attempts to make some statistical inferences about marriage patterns in Mamluk Cairo on the basis of the women mentioned in al-Sakhāwī’s *Ḍaw’ al-lāmi’.* On the subject of the average age of first marriage for women, he writes: “The majority of girls were married off in their early or mid-teens, probably not long after reaching puberty. Sitt al-ʿArab married Abū Shāma when she was fourteen. Rābiʾah the daughter of the scholar Ibn Ḥajar al-ʿAsqalānī, first married at the age of fifteen, and his granddaughter married at the age of sixteen. Some married earlier. Al-Sakhāwī married an eleven-year old girl. Al-Maqrīzī’s mother first married when she was twelve. Orphan girls were usually married off while still minors, between ten and twelve. But it should be noted that some women were married at an older age. The historian al-Birzālī’s daughter first married when she was nineteen. The virgin bride of Ibn Ḥajar was eighteen.” Rapoport, *Marriage, Money, and Divorce in Medieval Islamic Society* (Cambridge: Cambridge University Press, 2005), 38-9.

95 Child marriage within the Middle Eastern Jewish community is the subject of some scholarly debate between S. D. Goitein, M. Friedman, A. Grossman and R. Lamdan, with Lamdan and Grossman arguing that child marriage was so frequent as to be nearly the norm, and Goitein claiming that it was very rare. There appears to be little disagreement that 14-15 years was a common age for marriage, and the debate centers on just how frequent marriages were to girls aged 10 to 12 or younger. The age range suggested by
married off at an early age, and we should not necessarily assume that those ages correspond with either menarche or the level of physical maturity one would expect from a female of the same age in the modern Middle East. Based on these calculations, it would seem that first-marriages for many Muslim, Jewish, and Christian women in the Middle East would have occurred at a time when the woman was unlikely to be either fertile or experiencing menstrual regularity, due to physical immaturity.


On the subject of whether Islamic law permits marriage to minors, there seems to be some confusion in English-language non-scholarly publications which sometimes cite al-Nawawī (d. 676/1277) as saying that it is forbidden to consummate a marriage before menarche. This claim seems to be based on a 1914 English language translation of al-Nawawī’s Minhāj. The English text by E. C. Howard is as follows: “A father can dispose as he pleases of the hand of his daughter, without asking her consent, whatever her age may be, provided she is still a virgin. It is, however, always commendable to consult her as to her future husband; and her formal consent to the marriage is necessary if she has already lost her virginity. Where a father disposes of his daughter’s hand during her minority, she cannot be delivered to her husband before she attains puberty.” Minhāj et Talībīn: A Manual of Muhammadan Law according to the School of Shafī‘i, tr. E. C. Howard (London: W. Thacker & Co., 1914), 284. A more literal translation of the Arabic text reads, “A father can marry off his virgin [daughter], whether a minor or an adult, without her consent; but it is commendable that he consult with her. He cannot marry off a non-virgin [daughter] except with her consent; so if she is a minor she is not married off until she reaches puberty.” As his commentators explain, he means that a non-virgin must give consent to be married, and she is legally capable of consent only once she has reached menarche, therefore the non-virgin minor cannot remarry until that point. Al-Nawawī, Minhāj al-talībīn (Beirut: Dār al-minhāj, 2005), 375-6. On medieval legal attempts to define the minimum physical requirements for consummation, see Kecia Ali, Marriage and Slavery in Early Islam (Cambridge: Harvard University Press, 2010), 76 and Mahmoud Yazbak “Minor Marriages and Khiyār al-Bulūgh in Ottoman Palestine: A Note on Women's Strategies in a Patriarchal Society,” Islamic Law and Society 9.3 (2002), 386-409.

In his study of khiyār al-bulūgh in Ottoman Palestine, Yazbak cites the following information about ages. In 1871, a girl is married at thirteen, and reaches menarche at the age of fourteen; in another a fourteen-year-old minor is married off. In 1911 a girl who is “more than fourteen years old” testifies that she has just reached menarche. In 1884, a girl who is fifteen and still a minor comes to court having been promised as an infant to two different people who now seek to consummate the marriage. Yazbak does not mention any case of a girl claiming to have reached menarche prior to the age of fourteen. In a study of court records dating from 1600-1623 in the Ottoman city of Keysari, Ronald Jennings found records in which, it seems, women who had been married as infants confirmed, now that they were no longer minors, that they accepted the marriages arranged for them. Ages are often not mentioned, but where they are, the age is listed as “more than fifteen years old.” R.C. Jennings, “Women in Early 17th Century Ottoman Judicial Records: The Sharia Court of Anatolian Kayseri,” Journal of the Economic and Social History of the Orient 18 (1975), 78.
Amenorrhea

The literary evidence of the widespread practice of mid-teenage marriage coupled with skeletal evidence that mid-teens were often not as physically developed as they are at the present day, has a number of ramifications for understanding fertility. The first is that it must have been common in women’s first marriages for them to not experience regular menstruation, due to being pre-menarchal, or to be experiencing irregular and anovulatory menses associated with adolescence. If and when a woman became fertile, it would also have been common for her not to experience regular menstruation due to pregnancy and lactation. This is, to some extent, borne out by evidence from fatwās, in which women who have born multiple children and are not old, testify that they have not experienced regular menstrual cycles in years, or indeed ever in the course of their marriage.

Regular menstrual cycles are of supreme importance in Islamic divorce law, because they are used to determine the ‘idda, the mandatory period which must elapse after a first marriage has dissolved before a second marriage can legally take place. The ‘idda is significant in that a woman may not remarry until it is completed, ought not leave the lodging provided to her by her former husband, and during that time her former husband has both financial obligations to her as well as sexual rights over her (if the divorce is not a triple, final one). The ‘idda period for a divorced woman is determined to last either for three menstrual cycles or three months, depending on her menstrual status.

98 See, for example, al-Fatāwa al-hindīya (Būlāq: al-Maṭba‘a al-Kubrā al-Amīrīya, 1892), 1: 531: “A minor woman whose husband has divorced her, and three months minus one day has elapsed, and who then menstruates once, but does not menstruate three times – her ‘idda has not been fulfilled.”

If a woman was of reproductive age but had irregular or absent menstrual cycles, the ‘idda could be prolonged far longer than the usual three months. It is not uncommon for legal discussions of ‘idda to consider such prolonged periods, though to my knowledge such cases have not been studied systematically in the secondary literature.

Because the legal system was based on the assumption that women who reached menarche menstruated regularly and were thus potentially fertile, *the circumstances of pregnancy and infertility looked identical to each other from the legal standpoint* since either may correlate with disrupted menstrual cycles. *This meant that at the end of a marriage, an infertile woman could be tied to her ex-husband in much the same way as a woman who was pregnant at the time of her divorce.* Her ‘idda could be extremely protracted. This is oddly the mirror image of the medical situation in which the use of fertility drugs and abortifacients, i.e. tools of “menstrual regulation,” also looked profoundly similar. (As will be shown in the next chapter, lack of menstrual bleeding could be taken as a medical indication that the woman was already in the early stages of pregnancy, thus if a woman wanted to end her pregnancy she could seek a treatment which would “expel” what was in the uterus, and this would manifest as vaginal bleeding. Or, lack of menstrual bleeding could be a medical indication that the woman was not experiencing normal, healthy reproductive cycles and thus could not conceive until menstruation was restored. Restoration of fertility would manifest as vaginal (menstrual) bleeding. Thus some drugs and treatments, which were supposed to result in the expulsion of blood from the uterus, in one context appear as abortifcaients, and in another appear as fertility agents.)
Amenorrhea was associated with both fertility and infertility, and it seems to have thrown a wrench into the legal system bent on establishing paternity and sexual belonging, because amenorrhea legally indicates that a woman’s body could have been impregnated by a relationship with a previous man, even as it indicates an inability to become newly pregnant. This problem is directly and repeatedly attested to in fatwā literature. Women who were not menstruating regularly could find it difficult to complete their ‘idda and so could not permanently sever old marital ties and establish new ones. A “positive” flip-side to this problem also existed: in some legal schools a divorced woman who could claim amenorrhea (a claim which was difficult to legally dispute) could argue that she was, in fact, pregnant and thus argue that her ex-husband still owed her support or, if the ex-husband was deceased, inheritance. In this situation, presenting amenorrhea as indicative of pregnancy, rather than infertility, was a viable strategy for an infertile woman who wished to retain a legal relationship with her former husband.

‘Idda and Irregular Menstruation

If a woman of reproductive age experienced irregular menstrual periods, she would also have necessarily had diminished fertility, and conversely most of the sources of infertility in women also affect their menstrual cycle. Legal discussions of the

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100 It is, of course, impossible to obtain statistics about the relative predominance of various causes of female infertility in different medieval contexts. However, research in MENA countries in the past 20 years suggests that tubal problems currently account for between 26% and 42% of female infertility, whereas pituitary, ovarian, and uterine disorders accounted for the remainder. Irregular menstruation is not usually a symptom of tubal blockages, but it is a symptom of the other kinds of disorders. In other words, if infertile medieval women in the Middle East suffered infertility from the same causes as do modern Middle Eastern women, between 58% and 74% would have experienced irregular menstruation. Irregular menstruation is also a symptom of normal adolescent development, as well as malnutrition, both of which are also relevant to the medieval context. See G. I. Serour et al., “Infertility: A Health Problem in the Muslim World” Population Sciences 10 (1991), 41-58.
consequences of irregular menstruation are thus about a large subset of women who are not currently fertile.

All Sunnī schools of law differentiate between the ‘idda requirements of those women who have reached menopause and of those who have not. The length of the ‘idda period for divorcées is usually counted as three complete menstrual cycles.101 However, for women who had reached menopause (iyāsāt), or who are minors who have not yet begun menstruating, the ‘idda is calculated to be three lunar months.102 From a legal perspective, a woman is considered to have reached menopause only once she has met two requirements: she has both ceased to menstruate and has reached a certain minimum age. That minimum age ranges between 50 and 62 years old and varies both between and within legal schools.103 It does not seem to range on the basis of ethnicity, except that certain hadīths claim that Arab women have more fertile years than non-Arabs, and Qurayshī women have more fertile years than other Arabs. Of course, in many medieval communities the precise birthdates of women were often not recorded and thus there may not have been a practical opportunity to verify that a woman was, for example, 49 rather than 50 years old. Nevertheless, a woman who was said to be 49 and who had not menstruated recently would not, in theory, have been labeled menopausal by most scholars, with the exception of Ibn Taymīya and his disciple Ibn Qayyim al-Jawzīya.104

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101 By comparison, the waiting period in Jewish law is three months, not menstrual cycles, regardless of the circumstances. Mishna Yevamot 4:10.
102 If a minor is divorced, and during her three-month-long ‘idda she menstruates for the first time, her ‘idda begins anew, and is counted by menstrual cycles.
103 Similar ages are also found in medieval European literature. See D. W. Amundsen and Carol Jean Diers, “The Age of Menopause in Medieval Europe,” Human Biology 45 (1973), 605-612.
104 Their explanation hinges upon the root meaning of the yā'isa, which is the word used for post-menopausal women but which literally means “hopeless” or “without expectations or prospects” in some particular regard. Ibn al-Qayyim explains. “Ibn Taymīya said: Menopause is different for different women, and there is no cut-off point to apply to women. The intention of the verse is that each woman is without prospects with respect to herself. For menopause is the opposite of expectation, so when a woman becomes...
That this was a practical problem even for some relatively mature women can be seen in this passage from the *Masā’il* of Ibn Ḥanbal transmitted by Ibn Hāni’ (d. 275/888).

I asked Abū Abdallāh [Ibn Ḥanbal] about a forty-year-old woman who married a man and remained with him for three years without menstruating or seeing any form of blood. Then the husband divorced her, and her ‘idda from this first marriage was determined to be three months, upon which she married another husband. She remained with him for four years, more or less, and did not menstruate. How should her ‘idda be determined, now that she has been divorced again?

He answered: There is disagreement. There are those who say that her ‘idda from the first [husband] should have been one year, such is the opinion of ‘Umar.

But Ibrāhīm says, “If she has ever menstruated, even if only once, then the ‘idda must be according to menstrual cycles, and will last forever until she menstruates again.”

But Ibn Mas‘ūd says: in the case of ‘Alqama’s wife, who fell ill and menstruated [only] twice and then died, ‘Alqama inherited from her. The ruling of ‘Umar b. al-Khaṭṭāb was that if she does not know what has made her stop menstruating, e.g. sickness or breastfeeding, she should wait 12 months, and then remarry.

Abū ‘Abdallāh said: My opinion is that they should be separated, that is she and the husband who divorced her last, and then her ‘idda from the first [husband] should be set at 12 months, and afterwards the ‘idda from the second husband should be set at one year.”

The question of what happens to a woman who has reached menarche but has not yet reached the presumed age of menopause, yet nevertheless experiences few or no menstrual cycles, is addressed both in legal manuals and in numerous *fatwās*. These indicate that this situation caused practical difficulties, both at the time of divorce and retroactively years later, as can be seen in the above *fatwā* in which a woman in her forties finds out during her second divorce that her first divorce may never have been completed. On the whole, Mālikīs and most Ḥanbalīs took the position that if a woman, for reasons unknown, stops menstruating, her ‘idda is set at twelve months. Ḥanafīs and most Shāfi‘īs took a different position: that a woman remained in her ‘idda until such
time as she had bled three times or reached the minimum age required to be considered as yā’īsa. 107 Once she reaches menopause, her ‘idda is calculated as lasting three months, at the end of which she will be free to marry. In theory, such laws would mean that an ‘idda could last many years. Interestingly, although the view that a non-menstruating woman must remain in her ‘idda until old age is endorsed in the Durr al-mukhtār, the author also suggests that it would be prudent in such a situation to direct a woman to a Mālikī judge, so that she may complete her ‘idda in a single year. 108

The minimum age of menopause is a matter of dispute among Ḥanafīs. Both 50 and 55 years are cited in the Durr al-Mukhtār. 109 Most Shāfi‘ī authorities consider the minimum age of menopause to be 62 years, with al-Qalyūbī also citing opinions in favor of age 50 and age 60. The Fatāwā al-hindīya notes that even if a person who has reached the age of menopause and has therefore observed an ‘idda based on months (believing herself to no longer be menstruating) later appears to menstruate, then “the portion of her ‘idda which has elapsed is canceled and she must recommence by calculating her ‘idda by menstrual cycles.” 110

Both the Mālikī and Ḥanbalī schools tie the ‘idda more closely to the notion of establishing pregnancy or lack thereof. For women who have ceased to menstruate for no discernable reason, the waiting period consists of a nine-month-long initial period to establish that there is no pregnancy, followed by a three-month-long regular ‘idda

107 Ibn ‘Ābidīn, Ḥāshiyat Radd al-muḥtār, 5:186. Ibn ‘Ābidīn quotes al-Zāhidī (d. 658/1260) as saying that one fellow Ḥanafī jurist issued a fatwā based on the view of Mālik on this matter “because of need.”
109 Al-Ḫaṣṣaʾfī, Ḥāshiyat Radd al-Muḥtār ʿalā al-Durr al-Muḥtār, 2:606
However, according to the Ḥanbalīs, if the onset of amenorrhea corresponded to a known condition such as lactation or sickness, then the woman must wait until her menses recommence or until she reaches the age of menopause, and only at that point may she begin calculating the three-month-long ‘idda.\textsuperscript{112}

On this point, early Ḥanbalī scholars refer to a case where the circumstance causing the amenorrhea is “known” and, as a result, the ‘idda is prolonged indefinitely, or until those circumstances change. The case is a story about ‘Alqama (d. 62/681), a companion of the Prophet. ‘Alqama divorced his wife whereupon she became ill and stopped menstruating. Seventeen months later, she died. The companion Ibn Mas‘ūd ruled that ‘Alqama inherited from her, thus indicating that she died while still within her ‘idda period, proving that it can last for more than a year.\textsuperscript{113} Abdallāh b. Aḥmad ibn Ḥanbal (d. 290/903) seems to understand the story to mean that since amenorrhea coincided with a particular illness, one could hope it would end once the illness ended.\textsuperscript{114} Others interpreted the ruling in a slightly different light, saying that the reason that the woman was still considered to be in her ‘idda nearly a year and a half after her divorce was because Ibn Mas‘ūd thought pregnancy could last for two years.

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Ishāq\textsuperscript{115} said . . . The meaning of the doctrine about ‘Alqama and his wife’s illness is that Ibn Mas‘ūd favored the opinion that pregnancy could last two years, as ‘Ā’isha said: ‘A child does not remain in the womb more than two years.’ . . .

The sunna concerning that is that when the divorcée is a woman who menstruates and then stops, she waits two years, because it has been established that most women are not pregnant for more than two years, and usually it is nine months. But ‘Umar b. al-Khaṭṭāb thought that the longest an ‘idda should last is a year – nine months for a pregnancy and then three months after that for the ‘idda of the woman who has become too old to menstruate. Then she may be
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\textsuperscript{111} Ibn Qudāma, \textit{al-Mughnī}, 7: 463.
\textsuperscript{112} Ibid., 7: 465.
\textsuperscript{113} Al-Sarakhsi, a Ḥanafī, would later use the story to illustrate a point about the rights of a husband to revoke a divorce even during a prolonged ‘idda. Al-Sarakhsi (490/1096), \textit{al-Mabsūt} (Beirut: Dār al-kutub al-‘ilmīya, 1993) 6: 19.
\textsuperscript{114} Susan Spectorsky, \textit{Chapters on Marriage and Divorce} (Austin: University of Texas Press, 1993), 133.
\textsuperscript{115} Ishāq b. Manṣūr al-Kawsaj (d. 251/865).
remarried. This is what ‘Umar said, and the Medinese followed it from ‘Umar’s day until now. Mālik adopted it and so did scholars before him, and I think it is valid. As for a young woman who has not menstruated for two years: there is no doubt, as far as we are concerned, that after two years she should not wait an ‘idda, and that she has the right to be married to whomever she wishes. And those who considered it necessary to reckon her ‘idda in terms of months were in error.”¹¹⁶

Here the jurist seems to be arguing that there are two ways of thinking about the extended ‘idda and its raison d’être. In one reckoning, the 12-month long waiting period is a combination of two different ‘iddas: that of the potentially pregnant woman and that of the not-potentially-pregnant iyāsa. The potentially pregnant woman proves that she is not pregnant by waiting nine months, the term of a pregnancy, at which point she attains the status of the iyāsa and observes the three-month waiting period of the iyāsa. The second way of thinking about it is that the entire purpose of the extended period is to prove that a woman is not pregnant by her former husband and once that is done she can remarry. Assuming that at maximum a pregnancy can last two years, once a woman has crossed that threshold she can remarry. There is no need for her to undertake a second, menopausal ‘idda, since no further evidence is needed and thus the question of whether she is permanently infertile is moot.

Mālikīs also follow the nine-months-plus-three-months formula if menstruation seems to have ceased entirely. However, if menstruation occurs intermittently, the waiting period may be longer.

If the woman who is waiting for a year menstruates during that year, even if it is on the last day of that year, then she must wait again for a second menses, or until the end of [another] year. When the year ends without her menses appearing, her ‘idda is over. But if her menses do appear within that year, even if it is on the last day, she must wait for a third menses, or a complete “white” year in which there is no blood, if she is free. If she is a slave, she stops at the second year.¹¹⁷


Such a situation could theoretically delay a divorcée’s remarriage for up to three years if she did not meet the minimum age requirement to be considered menopausal. The minimum age of menopause is set at either fifty, or “one should ask women who are between the ages [of fifty and seventy] about the blood which flows from women. If they say there is no menstruation at her age, she counts using months.”

**The Extended ‘idda as a Potential Burden on Women**

Fatwās, particularly those of Ibn Taymīya, shed some light on the negative consequences of these debates from the point of view of women seeking to end a marriage. (For the usefulness and positive consequences of the extended ‘idda see the section below.) In one fatwā, Ibn Taymīya addresses the case of a young married woman who seems to have stopped menstruating altogether, with no indication of when or if she will begin menstruating again. Her husband decides to divorce her. The petitioner asks: “Is the ‘idda for her divorce measured by months or must she wait until she reaches the age of menopause?” Ibn Taymīya responds by highlighting the plight of an unmarriageable young woman.

If it is possible that her menses will return, and it is possible that they will not return, then she should wait one year and marry, as ‘Umar b. al-Khaṭṭāb ruled regarding the woman whose menses had stopped without her knowing what had stopped them. She waits one year, and that is the common view, for example the view of Mālik and al-Shāfi‘ī. As for one who says that she must be of the age of menopause, that is a very weak view, with so much harm in it as to be unparalleled in the law. For it keeps her from marriage at the very time of her need of it, and would only permit [marriage] to her once she no longer needs it [i.e. in her old age].

In another fatwā, Ibn Taymīya reiterates the same logic and explicitly characterizes it as maṣlaḥa. In this case, a woman’s second husband has divorced her upon realizing that

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she had menstruated only once during her ‘idda following her divorce from her first
husband. In an effort to remarry her second husband, the wife then declares that she has
reached menopause. As part of his answer, Ibn Taymīya concludes with an attack on the
Ḥanafī view:

According to [Abū Ḥanīfa] a woman in this dubious situation would remain in her ‘idda until she
grew old and reached the age of menopause, even though according to their opinion she would
have to remain unmarried until 50 or 60. But that would be such a hardship as to be an exception
to the law, and so the maṣlaḥa of the Muslims abolishes it. Ibn Taymīya’s fatwās include questions about a woman in her ‘idda whose menses are
“delayed” as a result of breastfeeding and who resorts to drugs in order to bring on
menstruation. He notes that such menstruation does indeed qualify, so that the woman
can be free to remarry.

A Case Study of Irregular Menstruation and the Laws of ‘idda

If Ibn Taymīya’s fatwās seem relatively clear-cut, a fatvā attributed to the Mālikī
Qāḍī ‘Iyāḍ (d. 544/1149) demonstrates the complicated nature of the problem of
calculating the ‘idda and the significant resulting problems that an irregularly
menstruating woman could have in entering and leaving a marriage. It also foregrounds
the role of husbands and of other women in mediating an individual woman’s encounter
with the law. The case begins as follows:

When [Muḥammad b. Aḥmad] married his wife Fāṭima bt. Muḥammad known as Ibn Najjūma, it
was revealed to him that she had a condition which delayed her blood. It concerned him that he
might have contracted his marriage with her before the completion of her ‘idda following her
husband’s, ‘Alī b. Muḥammad’s, divorce from her. Muḥammad therefore asked and interrogated
her, and informed her about what was required of her, whereupon she acknowledged to him that
her blood had only come twice since her divorce from ‘Alī, and that she was ignorant of [the
requirements]. Muḥammad withdrew from her and consulted with some trusted men of learning,

120 Ibid., 34: 17.
121 Ibid., 34: 19.
122 In the version of al-Wansharīsī, it says “to him”; in the version of Ibn Rushd, it says, “to her.”
who instructed him to divorce her, for she is not permitted to him. He therefore separated from
her. . .”

The istiftā begins with Muḥammad realizing that his wife is not menstruating as
expected. This, he realizes, may have been the case prior to the marriage and he gets her
to acknowledge that in fact she had menstruated only twice since her divorce after her
previous marriage. He tells her “what was required of her.” She says that she was
ignorant of the requirement. He divorces her, apparently surprised by her confession.

The judge is then told that Muḥammad, even before his marriage, was aware of
the possibility that the requirements of ‘idda were not being fulfilled. During his
courtship, he had requested of a male intermediary, who in turn requested of his wife, that
she educate the potential fiancée about the rules of ‘idda.

Muḥammad testified . . . that he had addressed Ḥājj Ḥaḍḍūr . . . to propose marriage between
himself and Fāṭima b. Muḥammad b. Najjūma, and Muḥammad said to him: “Tell her to fear
almighty God, her Lord, and to wait by herself until her ‘idda is completed. Inform her that if she
is of the sort who sees blood, then [she must do so] three times. If she does not see [blood], then
[the ‘idda] is three full months. She is not permitted to marry or to become engaged until after
what I told you. Warn her against doing what she did with the Fāsī who proposed to her, when she
decided to contract the marriage with him prior to the end of her ‘idda.”

. . . Umm Qāsim, the wife of Ḥājj Ḥaḍḍūr, met with Fāṭima b. Muḥammad Ibn Najjūma to inform
her of all that Muḥammad b. Aḥmad mentioned above. [Umm Qāsim said that] she said all of this
and informed her of it, and that Fāṭima told her that her ‘idda had been completed, and that she
had seen blood three times since her divorce from her first husband.

Muḥammad warns Ḥājj Ḥaḍḍūr to warn Fāṭima to keep to herself and not to do what she
did in the past, which was to become engaged to a man (the Fezi, who may or may not
have been her previous husband ‘Alī) before she had completed her ‘idda. It seems that
Fāṭima has a history of attempting to enter into marriages before she has completed her

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123 Ibn Rushd, Fatāwā Ibn Rushd (Beirut: Dār al-Gharb al-Islāmī, 1987), 2: 1085-7 and Ahmad ibn Yahyä
al-Wansharīsī, al-Mi’yär al-mu’rib wal-jāmi’ al-mughrib ‘an fatāwā ahl Ifrīqiyā wa’l-Andalus wa’l-
‘idda. Throughout this history Fāṭima is frequently informed by others about the laws of ‘idda and yet she maintains that she was ignorant of what she is supposed to do.

. . . The husband seeks to take back the dower, but the woman is keeping it. She claims ignorance, but the husband has female witnesses saying that they informed her of what he said verbatim, and that the matter had been clarified to her during her ‘idda from the first husband, which incidentally, according to one of them, was the second time [they had done so?]. The husband says that with this clarification, there is no possibility of her being ignorant . . .

The answer:
. . . It has not been confirmed what the Ḥājjī’s wife said about124 her: I.e. that [Fāṭima] said – when [Umm Qāsim] informed her that the ‘idda is three menses, and warned her against marrying before its completion – that [Fāṭima] then said that her ‘idda had been completed and that she has seen blood three times since her divorce from her first husband. My view is that since [a] she denies that she was informed that the ‘idda is three menses, and she was not informed of that, and
[b] she married only because she thought her ‘idda from her first husband had been completed, and
[c] since she denies this within the limits of the law she is not required to return any part of the dower to him. But if she refuses to swear, she does not receive from him anything except the price of her vulva,125 and the rest returns to him . . .

Everyone in the story assumes that Fāṭima must be confused about the rules of ‘idda, at least initially. Her husband-to-be assumes that Fāṭima must be warned to keep to herself until she menstruates three times, and that she needed to be enlightened by Ḥājj Ḥaḍḍūr. Umm Qāsim makes the same assumption. The other women affirm that they explained everything to her not once, but twice. Finally, the muftī seems to agree that there is room for ignorance here. There seems to be something truly complicated about the law of ‘idda in this case such that it would make sense for the men and women involved to check and double-check the situation.

In David Powers’ analysis of this case, he maintains that Fāṭima’s failure to comply with the laws of ‘idda is motivated by selfishness, and that her claim of ignorance of those laws is obviously false. However, the most plausible way of accounting for the

124 There are a number of textual variants among the manuscripts in this section. It might say “to her” or “about her.”
125 On the use of this phrase see Kecia Ali, Marriage and Slavery in Early Islam, 151.
actions of all the people mentioned in the legal document is to take seriously the fact that Fāṭima’s menstrual cycles were infrequent ("her blood was delayed") and that this means that when Muḥammad instructed her, by way of Ḥājj Ḥaḍḍūr and Umm Qāsim that “if she is of the sort who sees blood, then [she must do so] three times. If she does not see [blood], then [the ‘idda] is three full months” (the language here is mostly Qur’ānic), Fāṭima’s status really was potentially ambiguous. The complicated nature of the situation seems to stem in part of from the legal dichotomy differentiating between those who menstruate and those who do not. Fāṭima believed she fell into the category of those who do not menstruate, and so she thought her ‘idda ought to be calculated as three months long. The point of contention between the parties to the lawsuit is not whether Fāṭima knew that she was not allowed to marry during her ‘idda. She was not ignorant of that. She says that “she only married someone thinking that her ‘idda from her first husband had been completed” but, she claims, she never said that she had “seen blood three times” and did not know that she had to. The point of contention is whether Fāṭima knew that she still fell into the category of the regularly menstruating woman, regardless of her condition. This, according to Fāṭima and Qādī ‘Iyāḍ, she could plausibly claim not to know. She did not know that a woman with oligomenorrhea such as herself had to see blood three times, rather than simply wait the three months. Muḥammad and the other witnesses, for their part, testify that they explained the laws of ‘idda many times and that she must thus have known that she was in the category of women who must calculate their ‘idda by menstrual cycles.

This situation was further complicated by the semi-public and semi-private nature of menstruation, at least in this particular community. This attitude toward menstruation
can be inferred from details from the *fatwā*. Prior to the marriage, it seems that Fāṭima was publicly known to have a menstrual problem—hence the women’s repeated counseling of her regarding the laws of *‘idda* and Muḥammad’s warning that he knows about her and the Fāsī. So, in this community, there is a public dimension to menstruation. But there is also a private dimension to menstruation, hence the public’s ignorance of the fact that Fāṭima had menstruated only twice since her most recent divorce. The public aspect of menstruation might have been somewhat obscured by the legal requirement that a woman remain at home during her *‘idda* period. Muḥammad’s message to Fāṭima at the time of the proposal includes the caution to keep to herself, indicating that this theoretical requirement was expected (by at least some) in this community to be put into practice. This would account for the fact that no one is sure how many times Fāṭima menstruated until she supplies the information herself.

So, at the time of her relationship with the Fāsī, Fāṭima was known to have a menstrual problem, but for some reason at the time of Muḥammad’s marriage both the women witnesses and Muḥammad believed that the danger was past and, perhaps, so did Fāṭima. There are at least two scenarios in which this could happen. Perhaps at the time of her engagement to the Fāsī, Fāṭima had not experienced menstruation at all, or had only menstruated once and then stopped, and so the public image of Fāṭima was as someone who had amenorrhea. Once she menstruated again, it was mistakenly believed

One could make the argument that the public knew nothing about her menses at the time of the Fāsī relationship, and that they knew she had not completed her *‘idda* simply because not enough time had elapsed, e.g. she had been divorced only one or two months prior. However, if that were the case, then Muḥammad’s concerns would have been allayed with the passage of time. Given his concerned behavior at the time of his own engagement, one would have to argue that Muḥammad and the women’s concerns shifted from counting time to counting menses, and it just so happened Fāṭima had a menstrual problem too. This strikes me as a plausible, if not the most likely, scenario.
that she was now having regular cycles. Only once Muḥammad and Fāṭima had been married for a while did it become clear that this was not the case.

Alternatively, at the time of her engagement to the Fāsī, Fāṭima had menstruated twice, and so the public image of Fāṭima was of a person who had regular, though long, cycles. By the time Muḥammad proposed, he and the women thought that a sufficient interval had elapsed for her to have completed three cycles, and so they then did their due diligence and were satisfied when she affirmed that she had completed her ‘idda.

Meanwhile, Fāṭima believed that since she was no longer seeing blood she simply had to wait three more months. Only once she was married did it become clear to Muḥammad that his wife did not have predictable menses. In either case the misunderstanding, deliberate or feigned, came to light only once the husband realized his wife menstruates only intermittently instead of having cycles and he chose to ask her how many times she had menstruated prior to her marriage.

In his article about this case, David Powers concludes that it showcases a woman craftily using faux-naïveté to manipulate the judicial system. However, a more straightforward analysis of the fatwā – especially when read together with the laws of menopause and with Ibn Taymīya’s fatwās – suggests that the confusion,

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127 D. Powers, “Women and Divorce in the Islamic West: Three Cases,” *Hawwa* 1 (2003), 29-45. Powers’ analysis leaves out the vital piece of information that the wife has delayed menses. He argues, “Clearly knowledgeable about the rules of marriage and divorce, Fāṭima manipulated these rules, apparently for the purpose of lining her pockets with dinārs and dirhams. She used her knowledge of the law to deceive not one but two husbands, in succession. Ironically, she defended her action with the claim – surely disingenuous – that she was ignorant of the law. The strategy appears to have worked.” He also suggests that, in addition to being motivated by greed, “Fāṭima may have had other motives, e.g., to extricate herself from a marriage that had been forced upon her by her marriage guardian, fear of pregnancy, or hatred of men.” Powers’ only evidence for his claim that Fāṭima is “clearly knowledgeable” is that she appears to avoid losing the lawsuit. There is no evidence that she wanted either divorce. If her purpose was to avoid marriage to this husband or to avoid pregnancy in general, it seems that by merely disclosing her menstrual state she could have avoided both.
miscommunication, and frustrations experienced by Fāṭima and Muḥammad make sense within the context of the application of the laws of ‘idda for those with disrupted menstrual cycles. As previously mentioned, since more than half of infertile women experience such menstrual disruptions, medieval infertile women would be more likely than others to suffer from this frustrating legal situation, making it more difficult for them to conclude a divorce and to initiate a remarriage.

The Extended ‘idda as a Potential Boon to a Woman

Medieval jurists, especially Mālikī ones, as well as 19th-century French colonial administrators and 20th-century anthropologists, recognized that the extended ‘idda could potentially be beneficial both to divorcées and to widows. This is so in situations when the former wife uses her extended ‘idda to retain the rights due to her from her former husband. Two writings from Ibn Rushd al-Jadd (d. 520/1126) illustrate this point. In a fatwā, he writes in response to the case of a woman whose husband divorced her. As legally required, she lived in her husband’s house during her ‘idda. After some time, when the “‘idda for one such as her ended,” the husband attempted to evict her from the house, at which point she declared that she was pregnant and her husband claimed that she was lying. In Ibn Rushd’s Bayān wa ‘l-taḥṣīl, he addresses another case, in which a woman who was divorced while she was still breastfeeding, and whose ex-husband died some unspecified time later, seeks to inherit from him as a widow, on the grounds that she never menstruated after her divorce, either when she was breastfeeding or after she finished breastfeeding.128

Ibn Rushd was asked from Badajoz about a woman whose husband divorced her, and she observed her ‘idda in the house in which she had been divorced. Her ‘idda for one such as her

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ended and the husband, wanting to remove her from his house, told her that her ʿidda had already ended. She declared that she was pregnant, in [the house], while her husband claimed she was lying and he wishes her to be examined by women. Must she swear that she suspects she is pregnant or not?

Answer: I have pondered the question and lingered over it. If she declared this after four months or so, she is to be believed without an oath. If she declared this after six months or so, she is believed so long as she swears. There is disagreement if she declared this near to the end of the year and some say that she should be believed so long as she swears, while others say that she is not to be believed unless there was rumor of this before that. And if she declares this after the year has ended she is not to be believed unless the women examine her and corroborate what she declared. That is what pertains to this question from the perspective of the madhhab of Ibn al-Qāsim in the ʿUṭbiya and Ibn al-Mawwāz.129

In this first case, a divorced woman argues that she is still in her ʿidda by virtue of suspecting that she is pregnant, and as a result she still has a right to lodgings paid for by her ex-husband. Her ex-husband denies that there is reason to believe that she is pregnant and wishes the matter to be settled by female experts, while the court wishes her to swear an oath. Nowhere in either the question or the answer is it explicitly stated what indications the woman has that she is pregnant. Mostly likely it is the absence of menses but, particularly in North Africa, menstruation was still considered compatible with pregnancy.130

In the Bayān waʾl-taḥṣīl Ibn Rushd addresses what appears to be a similar situation, if more complicated, since the woman was divorced while breastfeeding and, now, sometime later, seeks to inherit from her now deceased ex-husband. The query asks for a response both in the case where the divorcée is still breastfeeding and in the case where she is not. The divorcée argues that she is still in her ʿidda because, so she claims, she had not menstruated since her divorce.

[Quoting the ʿUṭbiya:] He said, regarding a woman who is not breastfeeding: she is believed until one year has elapsed, whether or not she mentioned this before, and she must swear to it – unless there is a rumor about her that she has menstruated three times. Regarding one who breastfeeds: she is trusted until her child is weaned and for one year after the weaning.

130 E.g. al-Wansharīsī, al-Mīʾyār al-muʾrib, 4:524.
Muḥammad ibn Rushd said: In regards to his statement “regarding a woman who is not breastfeeding, she is believed until one year has elapsed”: He means that with her oath she is believed that she has not menstruated in the past year, and so she inherits. But she is not believed if a year has elapsed, and she then seeks the inheritance, [only then] alleging that her 'idda has not ended because there is a sensation present in her womb – until the women examine her and corroborate her statement... A proof text of this is the narrative in which Ibn al-'Aṭṭār argued that a divorcée – if a year has elapsed and she claims that she suspects herself [to be pregnant] – should be examined by women and if they see in her something suspicious, she remains in her lodgings from that time until five years [have elapsed]. If it then continues, but she swears that she is not menstruating at the present time, it is not considered true [that she is pregnant]. But regarding disagreement when it has been less than one year, then she is believed without women examining her.

Regarding his statement “whether or not she mentioned this”: this means whether or not it was mentioned during the lifetime of the husband that her menses had stopped, and in either case she is believed so long as she swears to it. But according to the book of Ibn al-Mawwāz, she is not believed such that she would get the inheritance, unless it was mentioned during his lifetime and it was acknowledged by both of them prior to his death. Similarly, if she declared close to the end of the expected time132 that she had not completed the three menses, then she is believed. But if she did not mention it during his lifetime then, even with an oath, according to this view she is not to be believed.

According to what is in Muḥammad’s [Ibn Ṣaḥnūn’s] book, unless she mentioned it during his lifetime, even if she declared it after [only] four months, she must not be believed unless she swears an oath. And if she mentioned it after six months or so, she must not be believed even with an oath. And if she did not mention it, but rather she declared it after the death of her husband, more than a year or two later saying that she had not completed the three menses because her menses are delayed, she must certainly not be believed, unless she mentioned it during his lifetime at least once.

And this is the sum of the matter for me in regards to this question, if there is no oath... and in the situation where she is not to be believed she should be examined by women.133

According to Ibn Rushd then, a divorcée whose ex-husband dies within one year of her having ceased to breastfeed, can inherit from him so long as she makes the claim that she has not menstruated and suspects herself of being pregnant by him. Ibn Rushd indicates that there is some disagreement within the school as to whether the husband had to be informed of her lack of menstruation in order for her to inherit. However, if she was not menstruating (and hence, not currently fertile) then she would inherit, even without external confirmation that this was due to pregnancy. If she were to receive such

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131 The language used here for suspicion of pregnancy is mustarāba and rība. This idiom is also used elsewhere in Ibn Rushd’s writings in regard to a woman who claims to be pregnant while her ex-husband denies it. E.g. al-Wansharīsī, al-Mi’yār al-muʿrib, 4: 482. The term also appears in the Mi’yār in at least one place where it is not attributed to Ibn Rushd. See al-Mi’yār al-muʿrib, 4: 524 and 5: 56.

132 In the printed edition, this is vocalized as insilākh al-sunna, which I have interpreted to mean the end of the legally expected 'idda, i.e. approximately three months. It would also be reasonable to read this phrase as insilākh al-sana, i.e. the end of the year.

133 Ibn Rushd, al-Bayān wa 'l-taḥṣīl, 5: 419.
confirmation through women’s examinations then, on the basis of Ibn al-‘Aṭṭār’s views, she could claim lodging for up to five years. Only after five years post-weaning would she be removed from her lodgings. The practical upshot of Ibn Rushd’s argument is that if a woman makes it known to her ex-husband within four or six months of divorcing that she has not completed three menstrual cycles, then she may claim the benefits due to a pregnant woman without any external corroboration, though she may or may not need to swear an oath as to her status. It is not clear whether this oath is about her menstrual status or her pregnancy, or whether those were considered to be one and the same. If a year or more has elapsed since her divorce, her claim to be experiencing amenorrhea or pregnancy is not rejected outright as impossible, but rather it is subjected to a higher standard of proof. The more expediently timed the woman’s claims are, the higher the burden of proof required to substantiate them. That proof however, need not be the eventual birth of a child, but rather testimony from expert women that the ex-wife has a symptom of pregnancy.

Particularly in North Africa, the testimony of midwives could have enough force to compel men to maintain their ex-wives for years. In Morocco, midwives were responsible for diagnosing the condition known as the “sleeping fetus”, the ṛāqid. In Moroccan lore, a fetus could go into a state of hibernation, and thus gestate for up to five years. The ṛāqid is well known as an instrument for protecting the reputation of women who birth children at inconvenient moments, moments that would indicate that they conceived when they were unmarried or their husbands were not present to impregnate them. However, the notion of ṛāqid protects not only women with awkwardly-timed pregnancies, but also women who do not appear to be pregnant at all. Multiple medieval
fatāwa which reference extended gestations do not refer to situations in which the paternity and circumstances of the conception of a baby are in question, but rather to a situation in which a woman claims to be pregnant despite not yet producing a baby. Until recently, the rāqid was understood by Europeans working in Morocco as primarily a coping mechanism for infertile women. Writing in reference to late nineteenth and early twentieth-century Morocco Ellen Amster writes:

The rāqid prevented unilateral divorce (jalāq), because according to the Qur’an, a man cannot divorce a pregnant wife before she gives birth, after which he owes here two years of maintenance for breast-feeding. A divorced woman could thus receive up to five years of maintenance by claiming a rāqid pregnancy; and a widow could delay the division of her husband’s succession by declaring herself pregnant at his funeral; any child born within the five-year delay period would consequently inherit. Shari’a and Berber customary courts left the diagnosis of the rāqid to the woman herself, her mother, or a midwife . . . In the Morocco of the twentieth century, French physicians were incredulous that shari’a judges could believe such a “physiological absurdity.” Doctors saw the rāqid as a woman’s ruse to avoid divorce, and Dr. Delanoë commented wryly, “Every sterile woman claims to have [sleeping child].”

Amster goes on to show that French doctors and the French legal system were seen as instrumental in upholding the prerogatives of living ex-husbands and the kin of deceased ex-husbands, who denied that their ex-wives and ex-in-laws were pregnant. The shari’a and customary courts were perceived as being more protective of the rights of such of women, and especially their right to lodging during the ‘idda.

It should be noted that while the concept of the sleeping fetus is most commonly associated with Morocco, the notion that a fetus could gestate beyond one year is found in sources from Medina and is acknowledged by not only the Mālikī school, but also by

135 By the late-twentieth century, it had re-emerged as a way of coping with the pregnancies of North African women whose husbands were living in Europe as migrant workers.
136 F. Legey, The Folklore of Morocco, tr. Lucy Holtz. (London: Unwin, 1935), 105-106: “A barren woman will never admit her sterility. She believes that she has conceived, and that her pregnancy is delayed by a spell . . . she imagines that she was pregnant, and the child fell asleep . . . she then abandons herself to certain practices in order to wake it up . . . It is also thought that if this magic medicine does not wake up the child, it will facilitate its expulsion, and that the woman will then conceive normally.”
the other three Sunni schools, with the Hanafis having the most narrowly defined limits of possible gestation, setting it at two years. In a remarkable account of his family life, a Cairene ‘alim Burhān al-Dīn Ibrāhīm al-Biqā’ī (d. 885/1480) describes his concubine’s nine-year-long pregnancy with his much-anticipated child. He mentions that a rival wife and some acquaintances scoff at the concubine’s claim, but al-Biqā’ī claims his experience has the support of both medical authors and of female midwives who have periodically examined the “pregnant” woman. Coulson notes that in modern Egypt too, efforts to reform the legal code along more European lines included provisions to protect ex-husbands from the demands of an extended ‘idda on the basis of long gestations.

Conclusion

The legal literature points to several legal-medical-social factors which must have made it extremely difficult to manage expectations of fertility and diagnoses of infertility. For many women, the first marriage occurred when they were likely to be experiencing

138 See al-Sarakhsī al-Mabsūṭ. 4: 45. Ibn Rushd the grandson takes exception to the notion of long gestations. He writes, “They disagreed about the longest period of pregnancy through which the father can be associated with the child. Mālik said that it is five years, while some of his disciples said it is seven. Al-Shāfi’ī said that it is four years. The Kūfīs said it is two years. Muḥammad ibn al-Hakam said it is a year. Dāwūd said it is six months. This counting is based on practice and experience. The opinions of Ibn ‘Abd al-Hakam and the Zāhirites are closer to the normal. The rule should be based upon what is normal, not upon what is rare, which would, perhaps, be impossible.” Translation from Imran Ahsan Khan Nyazee, The Distinguished Jurist’s Primer: A Translation of Bidāyat al-Mujtahid (Reading: Garnet, 2000), 2: 433.

139 al-Biqā’ī, Izhār al-‘āsr li-asrār ahl al-‘āsr (Riyadh: n.p., 1993) 3: 43-4. Here both the “mother” and the “father” appear to be motivated in part by animus toward one of his wives and her child. See. L. Guo, “Tales of a Medieval Cairene Harem: Domestic Life in al-Biqā’ī’s Autobiographical Chronicle,” Mamluk Studies Review 9 (2005), 111. Interestingly, in addition to experiencing food cravings, the woman’s main form of signaling her pregnant status is by attempting and failing to complete the Ramāḍān fast. Al-Biqā’ī notes her attempts to fast and her becoming overcome by dizziness by noon, despite her self-care. Al-Biqā’ī further claims that after failing to fast during Ramāḍān for two years in a row, the woman made up the fasts over the course of another two months, as religiously required, and both he and she engaged in other forms of expiation for her failure to fast. It may be worth investigating whether prematurely breaking the fast was considered to be a quintessential form of pregnancy signaling, in the way that avoiding alcohol in social situations or vomiting unexpectedly is in American culture.

140 Coulson, A History of Islamic Law, 176.
adolescent sub-fecundity. Divorce could occur in situations where, in order to prolong the ‘idda, or to shorten it, it could be in a woman’s interest to claim she was not menstruating or that she was pregnant when she was not, or that she was menstruating when she was not. The laws of ‘idda could therefore be used to alleviate the practical harm that might befall an infertile divorcée by masking her situation. Whether these laws created a situation where pathological infertility was under or over-diagnosed is difficult to determine with any certainty. 141

III. Women’s Testimony, Privacy, and Expertise

One of the striking aspects of the above descriptions of female maturity, menstruation, and pregnancy, is the extent to which information about women’s statuses could remain private, at least in some communities. This is somewhat surprising given the close quarters in which people lived, the significance of menarche for women’s legal and ritual identities, and the importance of purification after menstruation for all kinds of ritual activities. All of the above-mentioned legal cases from North Africa and al-Andalus, and many of the theoretical questions addressed in legal manuals indicate that, in many places, it was possible for no one but the woman herself to be aware whether she was currently experiencing regular menstrual cycles. For example, the Mi’yār includes

141 A variation on this theme is alluded to in a 9th/15th century slave-buying guide: “If a slavegirl declares that she is not mature, do not trust her statement in this regard, whether it is [a claim to be] younger or older. For a slavegirl might have entered puberty while subject to a man, but has concealed it due to her desire for a child, so that she might be freed from the bondage of slavery. Many slavegirls pretend to be infertile to deceive their owners. Therefore, whoever wishes to sell a slavegirl should display her for sale only while she is menstruating.” Maḥmūd b. Aḥmad al-ʿAyntābī, al-Qawl al-sadīd fī ikhtiyār al-imā’ wa l-ābīd (Beirut: Mu’assasat al-Risāla, 1996), 38. The implication here seems to be that a girl might begin as a slave prior to reaching a physical stage where she would appear to be fertile, and her master has sexual relations with her thinking that he does not risk begetting a child because his slave is either too immature or is otherwise infertile. The slavegirl secretly hopes to conceive so as to be eventually freed upon the death of her child’s father, but finds it necessary to conceal her fertility at the point of sale, which would be nullified if she succeeded in giving birth to her previous master’s child.
many cases where no one but a girl herself is aware whether she has reached menarche.\textsuperscript{142} It also includes several cases in which a husband is surprised to find that his new wife is physically immature, and this is particularly true in the case of fatherless brides.\textsuperscript{143} Sometimes this in and of itself causes a legal problem,\textsuperscript{144} but in other cases this fact becomes an issue not because it is at the heart of a dispute but rather because it is a useful counterclaim. For example, a fatherless girl with a seemingly unscrupulous uncle is married off “when she was not even close to maturity” and dies in that state.\textsuperscript{145} Her relatives sue for her estate on the grounds of her minority, and her husband sues on the grounds that he thought she was mature.\textsuperscript{146} Sometimes the bride herself seems to be pretending to be more mature than she is, and at other times the husband disputes with the bride’s family and claims that she is in fact mature enough to endure sexual relations, while they claim that she is not.\textsuperscript{147} We even have a case in which both occur: a fatherless girl being raised by her kin is married off, and then, at the point of consummation she tells her husband that she has not reached puberty (\textit{bulūgh}), and he divorces her on the spot. He later regrets his decision because she is in need, but is told she cannot remarry until she can prove puberty. Then the girl announces that she has reached puberty and

\textsuperscript{143} For a summary of the legal ramifications of marrying off fatherless brides see Yazbak “Minor Marriages and Khiyār al-Bulūgh in Ottoman Palestine,” 392-3.
\textsuperscript{144} E.g. Ibn Rushd, \textit{Fatāwa}, 294.
\textsuperscript{146} It should be noted here that numerous \textit{fatwās} in al-Wansharīsī’s \textit{al-Mī‘yār al-mu‘rib} indicate that, while a father could marry off a virgin daughter who had not yet reached menarche, the jurists and Maghribi/Andalusi society in general were scrupulous about waiting to marry off a fatherless girl until she either reached menarche or displayed some other sign of pubescence. As the \textit{fatwās} show, at times these measures protected girls from exploitation and sexual trauma and at other times orphan girls deliberately tried to pretend to be older in order to marry and save themselves from deprivation. Some Mālikī sources specifically list not menarche, but rather being physically tall enough to birth a child, as the minimum developmental requirement for a virgin orphan girl to marry. Ibn Abī Zayd al-Qayrawānī, \textit{Kitāb al-Nawādir wa l-ziyādāt} (Dār al-Gharb al-Islāmī, 1999), 4: 398.
“proves officially” to some unspecified powers-that-be that she shows breast-budding, which is a sign of maturity. The couple then remarry but at around the time of consummation she begins to “hate” him, and then tells him that she is has not reached puberty and flees. He denies her claim of immaturity. Both sides then each bring a “bayīna” who offer competing expert opinions about whether the girl shows signs of breast-budding.148

Menstruation or lack thereof in the wake of a divorce or death also seems to have been a largely private matter in many places. As noted above, in the case of the woman whose husband divorced her after realizing that she had not menstruated thrice after her previous divorce, everyone in the case, including the woman who advises the wife, is unaware of how many times she has menstruated, though they suspect that there is a problem. Judith Tucker comes to a similar conclusion in her analysis of a case before a seventeenth century Ḥanafī judge in Damascus, in which a wife claims to have menstruated three times before entering her second marriage, while her second husband accuses her of lying. The judge affirms that her oath in this matter is accepted and the marriage is valid. Tucker writes: “A woman was empowered, within the limits of the feasible, to define her own waiting period, and it was her word, not that of her husband or others, that determined when the waiting period ended. A woman who was known to have irregular menstrual periods, for example, could also testify to the completion of three menstrual cycles, and her testimony would be accepted, so long as a reasonable period of time had passed.” 149 The writings by Ibn Rushd about whether to believe

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149 J. Tucker, In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine (Berkeley: University of California Press, 2003), 170.
claims about the presence of a sleeping fetus also indicate that at least for the first few months, a woman’s word was believed without any external check, unless there was a “rumor” to the contrary.

Midwives and similar experts do appear to have a role in this system, but it seems that their presence was not always thought desirable or welcome in the initial stages of a dispute. Midwives do seem to be brought in to confirm the presence of genital defects and injuries to the genitals, as well as female claims of male impotence, but this was not uncontroversial. Al-Wanshārīsī quotes a question posed to the Cordovan qādī Ibn Dhakwān (d. 451/1059) about a man who accuses his wife of having a condition known as ratq, which is most probably an imperforate hymen. The qādī consults with the Cordovan mufti Ibn ‘Attāb (d. 462/1069) who responds that in accordance with Saḥnun, the woman should be examined by other women. However, he notes that his fellow Cordovan muftī Ibn al-Qaṭṭān (d. 460/1068) rules that other women should not be examining her.¹⁵⁰ This latter opinion is consistence with Mālikī modesty regulations, as depicted in the previous chapter. In addition to the modesty concern, there were other objections to the testimonies of expert women. When it came to issues of paternity, there was a general reluctance to accept female testimony that could not be corroborated by a man, on the grounds that women’s testimony was insufficient in most criminal

cases. There are also several references to midwives testifying that a divorcée or widow is pregnant but who are then shown to be lying or mistaken. Here is such a case:

Sīdī ‘Abdallah al-'Abdūsī was asked about a woman whose husband had died, and she said she was pregnant. Some midwives knowledgeable about such matters probed her womb and said it was inhabited. She remained like that for longer than the period of the 'idda, i.e. the 'idda of the widow. Then she wanted to marry [again] and her case was brought to the qāḍī al-Ḥaṣan. She said that her womb showed no indication of what she had previously declared, and that she had menstruated twice in one month. The qāḍī ordered the knowledgeable midwives to probe her womb and they said, "To us, nothing which we saw at first appears to be in her womb now." Then the qāḍī ordered it be testified to and [some males] testified to what the woman and the midwives had said. Then she married and consummated the marriage and remained with her husband for about six months. Then she said, "I appear to be pregnant and it is from my deceased husband." Her husband hit her and divorced her via khul’ and she remained so for about one month. Then the husband took her back, and she remained another eleven months and then gave birth. She said, "he is the offspring of my first husband." It was said to her, "did you not then marry while you were pregnant?" She said, "I feared for myself from the Arab who asked me to marry him, and for my money, because it is their custom to marry a woman to get her money." Then some of the people said to her husband: "Make her swear that the child is that of the first (husband) and leave her and her child, even if it your son." So he made her swear and divorced her via khul’ and reconciled(?) with the child. After this some of the people said to him, "the child is yours, notwithstanding the woman’s vow." So now he seeks his son, but the relatives of the dead [first husband] are preventing him, saying "he is the son of our dead brother." Clarify for us who the son belongs to . . ..

This case hints at several complicating factors which, without more detail, we cannot entirely confirm. Yet certain elements are clear: soon after becoming widowed the widow decided that it was in her interest to be considered bound via pregnancy to her deceased husband. But then she wanted to marry again, at which point she no longer claimed to be

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151 A. Giladi, *Muslim Midwives: The Craft of Birthing in the Premodern Middle East* New York: Cambridge University Press, 2015), 113-132. In a Jewish *istiťā‘* from eleventh-century Iraq addressed to Hayy Gaon, a husband being sued for divorce voices his disdain for midwives this way: “What does our master, the Head of the Yeshiva, say in the matter of a man who married a virgin and lived with her for about two years, and afterwards brought him to court saying that he is impotent. She claims that she is still a virgin, while he says, ‘I penetrated her and deflowered her [lit: I brought out the blood of virginity] at the time of the wedding.’ She denies it and says, ‘Bring women who are midwives to me to check me, and they shall find that I am a virgin.’ He says, ‘She hates me and has set her sights on another man. I do not consider the words of midwives, and they cannot be trusted to the extent that they would make me lose, such that I would have to pay out the ketubah. For this is like witnessing, and women are unfit for witnessing.’” My translation of the medieval Hebrew translation of an only partially extant Judeo-Arabic original. Hebrew in *Otsar ha-ge‘onim* ed. B. Lewin (Jerusalem: Hebrew University, 1928), 7: 148. Discussion and Arabic fragment in M. Friedman, *Ribui nashim bi-yisrael = Jewish Polygyny in the Middle Ages* Jewish Polygyny in the Middle Ages (Jerusalem: Mossad Bialik, 1986), 169 ff.


153 Four months and ten days.

pregnant. Six months into the second marriage, which was at least 11 months after the death of the first husband, the wife announced that she is in fact gestating the first husband’s child. This led to a *khul’* divorce, followed by a reconciliation followed by the birth of a child eleven months after the reconciliation, and thus at least 22 months (if not much later) after the death of the first husband. Throughout this, the midwives’ testimonies confirmed the wife’s own perceptions of the matter. And, throughout this saga, the wife clearly wished to be perceived as fertile. Her reasons for this seem to be, ironically, to avoid the entanglements of another marriage. First she dissuades suitors by claiming to be pregnant by her deceased husband, but then decides she had best remarry. If her statement about fearing for own safety is to be believed, she remarried because she thought it would protect her from the advances of other suitors whom she perceived as being a threat. Yet she clearly had mixed feelings about her second marriage, persuading her husband to divorce her, twice, by claiming to be pregnant with another man’s child. Here the impetus for claiming an extended *‘idda* seems to be primarily that it gave her the space to be practically independent, by virtue of tying her to a dead husband rather than a living one.

IV. Marriage Annulment Due to Genital Defects and Infertility

The two primary means of dissolving a marriage are divorce, either via *talāq* (male-initiated repudiation) or via *khul’* (in which the wife buys herself out of the marriage). Annulment is a lesser-used means of ending a marriage, and one subset of annulments is known as *tafrīq lil-‘ayb* (separation due to defect), *radd* (return) or *faskh*
In medieval manuals and *fatāwā*, these terms are often used interchangeably.\(^{155}\) Annulment is established by the *qāḍī* rather than the couple. In all cases a husband could choose to end a marriage via divorce rather than annulment-due-to-defect, and a wife could seek out a *khul’* arrangement instead of an annulment. However, annulment has practical advantages in particular cases. By asking a judge to annul his marriage, a man could sometimes avoid paying for the maintenance of his former wife during the ‘*idda* waiting period that followed a divorce.\(^{157}\) He could also avoid paying a divorce gift\(^ {158}\) and possibly (although not usually) he could also avoid paying the delayed portion of the *mahr*.\(^ {159}\) A *khul’* divorce might serve the same financial function and it is thought, for that reason, that *khul’* was a common form of marriage dissolution. If the marriage ends through *khul’* rather than *talāq*, the wife, with her husband’s consent, buys herself out of the marriage by either forfeiting the money the husband already owes her or otherwise compensating her husband. If the husband wants to end the marriage and can pressure his wife into officially initiating that end, he stands to save himself money.\(^ {160}\) That means that, from the wife’s perspective, a key advantage of an annulment over other types of marriage dissolution is that a marriage ended by

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\(^{155}\) Other forms of marriage nullification were based on illicit relationships, such as incestuous marriages or marriages to a woman still married to another man.

\(^{156}\) There are instances, however, where *radd* refers to a dissolution via *talāq*.


\(^{159}\) Consider, for example, the above-mentioned case from the Druze Court of Beirut in Layish, *Marriage, Divorce and Succession in the Druze Family*, 205. See also Ibn Hazm, *al-Muhalla* (Cairo: Idārat al-Ṭibā’a al-Mumrīya, 1928), 10: 112-114, which discusses partial restitution of the *ṣadāq* to the husband.

\(^{160}\) Rapoport, *Marriage, Money, and Divorce*, 72.
judicial decree can circumvent a husband who is reluctant to divorce, or who is pressing his wife into a financially exploitative khul’ divorce.\textsuperscript{161}

The jurists identified the defects that could serve as grounds to nullify a marriage as based either on specific hadīths about marriage which list particular grounds, or on the analogy between marriage contracts and sales contracts. There was a debate as to whether annulment was based on revelation (of specifically listed defects) or reason. However, both in discussions where hadīths are invoked as proof texts, and in discussions which seek to ground marriage invalidation in analogies based on commercial transaction invalidation, the ‘ulamā’ also invoke their own logic to blunt or negate the force of the proof texts. Regardless, however, of which avenue of proof the jurists pursued, there was a marked tendency to limit the sphere in which annulments could be made on the basis of defects. Thus Ibn Rushd (d. 595/1198), in his Bidāyat al-mujtahid, points out that while contracts of sale and contracts of marriage are similar up until the point of the consummation of the marriage, there are significant differences when defects are found after the consummation of the marriage. Moreover, he says, whereas in a sale any defect

\begin{footnotesize}
\textsuperscript{161}E.g. Ibn Rushd al-jadd was asked about a man who consummated marriage with his virgin wife and then, for the next eleven months, “harmed her” in a way which insults women, which Ibn Rushd understands to mean that he did not have sexual relations with her since the consummation. The wife “cannot stand him” and the man refuses to divorce her unless she gives him everything she owns. Ibn Rushd tells the court to warn the man that he has one year to have relations with his wife and if he does not by the end of that time, the court will end the marriage by decree and the wife will owe the husband nothing. Ibn Rushd, Fatāwā Ibn Rushd, 1: 185. A similar form of extortion is mentioned in another fatwā, but in that case the wife capitulates to the demand and then sues afterward. Ibid., 2: 952. Cf. al-Wansharīṣī, al-Mī’yār al-mu’rib, 4: 141. The Mālikī treatise al-Nawādir wa l-ziyādāt includes a chapter on husbands who become aware of a defect in their ex-wives following a ṭalāq divorce and attempt to retroactively convert it into an annulment, and on wives who become aware of a defect in their ex-husbands following a khul’ divorce and attempt to do the same thing. Ibn Abī Zayd al-Qayrawānī, Kitāb al-Nawādir wa l-ziyādāt 4: 536.
\end{footnotesize}
may be grounds to rescind the contract, there exists a “unanimity of the Muslims on the point that not every defect can lead to the nullification of marriage.”

**Can Female Infertility or Male Sterility by Itself be Considered a Defect?**

Almost all Sunnī legal discussions of whether infertility is a defect -- which constitutes grounds for the non-sterile spouse to nullify a marriage – have a uniform conclusion across the legal schools until the modern period: female infertility is *not considered to be such a condition.*

There is slightly more debate as to whether that is true for infertile husbands married to potentially fertile wives, with Ibn Taymīya representing the minority medieval opinion that a woman may have a legal right to procreative sex.

**Statements in Favor of Permitting khiyār (Choice to Annul) in Cases of Infertility**

Arguments in favor of including infertility as a defect permitting the choice to annul a marriage are quite rare in Sunnī legal literature. The above-mentioned instruction from ‘Umar b. al-Khaṭṭāb to the sterile man to “inform her, then give her the choice” is widely cited in medieval legal literature, though it is then almost uniformly circumvented using the argument that it is impossible to determine with certainty that a man really is sterile. Ḥasan al-Baṣrī (d. 110/728) is reported to have held the view that infertility in

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164 This generalization about the literature is also confirmed in Vardit Rispler-Chaim, “Hasan Murād Mannā: Childbearing and the Rights of a Wife,” 95-6. However, in 1995, a Saudi muftī, citing ‘Umar’s statement about the ‘aqīm, ruled that the wife of an infertile man could have her marriage annulled on the grounds that women marry for the purpose of having children. V. Rispler-Chaim, *Disability in Islamic Law* (Dordrecht: Springer, 2010), 61.
either spouse is grounds for *khiyār*. Ibn Qudāma (d. 620/1223) cites his opinion as follows, “If one [spouse] has found the other to be sterile, [the non-sterile spouse] is given the choice.”

The Shāfi‘ī jurist al-Māwardī (d. 450/1058) states that there is an opinion within the school that a woman has a right to *khiyār* in the case of a husband who is able to have intercourse, but who lacks testicles, “because he is missing something without which there cannot be offspring.”

Ibn Taymīya makes a novel argument for considering infertility, at least male infertility, as grounds for annulment. Rather than rooting the argument in definitions of defect, he draws a legal analogy: “If a husband is proven to be sterile, we rule by analogy that the woman has [the right of] choice, since she has a right to a child. It is for this reason that we say one cannot practice *coitus interruptus* with a free woman without her permission.” Ibn Taymīya’s argument is that it is known (within the Ḥanbalī school) that it is not permitted for a man to practice coitus interruptus without his wife’s consent. Further, he argues, the reason that it is not permitted is that a free woman has a right to a child and contraception would violate that right. Since a husband’s sterility would also violate that right, it too may not be imposed upon a wife without her consent. Ibn Taymīya’s argument is not unproblematic. Other jurists who also believed that a man had to obtain his wife’s consent before practicing withdrawal argued that the legal right being violated was her right “that he ejaculate in her when having sexual relations with her.”

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but that was a right to sexual fulfilment rather than a right to procreative sex. However, Ibn Taymīya’s understanding of the objection to ‘azl is not unique. It is also found in the writing of the Ḥanafi jurist al-Kāsānī. The latter says that it is disliked for ‘azl to be practiced without the woman’s consent, “because sex culminating in ejaculation is the way of getting a child, and she has a right to a child.”

Within Ibn Taymīya’s own school, Ibn Qudāma agrees with him with regard to contraception though not with regard to actual sterility.

Ibn Qayyim al-Jawzīya has a long and detailed list of defects which are grounds for khiyār, and that list does not include infertility. However, he makes an unusual argument that could be read in favor of viewing infertility as among the defects which are grounds for annulment. After concluding his list, he writes:

> It is preposterous to limit defects to two, six, seven or eight to the exclusion of those which are inferred from them or are equivalent to them. For example, the blind, the mute, the deaf and the woman, one or both of whose hands and legs have been amputated. . . . The Commander of the Faithful, ʿUmar b. al-Khaṭṭāb, told someone who had married a woman despite not being able to sire children (lā yūlid lahu): “Inform her that you are sterile (ʿaqīm) and give her the choice.” What would he [ʿUmar] say about defects which for her are complete, rather than partial? The analogy is this: that for every defect which repels the other spouse — and as a result of which mercy and benevolence, which are goals of marriage, cannot be attained — khiyār is mandated. This is inferred from [the law of] sales, just as the conditions which are stipulated in marriages are based on the fulfilment of the conditions of sales. God and his Prophet did not subject one who is misled and deceived to that which misled and deceived him.

Ibn al-Qayyim seems to be using the example of male sterility as the initial premise in an a minori ad maius argument. I.e., if ʿUmar mandates khiyār in the case of sterility which is a “partial” defect, all the more so must khiyār be mandated in cases of a “complete” defect, such as blindness, muteness, etc. However, nowhere does he include sterility in the formal list of defects which have scriptural standing. Instead, he argues that there are many defects in addition to scriptural ones which could contravene the goals of marriage.

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and thus may serve as grounds for *khiyār*, and (male?) sterility falls into at least one those categories.

**The Objection to Including Infertility as Grounds for Annulment**

There are three different frequently-mentioned objections to including infertility as grounds for annulment: (a) the (disputable) claim that it is not mentioned in any revealed text (*naṣṣ*) as grounds for *khiyār*, and only those specifically revealed grounds for *khiyār* are acceptable. (b) That the only acceptable grounds for *khiyār* are ones that bar sexual intercourse and, logically, infertility does not do that. And (c) that it is impossible to know for certain whether someone is sterile and so no one, particularly no man, can be labeled as such.

**Ḥanbalī Views**

Of all the legal schools, the Ḥanbalīs permit marriage nullification for the most diverse set of reasons. On the basis of the above-mentioned *ḥadīths* regarding *khiyār*, they grant the right of choice of nullification (*faskh*) to wives of men without functioning testicles,\(^{171}\) in addition to wives of impotent\(^ {172}\) and castrated men. Ḥanbalīs all grant the right of choice of nullification to husbands of women who suffer from ‘*afl*, *qarn*, *fatq*, or *bahr*, which refer to abnormalities of the female genitals,\(^ {173}\) and which will be addressed

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\(^{172}\) There is some disagreement among Ḥanbalīs regarding the man who is able to consummate the marriage once but then becomes impotent, see Spectorsky, *Chapters on Marriage and Divorce*, 113. The two opinions are either that the wife has no grounds to annul the marriage, or that the husband is given one year to prove himself able to have intercourse. If he does not have sexual intercourse in that time, there appears to be a judicially mandated *ṭalāq*: the wife is given the full dower and must then begin her *ʿidda* period.

Ibn Qayyim al-Jawzīya describes the contrast between the schools of law thus:

Dāwūd (d. 270/884), Ibn Ḥazm (d.456/1064) and those who agree with them say that there is no nullification at all.\(^{174}\) Abū Ḥanīfa says that there is no nullification except for castration and impotence. Al-Shāfi‘i and Mālik say: it is annulled due to insanity, leprosy, elephantiasis,\(^{175}\) vaginal blockage, castration, and impotence. Imām Ahmad [ibn Hanbal] added to the two of them: [Nullification] if the woman has been ruptured with a tear of that which lies between the two orifices. According to his colleagues, also if there is a putrescence of the vagina and the mouth\(^{176}\) and the openings for urine and semen in the vagina have been torn and there is an oozing wound in it as well as hemorrhoids and fistulae. [They also include the conditions of] istihāda (constant menstruation), leaking of urine and such, lack of testicles, tuberculosis of the testicles, and waj’, i.e. one whose testicles are crushed, and if either [the man or woman] is a khuntha (intersex) in appearance.\(^{177}\)

In the Ḥanbalī school, this list of defects is arrived at through the logic of sales/returns and the logic of the goals of marriage, rather than being understood simply as a matter of divine decree.\(^{178}\) Here, there exists a difference of opinion between Ibn Qayyim al-Jawzīya and Ibn Taymīya on the one side, and Ibn Qudāma on the other. In the Zād al-ma‘ād, Ibn al-Qayyim explains the view that the hadīth which identifies the grounds for divorce is intended to illustrate a general principle and not to limit grounds for divorce solely to the specified examples. Thus there could be grounds for divorce beyond these examples. In the Mughnī, Ibn Qudāma uses the same starting point (that the defects are based on logic, not revelation) to come to the opposite conclusion:

Any defect outside of these does not thwart the purpose of the marriage bond, which is sexual intercourse, as opposed to the various defects which are included in these. If one was to say, “leprosy and skin lesions do not thwart sexual intercourse,” we would say: “in fact it does thwart it, because it produces an aversion which altogether prevents him from approaching, for he fears

\(^{174}\) Ibn Qayyim al-Jawzīya quotes Ibn Ḥazm’s tongue-in-cheek argument that if the marriage contract describes the wife as healthy, and she is found to have any medical problem whatsoever, including infertility, he has technically not married her at all but rather some theoretically healthy person. He does not have the option of remaining married or dissolving the marriage because they are not spouses. Ibn Ḥazm, al-Muhallā (Beirut: Maktab al-tijārī lil-tibā’a, 1969) 1:115.

\(^{175}\) For a discussion of the legal identification of these defects, see V. Rispler-Chaim Disability in Islamic Law, 64, and R. Shaham. The Expert Witness in Islamic Courts, 42.

\(^{176}\) There seems to be some disagreement in the commentary tradition as to whether this is the literal mouth or the opening of the vagina or both.

\(^{177}\) Ibn Qayyim al-Jawzīya, Zād al-ma‘ād, 5:165.

\(^{178}\) This is the argument in the Mughnī, in the Zād al-ma‘ād, and Sharḥ muntahā al-irādāt.
that he and his offspring will contract it." So too, one is afraid of an attack from a madman, and that serves as a palpable barrier [to intercourse].

Thus Ibn Qudāma argues that logic itself dictates that only the “canonical” grounds listed for *khiyār* are legitimate. This logic is based on Ibn Qudāma’s assumption that the purpose of marriage is intercourse. So, only factors which prevent intercourse from occurring may be regarded as thwarting the purpose of marriage. Thus, neither male nor female infertility are considered to be among the conditions that thwart the purpose of marriage.

In a similar vein, al-Buhūtī’s (d. 1051/1641) *Sharḥ muntahā al-irādāt* argues that infertility should be rejected from the list of legal defects because it does not preclude sexual enjoyment. Al-Buhūtī writes: “Regarding defects other those previously mentioned, none of these are grounds for either one of the spouses to exercise *khiyār*. For example, one-eyedness, lameness, lacking a hand or a foot, blindness, muteness, deafness, baldness, or one of them being infertile or menopausal [none of these may serve as grounds for nullification] . . . because none of these prevent sexual pleasure or threaten to infect [the other spouse].”

A different objection raised against infertility being included among grounds for nullifying a marriage is that it is impossible to prove for certain that someone is infertile. In spite of the āthār in which ʿUmar instructs a sterile man to divorce his wife and give her the choice of whether or not to re-enter the marriage, Ibn Qudāma says that it is impossible to categorically state that someone is infertile.

We do not know of anyone among the ‘ulamā’ who disagrees with [the view that infertility should not count] other than al-Ḥasan who said, “If one found the other to be infertile, they give them a choice.” Aḥmad tended to explain his words saying, “Perhaps his wife would like a child.” But

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this is at the beginning of the marriage, so on what basis could it be nullified when [infertility] itself cannot be proven? One might prove it on the basis of menopause but, against that, it is known that there are men who do not produce offspring when they are young, but then have offspring when they are old.”

In summary, there is a minority opinion within the Ḥanbalī school that a diagnosis of infertility, or at least male infertility, can serve as grounds for annulling marriage. However, the majority view is that infertility cannot be used in this way although, among those that espouse that view, there is a disagreement as to whether infertility is excluded on the grounds that it is irrelevant and that only sexual relations are relevant, or whether it is because one cannot actually prove the presence of infertility in the first place.

**Ḥanafī Views**

Of the four main Sunnī legal schools, the Ḥanafī one has the most restricted definition of marital defects. Ḥanafī discussions of ‘ayb and faskh are unique in that a wife’s defects are never grounds for nullification. Instead, a husband can end his marriage only through traditional divorce. A woman, however, may be able to have her marriage annulled if her husband is defective. However, a husband’s defectiveness is determined solely on the basis of whether he has ever succeeded in penetrating his wife. No other aspects of his physical or mental state enter into the matter. The position is summarized by al-Kāsānī (d. 587/1191) in his *Badā‘i*.

With regard to the circumstances in which [a wife is entitled to] a choice (*khiyār*) [to have her marriage nullified]: the first and foremost consideration is whether he has had intercourse with this

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182 However, in the *Mabsūṭ*, al-Sarakhsī makes a strange reference to a husband’s potential *khiyār* in response to a woman’s defectiveness, and it has to do with infertility. The context of the reference is a discussion, not of divorce, but rather of contracts generally and contracts with a concubine specifically. He writes, “A man can engage in coitus interruptus with her because a child is a product, not an entitlement, of marriage. For that same reason, if she was menopausal or barren, this would not provide grounds for the husband to exercise a *khiyār*. “ The meaning of this passage in the context is not entirely clear to me, since Ḥanafīs do not grant men the option of *khiyār* in any case. Sarakhsī, *al-Mabsūṭ*, 18: 157.
woman in this marriage. To such an extent is this the case that, if he had intercourse with her only once, then the choice to exercise that right has been passed up and no longer exists.\footnote{Al-Kāsānī, \textit{Badā’i’ al-Ṣanā‘i’}, 2: 325. Zaydān ‘Abd al-Karīm Zaydān, \textit{al-Muṣaffal fi ʻakhām al-mar’a wa l-bayt al-Muslim fi al-sharī‘a al-Islāmīya} 9: 24.} If the husband lacks a penis, the nullification can take place immediately. If a woman claims that her husband is impotent, the husband may have up to one year to attempt to penetrate his wife after the complaint is brought to the court’s attention. If a woman finds herself married to a man whose testicles have been severed but who retains a penis (\textit{khaṣā}), the case is treated as one of impotence, on the grounds that such a man may yet achieve an erection and penetrate his wife. This last scenario is significant because it allows us to differentiate between sterility and impotence. The man without functioning testicles is (in the jurists’ view) necessarily permanently sterile but is not necessarily permanently impotent. If he is able to overcome his impotence and penetrate his wife, he possesses no legal defect. The fact that he is still sterile has no legal consequence.

This is true even among those Ḥanafīs who argue that, when it comes to coitus interruptus, a husband must obtain his wife’s consent. Al-Ṭahāwī (d. 321/933) writes: “[Because] each one of [the spouses] is equal to their partner, it is his right to ejaculate into her during intercourse whether she likes it or detests it . . . so too it is her right to obligate him to ejaculate into her during his intercourse with her, whether he likes it or detests it.”\footnote{Al-Ṭahāwī, \textit{Sharḥ ma‘ānī al-āthār}, 3:30-31.} Al-Ṭahāwī does not explain whether the right to reject ‘azl is based upon the wife’s right to pleasure or to procreation. However al-Kāsānī is less ambiguous than his predecessor, arguing that a wife has a right not only to sexual enjoyment but to procreative sex. He writes: “It is disliked for a husband to engage in ‘azl with his free
wife without her consent, because sex culminating in ejaculation is the way of getting a child, and she has a right to a child. With ‘azl, the [conception of a] child is thwarted and therefore her right is thwarted.” Here we have a notion that a wife’s rights are not limited to sex. She has a right to the kind of sex that would allow her to conceive. However, even if her husband thwarts her by practicing non-procreative sex, it is categorized as either permitted or disliked – it is not forbidden and it certainly does not serve as grounds for nullifying a marriage. Despite this argument, which is very similar to that of Ibn Taymīya, al-Kāsānī never argues that a woman may choose to request an annulment of a marriage to an infertile husband.

**Shāfiʿī Views**

Al-Shāfiʿī denies that the āthār which obligate a sterile man to give his wife a means to exit the marriage, have any practical application, on the grounds that a man cannot know for certain that he is sterile. He writes in the *Kitāb al-umm*:

If he married her and said, ‘I am infertile,’ or he said nothing about it until the contract had been completed and then he acknowledged it, she would still not have a choice. That is because he himself cannot know that he is infertile until he dies, because a man may be slow to have a child when he is young and yet he will have progeny when he is old. She does not have a right to choose on the basis of progeny. This is because the right to choose is reserved for loss of the ability to have sex, not the loss of the ability to have progeny.”

This view that one cannot consider infertility as a defect because one can never be sure that it will not eventually be overcome is explicitly echoed by al-Māwardī, who defends this position in the context of a discussion about a wife who suffers from ifḍā’, a rupture in the genitalia which can cause infertility. He writes regarding this injury: “Because he can have complete intercourse – even if she is infertile and cannot have offspring, or even

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if he, the husband, is sterile and cannot beget children – there is no *khiyār* for either one of them because this [sterility] is speculative, and perhaps it will end.\(^{187}\)

While this idea that infertility is not a defect because it cannot be proven is repeated frequently, Shāfi‘īs also refute the claim that a woman has a right to offspring. This is consistent with the *madḥhab’s* view of ‘*azl without the wife’s permission. With the exception of al-Shīrāzī (d. 476/1083), the Shāfi‘īs permit a husband to engage in this contraceptive practice regardless of his wife’s consent, because she has a right to sexual intercourse, not to progeny.\(^{188}\)

**Mālikī Views**

The majority Mālikī position regarding annulment on the grounds of defect is similar to the Ḥanbālī one, with some minor distinctions with respect to forms of male castration and with respect to leprosy.\(^{189}\) There is, however, some disagreement as to whether a woman can ever exercise *khiyār*. Al-Qarāfī (d. 684/1285) cites Ibn Yūnus (d. 451/1061) as saying that the woman is not the “buyer” in the marriage transaction, and as such she is not in a position to return defective goods, whereas Ibn Ḥabīb says that she has a right to *khiyār* in the classical cases because she risks harm from insanity, leprosy, etc.\(^{190}\)

As for defects pertaining to female genitals, however, the Mālikī school is unusual in that there are multiple suggestions that proving their existence by means of


\(^{188}\) Al-Nawawī (d. 676/1227), exceptionally, believes that ‘*azl is *makrūh even with a wife’s consent. Abdel Rahim Omran, *Family Planning in the Legacy of Islam* (Routledge: New York, 1992), 159 ff.


\(^{190}\) Ibid., 423.
examination might cause more harm than benefit to the husband. This attitude is also reflected in fatwās regarding an accusation that a husband has ruptured his wife’s genitalia. This is consistent with Mālikī views of modesty regulations, which severely limit the ability of anyone apart from the spouse to legally examine a woman’s vagina.

With regard to female infertility specifically, the topic is barely considered in Mālikī texts. In Ibn Abī Zayd al-Qayrawānī’s (d. 386/996) al-Nawādir wa’l-ziyādāt, the matter is dispensed with in one sentence: “As for one who is deceived by an infertile woman who cannot give birth, or a woman who is deceived by a sterile man, neither one of them have a [legal] argument.” Male infertility receives slightly more attention elsewhere. In the Mawāhib al-jalīl, in the context of a discussion of men’s responsibilities when seeking a spouse, al-Ḥaṭṭab (d. 954/1547) writes about the extent to which the husband has an obligation to disclose to his prospective spouse his own proclivities toward asceticism, with respect to fasting and to sex, especially if fasting leads to diminished sexual capacities or to a diminished ability to earn a living. Turning specifically to the question of procreation, al-Ḥaṭṭab writes that a man ought to disclose in advance that he will not or cannot engage in marital sexual relations, but he has no responsibility of disclosure if he simply believes himself to be infertile. The first two

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191 Ibid., 422.
192 Al-Wanshārisī, al-Mi’yār al-mu’rib, 3:132. The opposite attitude is displayed in al-Mi’yār al-mu’rib, 3:139. Delfina Serrano mentions that while female slaves who were victims of rape might be examined by midwives, “there is a disagreement in the case of the free woman: Ibn al-Mawwaz and Ibn Habib transmitted from Malik that the woman, regardless of her status, must be examined by a group of women in order to determine if she has been deflowered. According to Ashhab, the free woman is not subject to this exam.” D. Serrano, “Legal Practice in an Andalusī-Maghribī Source from the Twelfth Century CE: The Madhāhib al-hukkām fi nawāzil al-akhām,” Islamic Law and Society 7 (2000), 201.
193 See chapter 3 on modesty and medical care. Oddly, however, Malik is said to have called for a rather public test of male impotence, which would preserve the man’s modesty but not that of his sexual partner. In this case, the man’s penis is daubed with saffron and he is secluded with his partner. Then two women examine her vagina for traces of the saffron. Al-Qayrawānī, al-Nawādir wa’l-ziyādāt, 538.
194 Ibid., 532.
situations (sexual asceticism and diminished earning capacity) are deemed to be harmful to the wife and to jeopardize their marriage, but the prospect of infertility is not so deemed.\textsuperscript{195}

\textbf{Genital Defects, “Female Impotence,” and their Relation to Infertility}

With the exception of the Ḥanafīs, most jurists did recognize a category of legal defect which is related to female infertility, that is, defects in women’s sexual and reproductive organs. With regard to non-sexual medical defects (such as leprosy, elephantiasis, and insanity), legal cases about annulment often hinged upon when the medical defect occurred, when it was identified by the various parties, and whether the healthy party continued to have sexual intercourse after discovering the problem, thereby implying a willingness to preserve the marriage. In such cases, timeline is of utmost importance.\textsuperscript{196} The legal consequences of defects pertaining to sex organs are somewhat different both because there is a disparity between the defects pertaining to a husband and those pertaining to a wife, and because the timeline is less of an issue. For men the defects are: (1) full castration (lack of both penis and testicles), (2) partial castration (Arabic: \textit{khaṣīy} - lack of either penis or testicles), and (3) impotence. According to all legal schools, if a husband is able to consummate the marriage just once, none of these male sexual defects have consequences for the legal status of the marriage. This, despite the fact they impede intercourse and are obvious signs of sterility.

For women, the sexual defects are:

\textsuperscript{195} al-Ḥaṭṭāb, \textit{Mawāhib al-jalīl} 3: 404.
\textsuperscript{196} Rispler-Chaim, \textit{Disability in Islamic Law}, 52.
'afl. A piece of flesh inside the vagina resembling a man’s scrotal hernia. This may correspond to the bio-medical diagnosis of vaginal prolapse.

qarn. A tissue or bone that blocks the vagina. This may correspond to the bio-medical diagnosis “vaginal septum.”

ratq. The opening of the vagina is so narrow that a penis can pass through only with difficulty or not at all. This seems to correspond to the bio-medical diagnosis “imperforate hymen.”

ifḍā’ or fataq. Rupture. This is described in the legal literature as a hole in the flesh dividing two organs, either the vagina and the rectum, or the vagina and the bladder, such that they are no longer completely separated.

The first three female sexual defects are all treated in the legal literature as being similar. In the Mughnī, Ibn Qudāma suggests that ‘afl, qarn, and ratq can be almost synonymous.197 They all refer to a vaginal passage too narrow for normal forms of sexual intercourse due to some blockage. From a medieval standpoint, unlike the male sexual defects, all four of these female “defects” represent, in fact, the flip side of the traits considered to be desirable in women even though they all result in sterility. The intact hymen is the very symbol of virginity. In medieval dictionaries, afḍā means both to deflower a virgin and to “make the woman’s two orifices [the rectum and the vagina] one.”198 Curiously, a few jurists operating in Egypt even knew that ratq can be a direct result of female circumcision, a ritual which they generally viewed in a positive light and

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197 Ibn Qudāma, Mughnī, 10:56.
198 Lane, Arabic-English Lexicon, s.v. f-d-ā. Cf. Al-Fayyūmī, Al-Miṣbāḥ al-munīr fī Gharīb al-Sharḥ al-kabīr, s.v. f-d-ā. Al-Fayyūmī states that it can also refer to a rupture which unifies the vagina with the urethra.
which was often performed when a girl was on the cusp of marriage.\textsuperscript{199} For example, the Cairene Mālikī jurist al-Qarāfī (d. 684/1285) cites the Sicilian jurist Ibn Yūnus (d. 451/1061), citing the Alexandrian jurist Muḥammad ibn al-Mawwāz (d. 281/894), discussing marriage annulment in cases “where the imperforate hymen is caused by circumcision” (\textit{al-ratq min al-khitān}).\textsuperscript{200}

In Arabo-Galenic medical literature, \textit{all of the first three conditions were thought to be curable}, unlike the other medical defects that were grounds for annulment, such as insanity or leprosy.\textsuperscript{201} For example, al-Zahrāwī notes that \textit{ratq} is associated with retention of the menses, and that it makes intercourse, conception and delivery difficult, and then he details methods for curing it. He is not alone. Such authorities as Galen, Celsus, Paul of Aegina, and Ibn Sīnā all wrote on the subject.\textsuperscript{202} To cure \textit{ratq}, writes al-Zahrāwī, one should instruct a midwife to break through the barrier using either a probe or her fingers or, in extreme cases, a scalpel.

Unfortunately, this procedure could very well cause the fourth genital defect which, in some schools, could serve as grounds for divorce. This defect is known as \textit{ifḍā’}.

\textsuperscript{201} The \textit{Mukhtarāšar Khalīl} also mentions this, but does not seem to attach any significant legal consequence to this fact. Khalīl ibn Iṣḥāq al-Jundī, \textit{Mukhtarāšar}, 1: 103. The relative ease or difficulty of treating each of these conditions is discussed by Muḥammad ibn ‘Abd al-Bāqī al-Zurqānī (d. 1099/1710) in his commentary on the \textit{Mukhtarāšar}. Al-Zurqānī, \textit{Sharḥ al-Zurqānī ‘alā Mukhtarāšar Sayyīdī Khalīl} (Beirut: Dār al-Kutub al-‘Ilmiyya, 2002), 3: 421.
or fatq. Thus the the *Lisān al-‘arab* defines *fatqā‘* as “a woman with a widened vagina, the opposite of a *ratqā‘*.” The terms *ifḍā‘* and *fatq*, when used in legal discussions of marital defects and injuries, seem to be used interchangeably. There appears to be some confusion among modern translators as to what these terms mean. Hina Azam translates the word *ifḍā‘* as perineal tearing, a term with a wide variety of contemporary meanings.\(^{203}\) In medieval Arabic medical literature, *futūq* usually refers to hernias and is not particularly associated with women. In medieval general dictionaries, such as the *Lisān al-‘arab*, the root is used for injuries to both men and women, and the word *fatqā‘* is defined as “a woman whose two exits [vagina and rectum] have become one” *Ifḍā* also means to widen, but it has a broader spectrum of meaning, including simply to deflower a virgin. However the *Lisān al-‘arab* includes this definition: “A woman who is *mufḍāh*: one whose two exits have become connected . . . as a result of coitus.”

In legal writings, both terms seem to be used to refer not to defloration but to severe injury, usually in the context of rape or early marriage. For example, the Ḥanbalī jurist Ibn Qudāma glosses the word *fatq* in his commentary on the above-cited statement by al-Khiraqī saying:

He said, regarding one who has sexual relations with his minor wife and ruptures her, he owes one-third of a blood-money. Meaning of *fatq* [rupture;]: a perforation of [the barrier] between the urinary and seminal passages. And it is said: instead, it means a perforation of the [the barrier] between the vagina and rectum. But that [the second definition] is unlikely, because it is unlikely that the wall between the two [cavities] would be eliminated through sex, for this wall is strong and tough.\(^{204}\)

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The term *ifḍā’* when used in *ḥadīth* and legal literature with reference to compensation for injury or genital defects also seems to refer to a similarly severe injury with disastrous consequences:205

Zayd b. Thābit said, “For a woman whose husband tore her: If fertility and both forms of continence are retained, a third of the *diya* [is owed] for it. If fertility and both forms of continence are not retained, a full *diya* [is owed] for it.”206

Regarding a man who was spurned by a woman. He then tore her up (*afḍā* hā). ‘Umar imposed the *ḥadd* punishment upon him and [further] penalized him with a sum of one third of her *diya*.”207

“Al-Ṣādiq was asked about a man who came upon a girl and tore her up (*afḍā* hā) such that since then she excreted in this organ. She could not give birth.”208

“He beat a woman and tore her up (*afḍā* hā): meaning, he made the orifice from where her urine comes out and the orifice where her menses come out one; or [the orifices of] her menses and excrement one. This coitus is like a beating. Regardless of whether this is an unrelated woman who fights against it, or a wife whom he tears up during coitus, if she is rendered incontinent by it [he pays a penalty].”209

“Regarding *ifḍā’,* which is when the barrier between where the penis enters and where the urine exits is punctured . . . he is able to have complete intercourse, even if she is infertile and cannot have offspring.”210

“*There is no khiyār as a result of either him or her being sterile, nor for her being mufḍā’. Ifḍā’* is the elimination of that which is between where the urine exits and where the penis enters.”211

These descriptions of injuries most closely resemble the conditions known in modern bio-medicine as vesico-vaginal fistulae and recto-vaginal fistulae, i.e., the condition in which there is a hole in the tissue separating either the vagina from the urinary tract, or the

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205 It is possible that a somewhat less violent but similar injury is being described in al-Wansharīsī, *Miʿyār al-muʿrib* 3: 234-5. It tells of a man who, in the course of consummating marriage to his virgin bride, did something which made her wet the bed, and she continues to do so nightly. He wishes to return her to her father, who refuses on the grounds that she had no such condition before. It is not clear to me whether this refers to a physical or an emotional problem. Cf. Radd al-muḥtār and Ibn Ibn ʿĀbidin’s comment on it, in which the condition is described as being so severe as to make the possibility of sexual intercourse so remote that rules of gender segregation between unrelated members of the opposite sex may no longer apply. Ibn ʿĀbidin, *Ḥāshiyyat Radd al-muḥtār*, 9: 527.


207 Musannaf Ibn Abī Shayba #27325


vagina from the rectum, such that excreta leak into the vagina. In modern medical literature, gynecological fistulae are most often discussed as a common obstetrical complication in the developing world, particularly among women whose bodies are too underdeveloped to healthily deliver children. It is less frequently associated with sexual trauma in modern medical literature, although it has received some attention from advocacy groups publicizing the problem of wartime rape. Until the advent of modern surgery, fistulae were largely incurable, always debilitating, but usually non-fatal. It is also possible that that ifḍā’ and fatq refer to fourth-degree perineal tearing, which is when the skin and muscle between the vagina and anal sphincter, and the sphincter itself, are torn, usually in the course of childbirth. In modern medical diagnosis, the most salient feature of such injuries is fecal incontinence.

Unlike these modern diagnoses, however, the medieval jurists describe these injuries known as ifḍā’ and fatq as being the result of coitus, not of childbirth. Ifḍā’ is also a term used in the legal literature to indicate rape. Some legal works also mention

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212 Medieval Islamic legal sources mention the dangers of intercourse, but not of childbirth, for young brides. By contrast, Jewish law in the late antique and medieval period seems to take into account the dangers of birth, but not of intercourse, for young brides. Hence it mandates the use of contraceptives for intercourse (but not abstinence) with girls. B.T. Yevamot 12b. Some Ḥanāfi jurists also mention the concern that women given in marriage be robust enough to “tolerate the pain of circumcision,” e.g. Ibn Nujaym (d. 970/1563) in his Bahr al-ra‘īq and Maḥmūd ibn Ahmad al-Marghīnānī, (d. 1220) in his Muḥṭ al-burhānī fī al-fiqh al-Nu‘mānī (Beirut: Dār Iḥyā‘ al-‘Arabī, 2003), 3: 163.


216 For the use of the term to indicate rape see, D. Serrano, “Rape in Maliki Legal Doctrine and Practice,” Hawwa 5 (2007), 166-207, esp. 167. Hina Azam translates the injury, in the context of violent sexual assault, as “perineal tearing.” However perineal tearing is a term with a wide valence (i.e. the injury can be superficial or more serious) but it is primarily used in regard to the relatively minor injuries to the surface of the body that often coincide with healthy childbirth, whereas in the context of medieval Islamic claims
that ḥifdāʾ can occur by means of an instrument, such as a stone or tool, but the legal works always address this as a sexual act, not a surgical medical act, such as those described by al-Zahrāwī to treat imperforate hymen.

All these genital-related defects correlate very strongly with physical immaturity. The interventions used to attempt to cure these defects could lead to long-term infertility. Intriguingly, there is some evidence from Catholic Spain that such genital defects were considered to be a form of “female impotence,” and that accusations of this sort of female impotence sometimes served as a legal cover for accusations of infertility, since in Catholicism too, impotence was grounds for annulment whereas infertility was not. This may or may not be true in the Islamic context, given that in Islam there were more avenues available for ending a marriage.

A Case from 16th-Century Catholic Spain

The multi-layered connections between infertility and accusations of female impotence can be illustrated by a court-case from seventeenth-century Catholic Spain. In this case, the husband seeks to end his marriage on the grounds that his wife is incapable of sexual intercourse. As the case unfolds, it becomes clear that he is in fact concerned about his wife’s infertility, and that that infertility was itself the final consequence of a series of events stemming from his marriage to a physically immature girl who, it seems, was not initially acknowledged to be immature. The case is particularly useful because it pulls together several situations which are discussed separately in Islamic legal codes and

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for damages, it refers to an injury that primary effects internal organs and that may result in multiple forms of incontinence. H. Azam, Sexual Violation in Islamic Law (New York: Cambridge University Press, 2015), 100.

fatwās. These situations are: female sexual incapacity as a basis for marriage nullification, medical intervention for female sexual problems, induced infertility due to damage to the sexual organs, machinations to conceal the bride’s age, and the legal status of infertility. Many of the social concerns and actions described here echo the technical language and seemingly obscure medical situations found in Islamic legal texts and flesh them out. Therefore, I think there is much to be learned from the case, despite the obviously divergent legal and social attitudes toward divorce in the Christian and Islamic worlds.

The case is as follows: Magdalena Fernández de Valasco Sáenz’s husband Pedro brought her to the court of Calahorra in 1697 to enter a plea for annulment on the charge of her impotence.\textsuperscript{218} Pedro’s lawyer alleged that the previously-married-father-of-three had found that his sixteen-year old bride’s vagina was too narrow “for reception of the material that serves for the preservation of the species.” He had complained to her natal family and her mother then attempted “to open and/or expand [Magdalena’s] vagina using hands and instruments.” This, however, did not remedy the problem so Pedro turned to the court to put an end to the marriage.

In court, Pedro’s lawyer complained that Magdalena was incapable of conceiving. The judge ordered an expert medical examination which concluded that Magdalena was small and premenstrual. It also found that Magdalena’s genitals had been forced open by an instrument, leaving her mutilated and sterile. Magdalena’s lawyer accused Pedro of injuring her by having intercourse with her when she was of “such a tender age.” The lawyer then said she only needed time to sexually mature and then she would be able to

\textsuperscript{218} This summary of the case is based on the books and articles written by E. Behrend-Martinez. I have not examined the case in its original languages.
consummate the marriage and produce children. The lawyer said that this had happened in his own family.\(^{219}\) A second medical examination was ordered which found that Magdalena was not sixteen, but “about twelve.”

Two separate teams of three medical experts each examined Magdalena over the four months that the case lasted. Both teams agreed that she suffered from some type of malformation of the vagina: “her parts [are] very closed because having inserted a finger into the orifice [the midwife] could not insert it very far inside and [the midwife] recognized that [Magdalena] had solid tissue and that it seemed to her, for that reason, that [Magdalena] had not had sex . . .” With further probing by the midwife Magdalena began to bleed. The description of Magdalena’s condition fits those that occur to women with an imperforate hymen. This abnormality causes blood to accumulate in the vaginal cavity and uterus and, if untreated, can lead to sterility. The court was persuaded by the testimony of the medical experts and sided with Pedro’s demand for an annulment. It proclaimed Magdalena impotent.

Spanish law, like Sunnī law, defined certain defects as grounds for marriage annulment. As with Sunnī law, in Spanish law infertility was not considered to be grounds for annulment, however, the inability to consummate the marriage due to genital defects did constitute such grounds. Scholars of early-modern Catholic Europe have noted the remarkable frequency of legal cases requesting the dissolution of marriage on the grounds of impotence, including “female impotence.” Canon law acknowledged “female impotence” as grounds for annulment beginning in the twelfth century.\(^{220}\) Definitions of female impotence in the Catholic context closely resemble Islamic discussions of legal defects pertaining to women’s genitals, particularly as both focus on purported vaginal blockages.\(^{221}\) European court records show that, in practice, lawsuits ostensibly about the

\(^{219}\) The scenario in which at first a woman is labeled as impotent (impossible to penetrate), and then later on is able to have normal sexual relations, is dealt with in the law code Sieta Parditas. *Las Siete Partidas*, tr. Samuel Parsons Scott (Chicago: The Comparative Law Bureau of The American Bar Association, 1931) 4: 914. This condition seems to be one which resolves itself with the passage of time.


\(^{221}\) P. Darmon, *Trial by Impotence: Virility and Marriage in Pre-Revolutionary France* (London: Hogarth Press, 1985), 16. Cf. The Decretals of Gregory IX = *Corpus iuris canonici* X 4: 15 “De frigidis et maleficiatis,et impotentia coeundi,” which describes three types of female impotence: a narrow vagina, a blocked vagina, or a tumor which has closed the entrance to the uterus. In the 12th-13th centuries A.D. there appears to have been some intellectual tension between the desire of Catholic religious authorities to
charge of female impotence were actually focused on the ability to become pregnant.\textsuperscript{222}

Some of these cases were brought to court only after several years of marriage, indicating that the problem experienced by the couples was one which took years to surface, and thus was not likely to be a problem in actually consummating the marriage.\textsuperscript{223} However, “because non-procreative sex served matrimony’s second purpose, satisfying and containing lust, only \textit{impotentia coeundi}, sexual impotence, rather than \textit{impotentia generandi}, sterility, was an impediment to marriage.”\textsuperscript{224} Court documents from the Catholic world thus show the connection between legal discussions of theoretical vaginal blockages and the practical desire to dissolve marriages to barren women. Behrend-Martinez writes:

In several aspects, the case fought between Pedro and Magdalena is typical of all impotence trials, both male and female. As with most impotence trials, Magdalena’s case resembles a complaint over breach of contract. Magdalena could not live up to the sexual expectations of matrimony. Pedro was certainly an older, more financially established, if not wealthy husband. In an effort to encourage those stuck in marriages with an impotent partner to live “as brother and sister,” and their reasoning that annulment would prevent more licentious forms of behavior (i.e. alternative forms of sexual behavior between spouses, or adultery.) This briefly culminated a decision by Pope Celestine IV, whose papacy lasted for less than 3 weeks of 1241, to issue a decree which allowed a husband, whose wife’s genitals were too narrow, “both to keep her in his house and to remarry.” Darmon, \textit{Trial by Impotence,} 65. There is no evidence that such permission to engage in bigamy was ever legally implemented.

\textsuperscript{222} Behrend-Martinez, “Female Sexual Potency in a Spanish Church Court, 1673-1735,” 317.

\textsuperscript{223} This is not to suggest that charges of female impotence never occurred towards the beginning of a marriage. In fact, they seem to have often been leveled in response to charges of male impotence. In part, this can be attributed to Canon Law, which would have permitted the non-impotent spouse in an annulled marriage to remarry, but would have forbidden the other spouse from doing so. However, this phenomenon also occurs among Jews. Thus in a case addressed to the 16th century Jerusalemite rabbi of European origin, Bezalel b. Avraham al-Ashkenazi, we are informed that “Reuven was wed to Dina, but was unable to have normal intercourse with her. He went around saying that she was sealed close and needed to be opened with a lancet, while her relatives went around saying that Reuven was impotent. When the two engaged in fights [the community?] sought to correct/rebuke the woman but did not succeed. And so Reuven initiated Jewish court proceedings and brought women with expertise in this matter as witnesses, but nonetheless the woman’s relatives would not give in to the law. Instead, they went to the gentile law and removed from Reuven’s possession the trousseau and all the gifts, and then they convinced him to divorce her – according to the testimony of widespread knowledge coming from those who know of the outrage done to Reuven.” Ashkenazi, \textit{She’elot u-teshuvot Rabenu Betsal Ashkenazi} (New York: Feldman, 1955), folio 31, question 15. Cf. T. Rosen and U. Kfir, “What Does a Father Want?: An Unpublished Poem and Its Intertexts,” in \textit{Studies in Arabic and Hebrew Letters in Honor of Raymond P. Scheindlin}, ed. J. Decter and M. Rand (Piscataway, NJ: Gorgias Press, 2007), 129-53. Pp. 136-137 include the case of a twelve-year-old Jewish bride who is brutalized by both her impotent young husband and her parents for her perceived sexual faults.

\textsuperscript{224} Behrend-Martinez, “Female Sexual Potency in a Spanish Church Court, 1673-1735,” 313.
protect the family’s interests in the marriage -- financial support for a daughter and perhaps the family – Magdalena’s mother even operated on her daughter to remove the obstruction . . .

Regardless of canon law, however, which did not allow for annulments based on sterility, one of the rhetorical concerns that the prosecution expressed in this case was that Magdalena was useless for the propagation of the species. Again, court rhetoric conflated female potency with fertility. Her vagina “could [not] permit the introduction of the material that serves for reproduction.” After being mutilated by either her mother or husband, Magdalena’s defect was probably no longer whether she could have sex or not but whether she could bear children. Therefore, the concern for the lack of sexual “potency” was specifically anxiety over reproductive capacity: she could not give Pedro any more children than he already had.

The ability of an individual to reproduce was an issue in impotence cases, even though sterility was not an allowable cause for annulment under the law. The fact that sterility could not be directly considered was clear to the court and prosecutors; there were no annulment cases in which sterility was the central plea and very few mentioned it at all, but this did not prevent sterility from becoming a fundamental trial issue.

In Magdalena’s case, the wife really does seem to be physically unable to consummate the marriage. This is, perhaps, because she is very young. In addition to being small, she is premenarchal, and it seems that she, her parents, or her husband or perhaps all of them are either ignorant, or pretending to be ignorant, of her true age. In attempting to consummate the marriage, either her husband or her mother, and possibly her medical examiner, injure and mangle her internal sex organs, thus rendering her infertile as well. In this case, therefore, female infertility is both the central fear motivating concerns about female sexual impotence, and it is also the product of attempts to cure that impotence. That impotence is in turn a result of, or at least highly correlated to, marriage consummation at an early age.

How much of this is relevant to an Islamic legal context? Several key aspects of the situation have parallels in the pre-modern Islamic world. Magdalena’s age and premenarchal status at the time of marriage are similar to ages commonly found in the Islamic world. The dispute about Magdelana’s age also has its equivalents in the

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225 Ibid., 319-320.
Andalusian *fatwās* cited above. The physical defect she is accused of having has parallels found throughout Islamic legal literature. So too do the interventions embarked upon by the mother, interventions which cause further damage to the girl’s sexual organs. The description of the damage to Magdalena’s sexual organs and fertility by these efforts also seems to match the conditions of *ratq* and *ifḍāʾ* as described in medieval Islamic texts. What is not clear, however, is whether we should read medieval Islamic allegations of female genital defects in light of this Catholic legal stratagem: i.e. that such allegations function to provide legal cover for dealing with what is primarily a fertility complaint.

The argument in opposition to such a reading is that a Muslim husband did not need such a strategy, since he had the option of divorcing his wife. The argument in favor of such a reading is that some Muslim husbands and some Muslim wives clearly did want to end their marriage via annulment rather than by divorce, for the same reasons that compelled them to disrupt their marriages by announcing that someone was a minor, or had not yet completed her ‘*idda* from a previous marriage.²²₆

V. The Marital Prospects of Women Presumed to be Infertile

On occasion, legal works can give us some insight as to what marital prospects infertile women could expect. For example, in his commentary on *Tuhfat al-muhtāj fī sharh al-minhāj*, the nineteenth-century Shāfi‘ī scholar al-Sharwānī writes about whether one could argue that certain pronouncements relating to the divorce of either a young girl or an iyāsa (menopausal woman) applies also to

a sterile woman whom a man who already had offspring decided to marry. Such a woman, like a menopausal woman, does not conceive, for pregnancy is not a possibility for her, ordinarily. Or,

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perhaps not, since there is a possibility that she is pregnant [at the time of the divorce] and her lack of pregnancy during her previous marriages was due to a cause other than infertility.\textsuperscript{227}

He opts for the latter interpretation of the status of an infertile woman. While al-Sharwānī is a late scholar, the family dynamic he depicts is probably not limited to his time and place. What he describes is an infertile woman who has experienced previous marriages, but has since married a person who, it seems, was content with her infertility because he already had offspring. In the household of a man who has as many children or heirs as he wishes, it makes sense that an infertile wife might well find a suitable home. However, even in such scenario, there remained a concern/hope that a barren wife may yet prove fertile.

This description of the possibilities and uncertainties surrounding an infertile woman on her second marriage bears quite a strong resemblance to the depiction of an infertile widow contemplating her future in \textit{The Women of Deh Koh}, Erika Friedl’s fictionalized anthropological account of life in a rural village in Iran in the 1970s and early 1980s. There she describes a middle-aged childless widow weighing the possibility of remarriage.

She had been around a long time, yet she was not old. There were several middle-aged widowers in the village, a couple of them even eligible relatives. But perceptive as she was, she appreciated their problems very well. For a man who still wanted children she was a bad risk, even if there was a tacit understanding that her barrenness probably had been due to [her late husband]’s inadequacy and not hers. For a man with grown sons, on the other hand, she was not old enough; there was still just a chance she might have children, which would obviously not be in the interest of the older children. Against the opposition of his sons, an older man had little chance to take a youngish wife.\textsuperscript{228}

In modern ethnographic literature, another, much-feared consequence of infertility is polygyny. Conversely, apologists for the institution of polygyny point out that the


\textsuperscript{228}E. Friedl, \textit{Women of Deh Koh}, 32.
institution protects infertile women from the prospect of divorce, and that it is a significant argument in its favor.\textsuperscript{229} How then was polygyny as consequence to infertility viewed in the medieval world?

The idea that polygyny may protect infertile women can be found in \textit{ḥadīth} literature. A famous \textit{ḥadīth} tells the story of a sixty-year-old convert to Islam, Nawfal b. Muʿāwiya, who had five wives, and who was told that because Islam limits him to only four wives, he must divorce one. The woman whom he is forced to abandon is his elderly barren wife. Here, the limitation placed on polygamy (only four wives) proves negative for the barren woman, whereas she was better off during the era of more expansive polygamy. Commentaries on Q. 4:128 also point to the notion that polygamy is good for barren wives. The verse reads, “If a woman feareth ill treatment from her husband, or desertion, it is no sin for them twain if they make terms of peace between themselves. Peace is better. But greed hath been made present in the minds (of men).”\textsuperscript{230} The verse was understood as referring to the practice of allowing a wife to cede to her co-wife the marital rights originally allotted to herself so as to avoid being divorced. The Prophet’s wife Sawda, who ceded her conjugal rights to ʿĀ’isha to avoid divorce, is often cited in Qur’ānic commentaries as an example of this sort of calculation. However, al-Ṭabarī includes this interpretation: “If a woman has grown old, or does not give birth, and the husband wants to marry someone else, he can come to her and say, ‘I want to marry a woman who is younger than you, so that she may birth children for me, and I will award her days and maintenance,’ then, if she is satisfied with that, he will not divorce her. . .”

\textsuperscript{229} For a discussion of the modern defenses of the institution of polygamy, see S. Rank, “Polygamy and Religious Polemics in the Late Ottoman Empire: Fatma ʿĀliye and Mahmud Esʾad’s Taʾaddūd-i Zevcât’a Zeyl” \textit{Cihannûma: Tarih ve Coğrafya Araştırmaları Dergisi} 1/2 (Dec. 2015), 61-79.
\textsuperscript{230} The translation is Pickthall’s.
Here polygamy is explicitly associated with inequality, and the infertile wife who consents to it does so for fear of divorce. Divorce, in this case, seems to be viewed as a worse prospect than polygamy. However, the widespread use of conditions in marriage contracts whose purpose is to avoid polygamy suggests the opposite. There is an abundance of medieval marriage contracts that stipulate that a man who engages in polygamy may be compelled to divorce his first wife, which suggests that many people considered divorce to be a better prospect than polygamy.231 Other marriage contracts suggest a more flexible attitude toward polygamy. For example, a commonly discussed stipulation in a marriage contract was that the first wife, rather than being automatically divorced in the event of a second marriage, instead be given the power to divorce the second wife on her husband’s behalf.232 (Such marriage conditions are usually rejected by the jurists,233 except by the Ḥanbalīs.) These sorts of conditions raise the question: among the three prospects of divorce, monogamous childlessness and polygamy, which represented the worst case scenario for barren women and which the best? To the extent that women’s families were wary of polygamy, and all evidence from marriage contracts indicates that most were, what was it about polygamy that they objected to? What did

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233 *Kashshāf al-qinā* 5:134. 4: 1682.
barren women in polygamous marriages fear most and what would make the prospect of polygamy more palatable?

Jewish documents from the Cairo Geniza, as well as some legal responsa from the Geonim of Iraq, suggest some intriguing answers to the question of the circumstances under which an infertile woman facing the prospect of either divorce of polygyny might prefer one or the other. Jewish rabbinic family law as it was practiced in the Middle East, in both its Palestinian and Babylonian forms, has many parallels with Islamic family law. Minor marriage was permitted, as was divorce. As with Islam, divorce was accompanied by the payment of the delayed portion of the dower and with a divorce gift. Jews of the Middle East, like their Muslim counterparts, often wrote “monogamy clauses” into their marriage contracts stipulating that a man cannot take a second wife or maidservant without his wife’s permission – the violation of which would trigger the wife’s right to force a divorce. One of the differences between Jewish law and Islamic law, however, was that divorce was more often discouraged and more cumbersome to effect, and polygamy was more strongly discouraged among Jews in much of the Arab world.

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234 In an unusual example of such a clause from the 11th century, in a marriage agreement in which one of the parties is a man who comes from Ramle in Palestine (where Jewish polygamy seems to have been almost entirely absent), it seems to say that the husband promises to live monogamously or else to pay a fine, except if the wife does not become pregnant. Unfortunately, the document is badly preserved at precisely this spot. Friedman, Ribui Nashim 56. The designation for this Cairo Geniza document is ENA NS 18.27.

235 For examples see, Friedman, Ribui Nashim bi-Yisrael 63-65, 71-73. For an example of a divorce settlement which actually cites this clause as the reason for the divorce, see pp.74-78. The settlement’s lack of mention of children implies that the marriage is childless. For examples of marriage contracts in which the violation of monogamy results in the imposition of a fine, rather than a divorce, see ibid. 67-71, 73-4.

236 This is not to suggest that divorce was rarely practiced rather, as Goitein shows, “[i]n the Geniza world, divorce was disapproved but abundantly practiced.” Goitein, Mediterranean Society, 3:260. However, unlike Islamic divorces, which in theory could come into effect through speech, even by an ill-considered slip of the tongue, Jewish divorces did not come into effect except through the delivery of a court-drawn-up document.

237 Ibid., 147-8, 150. Among Jewish communities in the Islamic world, attitudes toward polygamy seem to have varied somewhat, with the Jews of Palestine seemingly not practicing polygamy at all in either the Islamic era or in late antiquity, while the Jews of both Christian and Muslim Spain seem to have practiced it until relatively late. In the documents and literary works from the Cairo Geniza, there are many anti-
Another difference was that rabbinic law strongly encouraged, or even compelled, couples who had not produced children in the first ten years of marriage to divorce.238

Because continuing childless marriages, divorce, and polygamy were all actively discouraged, some questions addressed to rabbinic authorities about divorce and polygamy describe in detail the emotional, economic, and legal trade-offs that childless Jewish couples had to negotiate. These same trade-offs might very well also have applied to the petitioners’ Muslim counterparts.

Several documents from the Cairo geniza are suggestive as to what childless women had to gain and fear from a polygamous marriage. A twelfth-century A.D. document depicts a couple drawing up a new ketubba to govern their marriage. The husband’s perspective is described thus: “I ask to marry a woman in addition to her, for I have not had any offspring from her. I wish to see offspring in front of me, as is obligated upon us by Moses our Teacher, by being fruitful and multiplying, and in order that there be a remembrance of me, and my name and the name of my fathers will not be cut off.”

Polygamy among the Jews of Iraq in late antiquity and the early Islamic era seems to have been associated with travel, and bears some resemblance to the Shiite institution of mut’a (temporary marriage). In Spain and particularly in Egypt, polygamy seems to have been strongly associated with travel as well, with different wives living in different regions of the world, rather than with the simultaneous maintenance of two households in close proximity. See Friedman, Ribui Nashim, 88-92; 205-240. Polygamy was also highly associated with spousal abandonment in the course of travel, to such an extent that Maimonides issued a ban prohibiting any local Jewish woman from marrying a foreign Jew unless he could prove that he was single, and simultaneously mandating that any foreign Jewish man who had married locally and planned to travel abroad again was to deposit a divorce document to be delivered if he did not return within a predetermined time of one, two, or three years. Maimonides, Teshuvot ha-Rambam (Jerusalem: Mikitse Nirdamim, 1960), 624 = #347. 238 Initially this rule also extended to allegations of male impotence, but by the 16th century there were a number of Jewish authorities of Spanish descent living in Egypt, Palestine, and Istanbul writing in favor of compelling divorces in cases of alleged impotence after substantially shorter periods of time. R. Weinstein, “Impotence and the Preservation of the Family in the Jewish Community of Italy in the Early Modern Period” (Hebrew) in Sexuality and the Family in History = Eros, erusin, ve-isurim: miniyut u-mishpahah ba-historiyah, ed. I. Bartal and I. Gafni (Jerusalem: Merkaz Zalman Shazar le-toldot Yisrael, 1998), 163. Cf. Babylonian Talmud, Yevamot 64b, which suggests that two and a half years is a more appropriate length of time to see if a marriage can yield children.
The woman agrees to her husband marrying a second wife if the following conditions are observed:

I [the husband] agreed, and promised to follow all the conditions she chose, namely:
that I will take nothing out of her apartment which is currently in it, including furniture and dishes 
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No curse will ever be placed on her, neither a light curse nor a grave one, not even an oath, and not
by means of magic.
And that in everything I spend on [the two wives] and in everything that I am to buy to maintain
them, I will not give preference to one over the other in any of these regards.
But if there is [document torn] and she asks to be divorced, then I will be bound to pay her the 100
dinars of delayed dower and for [document torn] another 100 dinars.”

The woman in this document is thus hedging her bet. She conditionally agrees to her
husband taking a second wife, but expresses a fear that the husband might reduce her own
material standard of living. She also is fearful lest the new wife attempt to curse her or
use magic against her. Elsewhere in the document, she promises not to curse the new
wife or any children she might have. She stipulates that if she has reason to regret
opening the marriage to a second wife, her husband will agree to divorce her and pay the
remainder of her delayed dower and divorce gift.

A very similar document from al-Maḥalla, Egypt from the year 1141 describes in
minute detail an agreement between an apothecary and his wife, whom it seems he
threatened with divorce before reconciling with her.

…The Elder Sa’adya said to us: I am sick of my life and have sworn a binding oath to get married.
I have already reached an agreement with my spouse, my current wife Na’ama bt. Abū Naṣr that
she will permit me to marry another woman. I had already offered her dower to her and to separate
from her, but she did not choose this. Rather, I bound myself to the conditions that she asked of
me. They are:

That I not promote the woman I marry over her, rather I will be equitable with the two of
them, with regard to sleeping arrangements, spending, and maintenance.
I will not give preference to the other over her in any matter; rather, sleeping, night by night,
on regular days, Sabbaths, and holidays, will be split equally between the two of them. So too with
regard to spending and maintenance.
And if I am blessed with offspring from the wife I shall marry, be it male of female – once I
die the [son or daughter] shall not do anything against my wife Na’ama bt. Abū Naṣr, nor will
anyone else be empowered by him to take her to court or to utter any kind of curse or oath against

239 Friedman, Ribui Nashim, 177.
240 Lit: “with my tent.” For this locution see Goitein, Mediterranean Society (Berkeley: University of
her, for I have already made her loyal to me and to all of my heirs after me, in her words, in her house, and in her marriage document, in regards to everything. And at any time while I am still alive, having married [a second wife], should my first wife become distressed by her life with me, I will be obligated to pay her the entirety of her delayed dower and will divorce her, and I will not impede her. And if I do not pay her delayed dower, the court will have the right to sell of the following household furnishings in order to pay her the delayed dower, and I will pay her both the remainder of her dower and her alimony, and this is the list of furnishings.

In this document the woman indicates that she too is concerned both about her standard of living and about potentially incurring a curse from the new wife, but here division of time is also mentioned as a factor. Additionally, the document anticipates the end-of-life conflicts between the infertile widow and the rest of the family and attempts to head off a potential lawsuit between the two sides. A third document similarly describes the reconciliation of a man and his barren wife who wished him to divorce her. As part of their reconciliation he promises that his wife will be provided with a decent burial.

These stipulations seem to imply that, for some childless women, a good polygamous marriage was seen as a better alternative than divorce, and divorce was a better alternative compared to an unhappy polygamous marriage. In order to establish a

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241 S. D. Goitein explains that, “in reality, this agreement [to pay the delayed dower] frequently proved to be unenforceable simply because the husband was unable to acquire the means for the payments guaranteed. Consequently, when the end of life approached, we find settlements made in which the amount of the late marriage gift to be paid was reduced, sometimes to half the original amount or even less. The reductions involved concessions of on the husband’s side, usually the granting to the wife the status of ‘trustworthiness,’ . . . protected her from being troubled by heirs and courts with demands to render account of any property of her husband held by her.” Goitein, *Mediterranean Society*, 3: 251 and 254-58 describe the difficulty a widow might have in acquiring her due from the late husband’s other heirs.

242 Friedman’s *Ribui Nashim* includes an odd example of what appears to be some sort of settlement, in which a husband pays his first wife the delayed dower and transfers her trousseau entirely to her custody immediately prior to marrying a second wife, but the document does not explicitly say that he is divorcing her. Perhaps this represents a precautionary step similar to the above-described enumeration of the property which would be transferred in the event of a divorce. The document dates from 1130. The document is Bodl MS Heb. B 11, fol. 3, in Friedman, *Ribui Nashim*, 80-81. A similar document from the same decade appears on p. 119 but, in this document, it seems that the first wife had forced her husband (also her cousin) to divorce his second wife, but is now agreeing to allow him to remarry his divorcée, on condition that the first wife receive her delayed dower in advance in case she has trouble collecting it later.


244 Ibid, 194.
good polygamous marriage, the contracts include the conditions that (a) the current wife not be forced to give up her current standard of living; (b) the husband treat his wives equitably with respect to sexual arrangements and financial support; (c) the current wife not suffer abuse from the new wife; (d) the current wife will be given the means to support herself after the husband’s death, with no attempts to withhold the money owed to her. One of the documents goes so far as to specify which valuables will be sold by the court in the event that family of the deceased attempts to thwart the wife from collecting her money from the estate. Interestingly, none of these documents attempt to define a relationship between the infertile wife and any potential child, other than to restrain hostilities between them. In no way is polygamy presented as a surrogate form of motherhood or as potentially expanding the circle of relations for the barren woman.

Of course, in many Islamic communities, the practice of polygamy was either limited or practically non-existent. For example, Leslie Peirce notes that polygyny is not mentioned at all in the court documents of Aintab, in Anatolia, in the early modern period, even among childless families. Presumably, remaining monogamous in a childless marriage must have been a practical option for many, if for no other reason than the potentially high financial and social costs of divorce. Of course, in such cases, legal literature can offer us few insights, since there is no reason for the relationship to receive scrutiny from the court. The experiences of childless spouses who remain married to each

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245 For a brief discussion of the high costs associated with polygamy in early modern Aleppo, and the court records which attest to this cost see A. Marcus, *The Middle East on the Eve of Modernity: Aleppo in the Eighteenth Century* (New York: Columbia University Press, 1989), 199-200, 368. He notes, however, that infertility was considered an exceptional circumstance, in response to which polygamy was potentially acceptable even among Jews.

246 L. Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab*, 150.
other do not draw attention from the law until such time as one of them dies, and the other becomes a potential heir to the inheritance.

VI. Childlessness and Inheritance

Up to this point, this chapter has examined the implications of infertility for those attempting to contract or dissolve a marriage. However, infertility was also significant after the death of one of the spouses, since childlessness had a substantial impact on the rules of inheritance. The prospect of future inheritance, furthermore, had the potential to influence family dynamics while both spouses were still living. Female childlessness had consequences in three different inheritance situations:

(a) When a married, childless woman died, leaving behind a living husband and her natal family as heirs. (If her parents have also died, then the inheritance distribution takes on the added complications associated with kalāla, a topic that is beyond the scope of this chapter.)

(b) When a married, childless woman was widowed, thereby inheriting a portion of her husband’s legacy without the legal possibility of her share returning back to her husband’s bloodline. The legacy would thus be transferred from her husband’s bloodline to that of her own birth family.

(c) When a childless woman was due to inherit or to collect from the estate of a relative by birth, but had no husband or son to represent her interests during the legal proceedings.

The ability of women to take hold of property in their lifetimes, and their ability to pass on property to their own heirs upon their deaths, were intimately connected. Islamic law
in no way distinguishes between infertile and fertile women when it comes to their rights to inherit, benefit from, and manage their own property. But it does distinguish between women who have children and those who are childless when it comes to their rights to pass along property to their heirs. The result is that a childless woman, who passed away before her husband, would effectively hand over to her husband’s family half of the property given to her by her natal family, with no chance of it going to her natal family’s descendants. A childless woman who survived her husband would hand over up to a quarter of her husband’s property to her own natal family. This created potential incentives to postpone or impede childless women from gaining access to property during their lifetimes.

The Death of the Childless Wife

In Sunnī legal theory, when a childless woman dies leaving only a husband and members of her birth family as heirs, the husband receives fifty percent of her inheritance.247 In those societies in which a woman’s legacy might include a substantial bridal trousseau as well as other property, this might represent a significant financial loss for her birth family. One way of mitigating fears of this sort of situation was to marry a woman to her paternal cousin who, for inheritance purposes, is also a member of her natal family.248 Another way was to either pass off the woman’s possessions as life-time

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247 Based on Q 4: 12.
248 “The structural means to prevent property passing out of the family is the marriage of paternal first cousins. In such a marriage, the husband inherits from the wife in two capacities: as a husband he is a qur’ānic heir, who, in the absence of children, takes one-half of her estate (by the side of children he takes only one-quarter but there is no danger then of the property passing out of the family), and as an agnatic relative he takes the residue.” A. Layish, “The Mālikī Family “Waqf” according to Wills and “Waqfiyyūt,” Bulletin of the School of Oriental and African Studies, 46 (1983), 28.
gifts which would revert back to her birth family, or to call into question the woman’s marriage itself. Such scenarios are mentioned in some *istiqlās* addressed to Ibn Taymīya:

He was asked about a mature woman who died, leaving a father, a mother, and a husband, and whose father then took possession of her trousseau, leaving nothing to her heirs . . .

He was asked about a woman who died, leaving a husband and her two parents, and whose father then took hold of her possessions, saying that she was a minor. Does her husband inherit from her?249

Yossef Rapoport has analyzed Mamluk-era attempts by some women’s families to take back the trousseau following her death if she produced no children.250 Such families would either add clauses to the marriage contract which would finalize the transfer of the trousseau from parents to daughter only once she gave birth, or they would engage in legal proceedings to define her trousseau as a temporary gift.251 Maya Shatzmiller notes that there was a practice in al-Andalus of fathers maintaining ownership over property ostensibly given to their daughters until one to seven years into the marriage.252 Al-Wansharīsī’s *Mi’yār* has several such cases,253 including a case of a mother and step-father suing their widower son-in-law to recover their late daughter’s trousseau after she

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250 Rapoport, *Marriage, Money, and Divorce,* 17.

251 Rapoport notes that since, in Jewish law, the bride’s family would not inherit from her if she had a widower, there exist both Karaite and Rabbanite contracts from Mamluk Cairo which have a similar stipulation. Shraga Abramson notes that the stipulation that half of the estate of a childless wife return to her birth family can be found in the Jerusalem Talmud and was a matter of frequent debate. It was enshrined in law in the widely publicized thirteenth-century takkanah (decree) of Toledo, but apparently it was slightly different in its Arabic and Hebrew versions, which circulated simultaneously. Abramson, “On the Takkanah of Tuletula (Toledo) Regarding the Husband’s Inheritance of his Wife’s Estate,” *Zion* 60 (1995), 201-224. For an example of this clause in an 11th century marriage contract found in the Cairo Geniza see T.S. 13 J 6.33, in Friedman, *Ribui Nashim,* 68-71. For an analysis of the prevelance of such stipulations in marriage contracts found in the Cairo Geniza see Eve Krakowski, *Coming of Age in Medieval Egypt* (Princeton: Princeton University Press, 2018), 246-251.


died. The widower launches a countersuit for the wedding expenses. It is not at all clear how much time had elapsed since the wedding.  

Multiple *istiftās* and stipulations in marriage contracts indicate that childlessness was commonly understood by parents of the bride to represent an exception which prevented the marriage from being fully realized, with the intended legal aim being to interrupt the transfer of property of the wife’s natal family to the husband and his heirs. It is possible that the husbands of infertile women also viewed their marriage as not fully realized, given that there are many instances of the husband asking for the return of his wedding expenses; however it is also possible that this is simply a legal tactic rather than an expression of social values. Judith Tucker has noted that, in Ottoman Palestine, the jurists accepted the popular notion that the property given to women at the time of their marriage was a life-time loan which would return to her parents if she died.

In a later historical context, that of early-modern Ottoman Anatolia, this legal association between the production of children and the establishment of a woman’s status as an autonomous adult rather than as an appendage of her father’s or husband’s family, is embedded in the language itself. Leslie Peirce describes how, in the town of Aintab, wives did not get their own residences until they birthed their first child:

> It was generally [the *gelin*, new bride], not the young husband, who made the spatial transition into marriage by moving into the household of his parents (the term *gelin* derived from the verb *gelmek*, “to come” . . .) . The word emphasized that the young bride had as yet no identity except as an affiliate to her husband’s family . . . The female adult, in contrast – the *avert or hatun* – acquired her identity from the establishment of her own household unit with the birth of children. This event was often accompanied by a physical move into a separate residence . . . household-as-residence was seen as fundamental constituent of full adulthood. This convergence of household and the production of children reflects the widespread view of parenthood as critical in establishing full personhood in the community. More than marriage itself, childbearing and child-rearing transformed men and women into socially mature adults. There was, however, a gender disparity in this signaling of adulthood, as the existence of two labels for the married woman – new bride and female adult – suggests. It was the female member of the marital pair – the bearer

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of the child – whose changing status marked the inception of the new household. Correspondingly, it was she who experienced greater pressure to bear children.\textsuperscript{256}

In those communities in which the full-fledged acknowledgement of a woman’s marriage and her right to pass property on to her heirs was subject to the birth of children, the prospect of childlessness had the potential to shape her familial life during her lifetime. Rapoport notes that parental attempts to stall the transfer of property sometimes meant that the younger generation had to take their parents to court. He writes, regarding the Mamluk period, “The vast majority of disputes over dowries were intergenerational rather than conjugal. In the legal literature the question is almost never usurpation of the dowry by the husband, but rather the parents’ attempt to revoke the gift.”\textsuperscript{257} Mathieu Tiller mentions a similar pattern in his analysis of \textit{Adab al-qāḍī} written by the 3\textsuperscript{rd}/9\textsuperscript{th} century Ḥanafī jurist al-Khaṣṣāf.\textsuperscript{258}

In those communities where this practice of delayed or revocable forms of dowry prevailed, such an arrangement might have compounded the frustrations of a childless marriage. When the financial benefits accruing from marriage only legally “took hold” once a marriage proved stable as evidenced by the presence of children, lack of children would have further contributed to lack of financial autonomy and hence to marital stability. I have found at least one source which uses the phrase, “the time it takes to produce two children from two pregnancies,” as a proverbial idiom for establishing that a marriage originally contracted under shady circumstances now has the longevity to be thought of as valid.\textsuperscript{259}

\textsuperscript{256} L. Peirce, \textit{Morality Tales: Law and Gender in the Ottoman Court of Aintab}, 149-150.
\textsuperscript{257} Rapoport, \textit{Marriage, Money, and Divorce}, 18.
\textsuperscript{258} M. Tillier, “Women before the Qāḍī under the Abbasids,” \textit{Islamic Law and Society} 16 (2009), 282.
Death of the Husband of the Childless Woman

In a monogamous marriage, a woman with no descendants whose husband has died would theoretically receive one quarter of her husband’s property in addition to any deferred dower still owed to her, according to all Sunnī schools of law.260 (According to Twelver Shi‘ites she would not inherit at all.261) If she was part of a polygynous but childless family, that quarter would be divided equally between all widows. E.g., if there are three wives, each would receive one twelfth of the estate. If a man died leaving one widow and at least one son (e.g., from a previous marriage), his widow would receive a total of one eighth of the estate. In all of the above cases, the property inherited by any childless widow would effectively be removed from her husband’s bloodline262 because, when she died, all of her heirs would be from her natal family. The same cannot be said of a widow who has children with the deceased, since their mutual children would bring the greater part of their mothers’ portion back into the paternal bloodline once they inherit from her.263

260 Based on Q 4:12.
261 Shi‘ī legal literature which deals with recompense of injuries demonstrates a recognition of the financial loss associated with infertility. The Shi‘a award a woman the full diya in compensation if a man injures her in such a way as to cause her to prematurely lose her ability to menstruate thus rendering her barren. Sunnī schools do not usually award compensation for the loss of fertility, but only for damage to a body part. Ibn Bābawayh al-Qūmī (d. 381/992) Man lā yahduruhu al-faqīh, § 5334.
262 Interestingly, according to Marcia Inhorn who studied infertility in contemporary Egypt, those infertile women who were married to their cousins sometimes consider themselves to be in a much better position and to have happier marriages relative to other infertile women who were married to “strangers.” M. Inhorn, Infertility and Patriarchy (Philadelphia: University of Pennsylvania Press, 1996), 130. Inhorn does not, however, mention issues of inheritance in any of her work.
263 The complicated nature of the partition of the property of childless men sets the stage for a riddle told in the fifteenth maqāma of al-Ḥarīrī (d. 516/1122): a man dies whose only living heirs are his full-brother and his widow, who herself has a full brother. Under what circumstance would the widow’s brother legally come to inherit all of the property other than his sister’s and disinherit the deceased’s brother? See al-Ḥarīrī and F. Steingass, The Assemblies of al-Ḥarīrī: Student's edition of the Arabic text; with English notes, grammatical, critical, and historical (London: Sampson Low, Marston & Co. 1897), 112.
The awareness of conflicting interests between the widow and the rest of the deceased husband’s relatives could lead the husband, the wife, or the other relatives to attempt to circumvent *shar‘ī* inheritance laws through the establishment of *waqfs*, deathbed divorce, or, on occasion, the discovery of a “sleeping fetus.” Some scholars argue that *waqf* endowments served in some communities as a means of disinheriting women, although that view has come under a great deal of scholarly criticism, and others have argued that they tended to supplement rather than detract from women’s shares of inherited wealth. Sometimes a *waqf* seems to have been put in place to safeguard the inheritance of existing children before a new marriage was embarked upon. For example, a case in al-Wansharīsī’s *al-Mi’yār al-mu’rib* describes a man with two young children who, prior to marrying a new wife, creates an endowment for the benefit of his children. The new marriage lasts twelve years before the death of the husband, and appears to be childless. (In this case, the widow takes control of the endowment for several years

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264 If the husband were to divorce his wife irrevocably, just before his death, she would not inherit any share of the estate, thereby preserving more money for the husband’s other heirs. Rapoport, *Marriage, Money and Divorce*, 87. The legality of such a measure is a matter of dispute. There are many examples of medieval *istīfās* which describe deathbed divorce but, unfortunately, such documents rarely describe who the husbands’ heirs are who are competing with the (ex-)widow. For example none of the *fatwās* in al-Wansharīsī’s *al-Mi’yār al-mu’rib* specify who the competing heirs are. See volume 4: 87-8. Modern *fatwās* which address the death-bed divorce of childless women do specify the competing heirs, perhaps because there are fewer of them than there would have been in pre-modern periods e.g. ‘Allām Naṣār, “*Fatwā – January 19, 1952*,” in *Fatāwā dār al-ifā‘ al-miṣrīya* (Cairo: Wizārat al-Awqāf, 1980), 5: 114. The phenomenon of disinheriting childless widows through deathbed divorce is also mentioned by modern women’s rights advocates, particularly in Pakistan. *Report of the Pakistan’s Women’s Rights Commission, 1976* quoted in “Some Facts and Figures About Women’s Situation In Pakistan,” *Manushi* 12 (1982): 5. There, there have been some efforts to ameliorate the position of childless women by allowing husbands to transfer property to them during their lifetimes, with the property reverting back to the husband (if he is alive) or his family (if he is deceased) after the wife’s death. These efforts have often failed to succeed on the grounds that they are difficult to justify within the Islamic legal system. L. Carroll, “Life Interests and Inter-Generational Transfer of Property Avoiding the Law of Succession,” *Islamic Law and Society* 8 (2001), 271.


before her step-son, at the age of twenty-one, is finally able to take control of it himself. 

At that point, she has trouble extricating her delayed dower from her late husband’s estate due to its being tied up in the endowment.)

On occasion, particularly in the Mālikī madhab, we read about heretofore childless women who have been widowed for years and are able to disrupt the inheritance system by giving birth to a rāqid who then inherits a portion of his deceased father’s estate. Al-Wansharīsī describes jurists trading increasingly outlandish stories, such as this one:

A woman came to us whose husband had died while her womb was occupied by a child. Then, after seven years, she brought forth the child. The aforementioned man had left other children and [this new child] inherited along with them, once they saw his resemblance to their father. They acknowledged him and did not deny it to him.267

Despite its farfetched nature, the case is important in terms of demonstrating the protracted impact of childlessness and fertility on the inheritance system.

Occasionally, we also here of old age with the impending prospect of inheritance as a time for spouses to demonstrate care for each other regardless of their fertility failures. In the Kitāb al-Umm, al-Shāfi‘ī relates the story of the daughter of Ḥafṣ ibn al-Mughīra: Her first husband Abdallah b. Abū Rabī‘a, divorced her, prompting ‘Umar b. al-Khaṭṭāb to marry her. But ‘Umar found out prior to consummating the marriage that she was infertile could not bear children, and so he divorced her too. She remained single for several more years, long enough for ‘Umar to die and sometime into the caliphate of ‘Uthman. Then her first husband, Abdallah remarried her when he fell ill so that she too

267 Ibid. 4:492.
could inherit from him along with his other wives, because “there was a kinship between them.”

Claiming Inheritance Against Male Kin Without the Benefit of Sons

In addition to inheriting from her husband and children, a woman also inherited from her birth relatives: her parents, and sometimes her siblings and paternal grandparents. Islamic inheritance law, by recognizing a daughter’s and sister’s right to inherit property from her birth family, and to keep her finances separate from her husband’s, placed a woman in a potentially awkward position in which her financial interests did not entirely coincide with those of either her birth family or her husband’s family. The person whose financial interests most closely mirrored her own was that of her son. The mother of a young son could become the guardian of his share of his father’s inheritance, should her husband choose to appoint her to that position. It was in her interest to protect her son’s share of the property from her husband’s kin and business partners. Later, an adult son could potentially be in a position to protect his mother’s share of her birth-family’s property, since it was in his interest to do so. Their financial interests coincided because he himself could not inherit from his mother’s kin, but he would eventually inherit from her.

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268 Al-Shāfi‘ī, Kitāb al-umm 4:108. Here the kinship is likely both emotional and biological. The story is also told in ‘Abd al-Razzāq’s Muṣannaf, #11132.

A woman’s male kin from her natal family were often her de facto protectors and representatives in legal proceedings, but when it came to inheritance from the estates of her birth relatives, her share competed with those of her brothers and uncles. Thus her usual representatives had financial interests which were directly opposed to her own. By contrast, in the person of her son, she would have a male family member who could effectively represent her because his financial interests coincided with hers, as he would inherit from her but would not inherit from her male relatives. Such representation, however, would not be available to a childless woman.

There are at least three known ways in which women dealt with the threat of being deprived of their inheritance. They could sue their rival heirs for their inheritance in court, they could sue for their inheritance from people who had bought their expropriated property from the rival heirs, or they could choose to forfeit their property. In practice, it seems that the latter two were quite common. For example, in sixteenth-century Ottoman Anatolia, according to Leslie Peirce, a large percentage of women’s court appearances revolved around inheritance disputes. But the defendants in these cases

270 On the high status of the bond between brothers and sisters see Goitein, Mediterranean Society, 3: 21-24. For a contemporary anthropological perspective on the relationship between brothers and their widowed childless sister, see Friedl, Women of Deh Koh, 26-46.

271 “With regard to women and inheritance, the evidence suggests that women received their inheritance shares but probably were not present at the division of the estate. I do not know if it was a common practice for husbands to represent their wives or for male relatives to represent unmarried women, and I do not know if women in fact received their inheritances, although I strongly suspect that this was the case. The fatwās indicate that females were dependent on male relatives for the receipt of their shares . . .” M. Shatzmiller, “Women and Property Rights in Al-Andalus and the Maghrib: Social Patterns and Legal Discourse” Islamic Law and Society 2 (1995), 241.

272 F. Zarniebaf-Shahr, writing about seventeenth-century Ottoman Istanbul, notes that a large percentage of women’s court petitions were about inheritance and property disputes: “Inheritance disagreements occurred among members of all economic strata, but mostly among members of the middle class, where women were left dependent on male relatives for the protection of their property rights. Zarniebaf-Shahr, “Women, Law, and Imperial Justice in Ottoman Istanbul in the Late Seventeenth Century,” in Women, the Family, and Divorce Laws in Islamic History, ed. Amira El Azhary Sonbol (Syracuse: Syracuse University Press, 1996), 87 ff.

273 Ottoman-era court records show mothers on occasion suing their adult sons for their one-eighth share of the husband’s estate.
were not her rival inheritors of the estate. “Women’s rights,” writes Peirce, “were infringed by a variety of male relatives – stepfather, uncle, even father, and, most frequently, brothers.” In such cases, rather than suing one’s own relatives directly, women instead sued those to whom their relatives had sold the share of the property which “should” have gone to the sister or daughter. Peirce writes: “Female suits . . . were brought directly against the current owner and not against the male relative who had sold the land. The court’s interest was to defend the women’s claims; it did not concern itself with prosecuting the wrongful seller or compensating the loser.”274 The same process is described by Ronald Jennings, who examined early seventeenth-century court records from the Anatolian city of Kayseri.275 The roundabout nature of such legal behavior suggests that women did not think it was in their own interest to attempt to formally sue their own male relatives.

Modern anthropological research in Palestine, Jordan, Pakistan, Bangladesh, and India suggests that women sometimes view forfeiting their inheritance rights (tanāzul) as a good strategy for securing their relationship with their brothers, a relationship which brings both material and social benefits.276 This is particularly true of childless women, as is explained in this analysis of family dynamics in an Arab village in the newly-formed state of Israel:

While women legally have the right to inherit (The Koran, iv, 13), no woman with a brother will demand her share of the property. In brief, a woman is always jurally and emotionally connected to her father's household and his patrilineage. At times of difficulty, quarrels, or maltreatment in

274 L. Peirce, Morality Tales: Law and Gender in the Ottoman Court of Aintab, 213.
276 Widows sometime forfeit their rights to their husband’s wealth as well, in order to benefit her son and to acquire his loyalty. However there is no perceived benefit accruing to the widow in cases where the widow is childless. S. Sait and H. Lim, Land, law and Islam: property and human rights in the Muslim world (New York: Zed Books, 2006), 123.
her husband's household, as a young widow or as a childless older one, she requires the security of the house of her paternal relatives. Without such protection, and without her own kin to defend her rights, a woman is easily exploited. She will not risk incurring the anger of her brother by requesting property and thereby reducing his share. Should she do so, she would be cut off from his household.\textsuperscript{277}

In a summary of these studies of women’s forfeiture of property, Siraj Sait and Hilary Lim write:

It is an interesting example of ‘God proposes, Man disposes’ where pragmatic or socio-cultural considerations alter the impact of Shari’\textquoteleft a rules, even though they take effect after the Shari’\textquoteleft a formula is implemented. While gender rights advocates are justifiably concerned over women being forced to renounce their limited property rights, the reality may be far more complex. It may be a choice over empowerment through property or through enhanced family support.\textsuperscript{278}

Based on this analysis, we can see how a childless woman might be both particularly vulnerable and empowered by her situation. By virtue of not having anyone whose financial interests coincided with hers, she had few natural allies when it came to matters of inheritance - yet this was also true of fertile women, albeit to a lesser extent. Unlike women who had children, however, childless women could demonstrate that they wanted to make their interests congruent with those of their brothers or other relatives, and thereby seek to win from them the support which they would have received from their children.

VII. Conclusion

Islamic law rarely penalizes barren women or delegitimizes childless marriages. This is the case despite the fact that \textit{ḥadīth} dating from the first centuries of Islam decry such marriages, and despite the economic and social problems that accompanied childlessness. Indeed, according to Islamic law theory, women could not even be categorically labeled as infertile from the time they reached menarche until they reached old age. Yet this

\textsuperscript{277} H. Rosenfeld, “Processes of Structural Change within the Arab Village Extended Family,” \textit{American Anthropologist} 60 (1958), 1130.
\textsuperscript{278} Sait and Lim, \textit{Land, law and Islam: property and human rights in the Muslim world}, 121.
presumption of fertility did not always match up with either biological likelihood or socially constructed diagnoses. This is not to say that Islamic law is irrelevant to the experiences of medieval Muslim women, nor am I suggesting that legal theory represents the “true” place of women in Islamic societies. Rather, I would argue that it is the mismatch between Islamic legal theory, legal practice, biology, and other sources of cultural expectations that ends up having the greatest practical effect in defining the situations in which medieval barren women found themselves.

This mismatch is evident on multiple fronts. Even though in hadīth-based “advice” literature and the legal-philosophical literature, and in the more theoretical sections of legal handbooks, there are frequent mentions of the idea that reproduction is one of the primary goals of marriage (*maqāṣid al-nikāḥ*), this goal did not shape the practical laws of marriage. To a remarkable extent, it is another goal of marriage, that of sexual pleasure, that shapes practical law. It is women’s experiences as possessors of female sexual desire and as objects of male sexual desire that define their place when contracting a marriage. A woman’s desire for sexual satisfaction, her utility as a sexual object, and her defectiveness if she becomes sexually unavailable or unattractive to her husband, have far greater legal consequences than her desire for children, her utility as a producer of children, and her defectiveness if she is infertile. For this reason, the lower age limit of marriage was set not at the point where a woman would likely produce children, but rather at the point when she became capable of engaging in sexual intercourse. A free woman could demand complete sexual intercourse rather than *coitus*.

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interruptus, but (usually) not on the grounds of her right to a child, but rather on the grounds of her right to sexual satisfaction. For both sexes, it was not infertility, but rather impotence, which served as legal grounds for marriage annulment.

We also see a mismatch in the laws pertaining to ‘idda, whose ostensible legal purpose is to clarify that a womb is not “occupied” by the offspring of a previous husband. However, in practice, the ‘idda was measured via menstrual cycles, an imperfect proxy for reproductive capacity. Further muddying the situation was the biological possibility of oligomenorrhea and amenorrhea, which proved disruptive to the legal function of menstrual cycles. The belief in multi-year-long pregnancies, a belief acknowledged both in law and in society at large, added another dimension to notions of infertility, reproductive availability, and paternity. Finally, the seemingly straightforward biological facts of menarche, menstruation, conception and pregnancy were complicated by women’s abilities to “shape” these facts by concealing them, or swearing to their existence.

We see a mismatch between the legal and social expectations as to the role women ought to play in conveying and enjoying the benefits of familial wealth. All women, both fertile and infertile, had the legal ability to divert wealth from their birth families, and this was a source of frustration which prompted legal intrigue. For infertile women, the frustrations were all the more palpable because even as they diverted wealth to other families, they did not produce multi-generational networks with them. Katherine Kueny, in her work on motherhood in Islamic thought, suggests that this incapacity is further magnified by the infertile woman’s inability to create kinship ties through raḍā’, breastfeeding.
Women who have no infant to breastfeed cannot create an expanded network of blood ties with their own children or others among their family or the community of believers. Without the ability to establish such an expansive network of familial relations, few will inherit from them. In the absence of offspring, the wealth of the family must be transferred laterally rather than linearly, a secondary provision put forth in the Qurʾān that stifles a husband’s God-given right to sow his own legacy among future generations. Unmoored, barren women are left adrift in a world organized around kinship ties.\textsuperscript{280}

Finally, there was a blatant mismatch between legal and social attitudes towards polygamy, and infertility blurred the lines demarcating that mismatch. In Islamic legal theory, a husband could engage in polygamy without reproach and with an expectation that all wives would receive equal treatment. However, in general practice, women, their families, and their communities went out of their way to protect women from the evils of polygamy. Infertility, however, was an exception to that rule. It was acceptable for men in otherwise monogamous societies to engage in polygamy so as to be able to maintain a relationship with a barren wife, while attempting to nonetheless produce offspring. Women who were given the choice between polygamy and divorce might even view polygamy as the better option.

The result of all these mismatches is that the Islamic legal context provided infertile women and their families with a dizzying array of paths, rather than narrow dictates, within which they could maneuver and strategize. It is certainly the case that there were women whose childlessness rendered them particularly weak and in need of protection, and it is also true that as a result of not recognizing infertility as a source of particular social vulnerability, the legal system had no impetus to put in place safeguards to protect their interests. However, we also see that there were women who could exploit

\textsuperscript{280} Kueny, \textit{Conceiving Identities}, 158.
the flexibility provided by the discrepancies highlighted here so as to secure their own well-being.
Chapter 2

GRECO-ARABIC GYNECOLOGY AND THE TREATMENT OF INFERTILE WOMEN

Introduction: The Challenge of Infertility

In his *Shukūk ‘alā Jālīnūs* (*Doubts About Galen*), the famously independent physician Abū Bakr Muḥammad ibn Zakarīyā al-Rāzī (d. 311/923) writes:

Galen says, “One who understands what is said in this section knows what renders men sterile and women infertile: that is, a man who has a balanced temperament is always fertile, but one who lacks balance will be fertile if he so happens to be coupled with his opposite in humoral temperament.” This is not true, for I have seen many men such as this, exchanging women, hoping to reproduce, and it is of no use to them. One of them would buy slave girls according to our guidance to him, and I evaluated their humoral compatibility with him.281 I also had a neighbor, whose warm and moist temperament could pass for that of a camel, who expended great efforts in his exchanging of slave girls, but it was of no use to him – even though Galen says that this sort of temperament is strongest with respect to reproduction.282

Al-Rāzī’s observations remind us of two peculiar aspects of infertility as an “illness.” First, it was ongoing, and therefore a patient usually had the time to make a variety of attempts to fix the problem. This was not true of other types of problems such as acute illnesses or injuries. Second, unlike most other types of long-term illness, there was a clear line differentiating between success and the lack thereof in treating the problem. In this respect, the management of infertility was different from the management of other

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281 The Christian physician, Ishāq ibn ‘Alī al-Ruhāwī (d. 931 A.D.), who lived in northwestern Iraq, seems to allude to the practice of physicians choosing sexual partners for their patients when he writes, “It is of value to distinguish between skillful shrewd practitioners and those who imitate them. You may see these two classes when they come into a city and plan to show what they claim about their work with various arts. Some of them butter up the sultan of that country with electuaries and in selecting women who are pretty and act well, which they claim have [health] value.” This translation of al-Ruhāwī’s *Adab ʿal-ṭabīb* is from Martin Levey, “Medical Ethics of Medieval Islam with Special Reference to Al-Ruhāwī’s ‘Practical Ethics of the Physician,’” *Transactions of the American Philosophical Society* 57 (1967), 90.

long-term conditions such as chronic pain, or diminished eyesight. As a result, one could make an empirical argument demonstrating the failure of particular explanatory theories of the illness, which is precisely what al-Rāzī does.

Infertility was also complicated because fertility was tied to scientific theories that had significance beyond the realm of medicine, namely theories of conception and embryonic development. Many of the scientists, philosophers, and theologians who articulated a conception theory did not do so primarily for the purpose of describing where babies come from, but rather to describe the relationships between Creator and creation, soul and body, form and matter. In such descriptions, these binary relationships were mapped onto the male and female contributions to the embryo and, inevitably, it was the female contribution to the embryo which constituted the junior or less sophisticated partner in the relationship. Some scientists also embraced more egalitarian-seeming theories of conception, not due to a commitment to the principle of gender equality, but rather due to its seeming consonance with Islamic religious texts and law, as well as empirical observations about heredity.

In some ways, the significance of conception theory beyond the purely medical realm is analogous to the significance attached to the motions of the planets and celestial bodies, beyond the realm of physical astronomy. The cosmos hinted at truths about God Himself, His creation, His providence, His sovereignty, and the truths contained in His own book, the Qur’ān. But astronomical truths were also practically important. They helped people to orient themselves toward Mecca; and, to the extent that people put stock in the idea that the movements of the planets and stars impacted human life, astronomical
insights were perceived as being potentially useful.\textsuperscript{283} Similarly, articulating the correct theory of conception mattered both because it was a metaphor or metonym for larger philosophical truths, and because it had a practical value.

A third feature which marks infertility as a uniquely thorny medical issue is the sexually charged and potentially immodest scenarios associated with treating it. Medical diagnosis and treatment of infertility involved the physical examination and palpitation of the genitals, the application of pessaries (vaginal suppositories), vaginal fumigation, the insertion of rods or probes through the vagina into the uterus, medicalized forms of masturbation, and the consumption of sexually suggestive foods and substances.

The confluence of these complications raises some interesting questions. How was infertility understood by the physicians of the medieval Islamic world? To what extent do their beliefs about women’s bodies differ from the beliefs held by the physicians of antique and late-antique periods? Did the larger philosophical pressures to explain generation, and the social pressures associated with women’s roles, have an impact on how infertility was understood and treated? Most importantly, is there evidence that the theory and treatments espoused by the classically-trained physicians had any practical application? Or, was masculine discourse about gynecology merely an intellectual exercise, which was neither informed by nor could hope to impact the secluded world of women?

Throughout this chapter, the term “Greco-Arabic medicine” will be used as a short-hand for the system of medicine, explicated in Arabic-language texts, which

\textsuperscript{283} On the prominent role of astronomy in medicine, see P. Pormann and E. Savage-Smith, \textit{Medieval Islamic Medicine} (Washington DC: Georgetown University Press, 2007), 154-156.
understood itself to stand on a foundation of Greek-language texts. It includes both non-Muslim physicians writing in Arabic, as well as Muslim physicians who came from or operated in predominantly non-Arab communities, such as Persian ones, but who nonetheless wrote many of their medical works in Arabic, and who situated their own contributions to the field in the context of Arabic and Greek medical literature. This chapter will focus primarily on the Greco-Arabic medical tradition, despite the fact that medicine in the medieval Islamic world also benefitted substantially from the Indian medical traditions as well, especially in the field of pharmacology. There are both theoretical and practical considerations for doing so. The Arabic texts explored here explicitly acknowledge Greek physicians as their primary authorities and, as will be shown in the subsequent chapter, this had significance from the point of view of certain jurists. A practical benefit of focusing on the Greek tradition is that there is a great deal of sophisticated scholarship analyzing the significance of Greek gynecology for understanding the interplay between medicine and women’s social roles, and it is worthwhile probing the extent to which the theories developed by classicists can be applied to the study of the medieval Middle East.

The role and purpose of Greco-Arabic gynecology has been the subject of some debate. The great historian of Islamic science, Manfred Ullmann, devoted only four paragraphs of his *Die Medizin im Islam* to discussing medieval gynecology in the Islamic world, describing it as essentially underdeveloped as a result of medieval physicians having nothing to do with gynecological care.

In the field of gynecology, the Arabs did not attain significant achievements. Diseases of the female genitals were largely left to the care of midwives and "wise women" who did not have theoretical medical training. It is, however, very questionable whether modesty and the morality
code were the causes of the backwardness of gynecology, or rather tradition should not be held far more responsible.\footnote{Ullmann, Medizin im Islam, 250.}

By contrast, in her book \textit{Conceiving Identities: Maternity in Medieval Muslim Discourse and Practice}, Kathryn Kueny characterizes medieval gynecology as a form of male dominance and assertion of control over the incompetent bodies of women, specifically so as to wrest the power of reproduction from them. She writes,

\begin{quote}
[T]he rhetoric and discourse appropriated by medieval Muslim physicians and scholars [cast] the female body as the passive, more dependent sex that must be controlled and dominated by men . . . to keep hazards at bay, medieval physicians assert knowledge of, or control over, every stage of the reproductive act by surveying and circumscribing the female body, and by working to cure any problem within it that might interfere with man’s desire to replicate himself . . . Assuming the role of custodian and surveillant of women’s bodies, male medical scholars and physicians, like the Qur’ānic God, claim both the knowledge and power to generate life.\footnote{Kueny, Conceiving Identities, 53.}
\end{quote}

Given their near-obsessive interest in concocting ways to prevent miscarriages, it is evident Muslim physicians believe in most cases that God does not destine the fetus to die but rather that women do not take proper caution for or care of what they are carrying, or that women’s bodies are simply not well equipped for the task. Because women often failed to bring a pregnancy to fruition, men needed to be that much more vigilant in protecting the fetus from female ignorance, carelessness, or weakness, or in devising ways to overcome the female body’s inherent deficiencies. As a result of their concern, elite scholars rendered women incapable of caring for their own bodies.\footnote{Ibid., 71.}

Whereas Ullmann submits that there was no developed interest in gynecology because it was not within men’s purview, and suggests that neglect should not necessarily be blamed on the influence of Islam (though he does not categorically dismiss such a view), Kueny claims that physicians attempted to artificially insert themselves into an area in which one would naturally expect women to be independent, competent, and dominant and instead asserted women’s passivity, incompetence, and need for male aid. She also asserts that the depictions of the functioning of the uterus artificially use physiological notions to promote religious notions of chastity.\footnote{Ibid, 68.}
This chapter makes the argument that medieval gynecology reflects neither lack of interest, nor an assumption of custodianship or surveillance of women’s bodies or a “political” assault on their fittingness for reproduction, but rather the development of a response to the lack of direct access to women’s bodies. The physically inaccessible nature of women’s reproductive organs meant that any scientist would have to make some inferences when attempting to help people have children. He had to infer what contribution mothers made to their offspring, given that there was not an obvious equivalent to the father’s semen. He had to infer what conditions made it likely that coitus would result in conception, given that not all sexual encounters result in pregnancy. He had to infer what the signs were that conception had taken place, given that the embryo must be growing for a time before it is large enough to be detected through quickening or maternal showing. He had to infer the reason behind the well-observed phenomenon that pregnant women do not tend to menstruate. He had to infer the reasons behind miscarriage, given that the triggers of early contractions resulting in the premature expulsion of still-growing fetuses are not obvious and the same is true of the causes of intrauterine fetal death. He also had to infer the sources of breastmilk and its relationship to pregnancy.

There were additional, related questions that ancient and medieval scientists asked which may not seem intuitive to us, but which do relate to universally observable phenomena connected with pregnancy. Among these were: why do women usually menstruate, and if they fail to menstruate is that a symptom or cause of ill health? What makes it impossible for women to “self-pollinate” given that they obviously contribute to the make-up of the child (as indicated by hereditary similarity) and have the capacity to
grow the fetus in their wombs? Do women manifest a physical indication of sexual
desire, as men do in the form of erections? What makes a fetus develop as either a male
or a female? And finally – given that the womb during pregnancy obviously expands,
causes pain, compresses other organs such as the bladder and stomach, pulses so
violently (in the form of contractions) as to be able to expel the fetus, and then shrinks
postpartum – does the womb do such things when it is not occupied by a pregnancy?

As this chapter will show, the Greco-Arabic physicians’ answers to these
questions about anatomy and physiology were largely derived from the answers provided
by their Greco-Roman predecessors. However, the Greek medical tradition was modified
in two interesting directions. First, Arabic depictions of the role of the female body in the
reproductive process are somewhat more egalitarian and less socially coercive than
Hippocratic and Galenic – and especially Aristotelian – depictions. Second, while there is
a great deal of continuity with regard to pathological theory and diagnostic measures, the
interpretation of those diagnostic measures, and the therapies prescribed in response to
those findings, do vary considerably. Medieval gynecology evinces a curious mixture of
conservative continuity with hybridity and reinterpretation. The menu of potential
diagnoses does not vary much, even as fundamental notions of anatomy, the nature of
conception, and the etiology of disease, change considerably. The tests used for making
diagnoses are also remarkably consistent, but the interpretation of the results of those
tests varies and evolves.

This flexibility within medieval gynecology is particularly significant in thinking
about the relationship between “high” or educated medicine and “low” or folk medicine.
A consistent menu of diagnoses and medical actions, whose interpretation can be
redefined in response to differing notions of how the body works, is quite adaptable to a variety of medical contexts. When it comes to the context in which women received gynecological care, the medieval medical literature is much more ambiguous than Ullmann suggests about the extent to which it excluded educated men. As will be shown, medical writings often depict male physicians as having intimate interactions with their female patients. While this may be merely a literary conceit, the writings we have suggest that physicians thought they ought to be involved in medical care, that they worked with midwives who mediated their interactions with female patients in some instances, and that at other times male physicians interacted with female patients directly, including in the management of gynecological matters. Moreover, while this too might be a literary conceit, the literature we have suggests that medieval writers assumed that the knowledge they and their readers possessed would be utilized by real female patients.

The Importance of the Greco-Roman Medical Tradition in Arabic Medicine

With respect to its theories about physiology and diseases, including gynecological physiology and diseases, Islamic civilization inherited much of its medical framework from the Greco-Roman world. Hippocrates (fl. c. 5th century B.C.), Aristotle (fl. c. 4th century B.C.), Dioscorides (fl. c. 1st century A.D.), Galen (fl. c. 2nd century A.D.), Paul of Aegina (fl. c. 7th century A.D.) and many others are cited as authorities in

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288 It should be noted that until recently historians of European medicine also assumed that in Christendom, prior to the early modern period, male physicians had little to do with childbirth or the treatment of gynecological conditions. This view has been challenged and undermined in recent years, particularly by Monica Green. See M. Green, Making Women’s Medicine Masculine: The Rise of Male Authority in Pre-Modern Gynaecology (Oxford: Oxford University Press, 2008), particularly pp. 36-45 for the earlier period. Also, M. Green, “Caring for Gendered Bodies,” in Oxford Handbook of Medieval Women and Gender, ed. Judith Bennett and Ruth Mako Karras (Oxford: Oxford University Press, 2013), 345-61.
the medieval Arabic gynecological literature. Most of the gynecological beliefs described below entered into the Arabic medical corpus through the mediation of Galen\textsuperscript{289} and others, particularly Paul of Aegina. It is not my intention to explore the translation and reception history of individual Greek or Roman medical texts, or to trace the precise route through which they were transmitted to the Arabic-writing world, since others have already done so quite ably.\textsuperscript{290} Instead, I intend to focus on the substance of Arabic medical writings about the causes and treatments of infertility.

When it comes to the Greco-Roman antecedents to Arabo-Islamic gynecology, the three most influential theorists were Hippocrates, Aristotle,\textsuperscript{291} and Galen. Despite the fame and importance of Soranus’s (fl. c. 100 A.D.) \textit{Gynecology}, there is little evidence that it was ever translated into Arabic, although it was continuously in circulation in the medieval Latin world. However, much of Soranus’ gynecological thought became known

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\textsuperscript{290} There are several scholarly works which describe the transmission of Greco-Roman gynecology to the medieval Islamic world and to Latin Europe. Max Meyerhof and Dimitri Joannides produced three short monographs on the subject in the 1930s. D. Joannides, \textit{Esquisse de la gynécologie et de l’obstétrique chez les égyptiens et les grecs} (Cairo, 1934); idem, \textit{La gynécologie et l’obstétrique chez Avicenne (Ibn Sīnā) et leurs rapports avec celles des grecs} (Cairo, 1938); and idem, \textit{La gynécologie et obstétrique de Paul d’Egine et son influence sur la médecine arabe} (Cairo, 1940). Ursula Weisser wrote an important study of medieval Arabic understandings of the physiology of reproduction and heredity. U. Weisser, \textit{Zeugung, Vererbung, und pränatale Entwicklung in der arabisch-islamischen Mittelalters} (Erlangen: Hannelore Lüling, 1983). Monica Green’s “The Transmission if Ancient Theories of Female Physiology and Disease Through the Early Middle Ages” (Ph.D. Dissertation: Princeton University, 1985) provides the best overview of the history of the translation movement with respect to gynecology. It includes an appendix with useful flowcharts depicting the translation movement with regard to individual gynecological texts on pp. 235-238. Manfred Ullmann remains the foremost scholar on the subject of medieval Arabo-Galenic medicine. Although he does not focus on gynecology, most discussion of which Greek gynecological works were available in Arabic versions has relied almost exclusively on his work. Manfred Ullmann’s \textit{Die Medizin im Islam} is available in an accessible English summary: \textit{Islamic Medicine} (Edinburgh: Edinburgh University Press, 1978).

\textsuperscript{291} Weisser, \textit{Zeugung, Vererbung, und pränatale Entwicklung}, 53.
to the Arabic world through Paul of Aegina (d. c. 690 A.D.). The gynecological sections of many of the Byzantine medical encyclopedias, which were later transmitted to the Arabic world, also draw heavily on Soranus’ treatments.

The extant Hippocratic treatises relating to gynecology are *Diseases of Women (I & II), Diseases of Young Girls, Barren Women, Generating Seed / Nature of the Child, Nature of Women, Seven-month Child, Eight-Month Child, Superfetation and Excision of the Embryo.* According to Manfred Ullmann, only two of the more minor works on gynecology, *Superfetation* and *Diseases of Young Girls,* are known to have been translated into Arabic in the medieval period, as was Hippocrates’ *Aphorisms,* which also includes gynecological material. “On Generating Seed / Nature of Child,” also exists in a modified form in Arabic as *Kitāb al-ajinna li-Buqrāṭ.* A book attributed to Hippocrates called *Kitāb awjā’ al-nisā’,* i.e. “Diseases of Women,” is found in lists of books but, according to Ullmann, there is no evidence that it was ever extant in Arabic. However, *Superfetation* has a broader gynecological purview than its title implies, corresponds closely with *Diseases of Women I,* and contains some passages which are identical to those found in *Barren Women.* Of all of these, the *Aphorisms* is the most frequently cited text in the medieval Arabic medical literature pertaining to infertility.

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293 Green, “The Transmission of Ancient Theories of Female Physiology and Disease Through the Early Middle Ages,” 79 and Ullman, *Die Medizin im Islam,* 29.
A Galenic-based understanding of gynecology, as of medicine in general, received the most attention in the medieval Arabic-writing world. The authority of Galen was so respected that a physician might resort to ta’wīl (scriptural reinterpretation) in order to explain away his errors. For example:

‘Abd al-Laṭīf al-Baghdādī discovered that the lower jawbone of the human body was not, as Galen had thought, composed of two parts, that it was a single sutureless bone. This famous Egyptian scholar made his discovery in the course of osteological studies in an ancient cemetery in the northwest of Cairo – but not until he had investigated more than two thousand skulls did he realize that he had come across an error in Galen’s teaching. In his account of this experience he expressed the conviction – which, self-evident as it may seem to us, was a bold statement in those times – that the evidence of the perception of our senses deserved more confidence than the teachings of Galen; though having said so, he added, typically enough that there might be found an interpretation of the words in question which would free Galen from the charge of error.

A somewhat less diffident attitude can be found in the above-mentioned Shukūk ‘alā Jālīnūs (Doubts About Galen) of al-Rāzī, in which the author notes that his criticism of Galen, and in particular of his humoral theory, will itself be met with consternation.

As for those who censure me and call me ignorant for having produced this Book of Doubts – I do not call them philosophers. They have turned their backs on the tradition (sunna) of the philosophers. They have taken up the tradition of ignorant upstarts, through imitation (taqlīd), refraining from raising any objection against it. Aristotle says: ‘Plato and the Truth are at odds, and both are friends to me – but the Truth is a friend dearer still than Plato.

297 Al-Baghdādī’s claims to originality were by no means well-received. See N. Peter Joosse, The Physician as a Rebellious Intellectual: The Book of the Two Pieces of Advice or Kitāb al-Naṣīḥatayn by ‘Abd al-Laṭīf ibn Yūsuf al-Baghdādī (Frankfurt am Main: Peter Lang Edition, 2014). The biographer Ibn al-Qīfī’s entry about him is both personally and professionally scathing. It concludes, “In 628, it occurred to him to travel to Iraq and to make the hajj pilgrimage. He fell sick in Baghdad and began to treat himself with his own medicine, and died – just as God had wished – in the year 629. His books were sold in Aleppo. I happened upon some of them, and they were of the degree of inferiority which is furthest removed from perfection. God save us from the enticement of pretentiousness!” Ibn al-Qīfī, Inbāḥ al-ruwāḥ ’alā anbāḥ al-nuḥāţ, ed. Muḥammad Ibrāhīm (Cairo: Dār al-Kutub al-Miṣriyya, 1950), 2: 196. Translation by A. Verskin, “A Muslim-Jewish Friendship in the Medieval Mediterranean: ‘Alī Ibn al-Qīfī’s Biography of Rabbi Yūsuf Ibn Shamʿūn,” in The Idea of the Mediterranean, ed. Mario Mignone (Stony Brook: Forum Italicum Publishing, 2017), 189.
299 al-Rāzī, Kitāb Shukūk ‘alā Jālīnūs, 2. The English translation is slightly modified from a passage in M. Mohaghegh’s afterward to the book.
Al-Rāzī’s criticisms of Galen’s theories were alarming enough to inspire Ibn Abī Śādiq al-Nisābūrī (d. after 462/1068), Ibn Zuhr (Avenzoar, d. 557/1162) and Moses Maimonides (d. c. 1204) to write refutations of them, with Ibn Zuhr accounting for this failing in al-Rāzī by claiming that either al-Rāzī did not author the book at all, or he wrote his book when he was either an adolescent too young to understand Galen, or else an old man whose great mind had become addled by exposure to arsenic and sulfur in the course of his alchemical studies.300 This reverential attitude toward Galen is significant not only for understanding his impact on Greco-Arabic gynecology and embryology, but also for understanding the criticisms of the physicians and the culture of Greco-Arabic medicine which were leveled by some jurists, and which will be explored in the next chapter.

I. Some Concepts in Greco-Roman Gynecology

Beliefs about Menstruation and the Uterus in Hippocratic Gynecology

The gynecology espoused by the Arabo-Galenic physicians contains a great deal of Hippocratic theory and practice, despite the seeming lack of direct access to some of the major Hippocratic gynecological texts.

Humoral theory receives somewhat less attention in the Hippocratic gynecological works than in other parts of the Hippocratic corpus.301 This is not altogether surprising because the Hippocratic texts reflect the views of several different authors. Instead, Hippocratic medical theory as it relates to women explains disease and

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300 Mohaghegh, Kitāb Shukūk ʿalā Jālīnūs, 112.
treatment primarily through the use of polar opposites: hot and cold, dry and moist, right and left, etc. These opposites recur consistently throughout Greek and Arabic gynecological writings, with masculinity associated with heat, dryness and the right side, and femininity associated with cold, moisture and the left side.\textsuperscript{302}

The Hippocratic gynecological works explain female physiology as inherently moist, and male physiology as dry. Women are moist because their softer, “porous flesh” retains fluid more than does the less-porous flesh of men.\textsuperscript{304} Men rid themselves of what excess fluid they have through perspiration. Women, however, must do so through menstruation, pregnancy (in which case menstrual blood nourishes the fetus) or lactation.\textsuperscript{305} This places menstruation at the center of a woman’s overall health, not merely her reproductive health.

Whereas bio-medical gynecology understands menses as merely the shed lining of the uterus, the Hippocrates understood the menses to represent excess fluid which filled the uterus to capacity before being evacuated through menstrual bleeding. They estimated that a healthy woman discharges two kotyls (approximately one pint of blood) each cycle, about seven or eight times as much as is estimated in studies of twentieth-century women.\textsuperscript{306} In the Hippocratic understanding, the process through which this large amount of fluid was evacuated could easily be hampered as a result of having a too-narrow

\textsuperscript{302} There is some inconsistency in the Hippocratic texts with regard to heat. \textit{Diseases of Women I} says that “a woman has hotter blood, and because of this she is hotter than a man,” while in \textit{Regimen for Health} it says “Females, inclining more to water, grow from foods, drinks and pursuits that are cold, moist and gentle. Males, inclining to fire, grow from foods and regimen that are dry and warm.”

\textsuperscript{303} Weisser, \textit{Zeugung, Vererbung, und pränatale Entwicklung}, 275.

\textsuperscript{304} Text in A. E. Hanson, “Hippocrates: Diseases of Women I,” \textit{Signs} 1 (1975), 572.

\textsuperscript{305} Green, “The Transmission of ancient theories of female physiology,” 16.

cervix, overgrown tissue, or a blockage formed from coagulated previous menses. Moreover, lack of sexual activity could cause the menses to be retained because, without intercourse, the cervix and previously open blood vessels would temporarily close, giving no outlet to the blood.\[307\] If the “retained menses” were not “brought down,” i.e. evacuated, the uterus became overfull, thereby causing pain and serious disease.

The Hippocratic gynecological treatises all claim that women who have reached puberty are subject to diseases if they are not regularly menstruating, pregnant, or nursing, because they have an excess of fluid which has no outlet. This, it is claimed, is the main cause of general illnesses in women, and not simply of illnesses limited to the sex organs. Thus, as Monica Green says, “not only does this natural ‘humidity’ characterize the normal, healthy woman, it is also the principal source of her diseases.”\[308\]

Not only were menstruating, pregnant, and nursing women considered to be healthy, but Hippocratic medicine claimed that women who had given birth were subject to less pain while menstruating and less severe disease.\[309\] Such an understanding assumed that sexual intercourse and childbirth were necessary for women in order for them to be physically healthy and, conversely, virgins, non-fertile women, and unattached widows were thought to be at risk for physical illness. As a result, barren women were in a disadvantageous position not simply because they could not produce children, but because they were thought to be suffering from injurious disease, derangement, and a propensity toward violence.

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308 Green, “The Transmission of Ancient Theories of Female Physiology,” 15.
The entire extant fragment of the Hippocratic treatise *Diseases of Young Girls* is devoted to describing such risks. The author writes:

Afterwards blood is gathered into their wombs for evacuation. Yet, when the mouth of the exit is not opened and more blood flows in due to their nourishment and the increase of their body, then the blood, not having a way to flow out, rushes from the quantity towards the heart and the diaphragm. When these parts are filled, the heart becomes numb; then lethargy seizes them after the numbness, then after the lethargy, madness seizes them. . . .

When these things occur in this way, the young girl is mad from the intensity of the inflammation; she turns murderous from the putrefaction; she feels fears and terrors from the darkness. From the pressure around the heart, these young girls long for nooses. Their spirit, distraught and sorely troubled by the foulness of their blood, attracts bad things, but names something else even fearful things. They command the young girl to wander about, to cast herself into wells, and to hang herself, as if these actions were preferable and completely useful. Even when without visions, a certain pleasure exists, as a result of which she longs for death, as if something good. . . .

Release from this comes whenever there is no impediment for the flowing out of the blood. I urge, then, that whenever young girls suffer this kind of malady they should marry as quickly as possible. If they become pregnant, they become healthy. If not, either at the same moment as puberty, or a little later, she will be caught by this sickness, if not by another one. Among those women who have regular intercourse with a man, the barren suffer these things.310

Here, lack of menstruation is depicted as menstrual retention, i.e. menstrual blood exists but it is blocked from being evacuated. The menses are locked in and need to be released, and that release is best obtained through marriage. Thus irregular menstruation is not indicative of a girl being too physically immature to be married, but rather lack of marriage is depicted as causing physical stunting and disease. Moreover, the problems associated with the unmarried are extended to those who are married but barren.

The Hippocrates describe marriage as useful not only for prophylactically promoting menstruation, but for avoiding a disease known as “hysteria,” “uterine suffocation,” or “the wandering womb,” which manifested with symptoms similar to those associated with “menstrual retention.”311 The diagnosis of uterine suffocation was

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310 My italics. Translation in Flemming and Hanson, “Hippocrates’ ‘Peri Partheniôn,’” 251-252.
311 The phenomenon of the “wandering womb” has received a great deal of scholarly attention. See, for example, Christopher Faraone, “The Rise of the Demon Womb in Greco-Roman Antiquity,” in M. Parca and A. Tzanetou (eds.), *Finding Persephone: Women’s Rituals in the Ancient Mediterranean*. 

based on the idea that the uterus could expand and move (according to some, of its own volition) and attack, displace, or crush a woman’s other vital organs. This in turn causes seizures and insanity. The phenomenon is famously described in Plato’s *Timaeus*:

> The seed [semen in males] having life, and becoming endowed with respiration, produces in that part in which it respires a lively desire of emission, and thus creates in us the love of procreation. Wherefore also in men the organ of generation becoming rebellious and masterful, like an animal disobedient to reason, and maddened with the sting of lust, seeks to gain absolute sway; and the same is the case with the so-called womb or matrix of women; the animal within them is desirous of procreating children, and when remaining unfruitful long beyond its proper time, gets discontented and angry, and wandering in every direction through the body, closes up the passages of the breath, and, by obstructing respiration, drives them to extremity, causing all varieties of disease, until at length the desire and love of the man and the woman, bringing them together and as it were plucking the fruit from the tree, sow in the womb, as in a field, animals unseen by reason of their smallness and without form; these again are separated and matured within; they are then finally brought out into the light, and thus the generation of animals is completed.\(^ {312} \)

This description of sexual reproduction begins by attributing to the uterus a sort of animal “lust” equivalent to the “disobedient” lust subsisting in the male genitals. But the uterus diverges from its male counterpart by attacking its “host” when it is discontented by lack of children. It wanders up into the woman’s body thereby suffocating her. In an effort to pacify it, man and woman engage in sexual intercourse, sowing the semen within the field that is the womb.

The difference between menstrual retention and hysterical suffocation is that menstrual retention seems to be primarily associated with the sexual lack that comes from virginity – in other contexts it was known as the “maiden’s disease” – whereas hysterical suffocation was attributed to sexual dissatisfaction and neglect, particularly in widowhood. In the Hippocratic treatise *Diseases of Women I*, the author describes hysterical suffocation thus:

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\(^ {312} \) *Timaeus* 91b-d. Translation by B. Jowett. Galen’s synopsis of the Timaeus was available in Arabic and there may have been other sources as well. On the Arabic reception of the *Timaeus*, see A. Das, “Galen and the Arabic traditions of Plato's Timaeus” (Ph.D. thesis: University of Warwick, 2013). For the reception of this specific passage see also, Weisser, *Zeugung, Vererbung, und pränatale Entwicklung*, 146-7.
If suffocation occurs suddenly, it will happen especially to women who do not have intercourse and to older women rather than to young ones, for their wombs are lighter . . .

. . . When the womb is near the liver and the abdomen and when it is suffocating, the woman turns up the whites of her eyes and becomes chilled; some women become livid. She grinds her teeth and saliva flows out of her mouth. These women resemble those who suffer from Herakles’ disease.313 If the womb lingers near the liver and the abdomen, the woman dies of the suffocation.314

The ultimate cure for hysterical suffocation is pregnancy, which weighs down the womb and keeps it from moving into other parts of the body. Sexual intercourse also helps because the moisture and weight provided by semen anchor the womb in place. Alternatively, sweet smelling substances can be applied to the vagina to “lure” the “animal” uterus down to its proper place, and foul smelling substances can be applied to the nose to repel the uterus away from the upper body cavities. This last treatment is based on the widely-held belief that the mouth (or, alternatively, the nose), the uterus, and the vagina were all part of one continuous channel.315

The possibility of menstrual retention and hysterical suffocation thus provided a medical basis for linking wifehood and motherhood with health – and virginity, spinsterhood, sterility, and widowhood with disease. It also appears to have generated a conflation between fertility-inducing measures and anti-hysterical and anti-spasmodic measures. These concepts survived into the middle ages and beyond, despite the fact that Aristotle had surmised, based on animal dissections, that the uterus could not move because it was anchored in place by ligaments.316 This was confirmed by human

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313 I.e., epilepsy.
316 Aristotle, Generation of Animals 720a, 12-14, denies the wandering womb phenomenon. Aristotle, History of Animals 582b, 22-6, nonetheless says that an empty womb can rise upwards and cause suffocation.
dissections occurring soon after Aristotle’s death.\footnote{C. Faraone, “Magical and Medical Approaches to the Wandering Womb in the Ancient Greek World.” \textit{Classical Antiquity} 30 (2011): 6.} Soranus and Galen too were well aware that the uterus could not “wander” up because it was moored in place by tissue connecting it to other organs with the result that it could not move. Soranus rejected the notion that the uterus could move upward and made fun of the idea that the uterus possessed olfactory capabilities. But he did not reject the existence of the disease that was thought to be caused by the wandering womb, claiming instead that inflamed ligaments pull the uterus in the wrong direction, thereby causing the disease known as hysterical suffocation. Moreover, although he entirely rejected the notion that the uterus is an animal-like being with a sense of smell, he still prescribed the same use of smells as therapy, on the grounds that they make the uterus contract.\footnote{H. King, \textit{Hippocrates’ Woman: Reading the Female Body in Ancient Greece} (London: Routledge, 1998), 231.}

Galen too writes that the uterus is connected “on both sides” to the rest of the body.\footnote{Galen, \textit{On the Usefulness of the Parts of the Body}, tr. Margaret Tallmadge May (Ithaca: Cornell University Press, 1968), 2: 653.} However, although as an anatomist Galen was well aware of the impossibility of hysterical suffocation, as a therapist he, as Monica Green puts it, “displayed his medical conservatism by retaining the odoriferous therapy even though, with his new etiology, it would have lost any semblance of a rational basis.”\footnote{Green, “The Transmission of Ancient Theories of Female Physiology,” 50.} Galen prescribes the use of both cupping and the application of strong smelling substances to the mouth and vagina to treat a woman whose “uterus rises or experiences deviations.” Like the Hippocratics, he appears to subscribe to the notion that sweet smells would attract the uterus to its proper place and fetid smells would repel it from its current abnormal place. In Arabic treatises,
hysterical suffocation is called *ikhtināq al-raḥim* (suffocation/strangulation of the uterus) but, as we shall see, its causes and cures were subtly reinterpreted in significant ways.

In addition to the belief that the womb could suffocate the other organs, three other anatomically erroneous, but significant assumptions with respect to female anatomy were passed from the Hippocratics to Galen and onward into Arabic medical literature. The first of these was the previously mentioned idea that in a healthy woman, there was an open passage between the mouth, uterus, and vagina. The existence of this passage meant that one could attract or repel the uterus upwards within the body or downwards by introducing attractive or repellant substances to it via the vagina or mouth. Moreover, if the passage was shown to be unblocked, that was an indication of health and fertility. If it was blocked, it was indicative of ill-health and sterility. Medieval physicians also believed in the existence of this passage, but understood its significance in divergent ways.

The second anatomical error was the idea that the human uterus was “bipartite” or “bicorneuate,” i.e. that the uterus was composed of two symmetrical cavities, a left one and a right one (as is true in the case of some animals). This assumption served as the basis for diagnosing fetal sex and intrauterine fetal death. It continued to hold sway in Galenic and later Arabic medicine despite the fact that, through reports of dissections, and possibly from internal examinations, Galen himself was aware that the uterus did not

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321 Modern bio-medicine treats the bicornuate uterus as a rare and serious medical condition. A somewhat more common condition is the “uterine septum” in which a partition bifurcates an otherwise normally-shaped uterus. This condition often causes miscarriage.

322 The anatomists of Alexandria, Egypt, who performed dissections, correctly described the shape of the uterus. However, this information was not integrated into later gynecological theory. Alexandria seems to be the only place in the ancient Greco-Roman world where we know that dissection was performed. It seems it was tolerated there from the third century B.C. until the second century A.D. Ludwig Edelstein, *Ancient Medicine* (Baltimore: Johns Hopkins Press, 1967), 256.
have two cavities. This belief continued into the Islamic period, where it formed part of
the discussions surrounding fertility and pregnancy tests.

The third error lay in the belief that there was a passage connecting the uterus to
the breasts. The explanatory value of this passage was that it meant that changes in the
breasts could be used to monitor changes in the uterus. It was also useful for explaining
lactational amenorrhea – nursing women might not menstruate because their excess blood
had been transformed into milk. Finally, it suggested a notion of siblinghood between the
babies wet-nursed by women and those birthed to them, a notion that would come to fit in
well with Islamic concepts of milk-siblinghood.

Male and Female Genitals and Gametes in Greco-Roman Medicine

Notably missing from the gynecological teachings of Hippocrates and Aristotle is
an awareness of the existence of the ovaries. Ovaries are large enough to be visible
without modern technology. However, it is thought that their existence only became
widely known in the Greco-Roman scientific world in the third century B.C. thanks to
Herophilus, even though others in the Mediterranean world had long been using
ovariotomy in animals (and sometimes in women) as a means of sterilization. The
human ova, the existence of which continued to be a matter of debate until the eighteenth
century, are of course also missing from ancient gynecology, since they are microscopic.

The Anatomical Record 144 (1962), 77-83.
324 For beliefs about the divided uterus see Weisser, Zeugung, Vererbung, und pränatale Entwicklung, 275.
325 A. Giladi, Infants, Parents and Wet Nurses: Medieval Islamic Views on Breastfeeding and their Social
Implications (Leiden: Brill, 1999), 119.
(1977), 67.
The lack of a detectable equivalent to semen begged the question of whether women produce a gamete, or seed, as men do.

The Hippocratic treatises do not explicitly lay out a theory of reproduction. They are, however, clearly based on a two-seed understanding of conception. In Hippocratic texts, semen constitutes the male seed. Women also secrete seed into their womb, where it encounters semen. The “female seed” is also a fluid, just as semen is; and this fluid is secreted during sexual arousal, just as semen is. As Leslie Dean-Jones writes, this was not a substance which the physicians claimed to have detected. Rather, “the female seed was not necessarily a visible secretion as a man’s was; it was postulated because of its explanatory value in a hypothesis, not because it had been empirically observed . . . the female seed is by nature emitted into the womb. It only appears outside the womb if the womb is open contrary to nature.”

Aristotle argues against the notion that women produce seed as men do. Among his proofs are the claims that women lack the “vital heat” necessary to concoct semen, that pre-pubescent boys resemble women and since the former cannot bring about conception the latter cannot either, and that women could not possibly be secreting seed because they are already secreting something else, namely menses. Among the more interesting arguments he makes is that seed is secreted only where there is sexual pleasure and arousal, yet women get pregnant even when sexual intercourse is unwanted. This is proof to him that whatever it is that women are contributing to the embryo, it is

327 Dean-Jones, Women’s Bodies in Classical Greek Science, 154.
328 The process by which semen is produced received a great deal of attention in ancient and medieval medical and philosophical thought, as well as in modern scholarship, but the theories are not discussed here as I have not found them useful in reconstructing views about infertility, whether male or female.
329 Dean-Jones, Women’s Bodies, 156.
not seed, for they make that contribution with or without pleasure. One can understand this last proof as having both quite negative and positive consequences for the social treatment of women. On the negative side, it de-incentivizes paying attention to women’s sexual desires, since they are unimportant from the perspective of reproduction. By contrast, those who favored the two-seed theory of conception placed great emphasis on encouraging men to be attuned to their wives’ sexual desires so as to increase the likelihood of them secreting their own seed, resulting in conception.330 However, the flip side of this is that in accordance with the two-seed theory, when a woman did become pregnant, the fact that conception occurred was evidence that the woman was a willing participant in the sexual act. Authors such as Soranus and al-Rāzī claimed that conception was possible only when women ejaculated,331 thus indicating that they were willing sexual partners even in cases of purported rape.332 Aristotle’s theory supports the notion that conception can occur without impugning the virtuous intent of the assaulted woman. It also absolves her of the charge that her sterility is due to a lack of sexual ardor for her husband.333

Aristotle posits that menstrual blood is itself the female contribution to the embryo. He compares the semen and the menses to a carpenter and a block of wood. The menses are a material to which the semen provides the form. When the semen acts on the

331 Rāzī, al-Ḥāwī, 9: 58.
332 Soranus, Gynecology 36-7.
333 The philosopher Ibn Rushd, ever the Aristotelian, notes “Aristotle has argued that a woman can get pregnant without ever experiencing emission. I too have pursued this matter by observation and found it to be true . . . I have also asked women about it, and they tell me the same. That is, they often become pregnant without experiencing pleasure.” Muḥammad ibn Ahmad ibn Rushd, Kulliyāt fī al-ṭibb (Morocco: Maʿhad al-Jiniūl Frankū, Lajnat al-Abhāth al-ʿArabiyya al-Isbānīya, 1939), 30. Translation from Musallam, Sex and Society in Islam, 64.
mens, it thereby creates something new, an embryo, just as the carpenter acts upon the wood to create a bed. This is known as the one-seed theory of generation.

Five hundred years later, Galen would draw upon the discovery of ovaries and on Aristotle’s own work to criticize this theory. According to Galen, Aristotle was right that women lacked the quantities of vital heat found in men. As a result, when women were themselves fetuses, they developed differently from male fetuses. Heat pushed the genitals of male fetuses outward, whereas cold kept the genitals of female fetuses inside. What emerges from this theory is a concept of female anatomy in which it is understood not as entirely different from male anatomy, but rather as the mirror of it. Galen writes:

All the parts, then, that men have, women have too, the difference between them lying in only one thing, which must be kept in mind throughout the discussion, namely, that in women the parts are within [the body], whereas in men they are outside . . . Consider first whichever ones you please, turn outward the woman’s, turn inward, so to speak and fold double the man’s, and you will find them the same in both in every respect. Then think first, please, of the man’s turned in and extending inward between the rectum and the bladder.

If this should happen, the scrotum would necessarily take the place of the uteri, with the testes lying outside, next to it on either side; the penis of the male would become the neck of the cavity that had been formed; and the skin at the end of the penis, now called the prepuce, would become the female pudendum [the vagina] itself. Think too, please, of the converse, the uterus turned outward and projecting. Would not the testes then necessarily be inside it? Would it contain them like a scrotum? Would not the neck [the cervix], hitherto concealed inside the perineum but now pendent, be made into the male member? And would not the female pudendum, being a skin-like growth upon this neck, be changed into the part called the prepuce? It is also clear that in consequence the position of the arteries, veins, and spermatic vessels [the ductus deferentes and Fallopian tubes] would be changed too. In fact, you could not find a single male part left over that had not simply changed its position; for the parts that are inside in woman are outside in man.334

According to Galen, the heat possessed by men makes their bodies efficiently use up all of their nutrients through normal masculine activity. Due to women’s diminished heat “the female is less perfect than the male . . . for if among animals the warm one is the more active, a colder animal would be less perfect than a warmer.”335

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creates an inefficiency that keeps women from using up all their nutrients and gives them an excess which can be used to nurture the fetus, whereas men in their efficiency cannot do so. In this model, the menses are both a raw material from which the fetus will be fashioned and the nutrient for the fetus, but they are not the female gamete. The female gamete is a seed like the male seed, but thinner and colder and therefore less impactful. It is produced in the female testes (ovaries) and transmitted from them to the uterus through (fallopian) tubes that are analogous to the seminal vesicle. Galen claims to have observed this female sperm. From his descriptions, it seems he is referring to a mucus discharge in the uterus. 336 This Galenic concept of the male and female genitals as inside-out versions of each other would be adopted by the medieval physicians of the Islamic world, 337 as would a modified version of his two-seed theory. 338

**Infertility and its treatment in Greco-Roman medicine**

Both the Hippocratics and Aristotle recognized that a couple’s lack of children could be due to infertility stemming from either partner, male or female, or both. 339 However, for both the Hippocratics and Aristotle, male infertility never becomes medicalized in the sense that the physician might want to diagnose it, prognosticate about it, and suggest a course of action to correct it. As Rebecca Flemming writes,

> [References in Aristotle to male infertility] are all essentially theoretical, about causes not cures (though GA 747a3–22 provides diagnostic advice); and the first does not even refer to specific explanations for male infertility. Similarly, the few explicit Hippocratic engagements with male

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reproductive failure (the Scythians in *Airs Waters Places* 21, 5.63[341]) are never followed up therapeutically. All these authors are, of course, deeply committed to the importance of the male contribution to generation; but its dysfunction seems not to be medicalized.  

While infertility may subsist in men, the texts have little to say about how to diagnose it and provide no information about how to remedy it. This can be attributed, at least in part, to the perception that the easiest way to deal with a man’s seeming lack of fertility was to have him attempt to reproduce with another woman. In the *Generation of Animals*, Aristotle writes that one could test whether a man’s semen is fertile by placing it in a vessel with water and seeing if it sinks to the bottom (in which case it is) or floats to the surface (in which case it is not).  

However, he also writes, “in knowing the causes [of infertility] on the husband’s side there are various signs to be taken, but taking those that are mostly easier, let him be observed to have intercourse with other women and to generate.” As we shall see, this attitude is echoed in the *Qānūn* of Ibn Sīnā (d. 340).

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340 The Scythians are said to have performed an equivalent to a modern vasectomy by cutting a nerve behind the ear and thereby disrupting the production of semen, which occurs initially in the spinal column. Interestingly, this notion made its way not only into the medical commentary tradition, but also in the ḥisba tradition. In his manual for market inspectors, the 6/12th century muḥtasib al-Shayzarī, who practiced somewhere in the Syria / Palestine /Egypt region, writes that one should not permit phlebotomists to bleed the veins behind the ears because that causes sterility. He says there is a debate regarding whether cutting into the vein behind one ear only has a sterilizing effect. *Kitāb nihāyat al-rutba fi ṭalab al-hisba lil-Shayzarī* (Cairo: Lajnat al-tā’if wa’l-tarjama wa’l-nashr, 1946), 92.

341 The aphorism is “[V: 62] Women who have the uterus cold and dense (compact?) do not conceive; and those also who have the uterus humid, do not conceive, for the semen is extinguished, and in women whose uterus is very dry, and very hot, the semen is lost from the want of food; but women whose uterus is in an intermediate state between these temperaments prove fertile. [V: 63] And in like manner with respect to males; for either, owing to the laxity of the body, the pneuma is dissipated outwardly, so as not to propel the semen, or, owing to its density, the fluid (semen?) does not pass outwardly; or, owing to coldness, it is not heated so as to collect in its proper place (seminal vessels?), or, owing to its heat, the very same thing happens.” Translation by Francis Adams.

342 R. Flemming, “The Invention of Infertility in the Classical Greek World: Medicine, Divinity, and Gender,” n. 23.


427/1037) as well as al-Majūsī’s (d. 384/994) *Kāmil al-ṣinā‘a al-ṭibbīya* with some modifications, however Arabic texts do devote somewhat more attention to male infertility than Greek ones.\(^{345}\)

Female infertility, by contrast, is the subject of a great deal of medical diagnostic, prognostic, and therapeutic interest. Remarkably, of the 1,500 pharmacological recipes found in the Hippocratic corpus, 80% are gynecological,\(^{346}\) and most of those are intended to promote women’s fertility. Just as there are a multitude of therapies, there are also a multitude of causes to which women’s reproductive failure could be attributed, many of which will also be found in the Arabic gynecological literature. These causes can be categorized as follows:

(1) The inability of semen to pass into the uterus due to a narrowness or blockage in the passage between the vaginal orifice and the cervix (known as the “neck” or “mouth” of the uterus), or due to the abnormal shape or position of the uterus. The blockage may come from the retention of “old” menses which have coagulated.

(2) The inability of the uterus to retain the male semen, and the subsequent “slipping out” of the semen due to either the failure of the uterus to “close” over the cervix or to an unhealthy smoothness and slipperiness in the uterus. This slipperiness may be caused by an excess of moisture, coagulated blood, or ulcers.

(3) An excess or deficiency of heat or moisture in the uterus which overcooks or dries out the seed.


(4) Dyskrasia, an overall humoral imbalance in the woman’s body.  

Despite having a very different understanding of how reproduction occurs, both Aristotle’s and Galen’s descriptions of the potential causes of female infertility are quite similar to the Hippocratic ones, and Aristotle seems to use Hippocrates’ *Barren Women* as his reference. Aristotle describes the problem of the smooth, slippery uterus, deficient moisture in the uterus, and general humoral imbalance. Galen explains that menstrual blood helps provide the uterus with texture, and lack thereof causes the uterus to be too slippery to retain the sperm. These all enter into the medieval medical literature as well.

The Hippocratic treatises propose dozens of tests to show fertility or lack thereof. In *Barren Women*, the author provides several examples of vaginal suppositories and vaginal fumigations with strong smells. If those smells, once they are introduced into the vagina, travel up toward the mouth, it is a sign of fertility because it shows that there is an unblocked direct channel (*hodos*) between mouth, uterus, and vagina. This procedure, especially using garlic, can also be found throughout medieval Arabic medical literature, as will be discussed below.

Lack of menstruation could also indicate infertility. Amenorrhea was often understood as “menstrual retention,” i.e. the above-mentioned condition in which the woman is producing menstrual blood, but the blood is being retained by the uterus rather

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than flowing out from it because either the uterus is “closed,” or blood has congealed or rotted and thus cannot be eliminated.\textsuperscript{351} The first step, therefore, to promoting fertility was to supply an emmenagogue which would “bring down” the retained menstrual blood from the uterus. A large number of the gynecological recipes, both ones associated with fertility and ones thought to be contraceptives, are described as promoting menstrual “regularity.” In the medieval period, the association of bleeding (in the form of menses) with the return of fecundity to barren women is so strong that virtually all medieval commentaries on the Qur’ān, and likewise Tales of the Prophets, describe the restoration of fertility to the barren wives of Abraham and Zachariah in terms of the sudden beginning of menstruation.\textsuperscript{352}

Importantly, whereas today a “missed period” is the classic first indication of pregnancy, the Greek physicians (and, it seems, later physicians as well) did not seem to view disrupted menstruation in this way, even though they were well aware that amenorrhea is a symptom of pregnancy.\textsuperscript{353} This means that when a non-menstruating woman was given an emmenagogue or underwent a surgical procedure to bring on a menstrual cycle in the hopes of her getting pregnant, it is possible that the resulting blood was in fact an abortion.

\textit{Barren Women} does suggest measures for diagnosing whether a woman is already pregnant. “Grind up as fine as possible some red ochre (\textit{miltos}) with anise; dissolve in

\textsuperscript{351} Dean-Jones, \textit{Women's Bodies in Classical Greek Science}, 50.
\textsuperscript{352} E.g., Ibn Kathīr, \textit{Qiṣṣa al-anbiyā’}, glosses Q 21: 90, which refers to God fixing Zakarīyā’s wife for him, and explains that it means that previously she did not menstruate and then God made her do so. Cf. al-Shaybānī and Ibn Kathīr’s \textit{Tafsīr} on Q 21: 90 and Ibn al-Jawzī’s Ibn al-Jawzī’s \textit{Zād al-maṣīr fī ‘ilm al-tafsīr} on Q 11: 70.
water, have her drink it, and then sleep. If she gets colic about her navel, she is pregnant; but if this doesn’t happen, she is not.” The same test, but with honey instead of ochre is proposed in *Aphorisms* 5: 41. This diagnostic tool also appears frequently in medieval manuals, together with explanations as to why this is so (these explanations are not present in the Hippocratic treatise).355

*Barren Women* also mentions diagnostic measures for establishing infertility based on physical touch: “If the neck or mouth of her uterus is hard, she will learn this by touching it with her finger, . . . Should this be the case, administer nothing bitter . . . . The woman has lesions and inflammation in the mouth of her uterus, [and] runs a great risk of becoming sterile.”356 Note that, in this phrasing, it is clear that the female patient herself conducts the intimate examination to find out whether the cervix is hard. While it seems that this information is meant to be communicated to the medical practitioner, it is not the practitioner himself who conducts the manual examination.

This is true also in regards to the physical touching involved in the actual therapy for infertility. The author of *Barren Women* provides three different sorts of treatments for those diagnosed with infertility: eating certain foods, clearing the passage between vagina and mouth by inserting cleansing and “fertilizing” substances into the vagina, and inserting probes to change the width of the vagina or the shape and texture of the uterus. The author tells the medical practitioner to prepare sitz-baths and pessaries for the patient, to lay out blankets for her, and to make sure she does not burn herself, but it is

the patient herself who inserts the pessary. The question of the extent to which this
division of labor is similar to the ones described in the Arabic treatises will be addressed
later in this chapter.

The specific ingredients and surgical techniques mentioned in the Hippocratic
gynecological treatises are also echoed in fertility recipes and techniques in the Arabic
material, although the medieval repertoire of materia medica will be significantly
expanded. Some of the ingredients associated with fertility recipes were attached to
specific qualities, for example boiled foods were said to make the body more soft and
moist, red wine made it dryer and harder, etc. Other ingredients were associated with
purification and excretion: puppy and octopus meat, for example, were believed to have a
laxative effect and, in Barren Women, both eating boiled puppies and fumigating with
them are recommended for removing blockages in the passage to the uterus. Other
fertility ingredients were those found in perfumes, which were themselves closely
associated with sexual stimulation and intercourse in Greek antiquity. These include
frankincense, myrrh, cinnamon, cassia and styrax, all of which also play a prominent
role in the medieval period. Castoreum (a substance extracted from the glands of beaver
foreskins) had a similar use and was associated almost exclusively with “women’s

357 Ibid., § 221.
358 Hippocratic Recipes, 198.
359 Hippocrates, Barren Women §218 and 230.
360 Totelin explains “Perfumes played an important role in sexual preliminaries in ancient Greece, and in
Assembly Women, Blepyrus plaintively asks his wife οὐχὶ βατάζεται γυνὴ κἀνευ μύρου; (Can’t a woman fuck
without perfume?). Perfumes appear frequently in the Hippocratic gynaecological recipes . . . [many]
pessaries in the Hippocratic collections of recipes, [had] to be dipped in perfume before being applied. This
act of dipping a pessary in scented oil may be the equivalent of anointing the genitalia and other parts of the
body before sexual intercourse; it serves as a preliminary to penetration. The perfume that is most
commonly used in the Hippocratic recipes to facilitate the insertion of a pessary is rose oil. This again
might not be a coincidence; ῥόδος (rose) was a slang term for the female genitalia throughout antiquity.”
Hippocratic Recipes, 204.
361 Totelin, Hippocratic Recipes, 150
Known in Persian and Arabic literature as *jundbadastar*, it continued to be particularly associated with the treatment of uterine problems from ancient Greek antiquity through the modern period. Others ingredients were associated with fertility due to their having shapes or names reminiscent of sexual organs, such as stag horns, figs, radishes, myrtle, squirting cucumber, and gourds. We know how they were viewed because many of the Hippocratic ingredients also appear in ancient plays where it is clear they have sexual connotations, some of which did not continue into later periods. This is true, for example, of celery, which in the comedies represented female sexual organs, and barley and pennyroyal which connoted pubic hair. (Of all these ingredients, only pennyroyal is currently known to have chemical effects of pharmacological value.) Other ingredients were specifically associated with opening of the uterus to “bring down” what it retained, whether that was menstrual blood which needed to be purged or a dead fetus which needed to be expelled. The drugs associated with this purgation included pennyroyal, silphium, squirting cucumber, and gourds. In medieval texts, the squirting cucumber in particular would become associated with these functions. It is also known

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362 Ibid., 161.
363 It continued to be used in the West until the early twentieth century to treat spasms and hysteria and to induce labor after intrauterine fetal death. Michael J. O’Dowd, *The History of Medications for Women: materia medica woman* (New York: Parthenon Pub. Group, 2001), 88-89. Modern clinical analysis does not indicate it has any medically significant properties.
364 In large doses, the essential oil of pennyroyal is an effective abortifacient and was used as such until the early twentieth century. In the United States, it was better known by the brand name “Chichesters Pills.” It also has spasmodic hallucinogenic effects.
as wild cucumber, or *ecballium elaterium*, or in Arabic as either *qiththāʾ al-ḥimār*, *qiththāʾ barrī* or ‘*alqām*.367

The third form of treating infertility was through the insertion of wood, lead, or tin probes through the vagina and into the uterus.368 Hippocrates suggests this form of treatment to cure amenorrhea and jump start a menstrual cycle and thus a fertility cycle, to widen the vagina or dislodge a blockage in the uterus, or to change the texture of the uterus and make it less smooth and thereby enable it to retain semen more easily. The use of such a probe was mentioned in the previous chapter, in the case of Magdalena from seventeenth-century Catholic Spain. If conducted early in a pregnancy, before the existence of the pregnancy was evident to the woman, such probing would certainly have caused an abortion, which would have looked like the onset of menstruation.369 The probe could have also caused further damage to the internal organs, thereby creating even more impediments to fertility.

Substances and even surgical techniques specifically known to be abortifacients were also used to promote fertility. It could be argued that this is simply due to the fact that many substances, such as wine, honey or frankincense, had multiple medical uses or were thought to be panaceas. However, many substances seem to maintain millennia-long reputations as “women’s drugs,” such as wormwood, pennyroyal, and fenugreek. From a bio-medical point of view, the conflation of abortifacients with fertility agents has a

368 Hippocrates, *Superfetation*, § 29; *Barren Women*, §217, 221, 228, 238, 244.
peculiar logic. Both first-trimester miscarriages and the beginning of the reproductive cycle (in the form of menstruation) are characterized by vaginal bleeding. Moreover, amenorrhea (lack of menstruation) may be either a symptom of pregnancy or a symptom of hormonal disruption associated with infertility.\[^{370}\] Therefore, a substance which results in vaginal bleeding may either be affecting the hormones so as to cause menstruation (emmenagogues), or it may be inducing hemorrhage, or it may be inducing fetal death or uterine contractions so as to cause an abortion. Moreover, because the fetus is so small in the early stages of pregnancy, the different phenomena would have been difficult to distinguish.\[^{371}\] Therefore it seems likely that sometimes when women thought they were taking substances to begin a menstrual period so as to promote fertility, in fact they were prematurely ending an undiagnosed pregnancy.

The treatment of infertility related in some respects to the medical theories surrounding conception and female anatomy, but did not altogether accord with them since they were premised on ideas that stood apart from the theory. For example, the diagnostic interest and manipulation of menstrual blood remained constant, even though the significance of menstruation to the reproductive process was a matter of dispute and

\[^{370}\] Etienne van de Walle et al., *Regulating Menstruation: Beliefs, Practices, Interpretations* (Chicago, University of Chicago Press, 2001). This book explores the notion that discussion of the medical goal of “regulating” menstruation, in many cultures and periods throughout the world, has served as a device for communicating information about abortifacients.

\[^{371}\] Both ancient and medieval medical works overestimate the size of the fetus, believing it to be large enough to have visibly defined sex organs much earlier on than we now know to be the case. These medical works vary greatly in their descriptions of the timeline of fetal development, but in them physicians often claim that they have seen male fetuses that are “40 days old” with their sexes clearly discernable. What “40 days old” means varies by context, but none of the systems of measuring pregnancy would correlate with modern medical understandings of fetal size, since at six-weeks post conception or a gestational age of eight weeks, the fetus is approximately half of an inch long and external genitalia have not yet undergone gender differentiation. By contrast, using modern ultrasound technology with magnifying functions, fetal sex cannot be seen until 12 to 16 weeks after conception, when the fetus is approximately four inches long.
subject to diverse medical opinions. The importance of introducing pleasant smells into the uterus, for the sake of improving or maintaining reproductive health, remained constant, even after the medical community had come to the consensus that the uterus cannot move and did not have the olfactory capability to be attracted or repelled by odors. The disjuncture between conception theory and therapeutic practice can also be seen in the fact that, even though there was a theoretical acknowledgment that men could be the source of infertility, it was never fully embraced therapeutically. Moreover, therapeutic techniques were not limited to or grounded in conception theory. We see this, for example, in the emphasis on the use of sexually suggestive ingredients to promote literal reproductive health. All of this suggests that while treatment techniques could find justification in prevailing scientific theory, they were not dependent upon it.

II. Gynecological Theory in Arabic Medical Writings

We have seen that infertility as a problem stands at the nexus of what were really three distinct topics of discourse in Greek medicine. These were (a) embryology and the nature of conception, (b) genital anatomy and physiology, and (c) medical intervention for the purpose of changing patient prognosis. In the Arabo-Islamic context, there was a substantial amount of creative engagement with and rethinking of Aristotle’s and Galen’s ideas about conception and embryonic development. With regard to genital anatomy and physiology, there was less development and more continuity between Galen and his medieval Islamicate successors. However, when it came to medical practices such as the tests designed to detect potential fertility, infertility and pregnancy, and the therapeutic measures meant to promote reproductive health or to combat unwanted reproductive outcomes, there is something more complicated going on. The medical texts demonstrate
an unusual degree of intellectual syncretism and hybridity. Old practices are invested with subtle new meanings, or even multiple, mutually-contradictory meanings; and empiricism, experience, and the hearsay of those who did not generally have the mantle of medical authority are given a wider degree of acknowledgement than they are elsewhere in the medical canon.

III. The Garlic Test and Medieval Gynecological Continuity

To illustrate the continuities and discontinuities between the ancient and medieval gynecological heritage, consider the history of “the garlic test.” As mentioned above, Hippocrates sets out a number of practical measures which may be undertaken to establish whether a woman has the potential to conceive. Included is this measure:

Snip off a head of garlic; clean it, and put it in her womb. On the next day check to see if she smells the odor in her mouth. If she does smell it, she will conceive; if not, she won’t.372

As it so happens, two very similar tests can also be found in two Egyptian medical papyri: the Carlsberg VIII papyrus and the Kahun medical papyrus #28, which predate the Hippocratic treatises by about 700 years. These were identified by Erik Iversen, who viewed them as evidence of direct influence of Egyptian on Greek medicine. The Egyptian texts read:

To determine who will <bear children> and who will not <bear children>, you should then cause the bulb of an onion to spend the night in her flesh until dawn. If the odor appears in her mouth, she will bear <children>. If <it does not>, she will never <bear children>373 . . .

Another method. Leave overnight a clove of garlic moistened (with . . .) in the body (i.e. in the vagina). If you smell garlic on her breath, she will give birth (normally). If you cannot smell it, she will not give birth normally, and this will always be the case.\textsuperscript{374}

The Egyptian onion and garlic tests and the Hippocratic one are quite similar both in terms of the actions involved – a clove of onion or garlic is placed in the woman’s vagina, she sleeps on it overnight, and the next day she is inspected to see if the smell is exhaled from her mouth – and in terms of the anatomical theory undergirding them. As Jacques Jouanna notes, “In both cases, the test presupposes the belief that the woman’s body contains, in one way or another, a passage between the vagina and the mouth . . . Moreover, the diagnosis is set out in two contrasting hypothetical subordinate clauses. However, the aim of the [garlic] test is not exactly the same in the Egyptian papyrus and the Hippocratic treatise: one is a test to determine the good or bad development of the pregnancy, the other to determine if the woman is sterile or not.”\textsuperscript{375}

In both the Egyptian and Greek version of the garlic test, an unblocked channel is associated with the positive outcome, i.e. the ability of the woman to become pregnant or the health of her current pregnancy. In both, the lack of obstruction is associated with health, while obstruction is indicative of ill-health.

Roman and Byzantine accounts of the garlic test remain similar to the Hippocratic one: the transfer of the smell of garlic from the vagina to the mouth indicates that a woman will be able to conceive. Soranus describes a host of authorities who believe the test to be accurate, although he rejects it on the grounds that the smell will migrate to the mouth regardless of whether the woman’s channel via the uterus is blocked. Nonetheless, he agrees with the premise that such a channel exists and must be unblocked for a woman.

\textsuperscript{374} J. Jouanna, \textit{Greek Medicine from Hippocrates to Galen} (Leiden: Brill, 2012), 5.
\textsuperscript{375} He concludes, \textit{contra} Iversen, “Thus it is difficult to speak of direct influence.” Ibid., 5-6.
to be fertile.\textsuperscript{376} Aetius of Amida appears to claim that Soranus subscribes to the efficacy of the test, and he describes the garlic test just as Hippocrates does, as a test of fertility and sterility.\textsuperscript{377} In summary, between the time of Hippocrates and the dawn of Islam, there does not seem to be any substantial change in the understanding of how the garlic test works and what it signifies.

Now let us consider the medieval iterations of the garlic test.

The \textit{Firdaws al-hikma (Paradise of Wisdom)} was written around the year 236/850 by the Syriac Christian convert to Islam and physician, `Alī ibn Sahl Rabbān al-Ṭabarī, who lived in Persia and Iraq. In his section on gynecology, al-Ṭabarī extensively and accurately quotes the Hippocratic texts up until he reaches the garlic test:

\begin{quote}
[Hippocrates] also said, “If you want to know if a woman will conceive or not, then sit her on a pierced chair, cover her with a robe, and fumigate her from beneath with costus or sandarac, or aloeswood, and if you find the smell\textsuperscript{378} of the incense [emerging] from her nostrils, then she will conceive. If not, then she will not conceive.\textsuperscript{379} The reason for [Hippocrates’] statement is that if the smell does not emerge from the nose, that is indicative that the body’s passages and the uterus are damaged.

He also said that if a woman drinks mixed honey before sleeping not having eaten, and then she experiences colic (gassy pain) around her middle, then she is pregnant.\textsuperscript{380} And if not, then she is not. The reason for this statement of his is that the uterus, if it is occupied with a seed, is closed up. Mixed honey provokes bloating and if the womb is closed up, the passage for the wind is narrowed, and this bloating is retained in the [womb] thereby provoking colic. Another person said a woman should place garlic in her vagina and sleep on it, and if the next day there is a smell of garlic then she is pregnant (\textit{fa-hiya ḥublā}). And if not, then there is no pregnancy in her (\textit{fa-laysa bi-ḥā ḥabal}).\textsuperscript{381}
\end{quote}

\textsuperscript{376}Soranus, \textit{Gynecology}, 32-4.
\textsuperscript{378}Alternatively: “if the smell is found.”
\textsuperscript{379}Cf. Hippocrates \textit{Aphorisms} 5: 59: “If a woman does not conceive and wishes to ascertain whether she can conceive, having wrapped her up in blankets, fumigate below and, if it appears that the scent passes through the body to the nostrils and mouth, know that of herself she is not unfruitful.” Translation by Francis Adams.
\textsuperscript{380}Cf. Hippocrates \textit{Aphorisms} 5: 41: “If you wish to ascertain if a woman be with child, give her mixed honey to drink when she is going to sleep, and has not taken supper, and if she be seized with colic in the belly, she is with child, but otherwise she is not pregnant.” Translation, slightly modified, from Francis Adams. Cf. al-Rāzī, \textit{al-Hāwī fl al-tibb}, 50.
\textsuperscript{381}al-Ṭabarī, \textit{Firdaws al-hikma fl'ī-tibb}, 37-38. A. Sigel translates this into German as “so kann sie empfangen . . . so kann sie nicht empfangen,” i.e., she \textit{can} conceive. Given the context of the paragraph, and the grammar of the sentence, I do not think an unmodified reading of the Arabic supports this
Most of this passage is taken almost verbatim from Hippocrates, except where al-Ṭabarî explains why the fumigation test works, and with some minor changes to the particular perfumes called for. However, in the last sentence, there is a significant departure from the older text. In the *Firdaws al-ḥikma*, the garlic test is no longer a measure of fertility, of the ability to become pregnant, but is rather a test of whether or not conception has occurred. It is a pregnancy test. Al-Ṭabarî does not seem to feel the need to explain why the emergence of the garlic smell from the mouth of a woman is evidence of her pregnancy. It does not necessarily follow from the initial concept (which he has not discarded) of fertility being dependent on unblocked passages. It does, however, accord with ancient Egyptian texts and with the “unblocked = positive outcome, blocked = negative outcome” schema which is evident in both the ancient Egyptian and Greek texts.

In the late 4th/10th century, Aḥmad al-Baladī in Egypt and ‘Ariḥ b. Saʿīd al-Qurṭubī in Spain would also describe the garlic test. Al-Baladī’s description matches Hippocrates’ exactly, and it occurs in the context of Hippocrates’ other tests of fertility. He writes:

Hippocrates says in the fifth section of the book *Aphorisms*:\(^{382}\) ‘If the woman has not conceived and you want to know if she will conceive or not, wrap her in robes then fumigate her from below, and if you see that the smell of the incense wafts from her body up to her nostrils and mouth, then you will know that pregnancy has not been impeded because of her\(^{383}\) . . . He said: command her to take a garlic leaf or garlic and peel it and put it in a pessary. Let her apply it overnight, and if she wakes up and finds the smell of the garlic in her mouth, then she will become pregnant.\(^{384}\)’

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\(^{382}\) Hippocrates, *Aphorisms*, 5: 59.


Thus, for al-Baladī, the garlic text proves fertility or lack thereof, just as it does in the Hippocratic texts. By contrast, in his Kitāb khalq al-janīn wa-tadbīr al-ḥabālā waʿl-mawlūdīn, al-Qurṭubī, like al-Ṭabarī, describes it as a pregnancy test. This is not a linguistic misunderstanding. He appends it to what is otherwise a direct quotation from Hippocrates about recognizing pregnancy, which describes the external signs and uterine changes which indicate that conception has occurred. Al-Qurṭubī writes, “if the next day the scent of the garlic emerges from the nose, it is a sign of conception. If it does not do so, then she is not pregnant.” This is particularly curious because, in the paragraph immediately preceding this one, al-Qurṭubī says that a sign of pregnancy is that the mouth of the uterus (cervix) is closed over. In theory, such a closing of the cervix would interrupt the passage between the vagina and the mouth. One would thus expect that the transfer of the garlic odor from vagina to mouth would be an indication that the cervix was still open and that pregnancy had not occurred. However, al-Qurṭubī does not appear to be consistent in this regard.

Ibn Sīnā’s Qānūn describes the garlic test twice, once as a test for fertility or lack thereof, and once as a test for pregnancy or lack thereof, but unlike al-Ṭabarī and al-Qurṭubī, his anatomical theory actually remains consistent. In his section on the signs of infertility, Ibn Sīnā writes that the presence of the smell indicates an unobstructed path and hence a prospect of fertility. The test then appears three pages later as a pregnancy

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test, but the pregnancy is proven absent by the presence of garlic smells in her mouth. He writes:

Conception can be diagnosed through tests. Among them is having the woman drink two *waqītas* of honey-water before sleep, or similarly mixed rainwater, and then seeing whether there is colic or not, because in conjunction these cause retention and bloating in the intestines. Physicians are convinced by this, and it is a positive test, except for those women who are already accustomed to drinking this. Another [test]: she should submit to a fast for a day and then in the evening be wrapped in robes and fumigate herself on a pierced chair with a cone of incense. If the fumes and smell emerge from her mouth and nose, then there is no conception in her. A similar negative test is taking garlic, sleeping on it, and [seeing] if the smell and taste of it is in her mouth or not. 387

Here the anatomical premise is maintained, i.e. the premise that normally the path from the vagina to the uterus to the mouth is unobstructed, and the existence of an obstruction indicates that either the cervix has closed, as occurs during pregnancy, or there is something in the uterus causing a blockage, i.e. a fetus. What has changed is that finding the path to be unobstructed is no longer necessarily a welcomed outcome. The presence of garlic in the mouth is an indication that pregnancy has failed to be achieved.

An interesting modification of this premise can be seen in the version of the garlic test found in the belletrist Aḥmad ibn ‘Abd al-Wahhāb al-Nuwayrī’s (d. 733/1333) encyclopedic work, *Nihāyat al-arab fī funūn al-adab*. This time garlic does not indicate fertility, but rather another condition which was sometimes viewed as a predictor of fertility, namely virginity. 388 He cites the famed translator Ḥunayn ibn Ishaq (d. 260/873):

Ḥunayn ibn Ishaq said: 389 If you want to know if a woman is a virgin or non-virgin (*thayyib*), have her take peeled garlic and insert it and carry it in her vagina overnight. When she wakes up let her breathe out, and if the smell of the garlic is in her mouth then she is a non-virgin. But if [the smell]

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388 This sentiment can be seen in *ḥadīths* such as, “The Prophet of God said: ‘Marry virgins, for they have the sweetest mouths, the most receptive wombs, and the finest morals.’” Ibn Ḥabīb, *Kitāb adab al-nisā‘ al-mawsūm bi-kitāb al-ghāya wa’l-nihāya* (Paris: Dār al-Gharb al-Islāmī, 1992), 148-9. Similar to Ibn Māja, *Sunan* (Riyadh: Maktab Ma‘ārif lil-Nashr, 1996), 324 = no.1861 which reads, “The Messenger of God said: ‘Marry virgins, for they have the sweetest mouths, the most prolific wombs, and are the most satisfied with less.’” Shi‘ite *ḥadīths* in particular describe virgins as having better (either “drier” or “more receptive”) wombs in comparison to non-virgins. See Ibn al-Barrāj (d. 481/1088), *al-Muhadhdhab* (Qom: Mū’assasat sayid al-shuhadā‘ al-‘ilmīya, 1986), 2: 181.

389 I have been unable to locate the source of this quotation.
is not present in her mouth then she is a virgin. So too one may know if she is pregnant: if the smell of garlic is present then she is not pregnant, and if it is not present then she is pregnant. The anatomical premise is the same as Ibn Sīnā’s, but it shifts emphasis with regard to the meaning and significance of a finding of obstruction or lack thereof. The obstruction in al-Nuwayrī’s account seems to be the hymen, whose presence or absence is proven through the garlic test. The transmission of the garlic smell into the woman’s mouth is indicative of her having been deflowered. Here the hoped-for gynecological finding is that the garlic smell is not present. Interestingly, in his Raḥma fī al-ṭibb wa'l-hikma, the famed Islamic scholar Jalāl al-Dīn al-Suyūṭī (d. 911/1505) quotes this same passage (without attributing it to Hunayn ibn Ishāq), but in the context of a chapter on restoring virginity to the non-virgin. The garlic test is immediately succeeded by several pessary recipes for reestablishing virginity.

In a last variation on the gynecological concept that there is a passage between the vagina, uterus and the mouth, its association with virginity becomes once again attached to the question of fertility and sterility. This variation can be seen in a thirteenth-century Hebrew gynecological text from southern Europe which draws extensively from both Latin and Arabic material. There, it describes the fumigation of the uterus and says, “if

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391 The Babylonian Talmud presents a colorful illustration of this premise in which a rabbi counsels a newlywed couple. The husband is concerned that his wife has not bled on her wedding night, while the wife claims that she is still a virgin. The rabbi sends for a virgin servant girl and a non-virgin servant girl and has them sit on wine casks. He shows the husband that the scent of wine emanates from the non-virgin’s breath, but not from the virgin’s. He then performs the same test on the accused wife. Because her mouth does not smell like wine, he tells her husband to be satisfied that she is indeed a virgin. Talmud Bavli, Ketubot, 10b.
the smoke reaches her mouth and is bitter, she is not a virgin; if it does not, she is a virgin. You could do the same to a barren woman: *if the smoke goes up to her mouth and is bitter, you will know that she is barren; if not, she is closed and not barren.*394 This too is immediately followed by virginity-restoration recipes. At this point, it seems that the communication of smells from the vagina up to the mouth has become attached to negative results, i.e. lack of virginity, and so by association it becomes attached to another negative outcome, i.e. infertility. Thus, in this case the test has the exact opposite diagnostic value as the one articulated in the Hippocratic texts, despite sharing the same gynecological premises.

The garlic test is a case study which suggests certain interpretations of the nature of medieval gynecology. First, it is an example of a situation where it is difficult to categorically differentiate between ideas that stem from Greek medicine and ones that may have been indigenous even before the translation movement. After all, the garlic test is found even in ancient Egypt, and there it was connected with pregnancy rather than fertility. Secondly, the garlic test suggests some degree of correlation between “book medicine” and medical practice. The very fact that the uses attributed to the garlic test vary, but do so all within one specific theoretical framework, suggests that the garlic test was an actual procedure, not merely an intellectual exercise. By contrast, as Emilie Savage-Smith argues, unvaried and non-specific descriptions of procedures are indicative of their having never been actually implemented.395 Thirdly, the garlic test is not merely a medical diagnostic tool but rather a women’s “ritual.” By this I mean that it is a

performance, whose specific meaning is subject to interpretation and interpretive variation, but whose purpose remains constant. That purpose is the demonstration that the woman’s body can meet the reproductive requirements expected of it.

The garlic test also serves to remind us of the basic problems and solutions available to the would-be medieval gynecologist. The basic problem was that women’s genitals were internal and hidden, and thus it was difficult to know whether all was well or if something was wrong with respect to fertility, pregnancy, or virginity. One solution to this problem was to posit that one can discover what is happening inside the body by supposing that the internal organs were connected to the outside, visible world and by mapping what is happening at the entries and exits of the body. The garlic test, and the fumigations too, thus function like an x-ray or sonogram – the physician learns about that which is in the body by bombarding it with electro-magnetic radiation, or sound, or scent, and creating a picture based upon what penetrates the body and what does not.

IV. The Causes of Infertility in Greco-Arabic medicine

In the Greco-Arabic medical literature, there is a high degree of agreement about the potential causes of infertility, and discussions of it are similar to the above-mentioned Greco-Roman accounts. Male infertility receives somewhat more attention in the Arabic tradition than in the Greek, though still not nearly to the extent of female infertility. Male infertility was generally attributed to one of three failings: humoral imbalance, producing too little sperm, and having erectile problems. Some authors also claimed that male infertility could be caused by a problem with the angle of the penis such that it cannot
project semen “in a straight line,” or simply that the male seed could be defective.\textsuperscript{396}

However, the inability on the part of the man to produce offspring is rarely classified as a disease to be treated in and of itself in medical encyclopedias. Rather, male infertility is addressed as a subsection of discussions about undesirable sexual performance. Often male infertility is conflated with impotence, small penis size and lack of sexual prowess.

The exception is in Ibn Sīnā’s \textit{Qānūn} where, in several places, male and female infertility are addressed at the same time.\textsuperscript{397} There the terminology for male and female fertility-related difficulties is so similar that it is sometimes difficult to tell which partner is under discussion. Ibn Sīnā repeatedly uses the term \textit{manī} to refer to both men’s and women’s “sperm,”\textsuperscript{398} by which he means male semen and, it seems, female ejaculate.

Male infertility also receives little attention because, even in cases where impotence was not present, it was relatively easy to diagnose. In this respect, although Ibn Sīnā is exceptional in that he accords a great deal of attention to male infertility, he too makes a point similar to Aristotle’s: that while a husband may be medically advised to attempt procreation with another woman, a wife has no such option. He writes:

\begin{quote}
Regarding the infertile [woman] and sterile [man] by nature: the one with a humoral temperament contrary to that of his partner needs to replace them. As for the one with a short instrument [i.e. penis], there is no remedy. Similarly, a woman whose orifice for menstruating has become plugged up as a result of ulcers which have since healed over and become slippery [cannot be cured]. \textit{Regarding a woman who needs to replace her husband, the treatment of her does not pertain to the physician. But regarding the rest of the cases, there are [treatments].} \textsuperscript{399}
\end{quote}

Al-Majūsī’s discussion of male infertility is short, but it appears to be quite egalitarian.

He writes in his \textit{Kāmil}

\begin{quote}
If lack of conception is due to the husband, and that is due to his sperm having little compatibility with some women, then he must exchange women so that he may encounter what will be
\end{quote}


compatible with the humoral temperament of his sperm. If instead [his infertility] is due to a blockage within the vesicles of the penis, then he must be treated by unblocking that blockage by using a blade, which we will discuss in the chapter on surgery.\textsuperscript{400}

I have been unable to locate other texts which suggest the possibility of internal surgical correction to male infertility, although some texts do mention external surgery to correct semi-impotency.

A representative survey of the sorts of causes to which female infertility is attributed can be seen in al-Ṭabarī’s Firdaws al-ḥikma. In examining it, one can obtain a good overview of the prevailing theories of infertility throughout the Greco-Arabic corpus. The text is quite similar to the discussions of infertility found in al-Rāżī’s Ḥāwī fi al-ṭibb, al-Majūsī’s Kāmil al-ṣinā’a fi al-ṭibb, Ibn Sīnā’s Qānūn, and al-ʿArīb b. Saʿīd al-Qurṭubī’s Kitāb khalq al-janīn wa-tadbīr al-ḥabbālā, but is also more concise. Rather than risk appearing repetitive by quoting all of those texts, I have chosen to extensively translate and analyze al-Ṭabarī’s Firdaws al-ḥikma. References for where these ideas appear elsewhere in the medical literature can be found in the footnotes.

\textbf{Infertility and Heat, Cold, Dryness and Moisture}

[Hippocrates] also said that a woman who is very cold will not conceive because the cold freezes the seed.\textsuperscript{401} The very warm [woman] will not conceive because the heat burns the seed. Similarly, the very dry and the very moist [woman] because the dryness desiccates the seed, and the moisture makes it slip out and ejects it . . .\textsuperscript{402}

If there is an excess of heat [in the uterus] the seed is burned. If there is an excess of cold it freezes [the seed]. If there is an excess of moisture or her powers of holding in [the seed] are weakened, the seed slips out. If there is an excess of dryness it desiccates and dries up [the seed]. Perhaps, if

\textsuperscript{400} al-Majūsī, Kāmil al-ṣinā’a fi al-ṭibb, 2: 467.

\textsuperscript{401} al-Ṭabarī is not clear about whether he is referring to the male or female seed or both. Elsewhere, he writes that “menses in females are alike ejaculations in males. The cause of menstruation is that women’s bodies are cold and moist, and they retain in their bodies much moisture, then this moisture flows down to the extremities of the body and emerges from it.” al-Ṭabarī, Firdaws al-ḥikma fi l-ṭibb, 54.

\textsuperscript{402} Ibid., 38.

\textsuperscript{403} Al-misāka = holding in, retention. I have avoided translating the word as retention only because in this particular context it would be confused with ihtībās al-dam, retention of the (menstrual) blood. Misāka was also the word used in the legal texts to refer to urinary and fecal continence.
the humoral balance in the body is altogether changed, and not just that of the uterus, then [the uterus] will not be inhibited from pregnancy.\textsuperscript{404}

This emphasis on the pernicious effects of excessive heat, cold, moisture, and dryness is found in virtually all subsequent discussions of the pathologies of the uterus in Greco-Arabic medicine. It was believed that negative conditions of this type could either subsist in the body as a whole, or only in a particular organ. They could be cured through fumigations and diet.

Al-Ṭabarī, like his predecessors and successors, also associates heat and cold with molding the gender of the fetus. Discussions of the generation of males as opposed to females are intermixed within the discussions of fertility, promoting conception and avoiding miscarriage. As part of the above-quoted passage on the damage inflicted on the seed by excessive heat and cold, al-Ṭabarī writes:

Hippocrates says, if the breasts of pregnant women shrivel, they miscarry. If one breast shrivels, she miscarries the fetus which is on the side of the shriveled breast. If the color of the woman is good, that indicates that the fetus is male. If her color is ugly it indicates that the fetus is female.\textsuperscript{405} The reason for [Hippocrates’s] statement is that the male is warm and the female is cold, and warmth improves coloring whereas cold makes it uglier and greener.\textsuperscript{406}

This association between heat, masculinity in adults, and the production of male children is agreed upon everywhere in the Arabic medical literature, even among those with substantial disagreements as to how exactly one side of the womb became warmer than the other.\textsuperscript{407} Al-Rāzī, however, addresses the issue with some degree of skepticism, based upon his experience of men and women who do not conform to humoral type:

Signs of conception: Apollonius[?] said: if the menses are retained without fever or trembling or shortness [of breath?] then she is pregnant. For menses which are retained due to illness present with the above [symptoms], but if the uterus shows no [sign of illness] then she is indeed pregnant.


\textsuperscript{405} Hippocrates, \textit{Aphorisms}, V. 38.


If she is pregnant with a male, then her color is good; if with a female then her color is pallid in comparison to her usual color prior to conception, for the female is colder while the male is warmer. *This is so only in general*, for it is possible for one pregnant with a female to improve her regimen after conception thus improving her color, and the opposite. There are many other signs of a male [fetus], such as having many and forceful movements. *These signs are also only general ones*, for if she is carrying a very weak male or a tremendously strong female one it is possible that [the female fetus’s] movements will be greater and more forceful. [Galen?] said: the fetus cannot be cold unless both the sperm of the man and the uterus of the mother are cold at the same time. But as for me, I consider this to be ridiculous because it arbitrarily assigns categories for nature’s actions . . . but we have indeed seen many women with humoral temperaments that are warmer than are those of many men. This indicates masculinity and femininity are not determined by warmth but rather by predominance of one type [of seed].

It is interesting that al-Rāzī’s attitude of complete skepticism towards a basic notion of humoral medicine and conception theory does not lead to a concomitant rethinking of the practical medicine which is based upon it.

**Differentiating between male and female sources of infertility**

Immediately following his discussion of the signs of pregnancy with a male fetus and the signs with a female fetus, al-Ṭabarī focuses on how to establish whether the male or female partner in a sexual relationship is responsible for that union’s childlessness:

If the woman does not produce children, and you want to know whether that is due to the woman or due to the man, then take some of the man’s urine and sprinkle it on a growing lettuce root, and sprinkle the urine of the woman on another lettuce root. The next day whichever root is found to have dried up, then that seed is the corrupt one. Or take some of both their seeds and put it in a vessel in which there is water, and whichever of the seeds floats to the surface of the water, that is the one in which there is infertility and corruption. Or take some peas, lentils and beans, and plant them in the ground, and have woman urinate on them for two days. If any of them germinate as a result, then she can conceive. And if not, then she cannot.

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409 Alternative: “she.”
411 Like the garlic test, this too will become a tool for diagnosing virginity (though only on the part of women). E.g., whereas in the Greek texts this is either a pregnancy or a fertility test, in the *Sefer ahavat nashim* the author maintains “The sages of Greece do this experiment: the girl must urinate over marshmallows in the evening, and bring them in the morning; if they are still fresh she is modest and good, if not, she is not.” Caballero-Navas, *Book of Women’s Love*, 142.
Underlying the assumption that one can test both seeds is the idea that (a) both parents produce seed, and (b) both forms of seed are visible. The second formulation, in which a woman’s urine is tested rather than her seed, does not require that one subscribe to any particular conception theory. Such urine tests appear to be common across a wide variety of cultures and appear in ancient magical texts throughout the Mediterranean world.

**Menstrual Retention and Hysterical Suffocation**

Infertility is often described in the medieval medical works as caused by, or correlated with, menstrual retention and hysterical suffocation. Al-Ṭabarī writes about these two conditions together, and while they often are treated in separate chapters, in the Arabic medical literature they are also conflated with one another, with Ibn Sīnā arguing that hysterical suffocation is in fact usually caused by retained menses. Al-Ṭabarī writes:

> [Hippocrates] says that if a woman is one who has sexual relations, that is healthiest for her body, because the uterus is thereby moistened, while she who does not engage in sexual relations has a uterus which becomes dry and shriveled . . .

There are three [types of] disease occurring in the uteruses of humans which effect the whole body. I mean (1) first-order diseases, (2) [diseases of a system] of organs, and (3) the decay of a single [organ]. Among the greatest of these are infertility, the slipping out of the seed, the miscarriage of the fetus, uterine suffocation, hemorrhage of menstrual blood, retention of menstrual blood, tumors and dyscrasia . . .

Retention of menses may be due to heat, dryness, severe fatigue, or nosebleed because this diminishes the blood, or [it may occur in] one who is fat for her blood departs due to her fat, or because the veins of her womb are narrow, or from a rupture. As a result of retention of the menses or lack of coitus, there may occur vapors, asthma, damage to the liver and stomach, heart palpitations, vile thoughts, headache, uterine suffocation, inability to conceive, abscess, and dropsy, because when the [uterus] retains the menstrual blood, [the blood] will coagulate in its veins and disperse its vapors into the entire body, thereby causing these maladies.

Sometimes the uterus is stretched by a tumor or coagulated, sticky superfluities, such that it inclines to one side and is therefore lacking in height or width. Sometimes the uterus rises upwards towards the diaphragm thereby causing suffocation, and it overcomes the woman such that she may lose consciousness. In which case, a wool flake should be placed on her nose so as to learn whether she

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415 Cf. al-Majūsī, al-Kāmil, 1: 388 and Weisser, Zeugung, Vererbung, und pränatale Entwicklung, 158.
is alive or dead. If the wool moves, then she is alive. The cause of this is either an excess of coitus or the lack of it. For, if there is much seed it might rot and become like a poison, and sometimes it spreads and so the diaphragm convulses and the woman suffocates. . . Sometimes an itch accompanied by swelling also occurs in the uterus due to the intensity of desire for sexual intercourse, just as in a male there is an itch and swelling due to desire . . .

Al-Ṭabarī accepts some of the main Hippocratic premises of the diagnosis of hysterical suffocation. The uterus can rise up and squeeze the diaphragm thereby causing suffocation, fainting, and perhaps even death. He associates it with lust, just as we saw in texts like Plato’s *Timaeus*. Like Galen, he accepts these premises even though he also accepts that the uterus is moored in place. His description of the symptoms of menstrual retention is quite similar to the Greek sources, but it is conflated to a large extent with hysterical suffocation. He continues to associate both conditions with the need for “healthy” amounts of sexual intercourse, but here the association is significantly more tenuous. The conditions may be caused by either an excess or a lack of coitus, or may even result from non-sexual factors such as fatigue or a nose-bleed. Neither is associated with specifically reproductive “need” on the part of the woman or her unruly uterus.

Whereas in the Hippocratic texts, both menstrual retention and hysterical suffocation are described as resulting from a woman’s sexual status as a virgin, widow, barren woman, etc., over time, particularly in the Byzantine and Islamic periods, these conditions were attributed to a wider variety of causes. What united these causes was that all were examples of physiological frustration which in turn caused some sort of corruption which needed to be exorcised. This corruption was depicted as causing old

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417 The story of Galen’s use of wool to test whether a sexually-deprived widow has fainted or died is found in several sources, including Galen, *On the Usefulness of the Parts*, Kuhn edition, VIII, 414-15. It appears to have entered into the Arabic corpus via Paul of Aegina, appearing in al-Rāzī, Ibn al-Jazzār, and Ibn Sinā’s works.

menstrual blood to coagulate rather than be evacuated. The old menstrual blood then rotted and putrefied, thereby making the uterus uninhabitable for any embryo and sending vapors or fumes throughout the rest of the body, especially upwards towards the head.

This old menstrual blood might be retained because the woman had engaged in either too much⁴¹⁹ or too little sexual activity, but it could also be attributed to a host of other problems, some psycho-social (such as shock or depression) and others more physical, such as cold or hemorrhoids. Whatever the cause, they would result in the old menstrual blood not evacuating properly, rotting in the uterus, and the rot producing vapors which would poison the woman. The manifestations of this poisoning were also both psychological and physical. Such manifestations included lack of sexual appetite, lack of appetite for food, nausea, pica, fever, dropsy, and fainting.⁴²⁰

Ibn al-Jazzār, like al-Ṭabarī, conflates hysterical suffocation (which he very much associates with sexual deprivation) with menstrual retention, which he does not particularly associate with sexual deprivation. He writes:

[Hysterical suffocation] occurs [to a woman] by reason of a surplus and corruption of her sperm when she is withheld from sexual intercourse. For then the sperm increases, corrupts and becomes like a poison. This happens mostly to widows, especially when they have given birth to many children. It can also happen to women when they have reached sexual maturity without knowing any man. For when the sperm has collected in them, they need its emission just like men, which is a natural act. But when the woman does not have a man, the sperm is collected in her and a cold vapour arises from it to the respiratory diaphragm because of its connection to the uterus. This causes asthma, and because the diaphragm is connected with the throat and with the places of [origin] of the voice suffocation occurs to her, as we have explained. This disease can also be caused by retention of the menstruation, for when the retained menstrual blood and the sperm collect in them, the disease called “hysterical suffocation” occurs to them with extreme force, especially in autumn or in winter.⁴²¹

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⁴¹⁹ This association of hysterical suffocation with excess, rather than lack, can be seen in pre-Islamic authors as well, such as Paul of Aegina and Aetius, who wrote that it is most prevalent among lascivious women and those who make use of contraceptive drugs. S. Gilman et al., Hysteria Beyond Freud. (Berkeley: University of California Press, 1993), 48-9.


Here hysterical suffocation is identified as particularly prevalent among unattached women, but not because the uterus is searching for reproduction, but because both sexes require sexual release in order to be healthy, lest “cold vapors” arise from the retained male and female sperm. It can also occur due to the lack of evacuation of the menses.

All this was subject to cure. Ibn al-Jazzār writes, “Rufus the physician said that when a doctor knows the cause of retention of the menstrual blood, he will be able to treat it in the easiest way. The retention of the menstrual blood should be treated by eliminating its causes.” The most commonly mentioned treatment was fumigation by applying pleasant smells near the vaginal opening and bad smells near the nose or mouth. Other frequently mentioned therapies include pessaries, orally ingested medications, back and foot massage, rubbing the genitals (performed by a midwife), bleeding, and cupping. All of these techniques involved creation of intimate and sensory-rich experiences. The purpose of all these therapies was to effect a form of “release” and relief by breaking down and expelling whatever was frustrating the normal menstrual and reproductive cycle.

One can see the cross-over appeal of such a diagnosis. It can be understood in strictly biological terms – the blood is being blocked in the uterus and, as a result, is undergoing a natural process of decay and so it must be evacuated and the uterus cleaned of the rot by means of incense burning and intimate touch to attract, break down, or remove the decay. But it can just as easily fit into worldviews that posit that a woman can

422 Ibid., 264. Bos’ translation.
423 Ibn Sīnā makes the same suggestion, op. cit. al-Rāzī does so as well and quotes previous authorities for doing so in al-Ḥāwī fi al-ṭibb, 9: 38, 40 and 44. al-Majūsī also writes that the midwives do this, see al-Kāmil, 2: 428.
be inhabited by a malevolent force, a ghost twin, or an evil eye, which must be released, driven out, or exorcised so that the body can resume its normal functions, possibly by means of rituals involving strong scents and intimate touch. Christopher Faraone has demonstrated that, in the Roman and Byzantine worlds, there was a great deal of intellectual compatibility of medical understandings of the wandering womb and magical concepts exhibited in material culture. Amulets and magical recipe books have been found from the first, second, and fourth centuries (the most recent, from Upper Egypt) which abjure the womb itself to stay in place, and both of these accord with the demonic exorcism practices of the time.\textsuperscript{425} It may be argued that echoes of this notion can be seen in modern Egyptian fertility rituals as described by Marcia Inhorn and others.\textsuperscript{426} Of course, in later European medical history, the notion of hysteria would eventually find a home in the emerging field of psychoanalysis, which is yet another example of its malleability and continued viability even as the medical theories undergirding the concept become defunct.

It should be noted that, despite the association of menstrual retention and hysterical suffocation with marital status and sexual activity, the Arabic writers place relatively little focus on encouraging women to marry or remarry to deal with the problem. The diseases at hand are more prevalent among adult virgins and widows, but despite many pages of detailed instructions as to how to alleviate the problem, neither al-Ṭabarī, nor Ibn al-Jazzār, suggest that the problem be fixed through marriage.\textsuperscript{427} This is

\footnote{Faraone, “Magical and Medical Approaches to the Wandering Womb in the Ancient Greek World.” 19-22.}


\footnote{This is also true of Paul of Aegina and Aetius of Amida’s treatment of the subject, see Green, “The Transmission if Ancient Theories of Female Physiology and Disease,” 106.}
also true of al-Rāzī except that, in his Ḥāwī, he cites the opinions of older authorities which do recommend it. He lists a dozen different authorities, citing both their descriptions of hysterical suffocation and their cures for it. There he quotes Hippocrates as saying in his Diseases of Young Girls “if she does not have a husband then one marries her off quickly.”

He also cites Hippocrates as claiming, in his book On Seed, that “this suffocation does not occur to pregnant women. Therefore my [recommendation] is that it is treated with what brings down the blood and thins out the semen, or with much sexual intercourse . . . If she becomes pregnant, the situation is obviated altogether, for the womb is weighed down and moves back and is made moist.” He also quotes al-Masīḥ’s commentary on Diseases of Young Girls as saying, “When a woman matures to the point of menstruation and is a virgin, blood is diverted toward her uterus . . . and it causes something like insanity in her. If that has happened, it [?] should be removed and then one should marry her off, for if she becomes pregnant she will become healthy.”

Both Ibn Sīnā and al-Majūsī explicitly recommend marriage if the patient is a virgin. Al-Majūsī writes, “If the woman is a virgin, then she must marry. If she rarely engages in intercourse, she should do so. For intercourse voids the semen which is retained in its passages and unblocks the blockage which was caused by it[‘s retention] and, in so doing, makes it cease, God willing.” If the cause of hysterical suffocation is found to be “retention of semen,” Ibn Sīnā recommends marriage as one possible cure.

428 al-Rāzī, al-Ḥāwī, 9: 43.
429 Ibid., 9: 44.
430 Ibid., 9: 45. This is ʿĪsā b. Ḥakam al-Dimashqī, known as al-Masīḥ. Ibn Abī ʿUṣaybi’a says he lived during the time of Harūn al-Rashīd. Ibn Abī ʿUṣaybi’a does not mention him having written this treatise. He is referred to extensively by al-Baladī in Tadbīr al-ḥabālā’.
Note that the assumption in this case is that the woman is not currently engaging in sexual relations because she is unmarried. Thus it appears that the “semen” in this case is female semen, which has not found an outlet.

If the cause of the [hysterical suffocation] is retention of the semen, then it is necessary to get started on marriage. Until that time, she should engage in exercise and [make use of] those things which dry out the semen, such as rue, mint . . . as in the [aforementioned] recipe. The midwife must insert her hand in the vagina and rub it with oil of lily or nard or laurel, and massage the entrance to the vagina, and she should massage the entrance to the uterus a great deal. [The patient] must be given both pleasure and pain, so that it will be like the experience of sexual intercourse.

Here, while marriage is encouraged just as in the Hippocratic texts, unlike the Hippocratic texts, marriage is not recommended for the purpose of curing the woman’s wandering womb by weighing it down with pregnancy or with male semen. Rather, it is recommended to give her the opportunity to rid herself of her own pent-up female semen.

The alternative he offers is masturbation as a substitute for marital sex.

**Causes of Miscarriage**

Both al-Ṭabarī and his successors elide the notion that a woman could fail to conceive if the semen or embryo slipped out of her uterus rather than embedding in it, with the notion that a fetal miscarriage occurs when the fetus is detached from the uterus and made to “fall out,” which is what *isqāṭ* (miscarriage or abortion) literally means.

Thus discussion of miscarriage was part of the broad spectrum of discussion about how to improve a uterus which is unable to “hold in” sperm, embryo, and fetus. Al-Ṭabarī writes:

> The causes of miscarriage are: when the seed is so thin as to not remain in the uterus, when there is an excess of moisture in the uterus and the fetus slips out, or because the roughness of the uterus has become smooth and so the seed slips out of it, or there is a tumor in it or because there is insufficient nourishment for the fetus, or due to the pollution of the blood in the woman . . .

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The concern that conditions within the uterus could make it physically unable to keep either semen or the embryo from slipping out is found throughout both Greek and Arabic texts. This slippage could be caused by excessive moisture, in which case it could be corrected by having the woman ingest substances associated with “dryness.” Slippage could also be attributed to an unhealthy smoothness in the uterus, which could be a result of ulcers or tumors. Where there is no ulcer, smoothness could be corrected by means of suppositories, pessaries, and fumigations meant to absorb or draw out excess moisture. In addition to these, Ibn Sīnā lists a number of “sympathetic,” magical remedies.435

Al-Ṭabarī also refers to external factors which can cause miscarriage.

[Miscarriage may result from] diarrhea, or a blow to her breast, or from a severe shock or fright, or because she hears an alarming noise, or due to exhaustion or severe misfortune or because she approaches things which by their natures abort the fetus. Among stones and the like there are those which protect the fetus and those which eject it from the womb, whether it is alive or dead. You will find this in its own chapter. The head of the hospital of Jundīshāpūr informed me there is, among a family in the village of Ahwaz,436 a stone which protects the fetus if it is tied to the pregnant woman. Moreover, according to the son of a Christian ṣadaqa437 in Rayy, from what we have heard, if this pregnant woman with the stone inadvertently encounters another pregnant woman, the one who does not have this stone with her will miscarry. The Daylamite women informed me that this protective stone is widely available in Jīlān. Dioscorides mentions a plant called the fawflāfīqūs, which resembles the bindweed leaf, and that is, according to his information, a thorn which is placed on wounds, and God knows best. This leaf, if it is attached to a woman who is not pregnant, she then conceives. But, if a pregnant woman glances at it, then she miscarries. Pregnant women must be careful during the eighth month because if they miscarry there is a risk they will die, and should therefore avoid acute exhaustion, poor food, excessive washing, and sneezing. Hippocrates says, “Pregnant women, if they need treatment should receive treatment in the fourth through seventh month, but not before and after that.” The reason for his statement is that during the first month the fetus is akin to a weak fruit which can be dislodged by a slight wind or movement, but in the eighth month it is akin to ripe fruit which is not dislodged by a slight wind or movement.438

436 I.e., near the hospital in Jundīshāpūr.
437 The meaning of this word is uncertain. Sigge does not translate or gloss it. I presume that it has a valence similar to ʿiddīq or walī, i.e. a saintly or pious person.
Miscarriage can be due to cold, or indigestion, or grief, or coarse wind, or to too much phlegm in the veins of the uterus, or jumping from a great height to the ground, or a beating, or to [fetal] death throes.

Here, al-Ṭabarī lists a variety of direct and indirect causes of miscarriage. Drawing on an image and timeline found in Hippocrates, he notes that, in the early stages of pregnancy, the fetus is attached like an “unripe fruit” which can thus be easily dislodged. Listed among the misfortunes which can cause a miscarriage are body blows and emotional blows. It is not entirely clear from this passage whether the emotional blows cause miscarriage because psychological distress itself triggers the miscarriage, or whether the physiological assumption is that, when enduring psychological distress, the internal organs physically move or shudder, and it is this movement which physically dislodges the embryo, just as a wind dislodges a fruit. Note that here diarrhea is thought to be able to cause a miscarriage, and it is not uncommon for bowel movements to be associated with anguish or strong emotional responses.

In describing miscarriage, al-Ṭabarī refers to several informants who are not renowned authorities. He cites a physician at the famous hospital of Jundīshāpūr, who himself refers to the folk knowledge of people in the surrounding villages. He also cites the son of a noteworthy Christian woman, and then refers to some Daylamite women with whom he appears to have had direct contact. Each of these informants refers to a stone or herb which effects women with whom it comes in close proximity. The stone

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441 Cf. Soranus, *Soranus’s Gynecology* 45-46, which has a very similar list.
442 Cf. Ibid., 38: “For the seed is evacuated through fright, sorrow, sudden joy and, generally, by severe mental upset; through vigorous exercise, forced detention of the breath, coughing, sneezing, blows, and falls, especially those on the hips; by lifting heavy weights, leaping, sitting on hard sedan chairs, by the administration of drugs, by the application of pungent substances and sternutatives; through want, indigestion, drunkenness, vomiting, diarrhea; by a flow of blood from the nose, from hemorrhoids or other places; through relaxation due to some heating agent, through marked fevers, rigors, cramps and, in general, everything inducing a forcible movement by which miscarriage may be produced.”
serves as a sort of shield, not only protecting pregnant women from miscarriage and deflecting the threat posed by other pregnant women, but making the threat rebound upon the woman lacking the stone. As Manfred Ullmann notes, interest in stones, magical cures, and “sympathetic” cures was not divorced from “rational” medicine, but was more prevalent in Islamic gynecological medicine than in other areas of medicine. He writes, “sympathetic remedies are especially practiced in midwifery.”

Examples of this abound, even in literature which is not specifically about such remedies. The *Firdaws al-hikma* includes only one “magic square” in the entire text, and that is in the section on childbirth. Magnetic stones were thought to ease labor pains. Ibn Sīnā suggests that a woman experiencing infertility drink elephant urine at the time of coitus. The 7th/13th century popular guide to pharmacy, *Minhāj al-dukkān* suggests using an enema made of rabbit’s rennet for hastening conception, an ingredient which is not listed elsewhere in the book, but which is recommended for fertility purposes in Dioscorides’ *Materia Medica.*

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444 al-Ṭabarî, 281. The same square is reproduced in Abraham Ibn Ezra’s (d. 1093) *Sefer ha-Nisyonot*. The book’s list of cures for illnesses tends toward sympathetic and magical medicine, with the gynecological prescriptions based significantly on ingredients with sexual connotations. Since Ibn Ezra was known primarily as a biblical commentator, astronomer, and mathematician; that he would write such a book indicates the lack of bifurcation between rational and magical medicine. However, some have argued that the book’s subject indicates that its attribution to Ibn Ezra is spurious. Abraham Ibn Ezra, *Sefer Hanisyonot = The Book of Medical Experiences Attributed to Abraham Ibn Ezra: Medical Theory, Rational and Magical Therapy: A Study In Medievalism*, ed. J. Leibowitz and S. Marcus (Jerusalem: Magnes Press, 1984), 238.
448 This is one of only three ingredients which Dioscurides recommends to aid conception – but it is also a contraceptive. He writes that rabbit rennet “aids conception, but if drunk after menstruation, it causes barrenness.” Translation from J. Riddle, *Goddesses, Elixirs, and Witches: Plants and Sexuality throughout Human History* (New York: Palgrave Macmillan, 2010), 69.
The Treatments for Infertility and the “Two Seeds” vs. the “Sewn Field” Understanding of Conception

Most infertility treatments mentioned in the medical literature correspond to the various theoretical causes of infertility. Thus infertility due to excessive cold in the womb is treated through the ingestion of “warming” foods such as chickpeas. Infertility due to smoothness or constriction in the womb is treated through the use of probes which “roughen” the womb or widen it. Infertility due to menstrual retention is treated by ingesting drugs, applying pessaries, and using fumigation techniques, all of which “bring down the blood.” Childlessness which is a result of miscarriage or the inability to retain the embryo is treated by shielding the pregnant woman from physical or psychological experiences or malevolent forces which will cause her to move in a way which might dislodge the embryo.

Two different theories of conception also had consequences for the treatment of female infertility. The “two-seed” theory of conception, which posited that women secrete a semen-like seed, suggested a therapeutic corollary: to increase the likelihood of conception, women ought to be stimulated so as to secrete more seed, and therefore husbands should make efforts to become more satisfying lovers.449 As Basim Musallam

449 Ibn Sīnā, Qānūn fī al-ṭibb, 2: 549-50 = Kitāb III: Fann 20: maqāla 1: fasl fī ‘udhr al-ṭabīb fī mā yu‘allim min al-taldhīdh. He argues that foreplay and good sexual technique, as well making efforts to narrow the vagina and lengthen the penis are necessary to prevent both infertility and female concupiscence:

“There is no shame for the physician if he speaks about enlarging the penis and narrowing the entrance [i.e. the vagina] and female sexual gratification, because these two things are among the circumstances through which offspring are arrived at. And often, a small penis is reviled because a woman cannot be gratified by it, because it is contrary to its nature and so she does not ejaculate. And if she does not ejaculate there will be no child, and [having a small penis] is also to be reviled because it might alienate his wife and she might seek someone other than him. And, similarly, if she is not narrow, her husband will not satisfy her and she too will not satisfy her husband, and this must all be offset. And so too, sexual gratification encourages speedy ejaculation, and in most cases of women whose ejaculation is delayed and who remain without satisfaction of their desire there is no child. And also, she who remains in her [feelings] of lust, and who has no protection from them, will in that state yield to whomever she finds, and because of this they tend toward tribadism that they might encounter something among women to satisfy their desire.”
has shown, the two-seed theory of conception was embraced in medieval Islamic medicine, except by more strict Aristotelians, such as the philosopher-physician Ibn Rushd. Part of its appeal was its seeming consonance with Islamic texts and legal theory. Ibn Qayyim al-Jawzīya in particular articulates this view in his book, *al-Ṭibyān fī aqsām al-Qur’ān*. Musallam writes:

Ibn Qayyim continues: ‘If you say: you are stating explicitly that women have semen, and that the female semen is one of the two parts from which God creates the child. Some physicians however believe that women do not have semen.’ In his answer Ibn Qayyim uses the Ḥadīth and Galen with equal ease. ‘Aisha and Umm Salama, both wives of the Prophet, had asked him the same question and his answer “the Prophet established the female semen”: “Should a woman wash after a nocturnal emission (idhā ʾiḥtalamat)”? The Prophet said that she should do so if there is a trace of the fluid. They asked again: “Do women have nocturnal emissions?”, and he retorted: “How else would their children resemble them?” Ibn Qayyim also quotes another version of the same Ḥadīth with the following addition: ‘Do you think there is any other reason for the resemblance? When her semen dominates the man’s semen the child will look like her brothers, and when the man’s semen dominates her semen the child will look like his brother’. 450

This understanding of conception was also embraced because it complemented permissive Islamic legal attitudes towards contraception, as Musallam has also shown.

The second theory of conception is sometimes called the “seed and soil” model. According to this theory, male sperm constitutes the only or main gamete, and the role of the female body is to serve as a space to grow and nourish the embryo. This image is found in the Greek tradition, including in Hippocratic writings, and seems to have coexisted with the two-seed theory of conception. This same is true in Ayurvedic texts such as the *Charaka Samhita*. 451 The two coexist in the Islamic tradition as well. Thus the Qur’ān says: “Your women are a tillage for you; so come unto your tillage as you wish”


(Q 2: 223). A similar image is evoked by the hadīth, cited previously, “Beware of the barren woman, for [one married to] her is like a man ensconced at the top of a well, who waters his land daily, but whose land does not bloom, the stream [of water] is not absorbed.452

The classicist Ann Ellis Hanson has argued that this model is also reflected in the practice of treating infertile women with fertilizer-like substances. Such methods of treatment are prevalent in Greek medicine, and are closely associated with gynecology. For example, the following recipe comes from the Hippocratic text, Diseases of Women I:

If the mouth <of the womb> is closed, let her apply fig juice until it opens; and let her wash herself immediately with water. And crush hawk’s excrement in sweet wine and give to drink whilst she is fasting, and let her immediately sleep with her husband. Or, whenever the menses are stopping, crush excrement of the Egyptian goose in rose perfume, and anoint the vagina and let her sleep with her husband.453

The fig juice has symbolic associations with fertility and the excrement used in this recipe has literal use as agricultural fertilizer. In the Hippocractic corpus, mention of dreckapotheke (“dung therapy”) is limited to gynecological texts.454 In Arabic texts, the use of dung is not limited exclusively to gynecological and fertility-related matters, but it is particularly pronounced in those areas.

V. What Medieval Physicians Had to Offer

In using Arabic medical texts to try to understand how women experienced infertility, we must ask the question: did the ideas articulated in these texts ever have a practical impact on the way infertile women were treated or how they perceived their infertility? The answer is not at all self-evident. After all, what we have are theories and

452 Ibn Ḥabīb, Kitāb adab al-nisā’ al-mawsūm bi-kitāb al-ghāya wa’l-nihāya, 152-3.
453 This translation is from Hippocratic Recipes, 213.
454 Ibid., 212.
practices described in books in a world in which there was a high degree of gender segregation and the vast majority of women were illiterate. As a caveat to her own scholarship on the transmission of ancient theories of female physiology, Monica Green writes:

[T]he transmission of ancient traditions must be understood as a primarily intellectual and literary phenomenon. In all of the cultures discussed . . . literacy levels were so low that a textual medium of knowledge would ipso facto have been inaccessible to the vast majority of people. Hence the reader should not assume (nor have I meant to imply) that the medical practices described here were necessarily those most regularly performed when a woman complained of any illness. Nor, additionally, can we always be sure that the theories expounded in medical literature reflect the attitudes of the contemporary society at large.

The same caveats may be applied to our study. When it comes to medieval Middle Eastern history, we currently have few ways of objectively assessing the relative frequency of women receiving care in the Greco-Arabic tradition, as opposed to medical care guided by familial, local or magical traditions which were not written down. What we do have, however, are many tantalizing hints about how the physicians who inherited

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455 The conclusion that comparatively few women were taught to read is, for the most part, an argument from silence. There are counter-examples which are likely exceptions that prove the rule. As for writing, there is an interesting passage in a ḥisba manual from early 8th/14th century Egypt or possibly Syria which says that a teacher “must not teach handwriting to a woman or to a slavegirl. For there is [a tradition] forbidding such a thing, for he said, ‘do not teach your women writing, . . . instead teach them sūrat al-nūr. It is said that a woman taught handwriting is like a serpent given poison to drink.” Given that so much of the author’s advice in the ḥisba manual seems to address real-life violations of his prohibitions, one could well read this passage as indicative that some teachers were in fact instructing women how to write. Ibn al-Ukhūwwa and R. Levy, The Ma’ālim al-qurba fi ahkām al-ḥisba of Diyā’ al-Dīn M. b. M al-Qurashi al-Shafti known as ibn al-Ukhūwwa, (London: Cambridge University Press, 1938), 171. I have slightly modified Levy’s translation. Muhammad b. Ibrāhīm al-Jazari’s (d. 738/1338) biographical dictionary from the same period includes a reference to a Cairene woman named Umm Khayr Khadīja bint al-imām Fakhr al-Dīn al-Nawzari (d. 733/1333) who both knew how to write and, in her old age, served as a midwife to the sultan’s wife. However, her writing seems to be connected to her religious scholarship, not to any medical knowledge she might have. Apart from her serving as a midwife, there is no indication that she has access to any sort of medical scholarship. Al-Jazari, Taʾrīkh hawādith al-zamān wa-anbāʾihi wa-wafayaāt al-akābīr wa’l-aʿyān min abnāʾihi (Beirut: al-Maktaba al-ʿAṣriyya, 1998) 3:701. A guide to slave-buying dating from a century later also notes that some slavegirls can write. See Mahmūd b. Ahmad al-ʿAyyābī, al-Qawāl al-sadiq fī ikhtiyyār al-imāʾ wa’l-ābīd (Beirut: Muʿassasat al-Risāla, 1996), 36.

this literate form of medicine perceived their roles vis-à-vis women who were their potential patients and, in some respects, their potential collaborators or competitors.

**Non-Gynecological Interactions Between Male Medical Professionals and Female Patients**

There is ample evidence to suggest that male physicians interacted with female patients, at least in the regions and during the time periods from which there is extant medical literature, though the extent of interaction likely varied considerably across locales. Virtually all the medical literature we have refers to female patients, though women appear in only a small percentage of the individual cases mentioned. The types of interactions are varied. Literary works, books of medical ethics, and prosopographies detailing the exploits of physicians frequently refer to women submitting their urine to male physicians for uroscopy, just as their male counterparts do. There are also many references to male physicians diagnosing women based upon taking their pulse. Hīsba

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458 There are numerous examples. In Ibn al-Ruhāwī’s Adab al-ṭabīb, there are several anecdotes about women submitting their urine for uroscopy, particularly in order to determine pregnancy and fetal sex. See M. Levey, “Medical Ethics of Medieval Islam with Special Reference to Al-Ruhāwī’s ‘Practical Ethics of the Physician,” 74-75.

459 Consider this anecdote from al-Ghazālī’s Ilḥāy ‘ulūm al-dīn: “Someone complained to a physician about his wife being infertile and not bearing any children. The physician felt her pulse and said: ‘No need to worry about infertility treatment, for you are going to die in forty days, as is indicated by your pulse.’ The woman was overcome with fear and lost all appetite for life; she took out her money, divided it and bequeathed it. She remained without eating and drinking, but the [allotted] time passed without her dying. The husband went to the physician and said: ‘She did not die.’ He replied: ‘I know that. Have sex with her now, and she will give birth.’ The husband retorted: ‘How so?’ The physician explained: ‘I saw that she was overweight, and that fat had collected at the orifice of the womb. Moreover, I knew that she would only lose weight if she were afraid of dying, so I put this fear into her. Thus she lost weight, and the obstacle against conception has disappeared.’” Translation (modified) from Peter Pormann’s text study handout, “Female Patients, Patrons and Practitioners in 10th and 11th Century Baghdad: An Unheard Voice?” Institute of Islamic Studies at McGill University, Montreal, May 4, 2007.
manuals from 6th/12th-century Islamic Spain and 7th/13th century Egypt, and documentary evidence indicates that physicians, pharmacists, surgeons, bonesetters and assorted other medical personnel had storefronts in the market or in similar settings in which women were present. According to the 6th/13th century ḥisba manual by al-Shayzarī, males performed cupping on women’s thighs to bring down the menses, a practice which is also recommended in the theoretical medical literature reviewed above. According to a 7th/14th century manual from Egypt or Syria, male phlebotomists bled women, and there is no mention of modesty concerns in doing so, though there were concerns about bleeding other classes of people.

No slave must be bled without the owner’s permission, nor a minor without that of his guardian, nor a pregnant woman, nor one menstruating. Bleeding must not be performed except in a public place, nor with any but a sharp instrument, nor when he [the operator] is in a state of mental agitation. The muḥtasib must exact a promise and a bond from them that in ten specified cases they will not bleed except after consultation with physicians. . . .

The phlebotomist should carry with him instruments for circumcision (consisting of a razor and scissors), for it is a duty incumbent both on men and women. To this the generality of men of learning agree. Abū Ḥanīfa called it a recommended practice, but not a compulsory duty. For the male, it consists in abscission of the prepuce hiding the glans penis, for the female in cutting the skin over the vagina and above the urethra. It is a practice compulsory upon men and women, who must carry it out on themselves and on their children. If it is neglected, the imam must enforce its being carried out.

From the above description, it would seem that phlebotomists also carried out male and female circumcision. Presumably this can be attributed to their having the requisite sharp

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461 Chipman, The World of Pharmacy and Pharmacists in Mamlūk Cairo, 70.
463 al-Shayzarī, Kitāb Nihāyat al-rutba fi ṣulab al-ḥisba lil-Shayzarī, 96.
464 As we shall see in the following chapter, the legal literature gives a quite different depiction of the matter.
tools in their possession. There is no mention in the *hisba* manuals of the employment of female phlebotomists.\(^{467}\)

Outside the marketplace, anecdotes like those found in Ibn Abī Uṣaybi`a’s biographical dictionary of physicians, *Kitāb ‘Uyūn al-anbāʾ fi ṭabaqāt al-aṭibbāʾ*, reference close relationships between male physicians and female patients in the royal household, such that male physicians visit them in the women’s quarters and become allies with them. In one story, Ibn Abī Uṣaybi`a recounts an anecdote about the 7\(^{th}\)/13\(^{th}\) century court physician in Cairo Rashīd al-Dīn Abū Ḥulayqa. One day he is taking the pulses of all the sick women of court, whom he cannot see because they are hidden behind a screen. The sultan himself hides behind the screen with the women and extends his own arm out. The physician recognizes by the precise measure of the pulse that it is in fact that of the king, and not of anyone else.\(^{468}\) This story is interesting because it mentions a screen, suggesting that a physician might touch a female patient without being able to physically see her. However, such measures are not mentioned anywhere else in the biographical dictionary, despite many stories of interactions with female patients. It could be that the screen is a mere literary device, meant to show off (as it clearly does) the physician’s prowess, or else it represents a particular stringency unique to the female members of the royal household.\(^{469}\)

\(^{467}\) However, there is a legal history of jurists encouraging physicians to teach women to perform circumcisions and other medical procedures in order to avoid subjecting women to a male gaze. See. Ibn ‘Ābidin, *Ḥāshiyyat Radd al-muḥtar*, 9:533


\(^{469}\) In her discussion of Ottoman medicine, Miri Shefer-Mossensohn suggests that women of the highest rank had more limited access to medical care than those of less exalted social position, as a result of the demands of modesty. M. Shefer-Mossensohn, *Ottoman Medicine: Healing and Medical Institutions, 1500-1700* (Albany: SUNY Press, 2009), 130-1.
There are a great many expressions of concern, coming from a variety of genres, that either physicians or pharmacists (both are mentioned) may teach women which drugs are abortifacients or may furnish women with the drugs. The concern is both that women may in turn use them on themselves or surreptitiously poison another woman out of spite. Some books, including hisba manuals, specifically tie this concern to the need to uphold the Hippocratic Oath. A more detailed warning in this regard is to be found in a medical ethics treatise by the 9th-century Christian physician Ishāq b. ‘Alī al-Ruhāwī:

If you are understanding, O friend, you have the advice of the great Hippocrates. He said that you must not mind the impatience of a woman whom you see distressed and afflicted due to her gestation, and not pity her or give her a remedy to make her fetus fall. Whoever does so has no fear of God. There is no reason to kill the fetus. On the contrary, it is necessary to raise it for this brings with it a worthy remuneration.

As to a bad mother, do not show any compassion for her, so that her shame will cause the improvement of many other women. Beware of giving things [i.e. abortifacients] like these; they are prescribed only if you fear the death of the pregnant woman or the fetus. There is no difference whether you administer the drug or you sell it. Before deciding on the drug treatment, it is essential that you read the book of Hippocrates in regard to his oaths to carry out his word. You must adhere to his oaths and go along with his beliefs from which the oaths are derived since these belong to the art of medicine. These must be observed under all conditions. Together with being concerned about the sellers and storekeepers of the remedies which we have presented, the physician must warn the drug merchant not to give women drugs which make the fetus fall and menstruation flow without his permission.

These exhortations against providing abortifacients suggest that physicians communicated directly with women about matters related to pregnancy. One could possibly read these texts about avoiding abortifacients as simply repeating traditional wisdom, rather than reflecting actual medical practice but, in at least al-Ruhāwī’s case, the details suggest a substantial degree of immediacy. He cautions the physician that his “pity” and “compassion” when he sees a “distressed,” “afflicted,” and “shamed” pregnant woman should not move him to help her procure an abortion. This, in my view, suggests

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470 Al-Shayzarī, 98. The Ma’ālim al-qurba fī aḥkām al-ḥisba, 167 in Arabic text.
471 Translation in Martin Levey, “Medical Ethics,” 56.
472 Ibid., 62. Levey’s translation with some significant emendation.
that al-Ruhāwī is speaking from experience, either his own or that of his fellow physicians.

To be sure, depictions of charlatans, mountebanks, and disreputable physicians describe them as being on even more familiar terms with women than is proper. Thus Saladin’s physician Ibn Jumayʻ complains that deceptive physicians reach clientele by “gaining the favor of their wives through suitable and alluring drugs, like aphrodisiacs, medicaments for conceiving, fattening and hair-growing by making common cause with the female bath-attendants, hairdressers and midwives, in order that they should talk about them and praise their wonderful medical skill.” Here the charge against charlatans is not so much immodesty as playing to the female crowd and consummate networking by means of cultivating relationships with women who are in para-medical professions. This brings us to the question: what sort of relationship did male physicians have with midwives, and do males play a gynecological role with or without midwives as intermediaries?

**Gynecological care and interactions between male physicians, female patients, and female intermediaries**

In spite of the above-mentioned references to male physician/female patient interaction, there is much to suggest that, in the societies from which our texts derive, it was taboo for male physicians to view or touch women’s genitals, or at least some women considered the matter in that light. We see this primarily in literary anecdotes. In Ibn Abī Uṣaybiʻa’ s ‘Uyūn al-anbā’ fi ṭabaqāt al-atībbā’, the story is told of Jibrā’īl ibn Bukhtīshū’ ibn Jūrjīs, who cured a woman of paralysis during an examination simply by

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473 Ibn Jumayʻ, al-Mağāla as-Ṣalāḥiya = Treatise to Ṣalāḥ ad-Dīn on the revival of the art of medicine by Ibn Jumayʻ: edited and translated by Hartmut Fähndrich (Marburg: Kommissionsverlag F. Steiner, 1983).
bending his head down and extending his hand toward her skirt as though he intended to lift it.\textsuperscript{474} In \textit{al-Faraj ba’d al-shidda}, al-Tanūkhī tells the story of a wealthy young woman in the countryside who attempts to conceal a terrible pain and discharge in her vagina.

Her father says:

In the end . . . fearing I might find myself guilty . . . I sent for Yazīd the Urinanalyst and consulted him.

“Would you forgive me,” Yazīd asked, “if I make a suggestion? I can issue no prescription unless I am allowed to see the site of the complaint and palpate it with my own hands, and ask the woman questions as to how the disorder may have arisen.” Her condition was now so serious, indeed desperate, that I consented; but after he had examined her externally and found the site of the pain, his questions went on for so long and had so little to do with her illness that I felt tempted to lay violent hands on him. However, I reminded myself of the good character that he bore, and contained myself with difficulty. At last he said:

‘Have someone hold the girl down.’

I gave the order; he thrust his hand into her vagina; she screamed, then fainted; blood spurted out, and he withdrew his hand, displaying a creature smaller than a dung-beetle, which he tossed aside. The girl immediately sat up, crying: ’Papa! You must send this man out of my room, for I am well again.’\textsuperscript{475}

The story goes on to explain that the source of the trouble was a tick, contracted while tending cattle. Both stories, about the paralysis and the tick, suggest that the female patients in question were reluctant to have male physicians near their genitals, but that doctors themselves do not have compunctions in this regard.

A similar dynamic can be seen in the famous Sevillian physician Ibn Zuhr’s account of having in his youth once come across a woman with a prolapsed uterus, who had not sought male medical care for it. He laments,

Know that when I was a youth I saw a woman to whom this had happened, and her uterus was like a bracelet which was showing through her vagina. It had been that way for a long time. I do not know what happened to her. Had this been the beginning of the situation, the physician would have been able to put back the injury, God permitting.”\textsuperscript{476}

\textsuperscript{474} Ibn Abī Uṣaybi’a, ‘Uyūn al-anbāʾ fī tabaqāt al-atibbā’, 188.
The most explicit description of how sexual propriety factored into medical care is given by al-Zahrāwī (d. 404/1013), who practiced in Cordoba:

It is uncommon for a woman to have a stone. But if it should happen to a woman the treatment is indeed difficult and hindered by a number of things. One is that the woman may be a virgin. Another is that you will not find a woman who will expose herself to a (male) doctor if she is chaste or has close male relatives (lā tujīd imra'a tubīb nafṣahā lil-ṭabīb idhā kānāt 'affa aw dhawāt al-maḥārīm)\(^\text{477}\). A third is that you will not find a woman competent in this art, particularly not in surgery. Then a fourth is that the place for cutting upon the stone in a woman is a long way from where the stone lies, so the incision has to be deep, which is dangerous. If necessity compels you to this kind of case, you should take with you a competent woman doctor (imra'a ṭabība muḥsina). As these are very uncommon, if you are without one then seek a eunuch doctor as a colleague (fa-uṭlub ṭabīban 'affan raṣaṭan),\(^\text{478}\) or bring a midwife experienced in women’s ailments or a woman to whom you may give some instruction in this art (imra'a tushīr fī ḥādhihi al-ṣinā'a ba'd al-isha'). Have her with you and bid her do all that you enjoin; first of all, in searching for the stone. If she perceives that the woman is a virgin she should pass her finger into the anus and palpate for the stone. If she finds it and keeps her finger on it, then bid her cut down upon it. But if the patient be not a virgin bid the midwife pass her finger into the vulva and palpate for the stone, after she has placed her left hand upon the bladder and applied a good pressure. If she finds the stone she should gradually push it down from the outlet of the bladder as far as she can until it reaches the bottom of the pelvis. Then she should cut down upon it from about the middle of the pudenda near the root of the hip on whichever side she can conveniently feel it; she must keep her finger on the stone, pressing from below. The incision should start by being small; then let her introduce a sound into the small incision, and when she finds the stone then she will enlarge the incision until she knows that it is big enough for the exit of the stone. . . . If you are hindered by a hemorrhage . . . after some days, when the acute hemorrhage has subsided and suppuration has set in, return to your operating until you get the stone out.\(^\text{479}\)

From this description, which is the clearest one we have, it seems that al-Zahrāwī would ideally team up with specially trained eunuchs and women and direct them as they performed examinations and surgeries on women. It should be noted here that while most of the content of this chapter is taken verbatim from the Byzantine physician Aetius of Amida’s encyclopedia,\(^\text{480}\) all of the passages about midwives, eunuchs, assistants, virgins

\(^{477}\) Spink and Lewis translate “dhawāt al-maḥārīm” as “married” rather than “having close male relatives”.

\(^{478}\) The Arabic word describing this doctor is “‘aff” i.e. “chaste,” which is not the usual term for a eunuch, though ‘Aff seems to have been commonly used as a personal name given to eunuchs. However, given the context, I think Lewis and Spink’s interpretation of ‘aff as eunuch is likely correct.

\(^{479}\) al-Zahrāwī, Albucasis on Surgery and Instruments, M. S. Spink and G. L. Lewis (Berkeley: University of California Press, 1973), Book 30, Chapter 61, 420-423. The translation is a modified version of Spink and Lewis’s.

\(^{480}\) Spink and Lewis note the correspondence between the two works, but not the discrepancies. Otherwise, they uncharacteristically choose to not comment on the chapter at all, on the grounds that it “needs no note.” Ibid., 420.
and chastity seem to be original to al-Zahrāwī.\textsuperscript{481} I have been unable to find any other mention of eunuch physicians in medieval Arabic literary or documentary sources, however they are known to have attended nuns in Byzantium.\textsuperscript{482} Al-Zahrāwī’s phrasing indicates that he is not averse to treating women himself, but the occasion rarely arises since women feel that such an interaction would be immodest. It is not entirely clear from this passage whether it is this particular situation, in which the virginity of a patient could potentially be compromised, that is especially sensitive, or whether all medical situations that have to do with sexual organs are so fraught.

Intriguingly, in his chapter on female genital cutting (\textit{qat’ al-bazr}), al-Zahrāwī is quite clear that is a male physician performing the operation, and that the surgery entails touching the genitals. He writes, “You must grasp the clitoris with your hand or with a hook and cut it off. Do not cut too deeply . . . and as for a fleshy growth growing in the cervix and filling it . . . you should cut this too, just as you cut off the clitoris.”\textsuperscript{483} It seems to me that the most likely explanation of this is that, for the purpose of the operation, he does not consider the clitoris to be female genitalia. (He refers to the operation as cutting a clitoris which is so large as to look “deformed” and “erect like a man’s” penis). This chapter (chapter 71) precedes the chapters on gynecological surgery but immediately follows the chapter on treating hermaphrodites (chapter 70) and on the mechanics of male castration (chapter 69), which in turn is preceded by chapters on male genitalia. From this sort of organization, it seems that the uncircumcised girl constitutes a stage on a

\textsuperscript{481} Cf. Aetius of Amida, \textit{The Gynaecology and Obstetrics of the VI Century}, chapter XCIX, 105.
\textsuperscript{483} Al-Zahrāwī, \textit{Albucasis on Surgery and Instruments}, 457.
masculine-to-feminine continuum, which moves from males, to castrated men, to hermaphrodites, to uncircumcised girls, to full-fledged women. The chapter in question is taken verbatim from Paul of Aegina’s book on surgery, which maintains the same chapter order.\footnote{Paul of Aegina and Francis Adams, \textit{The Seven Books of Paulus Ægineta} (London: Sydenham Society, 1844), 2: 381. Cf. Ibn Sinā, \textit{Qānūn fī al-ṭibb}, 2: 603 = \textit{kitāb III}: \textit{famm} 22: \textit{maqāla 1}, \textit{faṣl} \textit{fīl-lahm al-zā’id wa-ṭul il-bağr} in which Ibn Sinā describes the same surgery, but says there is disagreement as to whether this condition even exists and whether or not it can be managed without surgery.}

Rarely do we hear of fully trained female doctors of the kind alluded to by al-Zahrāwī.\footnote{S. D. Goitein writes that the word \textit{ṭabība} occurs several times in the documents of the Cairo Geniza, but he believes these refer to women from lower strata of society, not classically trained physicians. See Goitein, \textit{Mediterranean Society}, I: 127-8.} In Ibn Abī Uṣaybi‘a’s ‘\textit{Uyūn al-anbā’ fi ṭabaqāt al-ḥībā’}, a first/seventh-century Christian physician, Abū al-Ḥakam, is said to have had his daughters sit in on his lectures. A more substantial account is contained in the biographical entry about the Ibn Zuhr physician-dynasty where he writes about the family of al-Ḥafīd Abū Bakr ibn Zuhr (fl. during the reign of the Almohad caliph al-Manṣūr at the end of the sixth century a.h.):

His sister and her daughter were knowledgeable in the art of medicine and treatment, and they had much experience in matters pertaining to the treatment of women. And the two of them would attend the women of al-Manṣūr and no one would deliver the children of al-Manṣūr and his household except for al-Ḥafīd’s sister, or her daughter when her mother died.\footnote{Ibn Abī Uṣaybi‘a, ‘\textit{Uyūn al-anbā’ fi ṭabaqāt al-ṭībā’}, 524. I know of no other references to female relatives of physicians practicing obstetrical medicine themselves, but this seems to me to be a likely occurrence.\footnote{This discussion pertains only to women trained in medical theory. There is little doubt that women in general, as mothers, wives, preservers of folklore and witches provided much of the day-to-day care for sick people both in the Islamic world and in the Western world up until the early modern period. Savage-Smith and Pormann, \textit{Medieval Islamic Medicine}, 103.}}

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The descriptions of midwives cooperating with physicians, and serving as intermediaries between them and their patients, vary considerably in the medical literature. While there are many references to cooperation between midwives and
physicians in the medical compendia, it is just as common for texts not to indicate the presence of an intermediary at all, even in gynecological situations. It should be noted here that it is often difficult to discern which tasks are performed by the male physician, which by female attendant(s) or midwives, and which by the patient herself. In part this is due to the frequent use of passive verb forms in these compendia. The matter is further complicated by the fact that it is often grammatically unclear whether the active indicative verbs in Arabic medical manuals are intended to be read as second-person masculine forms or third-person feminine forms. Imperative verb forms make such division of labor somewhat clearer.

Usually the references to the role of the midwife occur in discussions of childbirth complications. Once again, the most detailed description of such cooperation is found in al-Zahrāwī’s text, in his chapter on handling difficult childbirth:

Chapter 75: On the training of midwives in how to treat living fetuses when not brought forth in the natural manner.

To begin with, the midwife must know the manner of normal labor. Among the signs of it are these. If you see the woman strain her abdomen and desire to breathe more air, and the pangs come easily to her and she hastens to deliver the child, by this you may know that the labor will follow a natural course and that the presentation will be vertex with the afterbirth, either together with the child or hanging by the umbilical cord. And when you observe these signs it will be necessary to put pressure upon the abdomen to bring forth the fetus quickly. For when it presents the vertex the afterbirth comes down with it and she is thoroughly cleansed of those superfluities. But a delivery that is contrary to this is unnatural and wrong. Sometimes the infant is delivered by its feet, or by its hands before either head or feet; or a single hand or foot; or the head comes out together with a foot. Or it comes out all twisted, often with the nape of the neck first; or in other wrong positions. So the midwife must have wisdom and dexterity and be skilled in all these cases and beware of failures and mistakes. I shall explain the technique in these modes of delivery so that she [or: you masculine] may be instructed and may be acquainted with them all.

When the fetus comes out by the vertex in the normal manner and yet the delivery is with great difficulty for the woman and you see that her strength is exhausted, then make her sit on a seat and order the women to take hold of her and foment her womb in a decoction of fenugreek in bland oils. Then the midwife should take between two fingers a little scalpel and make an incision in the fetal membrane or open it with the finger nail, to allow the contained waters to flow out; and put pressure upon the woman’s abdomen until the fetus comes down . . .

488 Weisser makes this same point, see Zeugung, Vererbung, und pränatale Entwicklung, 56-59.
489 al-Zahrāwī, Alhucasis on Surgery and Instruments, 468-471. The translation is that of Spink with some additions to show grammar. More substantial emendation occurs in the second paragraph.
Here the depiction seems to indicate that the male physician has visual access to the laboring woman. However, the physical interventions in the delivery are conducted by the midwife. As the chapter continues, however, in addition to using gender-ambiguous verbs al-Zahrāwī also begins using masculine imperatives for actions that require intimate contact with the woman in labor, such as “place [daʿ = masculine imperative] the woman upon a platform . . . and shake [masc. imperative] the platform.” If the baby emerges feet first, he writes “return [masc. imperative] the fetus bit by bit [into the uterus] until you have placed it in a natural position.” He suggests that, if all else fails, the physician should make a compound and “anoint [masc. imperative] with it the vagina of the woman and her lower abdomen” and later “press [masc. imperative] gently upon her abdomen.” The chapter thus leaves the reader with an image of both male and female practitioners engaged in gynecological practice, at least during medical emergencies.

In another, remarkable depiction of cooperation during an emergency obstetrical operation, al-Zahrāwī explains how to make and use a speculum for opening the womb to extract a (dead?) fetus. He then writes:

> When you wish to open the womb with this [speculum], make the woman sit on a couch with her legs hanging down, parted; then introduce the two projections [of the speculum] into the orifice of the womb while you hold [masculine] the end of the instrument lower down between her thighs; then open your hand in the same way as you would with forceps, to the extent to which you wish to open the womb, so as to allow the midwife to see what she desires.

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490 Ibid., 471.

491 This can also be seen in Hippocratic and other Greek texts. As Leslie Dean-Jones notes, “there is a division of labor within a single case.” Dean-Jones, “Autopsia, Historia, and What Women Know: The Authority of Women in Hippocratic Gynecology,” in Knowledge and the Scholarly Medical Traditions, ed. Donald George Bates (Cambridge: Cambridge University Press, 1995), 55.

492 For a fascinating discussion of how fetal-extraction procedures in medieval Arabic texts were understood and reinterpreted by early-modern European physicians in light of their own innovations in forceps-assisted delivery see H. King, Midwifery, Obstetrics and the Rise of Gynaecology: The Uses of a Sixteenth-Century Compendium (London: Routledge, 2017) 142.

Interestingly, this depiction of the interaction between the physician and midwife does not make clear the hierarchy of roles. One could well read this as the male medical practitioner supporting the more expert midwife.

The division of labor and extent of cooperation between midwives and male physicians is more ambiguous in Ibn Sīnā’s *Qānūn*. Ibn Sīnā mentions the role of midwives as informants quite often, both in emergency and in non-emergency situations. For example, he mentions soliciting information from a midwife in the case of some sort of uterine abnormality. He writes:

> Chapter on the declination and distortion of the womb: it can happen in the uterus that it inclines towards one of the woman’s sides, and the mouth of the uterus is no longer aligned with the path through which the semen flows to it . . . The midwives know the direction of the inclination by feeling with their fingers, and they will know whether it is due to rigidity or laxness . . .⁴⁹⁴

Even as he describes midwives taking the role of genital touching, Ibn Sīnā seems to imply that he is directly involved in patient care, and that he is giving instructions to the midwife and patient.

In other places, Ibn Sīnā gives the impression that the male physician personally oversees gynecological treatment without the mediation of another woman. For example, in an extensive section on recipes for avoiding miscarriages, he writes:

> The management of miscarriage and expelling the dead fetus: At certain times, abortion may be necessary, among them: when the pregnant woman is a small girl whom one fears will die from childbirth. Also when there is a lesion within the womb and extra flesh which makes the exit too small for the baby and it is killed. Also when the fetus has died within the womb of the pregnant woman. Know that if the woman has experienced four days of difficult labor, then the fetus is already dead, so busy yourself [masculine] with the life the mother, and do not busy yourself with the life of the fetus, rather strive [masculine] to expel it. [This] abortion is brought about by means of movements or by means of drugs. The drugs can do so either by killing the fetus, or by forcefully bringing down menstruation. . .⁴⁹⁵

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From this description, it seems as though Ibn Sīnā expects the physician to be personally ministering to the laboring woman and extracting the deceased baby himself. There is no mention of a midwife throughout this passage.

However, in another passage about difficult labor and how to deliver a dead fetus, he assigns a much larger role to intermediaries. He describes the midwife as engaged in the grizzly business of drawing out the dead fetus by means of hooks poking into its body. He attributes this technique to “the ancients”:

The [pregnant] woman must lay on the bed on her back, with her head tilted downward and her thighs raised. Then women, or a servant, grasp her on either side. If these [people] are not present, then tie [masc. imperative] her chest to the bed with knots so that her body will not be pulled down when it is stretched. Then the midwife opens that which is covering the neck of the uterus, anoints her left hand with oil, brings her fingers together lengthwise, and inserts them into the mouth of the uterus and dilates it with them, more oil is added, and she ascertains whether it is necessary to insert hooks with which the fetus may be drawn out, and the places which are best for inserting the hooks. These places, in a fetus which is presenting head-first, are the eyes, the mouth, the nape . . .

He goes on to describe the piercing process, and then how to modify that process when the fetus presents feet first, an operation which involves not one hook but two. The verbs for the dousing of the hooks in oil and other ingredients, and the manipulation of the two hooks, are probably third-person feminine forms, but they can also be read as second-person masculine. It seems from these writings that, at least in theory, the presence of male physicians during childbirth was socially plausible. However, this is also clearly a case of a medical emergency possibly involving the need for surgery. Perhaps this situation constitutes an exception to the normal barriers of propriety.

The midwife is also depicted as working in conjunction with male physicians in non-emergency situations. Ibn al-Jazzār, writing in fourth/tenth century Qayrawān, deals

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extensively with gynecology, explaining diagnostic measures and offering a variety of pessaries, pills and fumigation techniques for treating women’s genitals. He explicitly mentions the presence of a midwife only twice, once in connection with the treatment of hysterical suffocation, and the other time when discussing the diagnosis of uterine tumors. In both cases he indicates that he is “instructing” the midwife.

We should tell the midwife to rub gently the orifice of the uterus from the inside and outside with one of the oils we have mentioned.\textsuperscript{497}

To diagnose the presence of a tumor, he writes:

If the tumor occurs in the front part of the uterus, it is followed by a heavy pain in the vagina with retention of urine, and if it occurs in the orifice of the uterus, it is followed by pain in the navel and stomach, and if the midwife inserts her finger, she finds the orifice of the uterus closed and hard . . . \textsuperscript{498}

Elsewhere in the same text, Ibn al-Jazzār describes treating a prolapsed uterus with poultices, but he does not mention a midwife. However, the verbs are ambiguous, and can be read as either referring to a male physician binding the groin in a poultice or as a poultice being bound around the site of the injury, with the gender of the practitioner unstated.\textsuperscript{499}

In al-Majūsī’s \textit{Kāmil}, 110 chapters of which are devoted to surgery, he explicitly states that it is the midwife who performs surgeries to treat \textit{rutqa} (the condition mentioned in the previous chapter in which the vagina is too narrow or obstructed). She is also the practitioner who excises obstructions in the uterus arising from previous ulceration.\textsuperscript{500}

\begin{footnotes}
\item[498] Ibid., 277.
\item[499] Ibid., 179.
\item[500] al-Majūsī, \textit{al-Kāmil}, 488.
\end{footnotes}
Sometimes different works by the same author offer conflicting understandings of standard practice. This can be seen in al-Rāzī’s works. Some of them contain references to dependence on midwives as intermediaries, while other books covering the same material have no such references. In the Ḥāwī, al-Rāzī offhandedly describes the physician relaying to the midwife that he needs certain information:

If you see retention of the menses . . . tell the midwife to touch the cervix and if it is closed without being rigid it is a sign of pregnancy.\(^{501}\)

The signs of pregnancy: the closing up of the mouth of the uterus. The mouth of the uterus closes when it is occupied and when there are tumors in it. The difference between them is that the tumor is accompanied by stiffness while the closing [of the uterus] due to its being occupied is not accompanied by stiffness, but rather it is in a natural state. The midwife should insert her finger to ascertain it. This is one of greatest signs from the uterus when it is shut.\(^{502}\)

The Ḥāwī consists of a great number quotations from other writers which have not been edited and synthesized, and so this may very well not reflect either common practice or common literary style in al-Rāzī’s society. Other passages in the Ḥāwī imply direct contact between male physician and patient.

The placenta: if you want to expel\(^{503}\) the placenta, dose her with sternutatory drug then hold [sing. masc. imperative] her nostrils and mouth, for in such a situation the belly will stretch and tighten, which facilitates the expulsion [of the placenta.] . . .

Signs of conception: Cover [masc. sing. imperative] her in clothes and fumigate her. If the scent of the incense transfers from her body to her nostrils and mouth then she is not sterile.\(^{504}\)

The verbs directed at the physician here are all masculine singular imperatives: i.e. it is the male practitioner who is holding the post-partum woman’s nose and providing her with robes. However, it does not mention the physician touching her genitals.

\(^{502}\) Ibid. 51.
\(^{503}\) The words here is isgāṭ which is the same term used for miscarriage, both accidental and induced.
\(^{504}\) Al-Rāzī, al-Ḥāwī, 52.
Unlike in the Ḥāwī, however, in al-Rāzī’s *Man lā yahduruhu al-ṭabīb* he does not mention midwives at all. As for al-Rāzī’s *Manṣūrī fī al-ṭibb*, the modern editor of the only printed edition writes in a footnote that he has chosen to emend the text to limit cross-gender interaction:

>[glossing the phrase “he gives to the (female) patient”] “It is so in all versions. In these chapters which address women and those diseases of the menses and of the uterus which befall them, the author writes as though speaking about a male [practitioner]. So he says, “he gives to the patient,” “he administers,” “he injects,” “he feeds,” etc. We have tried to correct all of the words without pointing out every mistake in the footnotes.”

In other words, the modern editor has changed the verbs from masculine to feminine, some of them implying that the patient does these actions on her own, and others implying the presence of a second woman. There appear to have been enough of references to the male practitioner that the editor chose not to draw attention to them all.

The omissions of references to female intermediaries where we might expect to find them has been catalogued by Avner Giladi, in his book, *Muslim Midwives*. He notes that “the midwife is altogether – or almost totally – ignored” in the major works by Thābit b. Qurra, al-Ṭabarī, al-Majūsī, Ibn Zuhr, and Ibn al-Nafīs. In omitting them, the authors instead appear to be addressing, at least grammatically, male practitioners.

From this information, it appears that the authors of medical encyclopedias expected that male physicians would interact with female patients, including those with gynecological problems. It appears that they expected to be in a position to communicate with their female patients about drugs and sell them directly to them. They seem to have expected to be in the same room as their female patients and clients, able to speak to

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505 I.e. All manuscripts use a masculine verb.
them, to look at and touch their female patients to the extent that they could feel the pulse, assess the visual appearance of the patient, hold the patient’s nose and mouth, and set up fumigations.

The respectability of genital touching is less clear. There are several references to the notion that women were reluctant to have male physicians see or touch their genitals. However, all of the references to this reluctance suggest that it stems from patient preference rather than medical ethics. Nowhere are physicians cautioned to avoid such touching or to do so in a certain manner so as to avoid impropriety. One could very well take this data point to mean that such touching rarely happened in actual daily experience for, if it did, we would expect some code of ethics to be attached to it. However, both theoretical medical compendia and hisba manuals clearly state that the male medical professionals who acted in the capacity of surgeons were engaged in clitorectomies. (It is not clear whether such a task was a menial one and hence unlikely to be performed by men with extensive medical educations.) Al-Zahrāwī and Ibn Sīnā refer to male involvement during emergency obstetric situations, involvement which appears to include manipulating the emerging baby, while other passages from the same works appear to indicate that that was still the midwife’s role. For non-emergency situations, several theoretical sources indicate that the physician expects a midwife to inform him how the cervix feels. The implication is that midwives are working in the capacity of assistants and informants to the physician. To my knowledge, there is no source outside of medical compendia which indicates that such relationships were common. Hisba manuals and medical ethics treatises do not mention them. However, the reference to charlatans cultivating relationships with midwives suggests that perhaps midwives referred their
patients to physicians or otherwise engaged male physicians as consultants. Moreover, one could argue that, just as midwives were known to serve as medical informants for the court system, they could have just as easily served as informants for physicians. From this evidence, it appears that at least some male physicians were working in close enough proximity with midwives and female patients to be able to share medical knowledge.

VI. Conclusion: Theory, Practice, and Women’s Access to Greco-Arabic Medical Knowledge

The Greco-Arabic texts give detailed instructions to male physicians and are written as though such men are directly and physically involved in gynecological and obstetrical care, both emergency care and otherwise. Does this mean that many medieval women likely were taught the Greco-Arabic system for understanding infertility and participated in that understanding, or was their intellectual experience likely uninformed by such notions? There are three possible interpretations of these texts. (1) The purpose of the texts is to pass along entirely theoretical medical knowledge to physicians. The authors are not concerned about the practice and implementation of these instructions, rather this information exists only because of the medieval propensity toward theoretical thoroughness in encyclopedias. (2) These texts’ instructions were intended to have practical value and to be implemented by female medical practitioners. The authors’ intention was that their instructions be read by or otherwise orally conveyed to women who would implement them in gender-segregated settings. Where masculine language is present which implies male involvement, it is merely a grammatical or literary convention and is irrelevant to the meaning of the text. Or (3) the texts’ instructions have practical value and were intended to be implemented by male physicians with the help of
female assistants or informants. Each of these explanations is plausible but problematic.\(^{508}\)

One could indeed make the argument that the instructions in these texts were never intended to be applied to the care of patients and so the question of how women received Arabo-Galenic medical information is moot. Much of medieval medical writing is thought to bear little relation to the practice of medicine. Emilie Savage-Smith argues that we can identify such writings when we see that a procedure or recipe is repeatedly cited using the exact same formulation, with no change or input, and with a vagueness that makes it difficult to apply. Such circumstances indicate that, in all likelihood, the physician-author has no experience implementing the procedure. This seems to often be the case in surgical medicine.\(^{509}\) Therefore this surgical literature, especially as it pertains to gynecology, is best understood as an intellectual exercise. Cesarean sections (including post-mortem ones) are the classic example of a procedure which is repeatedly discussed in medieval Arabic medical literature but which is not believed to have actually been attempted. The descriptions are too inaccurate and vague and the illustrations reflect hagiographic literary topoi – they are not medical diagrams. Savage-Smith quotes the 8th/14th-century Egyptian oculist al-Shādhili in support of this argument:

> We possess written accounts of various procedures which cannot be performed nowadays because there is no one who has actually seen them performed; an example is the instrument designed to cut up a dead fetus in the womb in order to save the mother’s life. There are many such procedures: they are described in books, but in our own time [i.e. the fourteenth century] we have never seen anyone perform them because the practical knowledge has been lost, and nothing remains but the written accounts.\(^{510}\)

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\(^{510}\) Ibid., 315. Cf. Chapter 66 of al-Zahrāwī’s surgery, in which he describes how to operate on “flatulent hernia,” also known as pneumatocele. He writes, “I have not seen anyone pluck up enough courage to attempt the operative treatment of this kind of rupture, though the ancients said it ought to be done in the same way as hernia with varicocele, namely . . .” al-Zahrāwī, *Albucasis on Surgery and Instruments*, 447.
Al-Shādhiliī appears to be referring to the procedures Ibn Sīnā mentioned, which called for physician-midwife cooperation. By contrast, procedures such as incisions and cauterization for removing stones and tumors, and for treating hemorrhoids, were indeed implemented, according to Savage-Smith. This conclusion is based on the fact that the instruments and instructions provided in the medieval literature were both technically possible to implement and were likely effective.

In contrast to surgery, descriptions of medieval Arabic non-surgical treatments of gynecological problems, and particularly of infertility due to amenorrhea, are dynamic, extensive, and detailed. There are literally dozens of recipes for oral pills, pessaries, and incense intended to draw down the menses and restart the reproductive cycle. This is also true of treatments intended to restore humoral balance to the uterus. Occasionally, the author will conclude a recipe with the claim that he has tested it and can confirm its effectiveness. Some of these recipes which appear in medical compendia also appear in pharmacy books such as the Minhāj al-dukkān. Taken together, such evidence indicates that authors did not view this part of their texts as unrelated to the practice of medicine.

A few trace references within these recipes indicate that the author thinks women might have access not only to male physicians, but to his text itself. These references all occur in recipes for contraceptives and abortifacients. Ibn al-Jazzār writes: “When I was reading the works of the ancient [physicians] who speak about the forces and helpful and harmful effects of the simple drugs, I found that they mention drugs which corrupt the sperm in the uterus and prevent conception, and drugs which kill the fetus and expel it from the womb. I therefore decided to mention the case of these drugs in this chapter, so
that they will be known and so that women would beware of using them." In his Kāmil al-ṣinā‘a al-ṭibbīya, al-Majūsī writes:

As to medicines which prevent conception, although they should not be mentioned to prevent their use by women in whom there is no good, it is necessary sometimes to prescribe them to those women who have a small uterus, or those who have a disease which, in the case of pregnancy, may cause the woman death in childbirth. Except for women in such predicaments, the physicians should not prescribe [these] medicines. Also, he should not prescribe medicines which cause the menses to flow, or medicines which expel the dead fetus, except to women he can trust, because all these medicines kill the fetus and expel it.

Ibn al-Jazzār’s statement implies that what he writes eventually reaches women. Al-Majūsī’s statement is somewhat more ambiguous. His phrase “they should not be mentioned” could mean that although it is safe to write about abortifacients for (male) readership, the drugs should not be spoken of lest it reach the ears of women.

Nevertheless, the participation of at least some women in the authors’ community of knowledge is assumed.

As to whether women shared the physicians’ understanding of humoral medicine – and their beliefs about the role of heat, cold, moisture, and dryness – it seems that that was in and of itself a matter of debate, at least in some locations. Ibn Abī ‘Uṣaybi‘a writes:

I have it on the authority of the sage Rashīd al-Dīn Abū Sa‘īd ibn Ya‘qūb the Christian that Abū al-Hasan Sa‘īd ibn Hibat Allāh was in charge of treating the sick at the hospital. One day, when in the lunatic ward in order to inspect and treat the inmates, a woman approached him and asked his advice concerning the treatment of her son. When he replied: “You should urge him to take cooling and moistening foods,” one of the inmates of the lunatic ward mocked him, saying: “You had better give that prescription to one of your pupils, who has had some experience of medicine and knows some of its rules. As to this woman, what does she know about cooling and moistening things? You should have recommended her something specific that she might readily use.”

This passage suggests that women could not participate in medical discourse in even the most basic way. Women cannot even be expected to know what constitutes a “cooling”

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512 Translation from B. Musallam, Sex and Society in Islam, 70.
or “moistening” food. From the inmate’s point of view, women might accept particular prescriptions offered by physicians, but they have no notion of how such prescriptions are arrived at. Al-Ruhāwī too writes that among the common people there is disagreement even about the axioms upon which all Galenic fertility medicine is based. He complains “There is also a widespread stupidity among the people that in certain illnesses they may be their own physicians. They believe . . . that women are hotter than men. . .”\textsuperscript{514}

Such statements indicate that there were alternative systems available to women for understanding physiology. Indeed, there is a great deal of medical writing in which male physicians complain that they do not command the respect from patients which they deserve, that the masses are ignorant of what decent medicine looks like, and that they are taken in by pseudo-doctors who do not understand basic science. The next chapter will explore this topic further. However, the existence of alternatives to learned physicians in the medical market, and even the predominance of alternatives in particular medical areas, such as gynecology, does not preclude the influence of Greco-Arabic notions on popular gynecological thought and practice. There is some evidence that the physicians’ claim to be consulted and involved in gynecological care is often mere wishful thinking on their part. However, both the main theories of the causes of infertility and the main forms of treatment listed in physicians’ writings appear to be compatible with and somewhat receptive towards elements of popular medicine and information coming from female informants. This means that while we cannot prove that male physicians are correct or mistaken in implying that they have substantial influence over

\textsuperscript{514} Translation in Martin Levey, “Medical Ethics,” 97.
gynecological matters, it seems clear that their understanding of the matters at hand was not at odds with actual practice. All this suggests that Arabic gynecological writings are not merely theoretical intellectual exercises. Nor do they seem to me to represent an attempt to use scientific discourse to survey and dominate women’s bodies, as has been argued by Kathryn Kueny.\textsuperscript{515} Rather, they demonstrate an attempt to construct a relationship between male physician and female patient.

\textit{Medicine and Sexism}

In the hands of a careful student, the study of the history of gynecology can be used to shine a light on the history of the “gendering” of women. That is to say, theories of the health and illness of women’s reproductive organs often correspond to socially encouraged and discouraged behavior, as we have seen in the Hippocratic depiction of menstrual retention and the wandering womb. The physicians’ descriptions of women’s bodies then tell us what they viewed as women’s roles and, in particular, justified women’s inferior and dependent social positions. Medicine is therefore a mirror for much deeper social constructs, or so a historian might hope. Unfortunately, however, medieval Arabic gynecology flies in the face of this hope and defies any such attempts to torture it into such theoretically neat paradigms.

In many ways, the Arabic side of the Greco-Arabic gynecological tradition appears to be remarkably egalitarian. The theories it articulates with regard to anatomy, sexual lust, conception theory, embryology, hysterical suffocation, and obstetrical care are no more, and often much less, socially coercive in their implications for women than are the theories articulated by its classical predecessors. We also see this in the increased

\textsuperscript{515} Kueny, \textit{Conceiving Identities}, 53.
attention paid to male infertility. In part, the medical tradition was egalitarian precisely because it focused on deriving information about hidden female anatomy and physiology by extending to it conclusions extrapolated from male anatomy and physiology.

Contra Kueny, all evidence that we have suggests that women were eager for interventions to improve the likelihood of producing children. We see this in the truly remarkable number of gynecological recipes available, from Hippocratic times through the middle ages; and, as mentioned in the introduction, even in modern Egypt about half of all visits by women to medical professionals are in regards to fertility matters. What Kueny suggests is a male “obsession” with the prevention of miscarriage is more properly understood as an elision between the notion that a woman could fail to conceive if the semen or embryo slipped out of her uterus rather than embedding in it, and the notion that a fetal miscarriage occurred when the fetus detached from the uterus and “fell out.” This is to say that physicians were not pathologizing healthy pregnancies when describing the ways to prevent miscarriage, but rather were providing therapeutic advice for what was widely understood to constitute a form of infertility.

Obviously, from a bio-medical perspective, many of the assumptions medieval physicians made about women’s physiology and the causes of infertility were incorrect. It is also true that many of these assumptions could flourish due to the social fact that women’s genitals were difficult to view as a result of cultural mores, religiously derived or otherwise. However, it was also the case that lack of knowledge about women’s reproductive organs was due to a biological, objective fact: that women’s genitals and gametes were difficult to view by virtue of being internal. While a pious medieval scholar might view this happy convergence as evidence of God’s intelligent design, the modern
schorl must be wary that it may also lead one into the temptation to over-interpret physicians’ scientific attempts to compensate for their lack of direct knowledge as stemming from “politically” motivated malevolence.
Chapter 3

BARRIERS TO THE TREATMENT OF INFERTILITY: ISLAMIC LAW AND WOMEN’S MEDICAL OPTIONS AND ACCESS

Introduction: The Religious Significance of Healing

When a medieval Muslim woman wanted to consult a medical authority to treat her infertility, to whom was she supposed to turn according to the jurists? When modern scholars attempt to address the issue of Islam’s influence on women’s medical experiences, the discussion tends to focus on the extent to which, in cases of medical necessity, the jurists are willing to lift restrictions on the displaying of nudity to members of the opposite sex.516 This focus, however, fails to take into account several features of juristic thought which pertain to the experience of medieval infertile women. Infertility involves neither extreme pain nor imminent death and thus does not constitute an obvious medical emergency according to Islamic law.517 Moreover, like many illnesses, infertility is understood in the medieval period to require treatment, but there is no agreement as to who has the ability to effectively provide it. The jurists themselves do, however, voice

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517 These are the standards used by the Ḥanafī school to determine if there is a medical necessity which makes it permissible for Muslims to have their sexual organs examined by members of the opposite sex. See Ibn ʿAbidīn (d. 1252/1836), Ḥāshiyya Radd al-muḥtār (Cairo: al-Bābī al-Ḥalabī, 1966), 6: 371. The Ḥanafī jurist ‘Abd Allāh b. Maḥmūd al-Mawsī‘ (d. 683/1284) says that the same circumstances which permit a Muslim to drink wine and eat the flesh of pigs also apply in judging when it is permissible for a woman to be examined by a male physician. al-Mawsī‘, al-Ikhtiyār li-ta‘līl al-Muḥtār (Beirut: Dār al-Risāla al-ʿĀmīliyya, 2009), 4: 108. To the extent that this issue is addressed in the other legal schools, it will be addressed later in this chapter.
strong opinions about the various sources of scientific authority and supernatural power, and their relationship to Islamic piety. Therefore, in order to understand the influence Islamic law might have had on the experience of a woman’s “quest for conception,” one needs to explore legal attitudes pertaining not only to nudity, but also to the quest for medical knowledge more generally by men and women alike, and to women’s social contact with people who could transmit knowledge and culture to them.

As depicted in the juristic literature, a medieval Muslim woman’s search for medical assistance potentially intersects with religious concerns at several different points: first, at the nexus between medical science and theology, magic and prayer; second, where medical need confronts religious modesty regulations; and third, at the point where the jurists regulate (or try to regulate) a woman’s social network, the network from which she derives her understanding of the causes of her infertility and her options for reversing it.

Medical treatment is religiously fraught because it often implies putting trust in an authority outside of Islamic authorities, attributing power to forces other than God and trying to command those forces. The jurists’ solution to this problem is to Islamicize aspects of medical knowledge and treatment as much as possible. When it comes to the treatment of gynecological problems, however, the concern to Islamicize the culture surrounding medicine presents a conflict with the value placed on gender segregation. One can see this conflict most clearly when the jurists discuss the relative risks of

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518 This phrase has been popularized by Marcia Inhorn in her *Quest for Conception: Gender, Infertility, and Egyptian Medical Traditions* and *Infertility and Patriarchy: the Cultural Politics of Gender and Family Life in Egypt*. These books emphasize the remarkably time-consuming and prolonged search for fertility interventions undertaken by women themselves. See also Hansen, “Motherhood in the Mother of the World,” 92 which describes how women report feeling compelled by family to attempt treatments even when they are skeptical of them, and Friedl, *Women of Deh Koh*, 51-61.
employing a male Muslim doctor or a female non-Muslim midwife for the purposes of
gynecological care.

The jurists imposed restrictions both on male practitioners attending female
Muslim patients, and on female non-Muslim midwives attending Muslim female patients.
The restrictions imposed on the male practitioner are clearly based on the sexual
invasiveness of the man’s gaze. The restrictions imposed on the non-Muslim midwives
are sometimes understood to ultimately have the same basis, i.e. men’s gazes, and the
fear that a non-Muslim woman would expose a Muslim woman to them. However, when
one analyses both the laws regarding to whom women can turn for obstetrical help, and
the legal discussion about whom they can associate with more generally, there emerges a
different understanding of the juristic position on non-Muslim midwives and a more
complex understanding of the jurists’ concerns about Muslim women’s intellectual lives.

This chapter argues that the jurists’ objections to a non-Muslim midwife are not
based only on concerns regarding sexual access and the dangers of male-female contact.
It instead argues that they are also based on concerns regarding intellectual access and the
dangers of female-female contact. The non-Muslim midwife is problematic because she
communicates “female culture,” uninfluenced by the male jurists, in a culturally
significant setting. This is not a problem associated strictly with non-Muslim women. The
jurists are also concerned about the influence Muslim women have on each other, and the
gulf between Muslim women’s culture, and the culture propagated by the jurists.

The jurists routinely, though with very little explanation, encourage husbands to
restrict their wives from interacting with other women, both Muslim and non-Muslim, in
a variety of important venues for the communication of culture, communal knowledge,
and healing rituals. They also say that, although wives can and should maintain some contact with their birth families, it is best for such contact to occur within the framework of short visits to the husband’s house. Interestingly, in the same contexts where they curtail wives’ access to the main forums for exchanges between women, the jurists encourage husbands to talk to their wives and to expose them to the Islamic culture promulgated by the ‘ulamā’, ideally by teaching their wives their own knowledge or by relaying to them discourses from the majālis al-‘ilm (learning circles) or, failing that, by allowing their wives to attend the majālis al-‘ilm themselves.

Ibn al-Ḥājj al-ʿAbdarī (d. 737/1336), exceptionally, provides a motivation for such legal guidelines. He says that due to gender segregation and male lack of interest, Muslim women have little access to male ‘ulamā’ and consequently have little access to authentic Islam, and so they instead perpetuate ignorance and polytheism amongst themselves. Therefore, says Ibn al-Ḥājj, husbands are encouraged to limit the transmission of women’s (non-Islamic) culture and to instead promote an Islamic culture where the husband serves as the conduit for orthodox, male knowledge and instruction. Ibn al-Ḥājj then takes this to the logical conclusion: since medicine ought to be Islamicized, and even Muslim women are perpetuators of non-Islamic culture, then husbands too should be involved in obstetrical care.

To what extent is the study of juristic pronouncements about the rules of propriety surrounding the above issues useful for the reconstruction of social history? It has long been noted that books such as Ibn al-Ḥājj’s Madkhal, even as they promulgate a very limited notion of what should be legal and socially acceptable, testify to the widespread
practice of the very activities condemned by the jurists. However, the prevalence of behavior condemned by the jurists does not make legal attitudes irrelevant to the actual experiences of women. Theoretical legal rules were sporadically enforced in actuality, especially during stressful periods such as times of plague. Moreover, even when dramatic “crackdowns” were not in force, Islamic law was still a formulation of a social ideal to which people were dedicated and, as such, it is a useful tool for reconstructing their intellectual landscape. As one scholar puts it:

The degree of the commitment to the canonical text or its canonized interpretations varied greatly through history. However, the religious ideal was never seen as an unattainable model but rather a possible alternative and a desirable goal. Muslims were demanded to seek closeness to these traditions, which covered much of the daily life. They were in constant internal socio-cognitive debate between the desired and the lived or between the ideal and the daily. Although it is naive to take these views and commandments as indicators of how people lived their lives, it is equally naive to discredit them as important sources for understanding the daily life of the inhabitants of the medieval Middle East and their social and intellectual constructs.

This chapter does not argue that Muslims resorted only to those medical treatments and professionals that were Islamic in appearance and content. Indeed, the jurists who advocate for such Islamicization indicate that they feel embattled in this regard. Nor does it argue that Muslim women were more likely to acquire knowledge from their husbands rather than from their fellow women, although that is precisely what some jurists called for. However, it does argue that the jurists were concerned about the competition between overlapping intellectual and social structures. Medicine and the

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520 For example, in Mamlūk Cairo, we know of at least six separate occasions when the government issued proclamations just before the ‘īd holidays prohibiting women from visiting holy tombs at Qarāfa and Ṣahrā‘, evidently whatever success the proclamations enjoyed were shortlived. See T. Ohtoshi, “The Manners, Customs, and Mentality of Pilgrims to the Egyptian City of the Dead: 1100-1500 A. D.” Orient 29 (1993), 30.


pursuit of health was a prime area for such competition because Muslim physicians, Islamic teaching, and sometimes even God Himself were not always thought to be the best guides, tools, and providers of healing. Similarly, the jurists were concerned that in the general area of women’s intellectual lives, the husband’s predominance and Islam’s predominance were threatened by outside social connections and by the transmission of a separate culture specific to women. The jurists advocate that a husband assert his influence and the influence of Islam by restricting contact between his wife and other women and by increasing his own contact with her, thereby serving as her conduit to Islamic knowledge. Thus an infertile woman may have not only contended with the issue of consulting a male physician, but may also have needed to negotiate between different models of understanding illness and have faced limitations on her access to people representing these models. This is the phenomenon alluded to in the Arabian Nights story of the infertile woman Khātūn.  

I. The Jurists’ Classifications of the Varieties of Medical Treatment with Respect to Piety  

Intellectual eclecticism and the pursuit of medical knowledge  

The hadith collections, the books of Prophetic medicine (al-ṭibb al-nabawī or tibb al-nabī), and the books of adab and bida’ (innovation) written by the jurists all depict the search for treatment as entailing a degree of intellectual and social eclecticism. This is evident from the way they promulgate and interpret certain hadīths:

‘Ā’isha (d. 57/678) said: “When the Prophet of God’s illnesses became great, both Arab and non-Arab physicians would give him prescriptions and we would treat him.”

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523 An excerpt of this story appears in the introductory chapter of this dissertation.  
“70,000 of my people will enter paradise without a reckoning: those who did not have themselves charmed (lā yastarqūn), did not consult auguries, did not have themselves cauterized, and who entrusted themselves to God.”  

The jurists interpret both of these hadīths as referring to the lengths people go to in pursuing medical treatment. They say that the Arab and non-Arab physicians with whom Muḥammad consulted were not only Muslim physicians, but Christian and Jewish ones. Given the example of the Prophet, such behavior is permitted. However, some jurists interpret the second above-mentioned hadīth as referring to the general distastefulness of medical intervention. They refer to a story about Aḥmad ibn Ḥanbal, who cited this hadīth when praising a man who chose not to inform a physician about his illness and to forgo treatment. Ibn Ḥanbal equates the choice not to treat illness with the choice to refrain from impious activities and to rely on God whereas, according to both of these hadīths, the search for treatment, even in the Prophet’s case, sometimes leads the patient to turn to those of questionable religious leanings: non-Muslims, sorcerers, and fortune-tellers. This wariness of medicine was not restricted to juristic writings. Certain Sufi groups also “eschewed physical medicine altogether, claiming that undergoing medical treatment reveals one’s lack of complete trust in God (tawakkul).”

The jurists, particularly the ones writing in the Fāṭimid and Mamlūk eras, thought that the religious identity of practitioners, the medical theory underlying treatment, and

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525 Muslim, Ṣaḥīḥ Muslim, 1: 198 - no. 218. Cf. al-Bukhārī (d.256/870), Sahīḥ al-Bukhārī (Vaduz, Liechtenstein: Thesaurus Islamicus Foundation, 2000), 76 (ṭibb): 17, no. 5767.
527 Ibn Mufliḥ, ʿĀdāb, 2: 333. Cyril Elgood, “Tībb-ul-Nabbi or Medicine of the Prophet,” Osiris 14 (1962), 125. This treatise by al-Suṣūṭī is not available to me in the original Arabic.
the ingredients used in treatment, all had religious consequences. For this reason, the jurists who write about medicine demonstrate a great deal of concern in systematizing medicine according to source of illness, type of treatment, the practitioner of treatment, and the spiritual state of the patient. They frequently use terminology which distinguishes between “natural” (ṭabīṭ) and “magical” (siḥrī) sources of illness, contrasts “physical” (ṭabīṭ or “pertaining to the abdān”) and “spiritual” (ilāhī or ”pertaining to dīn”) treatments, and compares “the medicine of the physicians” to “the medicine of the prophet” and to “the medicine of itinerants and old women.” The jurists claim that the patient’s attribution of the source of their illness, their choice of cure, and their choice of medical practitioner reflects upon their religious status which in turn influences the outcome of their treatment. Thus the decision to seek medical attention implies several theological and social positions.

The lack of classification of medicine in the ḥadīth collections

The hadīth literature recognizes two sorts of physical illnesses: (1) those caused by humans utilizing occult practices, which include sorcery (siḥr) and the evil eye (al-ʿayn), and (2) those caused by Divine will and nature. The hadīths recognize a large variety of treatments, all of which are thought to be effective though not all are permitted or recommended. These treatments include the intervention of physicians, sorcerers, and astrologers; the use of bloodletting, cupping, cautery, drugs, alchemy, diet, clysters, individual prayer, ablutions, bathing, incantations (ruqya), amulets (tamīma),

531 E.g. Ṣaḥīḥ al-Ṭirmīḏī, 2:27.
532 E.g. Musnad ibn Hanbal, 3: 421. Ṣaḥīḥ Muslim 2: 223.
soothsaying, and other forms of magic. The chapters on medicine in the ḥadīth collections do not provide a rigid methodology for thinking about the etiology of illness or what constitutes medical attention. Rather the ḥadīths provide an eclectic catalog of “things that might help” people, with hygiene, diet, and particular foodstuffs extolled above all others. The ḥadīths also comment on therapies, indicating that the Prophet praised cupping and disliked cauterization.533 The disapproval of cauterization does not seem to be based on any particular theological concern, rather it is depicted as a treatment of last resort.534 Many ḥadīths depict the prophylactic usefulness of reciting specific Qur’ānic verses. The Prophet recited some of these together with blowing, spitting or hand-motions, and he praised his companions when they used Qur’ānic verses to perform healing incantations.535 Other ḥadīths condemn resorting to incantations, auguries, and astrology, or say that it would be best not to use them.536 This condemnation, however, does not dismiss these actions as useless nor does it demonstrate a clear-cut differentiation between different spheres of medical knowledge, i.e. there is no “high medicine” or “low medicine” clearly defined along the lines of etiology, source, or the social class of its practitioners. There is no sense that illnesses of natural origin ought to be treated by “natural” medicine, or that supernatural illnesses must be fought by occult means. Incantations are effective against scorpions, scabs, and ulcers.537 Breakfasting on seven dates shields one from the effects of both poisons and witchcraft for the rest of the

534 Cyril Elgood, “Tibb-ul-Nabbi or Medicine of the Prophet,” Osiris 14 (1962), 144. This treatise by al-Suyūṭī is not available to me in the original Arabic. Ibn Muḍῑ́, Ḍādāb, 2: 334.
537 Ibid., 154.
day. With the possible exception of the word ṭabīb, there does not seem to be separate vocabulary to distinguish between treating a patient naturally and treating him with magical potions or incantations. The roots ṭ-b-b and ‘-l-j, are used for both.

The jurists on the “medicine of the physicians”

The lack of systematic differentiation in the ḥadīth collections does not carry over into the medical literature produced by the ‘ulamā’, that is to say, the books of Prophetic medicine, the chapters on medicine in legal manuals, and the legal adab literature, even

538 Ibid., 138.
539 While the root ṭ-b-b is used with regard to magic, I have not seen the word ṭabīb used to refer to a practitioner of magic. However, Lawrence Conrad writes, “Should one go the doctor (ṭabīb)?”, one saying of the Prophet has a man ask Muhammad; and the answer is that he should, for ‘God sends down no malady without also sending down with it a cure’. In this account, transmitted in many variant forms and one of the most widespread of medical sayings from the Prophet, a sharp distinction was now drawn between the old-style ṭabīb, the master of spells and charms, and a different kind of ṭabīb who searches out the cures provided by God, the giver of all things.” L. Conrad, The Western Medical Tradition: 800 BC to AD 1800 (New York: Cambridge University Press, 1995), 98. Ibn Mufliḥ discusses the various meanings of ṭibb in Ibn Mufliḥ, Ḍādāb, 3: 84. Ibn Qayyim al-Jawzīya notes that the root can refer to magic but does not when used in legal contexts. Ibn Qayyim al-Jawzīya, al-Ṭīb al-nabawī, 107-9.
540 For an example of the magical use of ṭ-b-b: ‘Ā’isha said, “The messenger of God had been bewitched (suḥira) such that he thought he had had sexual relations with his wives, but he had not done so. Sufyān said ‘this is the most severe form of sorcery (ṣahr), if that is so.’ Then [The Prophet] said, ‘‘A’isha, know that God has informed me about what I inquired of Him. Two men came to me, and one of them sat by my head and the other by my feet. The one at my head said to the other, what ails this man? He said, he is bewitched (maṭṭābī).’ [The first] said, “who bewitched him (man ṭabbahu)’? Al-Bukhārī, Ṣaḥīḥ, 76 (ṭibb): 49 no. #5765. Al-Khaṭṭābī comments, “Maṭṭābī means bewitched (mashûr) and ṭibb means sorcery (ṣahr).” Al-Khaṭṭābī, A‘lām al-Ḥadīth fī sharh Ṣaḥīḥ al-Bukhārī (Mecca: Jāmi‘at Umm al-Qurā, Ma‘had al-Buhūth al-‘Ilmiyāh wa-Iḥyā‘ al-Turāth al-Islāmī, Markaz Iḥyā‘ al-Turāth al-Islāmī, 1988), 1499.
Magical use of ‘-l-j: “From Khālid b. Ma‘dān: a woman came to the messenger of God and said, ‘O messenger of God, do you look well upon my making something to make him [i.e. my husband] love me?’ He said, ‘Fie upon you, fie upon you! What you have said is an enormity!’ Then he had her expelled and ordered water and spilled it on the spot where she had been. Later it reached the messenger of God that that woman became devout and her situation had improved. From Ibn Mas‘ūd: He said, I visited ‘Ā’isha, mother of the faithful, with my mother and she had women who were coming to her with questions. A woman came to her and said, “O mother of the faithful, may a woman pitch her tent?” She said, “There is nothing wrong in it.” Then the woman left and the women said to her, “Do you know what she wanted, O mother of the faithful?” She said, “What do you mean?” They said, “She wanted to treat (tu‘ālija) her husband! ‘Ā’isha said, “Bring her back to me.” So they brought her back and she said to her, “Fie upon you” and she forbade her. Then she said, “Salt in fire, salt in fire, expel her from me and wash her traces with water and lotus leaves.” ‘Abd al-Malik Ibn Hābīb (d. 238 /852), Kitāb adab al-nisā‘ al-mawsūm bi-kitāb al-ghāya wa l-nihāya (Paris: Dār al-Gharb al-Islāmī, 1992), 230-32.
In both of these cases, terms which have medical significance are used to refer not just to magic, but to “offensive” magic rather than “defensive” magic. The root ‘-l-j in particular seems to have the valence of a wife’s interference with her husband’s natural affections and libido.
though all of these draw heavily on the ḥadīths. This literature, like the medical literature produced by the doctors in the Arabo-Galenic tradition,\textsuperscript{541} depicts medical practice as bifurcated between high medicine as practiced by the physicians, and low medicine as practiced by ignoramuses, charlatans, and old women.

The jurists consistently use the term ṭabīb as an umbrella term for a variety of medical professionals, none of whom engage in occult healing and all of whom fit into the framework of the Yūnānī (“Greek”) medical tradition. As Ibn Qayyim al-Jawzīya (d. 751/1350) explains, in interpreting a ḥadīth about a ṭabīb, one must understand the term to apply to:

\begin{quote}
. . . all those who carry out treatment either through general prescriptions or the practice of a specialized method of healers. If he uses a kohl stick he is an oculist; if a scalpel and ointments, he is a surgeon; if a knife, a circumciser; an incising instrument, a phlebotomist; cupping glasses and a sharp knife, a cupper. He is known by his bonesetting equipment and his bandages if a bonesetter; by his irons and fire if a cauteriser; by his waterskin-bag if one who administers clysters.\textsuperscript{542}
\end{quote}

The one professional who is not mentioned in this list is the pharmacist. However, the physicians’ pharmacological activities greatly concern the jurists and so it seems that we should understand the term ṭabīb as also referring to pharmacists when used in the texts produced by the ‘ulamā’.

Physicians are depicted in this literature as not believing in any form of treatment other than “natural” medicine.\textsuperscript{543} However, according to the juristic literature, physicians do believe that khawāṣṣ have real powers. The term khawāṣṣ (literally: special properties)

\textsuperscript{541} For example, al-Rāzī wrote a (lost) treatise entitled “Epistle on the Reason Why the Ignorant Physicians, the Common People, and the Women in the Cities are More Successful than Men of Learning in Treating Certain Diseases and the Physicians’ Excuse for This.” Peter Pormann and Emilie Savage-Smith, Medieval Islamic Medicine (Washington, D.C.: Georgetown University Press, 2007), 87.


\textsuperscript{543} Ibn Ṭūlūn, al-Manhal al-rawī, 352.
is used in Arabic literature to refer to a variety of beliefs about the healing powers of stones, metals, bones, and even letters and numbers.\textsuperscript{544} However, when the jurists write about the physicians’ use of \textit{khawāṣṣ}, they seem to be referring to the use of stones or metals which can cause physical effects, even from a distance, by means of magnetism or “sympathy.” Their effects are not supernatural but they cannot be explained by means of natural logic or analogy (\textit{qiyās}).\textsuperscript{545} As previously mentioned, in the writings of physicians such as al-Rāzī, women’s ailments and cures seem to be particularly strongly associated with \textit{khawāṣṣ}.\textsuperscript{546} The existence of this category of treatment in the high medical tradition becomes important to jurists seeking to situate Prophetic medicine within that tradition.

As depicted by the jurists, the proponents of “physicians’ medicine” attack Islam and Prophetic medicine on the grounds that (a) Islam has no medical teaching, (b) to the extent that Islam has a medical teaching it is derivative from and subject to Greek medicine, and (c) Prophetic medicine is wrong in ascribing to the evil eye and sorcery the power to cause physical damage and in attributing real curative power to incantations (\textit{ruqya}).

The jurists do not reject the “medicine of the physicians” as untrue or in and of itself religiously suspect. Indeed, \textit{yūnānī} medicine lies at the heart of all of the books of Prophetic medicine which include the authors’ own voices, such as those by Ibn Qayyim al-Jawzīya, al-Dhahabī, Ibn Ṭūlūn, and al-Suyūṭī, and they frequently mention physicians in the Greco-Arab tradition. However, they are concerned about the relationship of

\textsuperscript{544} Ibn Qayyim al-Jawzīya says that the number seven possesses special healing properties but that Hippocrates and Galen and the other physicians are unaware of them. Ibn Qayyim al-Jawzīya, \textit{al-Ṭibb}, 79.

\textsuperscript{545} Ibn Qayyim al-Jawzīya, \textit{al-Ṭibb}, 134.

medical science to religious science. This is both a theoretical question about the categories of knowledge and epistemology, and a practical question about whether one must entrust one’s bodily and spiritual health to the same authorities or to different ones.

It is common in the texts written by the jurists about medicine to cite al-Shāfi‘ī (d. 188/820) as saying: “Knowledge is of two kinds: the knowledge of religions (adyān) is jurisprudence and the knowledge of bodies (abdān) is medicine.”547 The implication is that religious knowledge and medical knowledge are separate and medical knowledge is not a subset of religious knowledge. Nonetheless, it is important to at least some of the ‘ulamā’ to establish that Islam provides both kinds of knowledge. An oft-quoted story has a Christian physician remarking that Islam has no medical teaching. The Muslim respondent (usually identified as ‘Alī b. al-Hasan) cites Qur’ān 7: 31 “eat and drink and do not be extravagant; Truly, He loves not the extravagant”548 and comments, “God has combined all of medicine into half of a verse of our book.” The Christian is suitably impressed and replies: “Your scripture and your prophet have left no medicine for Galen,” i.e. there is nothing more for Galen to add to Islamic medical knowledge.549 The jurists were under no illusions about the shortcomings of such a retort. Rather they made several separate and sometimes competing arguments about the existence and relevance of Islam’s contribution to medical knowledge.

One argument was that while Islam did not provide its own methodological approach to medicine, it did provide specific cures based on the empirical evidence of

547 In the Bihār al-anwār, this statement is attributed to the Prophet Muḥammad. (Al-Majlisi, Bihār al-anwār (Beirut: Mu’assasat al-Wafā’, 1983), 1:220.)
experience \((tajārib)\), and that these cures benefited from Muḥammad’s perfect knowledge. Ibn Ṭūlūn quotes Abū Sulayman al-Khaṭṭābī (d. 386 or 388 / 996 or 998) as making this point:

Know that medicine is of two kinds: logical medicine \((al-ṭibb al-qiyāsī)\) which is Greek and which people use in most lands, and the medicine of the Arabs and the Indians, which is empirical medicine \((ṭibb al-tajārib)\). Most of what the Prophet established is in accordance with what the Arabs established, except that which he specified as deriving from prophetic knowledge by means of revelation and that transcends everything which physicians understand and the doctors know. Everything which he did or said is on the highest level of correctness, for God kept him from saying anything but truth and from doing anything but rightly.\(^{550}\)

The jurists seek to bolster the argument that Muḥammad was medically knowledgeable by showing where \(ḥadīth\)s correspond to specific Arabo-Galenic principles and to “Greek” pharmacological knowledge.\(^{551}\) They are, however, aware that this too presents a logical and theological pitfall. The Mālikī scholar Ibn al-Ḥājj addresses this issue with regard to the Prophetic statement that “the black seed \((al-ḥabba al-sawdā’)\) is a cure for all things except the Swelling,” i.e. death.\(^{552}\)

To be sure, one of the ‘ulamā’ has said regarding the black seed that the physicians say it is beneficial for treating seventeen diseases. He claims that this \(ḥadīth\) is subject to that.\(^{553}\) He says: “And so, anyone who wants to use it should ask the physicians about it and if they inform him that it is beneficial for that particular disease he uses it and if not he does not, or however [the physician] says.”

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\(^{550}\) Ibn Ṭūlūn, \(al-Manhal al-rawī\), 10. The quotation appears in Al-Khaṭṭābī, \(A’lām al-Ḥadīth fi sharḥ Ṣaḥīḥ al-Bukhārī\), 2107-8.

\(^{551}\) In Elgood’s translation of al-Suyūṭī, this occurs on pages 54, 55 and 66 (in which two \(ḥadīths\) are compared with the Hippocratic Oath), 61, 71 76, 78, 79, 83, 86, 92, 95, 97-8, 98, 103, 108, 109, 112, 114-5, 136, 138, 139, 166 and 171 (in which Prophetic embryology is compared to Hippocratic embryology). Although much of Near Eastern pharmacological knowledge came from farther East, in the \(Ṭibb al-nabawī\) books, only sources such as Hippocrates, Galen, Dioscorides, and Ibn Sīnā are cited.

\(^{552}\) This \(ḥadīth\), although widely cited, is problematic because the spice in question required ‘translation’ into medieval parlance. There is a debate as to whether the black seed refers to coriander or cumin. Al-Suyūṭī offers both translations and prefers the first. Ibn al-Ḥājj says it is the second, see Ibn al-Ḥājj, \(al-Madkhal\), 3/4: 322.

\(^{553}\) I.e. this unnamed physician believes that the \(ḥadīth\)’s claim that the black seed is a cure-all is true only to the extent that it overlaps with the findings of the physicians. Thus, according to him, the black seed can treat only seventeen diseases.
But Abū Muḥammad rejected that saying: “God forbid that I should in so doing say ‘the possessor of perfect light reported something, but we will subject it to the opinion of the possessors of shadows.’”

It was said to him: “So what is the connection between what the Prophet reported and what the physicians say?” He said, “The answer is two-fold. First: the black seed is beneficial for all diseases, as the Prophet reported, for he saw with the perfect light which God had granted him and bestowed upon him, and he saw that it is beneficial for all diseases. The people of medicine saw in the shadows their own thoughts and did not know more than seventeen. Alternatively: indeed, the black seed was beneficial for seventeen diseases as the physicians said, then God made it beneficial for this People (umma) for all of the diseases, just as [this umma] has been distinguished with special qualities from other peoples in being honored with the Prophet.”

This statement of his is clearly evident. But this all goes back to the intention (niyya) of the sick person in dealing with this. For the principle is that everything which proceeds from the Lawgiver is tied to the acceptance [of it] and the strength of faith. Therefore the endeavor will succeed in proportion to the intention, and the possessor of [the intention] will triumph in his objective.555

Abū Muḥammad rejects the notion that, in order to make practical use of Prophetic medicine, it needs to be subjected to the standards of physicians’ medicine. Instead he offers two contradictory alternatives for understanding the relationship between the two forms of medicine. Either there is one medical truth to which the Prophet has full access and the physicians have limited access, or there are two different medical truths, one which is true for Muslims and one which is true for all others. Ibn al-Ḥājj’s comment (“the endeavor will succeed in proportion to the intention”) further elaborates upon the second concept: the more pious one is, the “more Muslim” one is, the more one is subject to the rules of one medical reality over another.

This concept of multiple medical realities appears often, particularly in Ibn al-Qayyim’s Ṭibb al-nabawī. He writes:

When the heart turns toward the Lord of the Worlds, the Creator of both illness and medicine, the One Who regulates nature and disposes of it as He wishes, it responds to other medicines, different from those which are the concern of one whose heart is turned away and far from Him.556

554 This is Abū Muhammad ‘Abdallah ibn Sa’d ibn Abī Jamra al-Andalūsī (d. 675 / 1300), who is cited repeatedly in the Madkhal and was one of Ibn al-Ḥājj’s teachers. Like Ibn al-Ḥājj, he migrated from the Maghrib/Andalus region to Egypt.
556 Ibn Qayyim al-Jawzīya, al-Ṭibb, 7. Translation from Penelope Johnstone, Medicine of the Prophet, 9.
Similarly, he writes:

This [particular practice] is something which the physician’s treatments do not include, nor can anyone benefit from it who denies it, or ridicules it, or doubts it, or who carries it out as an experiment without believing that it will benefit him. If there exist in nature khawāṣṣ – whose causes the physicians cannot explain to us, but which they consider to have special qualities which render them exceptions to natural rules – so what if their heresy and ignorance makes them deny al-khawāṣṣ al-shar’iyya?557

The claim in these statements is that the choice of treatment which a person makes, and the degree of enthusiasm about that treatment, is a reflection upon that person’s level of faith. Moreover, that person’s level of faith influences the degree to which a treatment can be effective. The implication of such a view is that when a patient chooses a physician she puts faith in that physician and becomes affiliated with the worldview he offers. If she is cured by him it is, at least in part, a testament to her conviction. Conversely, if she chooses an alternative healing system, and fails to be healed, that too reflects upon her faith.

This conception of healing makes “the medicine of the physicians” religiously problematic for another reason: it was associated with Christian-Jewish-Hellenic impiety. The jurists were deeply concerned about, but paradoxically perpetuated, the perception that the best physicians were dhimmīs or heretics.558 A pious Muslim doctor seems to have been viewed as a rarity. Al-Dhahabī, Al-Suyūṭī and Ibn Ṭūlūn quote al-Shāfi‘ī as “being grieved to see how much Muslims had lost of this Science. Often he used to say:

557 Ibn Qayyim al-Jawzīya, al-Ṭibb, 134.
558 Perhaps unsurprisingly, Jewish writers were also concerned that Muslims and Christians were considered to have a better medical tradition. They sometimes invoked a Talmudic statement saying that Jews may entrust their wealth to a non-Jew, but not their bodies. Gerrit Bos, “On Editing and Translating Medieval Hebrew Medical Texts,” Jewish Quarterly Review 89 (1998), 102-103. Meanwhile church authorities in Crusader kingdoms promulgated decrees banning Latin Christians from consulting with physicians from other religions. They express concern that Latin Christians denigrate the medical authorities from their own religious community and preferred Muslim, Jewish, Samaritan, and Syrian Christian medical practitioners. See. B. Kedar, "Jews and Samaritans in the Crusading Kingdom of Jerusalem," Tarbiz 53 (1984), 397, 404.
They have lost one third of human knowledge and have allowed themselves to be replaced by Jews and Christians. He also used to say: Verily the People of the Book have now conquered and surpassed us in this sublime Art." Muslim physicians were also reputed to have had trouble competing for patients, or at least such was the stereotype, even outside of legal literature. In his Kitāb al-bukhalā‘, al-Jāḥiz (d. 255/869) famously depicts a Muslim physician explaining that he could not attract patients even during a period of plague. The physician says:

For one thing, they know I happen to be a Muslim and folk held the belief before I began to practice medicine, no indeed even before I was born, that Muslims are not successful in medicine. Then my name is Asad and it ought to have been Ša防空, Jibrә’il, Yuhәnә and Birә. My surname is Abә’I-Ғәrәth and it ought to have been Abә ’Iәsә, Abә Zakәriyyә and Abә Ibrәliәm. I wear a shoulder mantle of white cotton and my shoulder mantle ought to be black silk. My pronunciation is an Arab pronunciation and my dialect ought to have that of the people of Jundә 5әbәrә.

In this case the excuses of the Muslim physician are ridiculed, and so one might guess that in fact people were assumed not to care about the Christian traits which he claims patients value. But jurists writing in a variety of periods and contexts also claim that some Muslims prefer dhimmī doctors. Ibn al-Ḥājj, writing in fourteenth-century Cairo, gives several reasons for this. First the dhimmīs have a reputation for being more knowledgeable and have better medical ijāzas. As a result, even those Muslims who mistrust dhimmīs, according to Ibn al-Ḥājj, sometimes choose to deal with their ambivalent attitude towards them by consulting first a dhimmī and then double-checking with a Muslim physician.

Some people are on their guard regarding what I have said [about the malevolence of the non-Muslim doctor] and they retain a Muslim doctor and a Christian or a Jewish doctor and relay what the infidel recommended to the Muslim.\textsuperscript{562} This too is unseemly.\textsuperscript{563}

Another reason for preferring non-Muslim physicians seems to be that there were disadvantages to being treated by someone from one’s own community. Ibn al-Ḥājj urges Muslim doctors to make themselves attractive to Muslim patients by keeping the private information they learn from patients visiting their house out of circulation in the mosque. He also tells them a Muslim physician must be especially compassionate with patients while at the same time forcefully reminding them that they must not consult anyone less pious than he.

When a physician wishes to leave his home for the mosque, he must make the intentions (niyyāt) that were previously mentioned [in the chapter on] the behavior of an ʿālim when he leaves his house for the mosque. For knowledge (ʿilm) is in fact of two kinds: the knowledge of religions and the knowledge of bodies. Each of them, if performed with the correct intention, is among the greatest acts of worship, and God enters into its practice and there is no substitute for it in the world. [The physician] should intend in doing so to embody the pure sunna in his doctoring, and to promote that which gives assistance to his Muslim brothers, and which removes distress from them, and which supports them in the face of calamities and misfortunes. He should make the intention of hiding the nakedness of his Muslim brothers and not disclose anything except that which the law demands to be disclosed. For this reason the sick person, and whoever is responsible for him, are commanded not to resort to anyone except someone in this approved state. He must intend to be compassionate toward them . . . and he should urge upon the sick person and his guardian that they should not resort to any doctor except one who may be described as religious, upright and trustworthy.\textsuperscript{564}

This is followed by descriptions of the elaborate pains that a Muslim doctor must take to avoid exposing his patients’ secrets either when his patients are visiting him in his house or when he sees them on non-medical occasions, such as in the mosque: “For the patient might have illnesses which he does not want to expose to anyone, especially the ʿulamāʾ and the saints.”\textsuperscript{565} At the same time, Ibn al-Ḥājj reminds the physician that he must

\textsuperscript{562} However, Ibn Muflīḥ mentions two Ḥanbalīs who do just that and he does not reprove them, see Ibn Muflīḥ, \textit{Ādāb al-sharʿīyya}, 2: 428.
\textsuperscript{564} Ibn al-Ḥājj, \textit{Madkhal}, 3/4: 335.
himself investigate the intimate details of a patient’s family life in order to provide the patient with the best treatment, even when such details reveal unseemly behavior.\textsuperscript{566} This suggests that a Muslim patient might deliberately avoid making use of a Muslim doctor precisely because seeing a doctor within his or her community might increase the risk of exposure and embarrassment. These risks were probably all the weightier since many maladies were thought to result from specific misbehavior.\textsuperscript{567} Moreover, there is some evidence from biographical dictionaries of the Mamlûk period that the seventh/thirteenth century witnessed a “decline of the philosopher-physician and the rise of the faqîh-physician” in the Mamlûk world.\textsuperscript{568} Perhaps this too was a source of concern for potential Muslim patients. If the Muslim physician and the ‘ālim were one and the same, and a patient wanted to keep embarrassing information from the ‘ālim, it would provide an incentive to the patient to seek a non-Muslim physician.\textsuperscript{569}

\textsuperscript{566} Ibn al-Ḥājj approvingly quotes a case where an astute doctor suspects that his patient’s father was not his actual one. He summons the patient’s mother for a private meaning “with no third person present” and tells her that the only way to save her son’s life is to reveal to the physician the identity of the true father. The mother says she was impregnated by a passing Bedouin man. The physician is then able to cure the son using Bedouin medicine. Ibn al-Ḥājj, \textit{Madkhal}, 3/4: 339.

\textsuperscript{567} For example, it was commonly thought that birth defects were a result of aberrant sexual positions. Kathryn Kueny, “The Birth of Cain: Reproduction, Maternal Responsibility, and Moral Character in Early Islamic Exegesis,” \textit{History of Religions} 48 (2008), 121.

\textsuperscript{568} Leigh Chipman, \textit{The World of Pharmacy and Pharmacists in Mamlûk Cairo} (Boston: Brill Academic Publishers, 2009), 127.

\textsuperscript{569} Cf. Cairo Geniza document T-S NS 305.115, edited and translated by Geoffrey Khan. The document, dating from 7\textsuperscript{th}/13\textsuperscript{th} century Cairo is written in Arabic in the name of Muslim witnesses testifying to the competence and good character of a Jewish physician, Abū al-Ḥasan ibn Abū Sahl ibn Ibrāhīm. The witnesses, who identify themselves as “free, honourable and good Muslim men” explain that “since someone has requested them, they have responded by registering their testimony to what they know of his trustworthiness, reliability, probity, expertise, uprightness and knowledge.” They testify that the physician “is a man of honor . . . trustworthy in the profession that he practices, reliable, on account to his devotion to his religion . . . in holding session in street stalls and in having freedom of access to the houses of people and the dwellings of those whom he treats. They have not known him to exhibit anything but charity, probity, trustworthiness, reliability and integrity.” G. Khan, \textit{Arabic Legal and Administrative Documents in the Cambridge Genizah Collections} (Cambridge: Cambridge University Press, 1993), 247-50.
Ibn al-Ḥājj lists many reasons why patronizing non-Muslim doctors is bad: it takes work away from Muslims, it normalizes relationships with Jews and Christians which should not be normalized and may result in proselytizing, and it puts Muslims at physical risk from the malevolence of Jewish doctors. But the most tangible problem, and the one which is most frequently cited in al-ṭibb al-nabawī books and in the legal sources, is that non-Muslim doctors might recommend treatments which are at odds with Islamic law, such as sitting instead of prostrating oneself in prayer and not participating in the Ramaḍān fasts. Another commonly mentioned concern is that a non-Muslim physician might offer a medicine which includes impure substances which are either spiritually harmful (i.e. najāsāt) or deliberately poisonous. For this reason every author I have read who deals with the issue of non-Muslim physicians treating Muslim patients writes that it is either forbidden or disliked to ingest a compound drug given by a non-Muslim physician unless a Muslim has verified its individual components. Even more worrisome is the possibility that a non-Muslim doctor would be quick to recommend ingesting alcohol. While the use of alcohol in medicine is a matter of some legal

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573 Usually, concern about najāsāt is associated with Christian physicians and malevolence with Jewish ones. Aḥmad ibn Ḥanbal is quoted as associating both with Christians, and his opinion is cited in Ibn Mufliḥ, Ādāb, 2: 428 and al-Suyūṭī in Elgood, “Ṭibb-ul-Nabbi,” 127. Cf. al-Dhahabī, Ṭibb, 224, where the focus is also on Christians. In contrast, Ibn al-Ḥājj focuses on Jewish physicians, claiming that Jews, by monopolizing the professions of physician, oculist, and accountant, attempt to master Muslims’ bodies and worldly goods. Ibn al-Ḥājj, Madkhal, 3/4: 320. A view that does not distinguish between Christians and Jews is found in Muḥammad b. Aḥmad b. Sālim al-Saffārīnī al-Ḥanbalī’s (d. 1188/1774) statement is his book of adab: “It is reprehensible for us to entrust one of (the ahl al-kitāb) with preserving our bodies by means of medicine because they are our enemies. How can we entrust someone who is our enemy with our souls? . . .” al-Saffārīnī, Ghidhā’ al-albāb li-sharḥ Manzūmat al-ādāb (Beirut: Dār al-Kutub al-‘Ilmiyya, 1996), 2: 12.
dispute, the Prophetic medical literature adamantly forbids it. Al-Suyūṭī’s extensive protestations strongly suggest that many Muslims thought it proper to view medical situations as an exception to the rule:

Another tradition says that the Prophet was asked about wine, whether it could be used as a medicine. And he replied: Wine is not a medicine. This is a tradition related by Abū Dāwūd and al-Tirmidhī . . .

Ṭāriq ibn Suwayd relates: I said to the Prophet that we grew grapes and pressed out the juice and drank it. And he said: Do not do so. So I went back to him and said: I cure the sick with it. And he replied: Verily that is not healing: it is producing a disease. This saying is related by Muslim, Abū Dāwūd, and al-Tirmidhī and it is a reliable and accurate tradition.

Said al-Khaṭṭābī: Call it a disease, for in the drinking of the juice of the grape there is somewhat of sin. And indeed it is quite true that there is no advantage to be gained from wine. The enquirer when he enquired already knew that it contained sin. But he was enquiring about its natural advantages. But the Prophet disclaimed them and rejected these too. And God knoweth all things.

It is evident that wine is a remedy for some diseases. Yet the Prophet transferred it from the boundaries of this World to the boundaries of the Next World and from a consideration of the natural to a consideration of the lawful. Some one else has remarked that God in His glory deprived wine of all its uses when He disallowed it. And God is all-knowing.

The books of Prophetic medicine indicate that it was accepted even among the jurists that alcohol did in fact have healing properties; nevertheless, the proponents of Prophetic medicine take the position that it cannot be considered to have medical benefit.

Despite these limitations, in their books of Prophetic medicine the ‘ulamā’ often portray Prophetic medicine as offering better alternatives to high medicine rather than placing restrictions on it, and they try to appeal directly to the instinct toward medical experimentation. They urge Muslim patients to experiment with Islam as a source for medical treatment. Ibn Qayyim al-Jawzīya in particular makes this appeal repeatedly. For example, he quotes a hadīth in which the Prophet uses quṣṭ (costus) to cure pleurisy. In exasperation the jurist writes:

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Its benefit for one who has pleurisy is hidden from ignorant physicians, so they deny it. But if that ignorant one were to get his hands on this as being transmitted from Galen, he would accord it the status of a [holy] text . . . Now we have already said that the medicine of the physicians relative to the medicine of the prophets, is more lacking than the medicine of itinerants and old women relative to the medicine of the physicians; and that there is a greater gap between what has been encountered through revelation and what has been encountered through experience and logic, than between the dimwit and the keen man. But if those ignorant ones were to find a drug written down by one of the Jewish, Christian, or polytheistic physicians, they would receive it welcomingly and warmly, and would not hesitate to try it.576

Ibn al-Qayyim’s exasperation with the unwillingness of some or most people to seek out and recognize “real” medical knowledge is in keeping with the tone of the medical writings of the physicians themselves, who also complain that potential patients are likely to solicit help from the wrong sort of medical authorities. The physician al-Rāzī wrote two treatises on this topic, one titled, *Epistle on the Reason Why the Ignorant Physicians, the Common People, and the Women in the Cities Are More Successful than Men of Learning in Treating certain Diseases and the Physician’s Excuse for this* and the other titled, *On the Causes Why Most People Turn away From Excellent Physicians towards the Worst Ones.*577 The Christian physician Şā‘id ibn al-Ḥasan (died after 464/1072) writes, “How amazing is this [that patients are cured at all], considering that they hand over their lives to senile old women!”578 For most people, at the onset of illness, use as their physicians either their wives, mothers or aunts, or some [other] member of their family or one of their neighbors. He [the patient] acquiesces to whatever extravagant

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576 Ibn Qayyim al-Jawzīya, Ṭibb, 274.
578 I think the image of the “old woman” dispenser of medical knowledge in medieval Arabo-Islamic medical and religious literature is not quite equivalent to the one found in the literature of medieval Christian Europe, which seems to invest her with more demonic power, more “savage” piety, and more ignorance. See Jole Agrimi and Chiara Crisciani, “Savoir médical et anthropologie religieuse: Les représentations et les fonctions de la vetula (XIIIe-XVe siècle),” *Annales. Économies, Sociétés, Civilisations* 48 (1993), 1292. A comparative study of the depiction of the “active” old woman in medieval Middle Eastern and European literature would be a welcome addition to the field of women’s history.
measure she might order, consumes whatever she prepares for him, and listens to what she says and obeys her commands more than he obeys the physician.”\textsuperscript{579} This sort of medicine, in spite of its lowly associations, also received the attention of the jurists, just as “high medicine” did.

\textit{The jurists on resorting to folk medicine}

The common alternative to being seen by a professional doctor in the Arabo-Galenic mode was to be treated in one’s own home, often by the women of the household, who passed down folk remedies. Peter Pormann suggests that “women probably provided much medical care for members of both sexes, even if the elite male physicians took a dim view about their activities.”\textsuperscript{580} In spite of its supposed prevalence, the ‘ulamā’ do not accord folk medicine the same respect that they accord the medicine of the physicians, and so they have less need to define its precise relationship to the Islamic system of knowledge. In high medicine, the great physicians, such as Galen, represent an alternative source of authority to the Prophet Muḥammad. This is not the case with folk medicine. Yet folk medicine presents a challenge of its own. Instead of representing an alternative to Muḥammad’s therapeutic knowledge, it represents an alternative to God’s power over the world itself and an alternative to the notion that Islamic ritual as propounded by the ‘ulamā’ is the best way to defend oneself from the dangers posed by the world.


\textsuperscript{580} Pormann, “The Art of Medicine,” 1599.
The jurists do not provide a specific explanation of the system of “the medicine of itinerants and old women” but they repeatedly caution (and not just in books of Prophetic medicine) against attempts to manipulate objects and texts to uncover information or to bend supernatural powers to the will of the practitioner in order to effect healing. The jurists, with the exception of Ibn al-Ḥājj, do not write explicitly that this is characteristic of folk medicine, but throughout Islamic legal literature descriptions of such practices are closely linked to the care of children and the care of women in the midst of childbirth, and so it seems safe to say that these are in fact references to folk medicine. Ibn al-Ḥājj, on the other hand, goes into great detail in describing these practices and specifically ascribes them to female medical practitioners. He shows how women practitioners view the inversion of aspects of correct behavior as a form of treatment. For example midwives make use of reviled substances for the purposes of easing difficult labor and protecting the newborn.

For the midwives in our time are rarely careful about avoiding impurities. The midwife comes in contact with the parturition blood and other impurities and then touches the newborn and his clothes – all without washing off the impurities with pure water. This is not permitted, yet some of the midwives let the newborn suck on their [the midwives’] fingers which have been in contact with the parturition blood.


582 This is not to say that we can take the jurists’ descriptions at face value and consider them to accurately reflect popular practice.

583 The performance of prohibited and unnatural acts is thought to aid in gaining control over demons. Ibn al-Nadīm writes that this is particularly true in Egypt, which he calls “the Babylon of the magicians.” Dols, Majnūn: the Madman in Medieval Islamic Society, 265. There are many references to such beliefs in modern ethnographies as well, especially in Edward Westermarck’s descriptions of early twentieth-century Morocco. For example, he describes how infertile women in several different tribes eat the flesh or drink the urine of male puppies to become pregnant with male offspring. Westermarck, Ritual and Belief in Morocco (London: Macmillan, 1926), 1:585. He also describes how “the jnūn help people to practice witchcraft . . . A person who for this purpose wants to summon a Jewish jinn does all sorts of disgusting and forbidden things. He eats his own excrements, and dirties his clothes with them; drinks his own urine if thirsty, and sprinkles his clothes with it; puts his right slipper on his left foot and his left slipper on his right foot, and wears all his clothes with the inside out; makes an ablution with urine, and prays with his face turned in the wrong direction, that is, not toward Mecca. He writes on a paper the name of the jinn he wants to summon inside a jedwal, in accordance with the instructions he gets from a book on a subject; burns the paper together with some coriander seed, and in burning it recites the name of the jinn and some passages from the Koran with the word Allāh and other holy words exchanged for šitan; and continues this recitation until the jinn comes.” Ibid., 1: 360.
with impurities and claim that it is healthy for this and that, but this is all a lie and falsehood and contrary to the pure sunna . . . Some of them, when childbirth is difficult for the woman, take out the center of a loaf of bread and put mouse-dung inside it and they have her eat it so that none of it is left. They explain this with the claim that this will ease the birth for her. This is without a doubt stupidity, for it says that [the Prophet] said: God, Great and Sublime, does not grant healing by means of something which is forbidden.  

Other practices surrounding the treatment of difficult labor and sick children revolve around the use of talismans and incantations. The problem with all of these rituals is that people “believe that these are modes of treatment and healing, when in fact they result in polytheism (shirk), because people attempt to repel the fates which have been set down for them, and they request [beings] other than God to repel the suffering which He himself ordained.” One modern scholar, in characterizing the views of Ibn Qayyim al-Jawzīya, frames the theological problem thus: “[Ibn Qayyim al-Jawzīya views] the occultic sciences as so many pantheistic demons eating away at Islam's spiritual innards, where God’s undivided omnipotence was parceled out to stars and birds, and elemental nature was charged with a transmutational potency that appeared to be self-sustained.”

In the face of this polytheism, the jurists have two options: either to ban all of these practices or to find a means of accommodating them in an Islamic framework. The problem with banning them is that much of the hadīth literature supports the idea that supernatural forces influence health and that the Prophet’s companions made use of incantations and talismans. Therefore almost all jurists instead find ways of Islamicizing the magical impetus. The strictures that the jurists employ are fairly uniform. Texts and images that are not in Arabic, or are not understood, are prohibited, as is the

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585 Ibn Muḥliḥ, Ādāb, 3: 66, citing the opinion of Ibn al-Athīr from the Nihāya.
587 For some examples, see Ibn Qayyim al-Jawzīya, Īṭḥāb, 11: 127-46, 276-79.
invocation of beings other than God. But it is acceptable and encouraged to recite Qur'ānic verses, to write them down on bowls and paper in mystical patterns, and to perform rituals with such objects for medicinal or prophylactic purposes. Some authorities even instruct non-Muslim medical practitioners (who treat Muslims) to recite Qur'ānic verses in their healing rituals, despite the general opposition to non-Islamic use of the Qur'ān.

By far the most common incantation and talisman proposed by the jurists is the one for treating childbirth difficulties. Muhammad ibn Ahmad al-Saffarīnī’s (d. 1188/1774) description of it is representative of the writing of other jurists, except that he also provides a diagram of a talisman:

Imām Aḥmad said: For a woman experiencing difficult childbirth one writes on a bowl or something clean, “In the name of God the Benevolent the Merciful, there is no god but God, the Compassionate the Noble, the Sublime God, the Master of the Throne, the Great, praise be to God the Master of the Worlds: ‘On the day they see it, it will be as if they had tarried only for an evening or its forenoon.’ (Qur'ān 79:46) ‘On the day when they see what they have been promised, it will seem to them as they had lingered for only an hour of a single day. A proclamation. (Qur'ān 46:35)’ Then she should drink from it and anoint her bosom with what remains.” Aḥmad, may God be pleased with him reported: These words come from Ibn ‘Abbās, may God be pleased with them both, and Ibn al-Sunnī cited it in ‘Amal al-yawm wa'l-layla. And in al-Dinawāri’s Kitāb al-Mujālasa He said, ‘Jesus son of Mary passed a cow whose child was stuck in her belly. She said: “O word of God, call upon God to deliver me.” He said: “O You who create soul from soul and brings out soul from soul, deliver her.” And she cast out what was in her belly.’ He said: ‘When the woman’s childbirth is difficult, this should be written for her.’ Al-Tatā’ī al-Mālikī mentions the following in his commentary on the preface of the Mukhtasar:

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588 Malik b. Anas, al-Muwatta, 50 (al-‘ayn): 4 no. 11: “Abū Bakr as-Siddīq visited ‘Ā’isha while she had a [health] complaint and a Jewish woman was reciting an incantation over her. Abū Bakr said, ‘Recite an incantation over her using the Book of God.’” On the basis of this hadīth al-Shafi‘ī rules that non-Muslims can use Qur’ānic-based incantations when treating a Muslim. Al-Shafi‘ī, Kitāb al-umm, 7: 241.


590 These two prescriptions are identical to the ones found in Ibn Qayyim al-Jawzīya, Tibb, 277. A recipe fragment from thirteenth-century Qusayr also uses Qur’ān 84, see Li Guo, Commerce, Culture, and Community in a Red Sea Port in the Thirteenth Century (Leiden: Brill, 2004), 311. The fragment says: “For a woman who wants to [. . .] a child.” Guo understands this recipe to be a fertility charm, but it seems more likely to me that it is a charm to be used during labor.

591 al-Saffārīnī, Ghidhā’ al-albāb, 2: 22.

592 Translations of the Qur’ānic passages are from Alan Jones, The Qur’ān, 556.


594 Abū Bakr al-Dinawārī (d. 333/944), al-Mujālasa wa-jawāhir al-‘ilm (Frankfurt am Main: Veröffentlichungen des Institutes für Geschichte der arabisch-islamischen Wissenschaften, 1986).

One of the people of knowledge who wrote this verse and tied it to a woman experiencing difficult childbirth set it in this form. I have seen in one collection that it is supposed to be tied to her left thigh and this is the diagram of the placement of the verse.

It is easy to appreciate the aptness of the Qur’ānic verse used in this talisman. Its description of the physical contortions of heaven and earth on judgment day is readily applicable to the contortions of childbirth, and the feminine language applied to the heavens is easily transferable to the laboring woman. The purpose of the poetic verse by Ḥassān ibn Thābit praising the Prophet Muḥammad is somewhat less clear. One possibility, however, is that the poem at the center of the talisman is there to replace a picture of a supernatural being. Thus a textual invocation of Muḥammad may be a substitute for a physical depiction and invocation of a demon.

Most jurists express the view that so long as the texts used derive from Islamic scripture, their use is acceptable. Ibn al-Ḥājj, however, encourages people to recite elaborate prayers in conjunction with the use of Qur’ānic verses, prayers which explicitly distance magical rituals from the trappings of polytheism. Here is one such prayer:

Write, “O God, You are the giver of life and death, You are the Creator and you are the Maker, and You send tribulation and You give dispensation, and You are the Healer . . . O God, I ask You with Your beautiful names and Your supreme attributes, O You in whose hands lie tribulation and

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596 The translation of the poetic verse by Ḥassān ibn Thābit is from Annemarie Schimmel, *And Muhammad is His Messenger: the veneration of the Prophet in Islamic piety* (Chapel Hill: University of North Carolina Press, 1985), 106.
dispensation and healing and treatment, I ask You with the miraculous [verses] of Your Prophet Muhammad. . . there is no harm except Your harm and no benefit except Your benefit . . and no wrongdoing committed by man can get past You, and no jinn can be fortified with a charm by means of Your perfect speech which they cannot get past, nor can any sin by man or jinn. I ask You . . . to heal him and to pardon him and to rebound what afflicts him upon his enemies . . . .” The way to use [this prayer] is to write it in saffron on a clean vessel or paper, then to wash the bowl in water or dissolve the paper in water, and then to drink the water completely. Then he should place his hands in the remaining moisture in the bowl and use them to wipe as much of his body as he can.597

The actions prescribed by Ibn al-Ḥājj in this passage have all the hallmarks of magical healing. The incantation is written on a medicine bowl using a specific ink and the patient ingests and anoints himself with the “substance” of the text. The purpose of ingesting a substance and anointing the body with it is to change something about the body in order to heal it. The purpose of performing an incantation is to exert control over a supernatural being and to compel it to act in one’s favor. However, this prayer is a theological declaration which subverts the implied meaning of the ritual. It denies that people can change and heal their own bodies and it denies that God can be compelled to do the bidding of the one performing the enchantment. In this way Ibn al-Ḥājj preserves the physical content of folk medicine while Islamicizing its verbal content.

When the jurists describe how a Muslim ought to go about obtaining medical treatment, they evaluate medical options in relative terms. Few things are absolutely forbidden or commanded, but a Muslim is urged to choose between better and worse options. What makes a particular treatment better or worse is not just the objective practice of the treatment, but rather which authorities one invokes in choosing that treatment. Ibn Qayyim al-Jawzīya and Ibn al-Ḥājj, for example, encourage patients to employ treatments promoted in the hadiths, but not if they are doing so half-heartedly or because the same treatments are also recommended by other (non-Islamic) medical

authorities. A Muslim ought to employ such treatments because he trusts the authority of the Prophet who prescribed them. Similarly, a Muslim is discouraged from engaging in magical rituals which use the power of words to exert power over and manipulate the physical world, but not if those rituals use Islamic texts as their tools for exerting power. What is important to the jurists is that medical knowledge is acquired and medical treatment is practiced through an Islamic conduit. However, when the patient is a Muslim woman, the concern to Islamicize the culture surrounding medicine runs up against the value placed on gender segregation. This creates a conflict of values for the jurists.

II. Islamic laws of modesty, women’s illness and domesticity:

The choice of medical treatment was a religiously and socially fraught decision according to the medieval jurists. This was true regardless of the gender of the patient. But for female patients, the choice of medical treatment came with added complications due to concerns about modesty and domesticity. The treatment of infertile women came with even more complications. Modesty regulations were more easily relaxed in cases of life-threatening emergency and old age – two situations which did not usually apply to women battling infertility. Moreover, the diagnosis of and treatment for infertility often required viewing or touching the genitals, an area where modesty restrictions are particularly limiting. Lastly, more often than not, infertility must have been a long-term problem in a way that a life-threatening disease was not. An unsuccessful attempt at treatment would likely have been followed by another attempt and then another. The

598 As demonstrated in the previous chapter.
patient would have had the time to pursue multiple forms of treatment, if indeed multiple forms of treatment were available.

**Access to medical practitioners and the concern to shield a woman from sexually fraught interactions**

In determining who should provide medical attention to a female patient, the jurists place a value both on maintaining boundaries between members of the opposite sex and in promoting Muslim practitioners. As in the above discussion, the jurists speak less of commanded and forbidden medical practices and more about more and less preferable options. 599 The exception is the Mālikī school, which uniformly prohibits male physicians from viewing or touching a female patient’s genitals. 600 The Shāfi’ī, Ḥanafi, Ḥanbalī schools of law all permit a male physician to view and touch a woman’s pudenda if there are no alternative medical practitioners available. All discussions in the legal material about who ought to attend a sick woman speak of an order of preference or precedence, given which medical practitioners are immediately available. These texts

599 Ibn al-Ḥājī disapproves of the way some Muslims interpret the leeway afforded by the law with respect to choice of medical practitioners. In his condemnation of the employment of non-Muslim medical practitioners, he writes that it is particularly unfortunate if the patient is a Muslim woman: “If someone were to say: “But the ‘ulamā’ have permitted uncovering nakedness before a physician, whether the patient is a man or a woman!” The response is that this is the case where there is a necessity (darūra), and there is no necessity that calls for inviting an infidel when there exists a Muslim physician.” Ibn al-Ḥājī, *Madkhal*, 3/4: 318.

600 Aḥmad Muḥammad Kanʿān, *al-Mawsū‘a al-tibbiyya al-fiqhiyya* (Beirut: Dār al-Nafā‘is, 2000), 748. The Mālikī jurist al-Nafrāwī (d. 1125/1714), writes that it is preferable for a male doctor to operate by having a woman look at the pudenda and describe them to him, since “I think no one says that a man’s viewing a woman’s pudenda is permissible. . . If that which is witnessed is… in the area of her back or belly or somewhere else outside of her pudenda, no one but women may witness it, and for a man to view it is not permissible even if the woman wishes it. But if it is in her pudenda and the woman is sure that it is injurious, there should be women to look at her pudenda and their testimony is accepted. He [the doctor] should follow Khalīl’s direction and come with two women to witness for him from two viewpoints.” Aḥmad b. Ghunaym al-Nafrāwī, *al-Fawākih al-dawānī* (Cairo: Muṣṭafā al-Bābī al-Halabī, 1955), 2: 367.


602 Ibn Qudāma (d. 620/1223), *al-Mughnī* (Cairo: Maktabat al-Qāhirah, 1968), 7: 101 and Abū Ya‘lā ibn al-Farrā‘ (d. 458/1066), *al-Jāmi‘ al-ṣaḥḥūr* (Riyadh: Dār Aṭlas, 2000), 398. In the *Kashshāf al-qinā‘*: “A doctor may view and touch whatever it is necessary for him to view and touch, even her pudenda and inside her, because this is a matter of obvious need, even if he is a non-Muslim.” Maḥṣūr ibn Yūnus ibn Idrīs al-Buhūfī, *Kashshāf al-qinā‘* (Beirut: Dār al-Fikr, 1982), 5: 13.
presume a pressing medical necessity or emergency, or else a need to establish female
virginity or pubescence.603 One exception is al-Nawawī (d. 676/1278) who explicitly
allows looking for the purposes of medical education. He writes, “where it is forbidden to
look it is also forbidden to touch, but both are permitted for bleeding, cupping and
treating. I say: looking is also permitted for teaching and for testifying.”604 Otherwise,
medical necessity which would allow a male physician to view the genitals of a female
patient is usually defined as having the same occasions which would permit a Muslim to
drink wine or eat the flesh of pigs, or it is defined as occurring when a person is in
extreme physical pain or in mortal danger.605 Childbirth is explicitly recognized as a
medical emergency. I have found no specific medieval reference to infertility, but a
prominent modern Jordanian Shāfi‘ī jurist has said that infertility does indeed constitute
an extenuating medical circumstance, while a Saudi authority has explicitly ruled that it is
not an emergency which would permit a woman to consult a male physician.606

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603 The Ḥanbalī, Muṣṭafā al-Suyūṭī (d. 1243/1827), mentions in this context that a hand-amputator may also
view the body of his “patient.” al-Suyūṭī, Ḍa'ā'il al-muhāfiz fi sharḥ ghāyat al-muntahā (Damascus: al-
604 Al-Nawawī, Minhaj al-talibīn in Muhammad al-Shirbīnī (d. 977/1570), Mughnī al-muḥtāj ilā ma'rifat
605 ‘Abd Allāh b. Maḥmūd al-Mawṣūlī (d. 683/1284), a Ḥanafī, says the necessity in this case is the same as
the necessities which make it permissible to drink wine and eat the flesh of pigs (al-Mawṣūlī, Al-
Ikhtiyār li-ta'āl al-Mukhtār, 4: 108). Ibn ʿĀbidīn says the school agrees that a male physician can treat a female
patient’s genitalia only if she is in unbearable pain or might die. Ibn ʿĀbidīn, Hāšiyat Radd al-muḥtār,
606 Nūḥ ʿAlī Salmān al-Quḍāh writes, “Necessary treatment . . . includes gynecological examinations for
women with fertility problems, which are permissible” (Noah Keller, The Reliance of the Traveller: a
muftī, Shaykh ʿAbd Allāh al-Jibrīn, specifically says that infertility is not a medical emergency and hence
requires the assistance of a female physician, see al-Muslimūn (March 1, 1991), 8, referred to in Vardit
Rispler-Chaim, Islamic Medical Ethics in the Twentieth Century (Leiden: Brill, 1993), 63. In a similar
fatwā, al-Jibrīn advises a husband that it is impermissible for him to present his wife to a male physician for
the purposes of diagnosing and relieving female infertility. ʿAbd al-ʿAzīz Ibn Bāz et al., Fatāwā Islamiyya
(Riyadh: Darussalam, 2001), 140.
Among the jurists of all four legal schools, the commonly repeated dictum is “a Muslim before a non-Muslim” and “a woman before a man” should examine a female Muslim patient. The Shāfiʿīs expound in more detail the order of precedence and the legal assumptions underlying it. The jurist Shihāb al-Dīn al-Qalyūbī (d. 1079/1659) provides the following comment on the statement that viewing and touching a member of the opposite sex is permitted for medical purposes, “provided that there is no woman to treat the woman or man to treat the man. And there should be no dhimmī while a Muslim is available.”

[If there is no woman] even a dhimmī woman. [Or man] even a dhimmī one. [And there should be no] dhimmī doctor if there exists a Muslim one, i.e. one who is of the same gender. For a Muslim woman (patient) a Muslim female mahr isdham takes precedence, then a Muslim female non-kinswoman, then a Muslim boy who has not neared pubescence (ghayr murāhiq), then a dhimmī ghayr murāhiq boy, then an adult male Muslim mahr, then an adult male infidel mahr, then a Muslim eunuch, then an infidel eunuch, then a dhimmī female non-mahr, then a Muslim murāhiq, then a non-Muslim murāhiq, then an adult non-kinsman Muslim, then an adult non-kinsman infidel. The goal is to give precedence to members of the same gender over others, and to mahrims over others, and to those who have rights to see more over others. [And of these criteria] one who possesses the same gender takes precedence, then mahr status, and then the same religion.

Al-Qalyūbī designates three categories for theoretically evaluating potential medical practitioners: gender, kinship, and religion, in that order of preference. But his actual ranking does not quite follow that order. The same is true of the Shāfiʿī jurist al-Bulqīnī (d. 805/1403) whose order of preference is more widely commented on:

A female Muslim, then a Muslim boy who has not neared pubescence (ghayr murāhiq), then one who has neared pubescence (murāhiq), then an infidel ghayr murāhiq boy, then a murāhiq one, then an infidel woman, then a Muslim mahr, then an infidel mahr, then a non-kin Muslim man, then an infidel one.

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607 al-Shirbīnī, Mughnī al-muhtāj, 3: 133.
608 Jalāl al-Dīn ibn Aḥmad al-Mahallī (d. 864/1459), Kanz al-rāghibīn sharḥ Minhāj al-tālibīn.
609 The text in brackets is al-Mahallī’s Kanz al-rāghibīn. Al-Qalyūbī is glossing it.
The strangeness of this ordering is immediately evident as it does not follow the general rules about who can see a woman. The modern commentator ʻAbd al-Ḥamīd al-Shirwānī analyzes al-Bulqūnī’s list in light of such rules.

The murāhiq Muslim takes precedence over the infidel ghayr murāhiq boy although the former is like a non-kinsman\(^{612}\) compared to the latter, for he (i.e. the ghayr murāhiq) is like a mahram\(^{613}\) or like an ʻadim (mental deficient). As for the infidel murāhiq taking precedence to the infidel woman: what he has chosen follows the ruling in the Minhāj. He discriminates between the Muslim and the infidel mahram even though they are equal in terms of viewing [a kinswoman]. And he considers a murāhiq, whether Muslim or infidel, to take precedence over a mahram, whether Muslim or infidel, even though the former is like a non-kinsman . . . Wouldn’t the infidel woman take precedence over the murāhiq, be he a Muslim or an infidel? For a murāhiq is like an adult when it comes to [the legality of his] gaze, while an infidel woman has [the legal right] to gaze upon what is exposed in the course of daily life . . . \(^{614}\)

Ibn Ḥajar al-Haytamī (d. 973/1567) compares al-Bulqūnī’s order of precedence with that of al-Adhraʿī (d. 783/1381) saying that al-Adhraʿī agreed that, in general, an infidel woman is preferable to a Muslim man and that she is preferable to a mahram when it comes to viewing a Muslim woman’s body. He differed, however, in that he gave precedence to any kind of quasi-kin (nahw mahram)\(^{615}\) over an infidel woman in cases where they must examine the genitals. Moreover, he preferred a eunuch to a murāhiq and “the most skilled person – even if he is of the opposite gender and religion” to other practitioners.\(^{616}\)

A visual representation of al-Qalyūbī and al-Bulqūnī’s orders of preference,\(^{617}\) taking into account al-Shirwānī’s comments would look like this:

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\(^{612}\) According the Shāfiʿī school, a Muslim murāhiq, when viewing a non-kinswoman, is considered an adult and she must cover herself accordingly, see al-Shirwānī, Hawāshī al-Shirwānī, 9: 30.

\(^{613}\) al-Mawsūʿa al-fiqhīya, 31: 52.

\(^{614}\) Al-Shirwānī, Hawāshī al-Shirwānī, 9: 40.

\(^{615}\) Al-Shirwānī defines this category as slaves, eunuchs, and ghayr-murāhiq boys.

\(^{616}\) Al-Shirwānī, Hawāshī al-Shirwānī, 9: 40.

\(^{617}\) These are the only two expansive orders of preference of which I am aware.
As these two tables make clear, neither gender, nor kinship, nor religious status take absolute precedence in determining the most appropriate medical support for a Muslim woman. It is clear that a male, non-Muslim, non-kinsman (i.e. non-\textit{mahram}) is the least appropriate person for a Muslim woman to interact with. But once that case is excluded, we have examples of gender “trumping” kinship (a Muslim non-\textit{mahram} woman is preferable to a male \textit{mahram}), but also of kinship trumping gender (al-Qalyūbī prefers \textit{mahram} men to a non-Muslim woman, and both jurists prefer a Muslim or non-Muslim young boy – who in general rules of modesty are treated as having the status as \textit{mahrams} with regard to viewing female nudity – to a non-Muslim woman. Usually gender trumps religion (a non-Muslim woman is preferable to an adult Muslim non-\textit{mahram} man). But
sometimes religion trumps gender (al-Bulqīnī prefers a Muslim murāhiq to a non-Muslim woman). Kinship can trump religion (a non-Muslim māhram man is preferable to Muslim non-māhram man), and sometimes religion trumps kinship (for al-Bulqīnī a Muslim murāhiq – who usually has the status of a non-kinsman when it comes to issues of ‘awra – is preferable to a non-Muslim ghayr murāhiq – who usually has the status of a māhram when it comes to issues of ‘awra). Most interestingly, both jurists are less inclined to resort to non-Muslim women than to non-Muslim males who are not full-fledged adults, i.e. boys and eunuchs.\(^{618}\)

What accounts for this complicated order of preference? If we temporarily set aside the issue of kinship we have four classes of interaction: Muslim women with non-Muslim men, Muslim women with non-Muslim women, Muslim women with Muslim women, and Muslim women with Muslim men. The problems posed by having a male, non-Muslim doctor are obvious. It introduces all of the risks generally associated with non-Muslim physicians (as discussed above) as well as concerns about sexual invasiveness and power. As Ibn al-Ḥājj says:

The sixth reason [why it is unacceptable for a non-Muslim doctor to treat a Muslim even if a Muslim doctor serves as a second physician] is that it is detestable and abominable if the patient is a Muslim woman, because the infidel is the enemy of God, and he would enjoy viewing her and palpating her. It has already been said that a Muslim woman is not permitted to reveal any part of her body to a Christian woman or Jewish woman. If this is true regarding a woman, how much more so regarding a man? For a Muslim woman would need to reveal some of her body so that [the physician] could see the part that hurts, and this would be welcomed by an enemy of God and an enemy of his Prophet. . . . Even if nothing happens except that the infidel describes to someone a Muslim’s wife or daughter or [demonstrates] some other kind of their many reprehensible tendencies, it would be too much for Islamic jealousy (ghayra), even if it was not forbidden in the

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\(^{618}\) I have been unable to find references to eunuch physicians. However, an Arabic Cairo Geniza document from the 6th-7th / 12-13th centuries contains a question to a mufti about the appropriateness of having a trusted Jewish eye-doctor “who has no beard” visiting the household of Muslims (yadkhul 'alā haram al-muslimīn). It is possible that the physician’s beardlessness is mentioned to signify that he is not quite a man, and is perhaps a youth. Cairo Geniza document Or. 1080.15.62 in Khan, Arabic Legal and Administrative Documents in the Cambridge Genizah Collections, 296.
noble Law, God forbid. If someone were to say: “But the ‘ulamā’ have permitted uncovering nakedness before a physician whether the patient is a man or a woman!” the response is that this is the case when there is a necessity, and there is no necessity that calls for inviting an infidel when there exists a Muslim physician.619

According to Ibn al-Ḥājj, the male, non-Muslim physician should be seen as a natural enemy who enjoys damaging the honor of a Muslim man even if, as the final line implies, some Muslims choose to ignore this concern in medical cases.620

Once the non-Muslim, male physician is relegated to the status of medical practitioner of last resort, the jurists are faced with sorting out the more difficult problem of the relative dangers of employing a (non-kin) Muslim male physician as opposed to a non-Muslim female practitioner. There are three different legal factors which shape the status of the non-Muslim female medical practitioner. The first legal factor relates to nudity, specifically to rules about the extent to which Muslim women must cover themselves in the presence of non-Muslim women. The second legal factor is the general legal principle that “necessity makes permitted” the setting aside of nudity prohibitions. Childbirth is considered to be such a necessity. The third legal factor is the sunna of the companions of the Prophet that specifically prohibits a Muslim woman from allowing a non-Muslim woman to see her genitals and serve as her midwife during childbirth.621 As we shall see, in the interplay of these three factors, modesty restrictions based on sexual threats are intertwined with modesty restrictions based on cultural threats.

620 Cf. Cairo Geniza document T-S Ar. 34.94. In Khan, Arabic Legal and Administrative Documents in the Cambridge Genizah Collections, 275.
Access to non-Muslim women and the concern to shield women from both sexually and intellectually fraught interactions

The Mālikīs, 622 Ḥanafīs, 623 and most of the Shāfi‘īs (with the prominent exception of al-Ghazālī) 624 require a Muslim woman in the presence of a non-Muslim woman to cover herself to the same extent that she would in front of a Muslim non-kinsman, with the possible exception that she can reveal whatever is necessary to go about her daily business. Ibn Ḥanbal is cited as having two contradictory opinions on this matter, but the madhhhab generally takes the position that a non-Muslim woman is no different from a Muslim woman with respect to nudity. 625 However, the non-Muslim woman is not treated in the same way as either a Muslim woman or a Muslim non-kinsman in cases of childbirth or other situations which would require viewing genitals.

Medieval legal discussions about non-Muslim women examining Muslim women use as their main prooftexts Qur‘ān 24:31, two ḥadīths regarding ‘Ā’isha and the Prophet, and a report about ‘Umar following the conquest of Jerusalem. Commentaries on Qur‘ān 24:31 often cite the reports in their comments on the phrase “or their women” as it is used in the verse:

Say to the believing women, that they cast down their eyes and guard their private parts, and reveal not their adornment . . . save to their husbands, or their fathers, or their husbands’ fathers, or their sons, or their husbands' sons, or their brothers, or their brothers' sons, or their sisters' sons, or

622 Al-Dasūqī (d. 1230/1815), Ḥāshiyyat al-Dasūqī ‘alā al-Sharh al-kabīr (Cairo: Dār al-Iḥyā’ al-Kutub al-‘Arabiyya, n.d.), 1: 344. However, Ibn ‘Arabi (d. 543/1148) cites both opinions in his commentary on Qur‘ān 24:31 and prefers the reading that all women are the same in this regard. Ibn al-‘Arabī, Ṭabākāt al-‘Ārām (Beirut: Dār al-Kutub al-‘Ilmiyya), 3:385.
their women, or what their right hands own, or such men as attend them, not having sexual desire, or children who have not yet attained knowledge of women's private parts . . .}

The phrase “or their (fem.) women” was interpreted in two ways. One interpretation deemphasizes the possessive “their” and understands the verse to mean that a Muslim woman is exempted from covering herself in the presence of kinsmen and women in general. In accordance with this interpretation, jurists permit a non-Muslim woman to view the same parts of the body that a Muslim woman may view, i.e. everything that is not between the navel and the knees. The other common interpretation understands “their” as excluding anyone who is not affiliated with the Muslim woman, and so it follows that the phrase refers to a Muslim woman’s female co-religionists, and so women who are non-Muslims are not admitted to a Muslim woman’s sphere of intimates. This is the interpretation espoused by the Ḥanafīs and Mālikīs, and they cite it when according to a non-Muslim woman the same status as a Muslim non-kinsman. The Ṣhāfi‘īs, with the prominent exception of al-Ghazālī, agree with this position.

Among Ḥanbalīs, beginning with Ibn Ḥanbal himself, two different interpretations of the verse were promulgated. Both are contained in the Aḥkām al-nisā’ and both are attributed to Ibn Ḥanbal.

Muḥammad bin ʿAlī told me that al-Athram told him that Abū ʿAbdallah [Ibn Ḥanbal] said “Some people are of the opinion that she should not remove her head cover (khimār) in the presence of a Jewish or Christian woman, for [the non-Muslim woman] is not one of “their women.” But I am of the opinion only that neither a Jewish woman nor a Christian woman, nor anyone else who is not her fellow [Muslim] woman may view the pudenda, nor may they be a midwife to her when she gives birth. But as to viewing [just] her hair, it is not a problem.”

Muḥammad bin Abī Hārūn narrated from Isḥāq bin Ibrāhīm who said, “I asked Abū ʿAbdallah [ibn Ḥanbal] if a Muslim woman may expose her head in the presence of dhimmi women. He said, ‘She is not permitted to expose her head to dhimmi women, because God said “or their women.”’”

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627 This is the general opinion of the legal schools, i.e. women can see each other to the same extent that men can see each other. Some Ḥanafīs say that she may view what a mahram male may view. Eli Alshech, “Notions of Privacy in Classical Sunni Islamic Thought,” 164.
628 Ibid., 175.
[Iṣḥāq bin Ibrāhīm] also said, ‘I heard Abū Abdallah, when asked about this verse “or their women,” say “The women of the People of the Book – whether Jewish or Christian – may not be midwives for a Muslim woman and may not view her.”  

In the *Mughnī*, Ibn Qudāma (d. 620/1223) continues to articulate both positions, and ascribes them both to Ibn Ḥanbal, but advocates for the view that the verse means a Muslim woman need not cover herself in the presence of women generally, Muslim and non-Muslim. However, even where Ibn Ḥanbal and Ibn Qudāma take the less restrictive position and say that with regard to nudity and sexuality there is no difference between Muslims and non-Muslims, they make an exception with regard to a non-Muslim woman viewing a Muslim woman’s genitals, particularly in the context of serving as a midwife during a birth.  

The rule of a woman with a woman is the same as a man with a man. There is no difference between two Muslim women and a Muslim woman with a dhimmī woman, just as there is no difference between two Muslim men and a Muslim man with a dhimmī man concerning viewing. Ahmad said “some people rule that [a Muslim woman] may not remove her clothing in the presence of a Jewish or Christian woman, but I rule that [a non-Muslim woman] only cannot look at her pudenda and cannot serve as her midwife when she gives birth.” However Ahmad also has another view: that a Muslim woman cannot remove her head-cover (khimār) in the presence of a dhimmī woman and cannot enter a bathhouse together with her. And that is the position of Makhūl and Sulaymān b. Mūsā on His statement “or their women.” The first position stems from [the fact] that Jewish and other female infidels would visit with the Prophet’s wives and they did not cover themselves, and he did not command them to cover themselves.” . . . For veiling between men and women happens for a reason that is not present between a Muslim and a non-Muslim woman. So it is not necessary to impose veiling between them, just like between a Muslim and a dhimmī man, for veiling is made necessary where there are explicit texts or analogy, and neither of these are present. As regards His statement, “or their women” the likely intention is “all women.”  

One of the reasons given for being wary of non-Muslim women viewing Muslim ones is the fear that they might describe Muslim women to their men. This explanation is usually ascribed to ‘Abdallah Ibn ‘Abbās (d. 68/687) and is presented in its fullest form in Ibn Kathīr’s (d. 774/1373) commentary on the above-mentioned verse.  

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630 However, one nineteenth century Ḥanbali source does say that, if necessary (not explained), a non-Muslim midwife is permitted to deliver a child. al-Suyūṭī, *Maṭālib ūli al-nuḥā*, 5: 15.  
His statement “or their women” means she may display her ornaments to Muslim women as well, but not to the women of the dhimma, lest they describe them to their husbands. This is a concern with regard to all women, but more so with regard to dhimmī women because no restriction stops them from doing so while a Muslim woman is taught that this is forbidden and she is kept from doing so. For the Messenger of God said, “a woman should not touch a woman and describe her to her husband as though he himself could see her” . . . Ḥārith b. Qays reported “The Commander of the Faithful ʿUmar b. al-Khaṭṭāb wrote to Abū ʿUbayda, ‘Now then, it has reached me that some Muslim women are frequenting bathhouses together with polytheistic women. Now, it is not permitted for a woman who believes in God and the Last Day to have her nakedness seen by anyone but her co-religionists’” . . . Ibn ʿAbbās said: “‘or their women’ refers to Muslim women, and she must not show the Jewish or Christian woman her throat, earring, or sash, or that which only a mahram may see” . . . Mujāhid said: “a Muslim woman should not remove her head-covering while with a polytheistic woman” . . . Both Makḥūl and ‘Ubāda b. Nusayy disliked having Christian, Jewish, or Magian women serve as midwives to a Muslim woman. . . Ibn ʿAṭā’ narrated from his father:632 “when the companions of the Prophet first came to Jerusalem, Jewish and Christian women would serve as midwives to their wives. And this, if true, was due to the exigencies of the circumstance or it was a tribulation.”633

Ibn Kathīr’s commentary on the phrase “or their women” says that although the phrase, as he understands it, means that non-Muslim women are excluded from intimate access to Muslim women, the purpose of such exclusion is not to preserve Muslim women from the gaze of non-Muslim women but rather from men’s “vicarious” gazes. However, the authorities he cites to show that Muslim women should not fraternize with non-Muslim women never once mention men. Rather he cites a series of prohibitions which purport to date to the time of the Islamic conquest of Jerusalem under ʿUmar,634 which is not the first time when Muslim women encountered non-Muslim ones, but was the first time when they did so while outnumbered and residing in a foreign environment. These prohibitions restrict Muslim women from frequenting bathhouses with non-Muslim women, exposing their bodies to them, and receiving gynecological services from them. The reason for this is not handed down as part of the texts of the prohibition.

632 Also in Ibn Abī Ḥātim al-Rāzī (d. 327/938), Taṣfīr al-Qurʾān al-ʿāzīm li-Ibn Abī Ḥātim (Mecca: Maktabat Nizār Muṣṭafā al-Bāz, 1997), 8: 2577.
634 One version of this report says that the ʿUmar in question is the caliph ʿUmar II, that is, ʿUmar b. ʿAbd al-ʿAzīz, and the person he tasks with the enforcement of this law is Abū Bakr b. ʿAmr b. Ḥazm. Ibn al-Jawzī, Aḥkām al-nisāʾ, 30.
The claim that the reason for these prohibitions is the concern that a non-Muslim woman (who lacks proper Islamic instruction) would describe a Muslim woman to her husband does not sufficiently explain why this prohibition is attributed to the period of conquests rather than to the lifetime of the Prophet. Nor does it explain why the early Islamic authorities and all of the schools of law designate childbirth as creating a special impediment to non-Muslim women interacting with Muslim ones. If non-Muslim and Muslim women are essentially equal vis-à-vis nudity, as the Ḥanbalīs claim, why does childbirth make it legal for a Muslim woman to view the pudenda but illegal for a non-Muslim to do so? If, as the Shāfiʿīs (and the Mālikīs and Ḥanafīs) say, a non-Muslim woman is a risk because she might describe a Muslim woman, why then does al-Bulqīnī’s order of precedence give preference to both Muslim and non-Muslim male children, whether younger or older, over a non-Muslim woman? After all, when it comes to legal discussions of nakedness, the defining characteristic of children is that they are able to and have a tendency to describe what they see\(^6\) and, indeed, if they could not describe what they see they could not possibly be old enough to provide emergency medical attention. Moreover if the concern is that an infidel woman might describe a Muslim woman, why does al-Bulqīnī rule that it is preferable to employ an infidel murāḥiq boy who is as able to engage in descriptions as a woman is, who similarly has no Islamic-based compunctions about doing so, and who is himself considered to possess a form of sexual desire?\(^7\) These problems indicate to me that the fear that a man might

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\(^7\) This seems to have confused later Shāfiʿī jurists as well, hence al-Qalyūbī does not give preference to the murāḥiq over the non-Muslim woman. However, he still gives preferences to the non-Muslim eunuch over a non-Muslim female mahram, even though Shāfiʿī jurists do believe that eunuchs experience lust and engage in a form of sexual relations. Alshech, “Notions of Privacy,” 168.
vicariously experience a Muslim woman’s exposed body is not the central, or at least not the only concern, governing this order of preference for medical care.

When the ‘ulamā’ speak about restricting the role of non-Muslim women as midwives they connect it with the prohibition of Muslim women frequenting bathhouses with them. The connection between these two activities is thought to be the element of nudity, but there is another connection between them. When a woman visited the bathhouse, it was likely that she was in a state that had religious, biological, and social significance. The same is true of the occasions when a woman required a midwife. A birthing room served as the locus for the woman’s transition to motherhood, the baby’s entrance into the world, and often enough, the departure of either mother or baby from this world to the next. A bathhouse served as the locus for an unwed girl’s transition from childhood to marriage, a wife’s transition into motherhood, and a menstruating woman’s transition from an impure to a pure state. The bathhouse and a birthing room were thus both places associated with blood and liminality. These states of liminality were thought to be dangerous and to render women especially vulnerable to attacks by demons and the evil eye. A woman did not deal with these dangers alone, she was coached through them by friends, older women, midwives, and generally people who were thought to have knowledge and expertise. They were thus places where women dealt with anxieties about

637 We know from works written by medieval men that women went to the bathhouse in connection with these events, and both documentary and literary evidence demonstrate a widely held belief that women were vulnerable at these times. These works do not explain precisely what medieval women said or did to protect or heal themselves. However, there are many descriptions by modern anthropologists of contemporary women’s cultures and their concepts of magic and liminality with the bathhouse as the locus and the midwife as the authority for the transmission and performance of that culture. See Carla Makhlouf Obermeyer, “Pluralism and Pragmatism: Knowledge and Practice of Birth in Morocco,” *Medical Anthropology Quarterly* 14 (2000), 186-87 and E. S. Drower, “Women and Taboo in Iraq,” *Iraq* 5 (1938), 116-17. On the significance of liminal rites and the linguistic connections between women’s life-cycle events, see Richard Natvig, “Liminal Rites and Female Symbolism in the Egyptian Zar Possession Cult,” *Numen* 35 (1988), 64-66.
vital aspects of their lives. Therefore the bathhouse and the birthing room were prime loci for the transmission of inherited culture and knowledge. It makes sense then that the jurists sought to restrict interactions between Muslim and non-Muslim women in such contexts for fear that non-Muslim women would propagate culture and knowledge that ran counter to the teachings of Islam. 638

While bathhouses for men served as venues for physical cleaning and routine physical maintenance – bathhouses retained male barber-surgeons, cuppers, phlebotomists, and masseurs for the use of their male patrons but not their female ones 639 – for women they were also strongly associated with physical and spiritual cleansing from the impurities associated with menstruation, defloration, birth, postpartum healing and with the lifecycle events surrounding these changes. Modern ethnographies and the

638 One Moroccan anthropologist compares the role of the bathhouse to mobile-phones, in terms of their importance as the main source of communication and information for women, especially ones who otherwise do not leave their homes. Said Graioud, “Communication and the Social Production of Space: the Hammam, the Public Sphere and Moroccan Women,” *Journal of North African Studies* 9 (2004), 1, 105 and 107. Erika Friedl, writing about Iran, notes that bathhouse is where women “exchanged news, discussed problems, and politicited. This was also where the most private of all entities, the body, was revealed to public scrutiny: pregnancies invariably were first noted here, and if a woman could conceal elsewhere that she had been beaten, in the bath her bruises told the tale and her condition became public.” E. Friedl, “The Dynamics of Women’s Spheres of Action in Rural Iran,” in *Women in Middle Eastern History*, 214. Another anthropologist, writing about Morocco, describes the bathhouse in a similar way: “It is one of the rare places where [women] meet women who do not belong to their qurāb or ‘close ones’, that is, the circle of friends, relatives, and neighbours with whom they interact on a daily basis. Here a woman is likely to pick up news that would not have reached her ears within the close surroundings of her ‘dār wa darb’, the house and the alley where she lives. In the public bath she has the opportunity to extend her personal network beyond the women in her immediate surroundings. The scars and tattoos on the nearly naked bodies of the bathing women tell details of their personal histories without words. This creates an atmosphere of temporary intimacy that may encourage a woman to pour out her heart to any woman who happens to sit next to her. Sharing personal problems with a stranger who has no access to her own social network has the additional advantage that she does not have to be afraid that her confidences will leak out to her ‘close ones’ in the form of gossip that could have repercussions on her reputation. In this way, the weekly visit to the public bath serves as an ‘escape’ from the family privacy that envelopes women most of the other days in the week.” Marjo Buitelaar, “Public Baths as Private Places,” in *Women and Islamization*, ed. Karin Ask and Marit Tjomsland (Oxford: Berg, 1998), 114.

fragmentary evidence we have from medieval sources suggest that the bathhouse was and is also the site for pre-nuptial instruction, fertility rites, and gynecological treatment. This was true for Muslims, Christians, and Jews.

Both Christian\(^{640}\) and Muslim religious figures decried women attending the bathhouse but felt the need to make an exception for women experiencing illness, pregnancy and post-partum recovery. Many hadîths to this effect are quoted in Ibn Ḥabîb’s \textit{Adab al-nisâ}:

\begin{quote}
From ‘Abd Allâh b. ‘Amr b. al-‘Āṣ regarding the Messenger of God: He said, “You will conquer the land of the foreigners and in it you will find buildings called bathhouses. Men should not enter them except with a loincloth, and prohibit your women from them except those who are post-partum or who are sick.

From Umm Kalthūm who said: “I visited the bathhouse with ‘Ā’ishah and said to her: Didn’t you used to despise the bathhouse? She said: ‘I am sick, and it is permitted to a sick woman.’ That was when she was suffering from skin disease, so I covered her in henna from head to toe.”\(^{641}\)
\end{quote}

There seems to be a strong connection between the bathhouse and henna being applied by one woman to another woman’s body. Brides used to visit the bathhouse twice in preparation for marriage and immediately following the consummation of marriage.\(^{642}\)

The second visit immediately preceded “the night of henna,” a ritual whose main purpose was to promote fertility. Some legal works mention in passing that on these occasions the bride would be accompanied by a midwife. For example, Ibn ‘Ābidîn writes:

\begin{quote}
It is understood among the people in our time that a virgin receives extra things in addition to the mahr. Among them are things to be given before consummation such as money for the naqsh\(^{643}\) and the bathhouse, for a garment called the “lifâfat al-kitâb,” and for other garments which the husband gives to her and which the bride’s family gives the midwife and the bathhouse attendant and other such women. Also among them are things to be paid after consummation, like
\end{quote}


\(^{641}\) Ibn Ḥabîb, \textit{Adab al-nisâ}, 234-35.

\(^{642}\) J. Sourdel-Thomine, “Ḥammâm.”

\(^{643}\) Literally: Inscribing (with black ink) usually applied to the skin but sometimes to eggs as well. The \textit{naqsh} ceremony is currently most commonly associated with wedding ritual in Morocco and Yemen. Ibn ‘Ābidîn lived primarily in Damascus.
the wrap and the slippers and the checkered cloth, and the bath clothes. These are customary and understood, and fall in the category of customary law.644

In Jewish societies too, bathhouses and pre-natal midwifery went hand in hand, with midwives accompanying Jewish women to ritual baths on a monthly basis, although the evidence of this comes from European Jewish communities.645 Modern anthropological texts about Muslim communities in the Maghreb, Egypt, and Iraq further show that even when women visit the bathhouse without a professional midwife in attendance, they often have a designated companion who is entrusted with performing healing and prophylactic rites.646 They also show that the bride’s attendant(s) who bathe and cover her with henna are the women who instruct her about consummating her marriage.647

644 E.g., Ibn ‘Ābidīn, Ḥāshiyat Radd al-Muḥtār, 4:272.
645 For example, in Jewish communities in medieval Europe, “midwives accompanied women on their monthly visits to the ritual bath and were expected to help promote fertility.” Elisheva Baumgarten, Mothers and Children: Jewish Family Life in Medieval Europe (Princeton: Princeton University Press, 2004), 31. A twelfth-century Ashkenazi Jewish text translated by Baumgarten universally assumes that women perform their monthly ablutions accompanied by another woman who is there to promote her fertility. The text says that in a town where women are particularly fertile, it is because the midwives who accompany them to the ritual bath are benevolent, whereas in a town where there are few successful births, it is because the midwives who accompany women to the bath are not enhancing fertility but rather spreading infertility through witchcraft. Ibid., 47.
647 Encyclopedia of Women & Islamic Cultures, s.v. “Body: Female.” In one description of a wedding in Giza, Egypt in the 1920s, the author (a teacher in a reformatory school) translates the term balāna as village midwife. She describes how the bathhouse attendant/midwife on the wedding night “mocked [the bridegroom] loudly for not being a man, seized his hand and, wrapping a large piece of stiffly starched butter-muslin round his first and second finger, dragged him towards the bride . . . the bridegroom then, with the assistance of the belana, proceeded to break the hymen with his two fingers.” E. E. Perkins, “Marriage Ceremony in Lower Egypt,” Man 32 (1932), 64. E. W. Lane describes the midwife and bathhouse attendant as two separate individuals who both have paid roles in the marriage ceremony. The bathhouse attendant participates in the wedding night, see Lane, An Account of the Manners and Customs of the Modern Egyptians (New York: The American University of Cairo Press, 2003), 163 and 171. In a passage which Lane wrote in Latin but which was expurgated, he describes the same breaking-of-the-hymen ceremony, see Jason Thompson, “Small Latin and Less Greek: Expurgated Passages from Edward William Lane’s An Account of the Manners and Customs of the Modern Egyptians,” Quaderni di Studi Arabi 1 (2006), 13.
Access to Muslim women and the concern to shield women from intellectually fraught interactions

The argument that medieval Islamic jurists feared that Muslim women would learn false beliefs through their contacts with non-Muslims is not a new one. However, it seems to go unnoticed that the ‘ulamā’ s anxiety about Muslim women fraternizing with non-Muslim women also extends to instances where Muslim women fraternized with each other, particularly in the context of life-cycle events such as weddings, funerals and periods of illness. The ‘ulamā’ urged husbands to keep their women from situations which are characterized by contact with other Muslim women. This fact is easily obscured because the ‘ulamā’ do not usually express any particular Islamic goal of separating women from each other. By contrast, it is an explicitly stated Islamic goal to give husbands exclusive and unfettered sexual access to their wives. In the service of that goal the jurists embrace the two principles that (1) husbands have the right to order their wives to be sexually available at all times and (2) women should be prevented from going into the public sphere and attracting sexual attention to themselves from men. The Qur’ānic prooftext for keeping wives at home and preventing them from interacting with men in the public sphere is Qur’ān 33: 33: “Remain in your houses; and display not your finery, as did the pagans of old . . .” Some commentators sometimes explain that the “display of finery” was in fact no more than women walking in the streets among

651 Arberry’s translation.
men, or else walking with an improperly fastened head-covering, thus causing a sexual disturbance.652

These sexual concerns, however, do not adequately explain many of the components of juristic discussions on the topic of khurūj, or women’s excursions from the house. The topic is sometimes treated in the section on nudity or the mahr payment (toward the beginning of the Book of Marriage in general legal manuals), sometimes in the section on the behavior of husbands and wives toward each other (toward the end of the Book of Marriage), and sometimes it appears as part of the discussion about nafaqa (maintenance), which can appear as part of the Book of Marriage, or the Book of Divorce, or as its own separate book. The topic has no fixed place in the literature because, I think, it includes several different concerns not all of which fit neatly into any particular legal discussion.653 This is because the jurists conflate very different activities including those which occur in mixed-gendered settings (praying in the mosque, attending funerals, and learning in a majlis al-‘ilm), those which are mostly gender-segregated (such as wedding celebrations), those that are absolutely gender segregated (public bathing), those which occur in private spaces (visits to the sick), those which involve interaction with people who are not potential sexual partners (such as visits to

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652 Ibn Kathīr, Tafsīr, 6: 410.
653 In fact, Shāfi’i manuals, such as the Asnā’ al-maṭālib, address the topic of khurūj in the section on rebellious wives while explaining that this should not be considered a form of rebelliousness: “A wife who leaves the house of her husband without his permission in order to travel or the like, even if forced to do so, is a rebellious wife because she is leaving his possession. But her going out for fear of the house collapsing or the like, or to get something from outside her husband’s house (ukhrijat min ghayr bayt al-zawj) or her going out to obtain a fatwā which a husband cannot obviate the need of her going out to get, or visiting or paying sick calls to her parents or her other mahrūm relatives while the husband is absent — are not a matter of rebellion. Neither are the other kinds of going out which are legal for her, such as going out to find out her rights due from him when she is not guilty of rebelliousness. But she does not have the right to go out when her father dies nor to witness his funeral.” Abū Yahyā Zakariyya al-Anṣārī (d 926/1520), Asnā’ al-maṭālib (Beirut: Dār al-Kutub al-‘Ilmiyya, 2001), 7: 469-70.
parents and *mahram* relatives), and those which do not even involve travel (such as receiving visits from other relatives and visiting relatives and neighbors who live in the same building).

An extended passage from the Ḥanafi manual *al-Baḥr al-rāʾiq* on *nafaqa* (a husband’s maintenance of the wife) serves as good example of some commonly found elements of juristic discussions of women’s excursions and domesticity:

When [a wife’s] family chooses [to visit], they have the right to do so. For in the absence [of seeing and speaking] there is a severance of the bonds of kinship (*quṭīʿat al-rahim*) and he [i.e. her husband] has no right to inflict such harm. But the dictum that he may prevent her family from visiting her *in his house* is applicable, even if it is her mother or her child, because the home is his property and he has the right to prevent entry to his property. But as to their standing by the door of the residence, he has no right to prevent them from doing so, according to the *Khāniyya*. Al-Qudūrī said he should not prevent them from entering but he should prevent them overstaying, for there is *fitna* in lingering and long conversations. But the *ṣahīḥ* differs from both opinions. The *ṣahīḥ* says he should not prevent her from going out to her parents and he should not prevent them from visiting her every week, and her other *mahram* relatives every year. Rather he should prevent them from staying with her. According to *fatwās* in the *Khāniya* and from Abū Yūsuf in the *Nawādir*, her going out is limited according to the extent to which [her parents] are able to visit her. If they are able to visit her she does not go out, and that is best.

Some women have fathers who do not hinder them when they go out, while it does bother the husband and she is prevented from going out, and some *shaykhs* have restricted her from going to visit her two [parents]. But I refer to the opinion in the *Sharḥ al-mukhtār* and the position taken by Abū Yūsuf: whether or not the parents are like those mentioned above, he should let her visit them from time to time at a regular interval, but every week is far too much. For in so much going out there opens the door to *fitna*, especially if she is young and the husband has ideas regarding going out which are different from those of the parents. But that should be relaxed if her father is chronically ill and requires her service; and if the husband prevents her from taking care of him, then she should defy him whether the father is a Muslim or an unbeliever, so it says in the *Fatḥ al-qadīr*. From what we have mentioned, it follows that she can go out to visit her parents and *mahārīm* and it is right for her to go out to her parents every week with or without his permission, and to visit her *mahārīm* once each year with or without his permission. As for going out to visit family beyond this, she can do so with his permission. It is said in *al-Zahīriyya* that it is allowed for the man to permit her to go out to visit her parents and to pay condolence and sick calls to them, and to visit her *mahārīm* and to mourn them.

As for other occasions, there are seven circumstances under which a man is allowed to permit her to go out: [1] to visit her parents, [2] to pay sick calls to them, and [3] to mourn them or either one of them; [4] to visit *mahārīm*, [5] if she is a midwife or [6] a washer or [7] has some other legitimate reason to go out with or without his permission, and *hajj* is one of these. But excluding these, he should not permit her to visit outsiders, pay them sick calls, and attend wedding celebrations, and she should not go out. But if he does permit it and she goes out, they both are at fault. She should be prevented from going to the bathhouse.

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654 ʿĀlim ibn al-ʿAlāʾ (fl. c. 777/1375), *al-Fatāwā al-Tāārkhāniyya*.
655 I.e. The father does not voice objections to his daughter going on excursions, but her husband does have objections. In such a scenario the husband may wish to keep his wife from visiting her father lest the father allow her during those visits to behave in a way which the husband finds objectionable.
If she wishes to go out to attend a learning session without her husband’s approval, she cannot do so. If she is in a situation [requiring legal advice] if her husband asks the ‘ālim and he informs her regarding it, she is not allowed to go out. But if he is prevented from asking she is allowed even without her husband’s approval. If she is not in any particular circumstance but she wants to go out to the learning circle to learn about issues having to do with ablutions and prayer, if the husband can memorize the issues and recount them to her, he can prevent her [from attending herself]. If he cannot memorize them, it is preferable for him to allow her [to attend] sometimes; and if he does not allow it, there is nothing for it and she is not permitted to go out so long as there is no particular circumstance. And in the Fatāwā in the chapter on mahr [it says] that a woman before receiving her mahr can go out as she requires and visit relatives without the permission of the husband, but when he gives her the mahr she cannot go out except with the husband’s permission. So too in the Khāniyya, except that it adds that she can also go out without his permission if she is in the house and the silence frightens her. It restricts [the right of the wife] to perform the hajj to when a mahram is available, and it restricts the midwife and the washer to when the husband gives permission. (The meaning of “washer” is one who washes the dead). The husband may prevent a midwife or washer from going out. This is because her going out injures him, and so she is secluded for his rights, and his rights take precedence over a communal obligation (fard kifāya).\textsuperscript{656}

This passage places strong restrictions on women’s actions, but is the sole motivation for these restrictions the avoidance of sexual indecency and the preservation of a husband’s right to on-demand sexual access? Consider the structure of the passage. It begins by establishing the minimum social-contact to which a wife is entitled, weekly meetings with her parents and yearly meetings with her other close kin. It explains that the husband is allowed to permit her contact beyond these minimums, but he is encouraged to keep his wife from having lingering or overlong meetings with her birth family (“he should not prevent them from entering but he should prevent them overstaying, for there is fitna in lingering and long conversations.”) It then proceeds to outline forms of contact which a husband is not allowed to permit to his wife. (“But excluding these, he should not permit her to visit outsiders, pay them sick calls, and attend wedding celebrations, and she should not go out. But if he does permit it and she goes out, they both are at fault. She should be prevented from going to the bathhouse.”)

After sick calls, wedding celebrations, and bathhouse attendance are forbidden, the passage makes what may seem to be an odd turn towards discussing how a wife goes about acquiring religious learning. There it says that it would be best for a man to serve as the conduit for religious knowledge but, failing that, it is preferable for a wife to be allowed to participate in male-led religious instruction, although the husband has no obligation to heed this advice. It then goes on to say that the above-mentioned restrictions do not pertain to women generally, but rather to wives who have accepted *mahr* payments from their husbands. It then says that a husband has a choice to allow or prevent a wife who is a midwife or a washer of the dead from going out.

If the main concern is avoiding sexual indecency, why do the jurists encourage husbands to limit conversations between wives and their birth families? Why are the rules of behavior different for women who are not yet married and those who are? After all, the preservation of sexual honor, according to modern anthropological accounts, is of greater concern before marriage than after.  

Why do the jurists present themselves as arbitrating between a wife’s desires and her husband’s desires when it comes to interaction with her birth-family and her activities as a midwife or washer, but when it comes to a woman’s paying social calls on other people or attending weddings or bathhouses, the jurists take a position where they condemn a husband and a wife who are in agreement with each other that she can engage in such activities? Why are prohibitions on engaging in those activities immediately followed by a discussion of how women acquire religious learning (*‘ilm*)? What does a discussion of modes of learning have to do

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with a discussion of limiting licentiousness? The answer to all of these questions is that
the principle of forbidding sexual indecency does not explain the content or structure of
this passage.

Neither does the principle of spousal sexual access, although it comes closer to
explaining the passage. It is true that if a wife engages in any of the activities mentioned
above, she is temporarily unavailable for the purposes of sexual intercourse. However,
Islamic law does not mandate that a wife refrain from all activities which make her
temporarily unavailable, it mandates that a wife set aside such activities when her
husband chooses to have intercourse with her.658 This concern does not explain why a
husband is not permitted to allow his wife to pay sick calls and attend wedding
celebrations, assuming he is willing to forgo his wife’s sexual services during that time. It
also does not explain why the jurists encourage husbands to serve as conduits for their
wives’ religious instruction. It also does not explain why the jurists prefer that a husband
permit his wife to go out to seek religious instruction if he is unable to teach her, since if
a wife does go out in such circumstances, she is temporarily unavailable to him.

In this passage the right which the husband acquires through the mahār payment is
not simply the right to sexual access, but rather the right to verbal access. The passage
highlights speech. The parents have the right to stand outside the husband’s door and
speak with their daughter, but the husband has the right and obligation to make sure their

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658 A rebellious wife is defined not as someone who leaves the house to go about her business, or who does
not remain in her husband’s bed, rather she is defined as someone who leaves the house without her
husband’s consent or who does not accept her husband’s summons to his bed. One hadith states, “When a
man calls his wife to satisfy his desire [for sexual intercourse], she must go to him even if she is occupied
at the oven.” Sahīḥ al-Ṭirmīdhi (Beirut: Dār al-Kutub al-‘Ilmiyya, 2000) al-raḍā’ no. 1160. The hadith
does not claim that a wife may never occupy herself at the oven for fear that it will make her unavailable to
her husband. More generally, a rebellious wife is defined not as someone who leaves the house to go about
her business, but who does so once the husband has already forbidden it.
conversation is not overly long. The wife may want to hear an ‘ālim discoursing on religious matters, or may want to ask him a question, but it is preferable for a husband to hear the ‘ālim and to tell the wife what he says. This leads me to believe that the prohibition against wives attending the sick, going to weddings, and frequenting bathhouses also has less to do with sexual indecency than the responsibility of the husband to control his wife’s access to certain forms of conversation and culture.659

The Baḥr al-rāʿiq does not say explicitly why a husband is not permitted to allow his wife to leave the house to visit the sick, participate in burials, and go to bathhouses. It is true that there are many customs associated with these activities which the jurists condemn, such as elaborate mourning rituals, the playing of musical instruments, and gender mixing. But the jurists do not condemn weddings and sick visits outright, rather they condemn those particular activities of which they disapproved. But when the jurists instruct husbands not to permit their wives to attend weddings and other social occasions, the instructions do not claim that it is only particular secondary circumstances which make it impermissible for women to attend such functions.660

659 In her reflections on the changes wrought by modernity and revolution on women’s roles in three rural villages in Iran, Erika Friedl highlights the former importance of wedding festivities, bathhouse, and graveyard visits as sites for women to access and share information. As these practices have fallen into disuse, she says, many women have become more isolated than in past generations. Erika Friedl, “The Dynamics of Women’s Spheres of Action in Rural Iran,” 212.

660 Regarding bathhouse attendance, there is a hadīth which indicates that even if one removed nudity from the bathhouse experience, one could not make it acceptable: “It is reported that ‘Ā’isha asked the messenger of God about the bathhouse and he said, ‘Far be it from me [to go to] bathhouses. And there is nothing good in bathhouses for women.’ She said, ‘O messenger of God, they enter it wearing a loincloth.’ He said, ‘No, even if they were to enter it wearing a loincloth and a sleeved-shirt and a head-covering. For no woman removes her head-covering anywhere other than her husband’s house without removing the curtain between herself and her God.’ This was reported by al-Ṭabarānī in the al-Awsaf as one of ‘Abd Allāh b. Lahī’a’s reports.” Al-Haytamī, Majma’ al-Zawā’id, 1: 278. Cf. al-Ṭabarānī (d.360/971), al-Mu’jam al-awsaf (Cairo: Dār al-Haramayn, 1995) 3:321.

It so happens that there are several reports from Ibn Lahī’a which are especially restrictive with regard to women, and al-Ṭabarānī does not consider him to be fully trustworthy. Regarding the following of funeral processions, the Andalusian Mālikī, ‘Abd al-Malik ibn Ḥabīb writes explicitly, “Women are not permitted to follow funerals even if there are no wailers.” Ibn Ḥabīb, Kitāb adab al-nisā’, 238.
The activities which the *Bahır al-rāʾiq* disallows are activities which women’s male family members approve of, or so the jurists imply. In his *Aḥkām al-nisāʾ*, Ibn al-Jawzī says that women often try to persuade their families to allow them to exit the house by saying, “I am visiting the sick, I am following a funeral procession.”

Ibn al-Jawzī says that such behavior ought to be forbidden, but the assumption here is that not only do male family members tend to condone such behavior, they view it as the best reason for a woman to be out of the house. This same idea, i.e. that women are inclined to attend these activities and their men do not mind while the jurists view it as wrong, is also reflected in a *ḥadīth* attributed to ‘Alī in the Shi’ite legal compendium *Daʿāʾīm al-Islām* by Qāḍī Nuʿmān (d. 363/974). There ‘Alī is quoted as saying, “He who complies with the wishes of his wife in four things, God will hurl him into the Fire. He was asked, ‘What is this compliance, O Commander of the Faithful?’ ‘Alī said, The demand to attend marriage feasts (*ʿurusāt*), to join mourning sessions (*niyāḥāt*), to go visiting the sick (*ʿiyādāt*) and to visit bathhouses (*ḥammāmāt*).”

The phrasing of this *ḥadīth* indicates these activities were not ones generally considered to be sexually indecent. If they were, there would be less of a need to disallow husbands to exercise their own discretion on this matter, because their own self-interest in preserving their wives’ sexual modesty would be enough. There is some evidence, however, that men condoned such outings because women were particularly anxious to engage in them. Thus al-Wansharīsī’s *al-Mīʾār al-Muʿrib* contains the following question

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Yahya was asked about a man who dies, and his mother or his sister or his wife go out to the grave, and with them are women who are their neighbors. What about a woman whose husband or child has died, and some of her relatives make a habit of visiting his grave every Friday or so. What if she weeps loudly, or the women join her in loud cries? Should they be forced back and forbidden to go out? And if they are forbidden, but then go back to doing it, should [the men] beat them? . . . He said: Women should not go to graves to seek mercy for their children or husbands at all.664

From the question, we can see that the women are assumed to be going to the cemetery for actual death rituals, not for a light-hearted outing. We can see that this is a women’s communal activity. It takes place among female relatives and neighbors, and it does not seem to be a venue where men suspect sexually compromising behavior is likely to occur. It is the actual death rituals, the loud weeping and intercessions which concern the men. But we also see that these men think that these rituals are so important to women, that they will risk male wrath in order to engage in them.

The world-views and concerns evinced in the passage from the Bahr al-rā’iq are characteristic and typical of Islamic legal discussions. For example, it is typical for the jurists to concern themselves with the rights husbands have to limit their wives’ interactions with their birthparents and the rights of the birth-family to see their daughter.665 There is some disagreement between schools as to what exactly are the minimum rights that a birth family has with regard to visiting with their married daughter. There is also some disagreement as to what rights a wife has to religious learning where her husband is recalcitrant. But the passage’s emphasis on the necessity of restricting wives’ access to social contacts, even where there is no mention of sexual indecency,666 is also typical of other Islamic legal works, as is the emphasis on keeping

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663 I.e. Yahyā b. Yahyā al-Laythī (d. 234/848).
664 Al-Wansharīsī, al-Mī’ār al-Mu’rib 6:419-20
666 Consider the hadīth which is constantly retold in juristic texts about the woman whose husband is absent and has commanded his wife not to leave her house. The woman asks the Prophet if she may leave her house to visit her father on his sickbed, then on his deathbed, and then at his funeral. Each time the Prophet
unavoidable and lawful conversations short. Moreover, when it imagines that a wife might wish to acquire religious knowledge, it again falls squarely within the tradition of Islamic legal literature, as will be explored below.

We saw in the *Bahr al-rāʾiq* that the same passage which urges husbands to keep their wives from engaging in outside activities is also the one which urges husbands to give their wives an Islamic education. This is also true of a report in which ‘Āʾisha urges women to refrain from going to the bathhouses in separate but complementary appeals to husbands and wives. She concludes with a command to men: “O you men, whoever among you believes in God and the Last Day will never send [his wife] to the bathhouse. Men are in charge of (qawwamūn ‘alā) women (Qurʾān 4:34), so guard your women and do not bring blame upon yourself, and teach them the Qurʾān and command them to exalt God all day long, and do not invite them to leave their houses.”

It seems from the formulation in this *ḥadīth* and in the *Bahr al-rāʾiq* that the Islamic authorities are proposing that wives, instead of attending bathhouses, weddings, funerals, and sick beds, ought to be learning Islam from their husbands or, failing that, from the ‘ulamā’. In other words, they think that the two activities are both means of fulfilling the same need, and one means is impious whereas the other is pious. The correlation between the two activities is rarely explained explicitly. Here Ibn al-Ḥājj is the welcome exception.

tells her to obey her husband and not to see her father. In the most widely cited version of the story, her father actually lives in an apartment immediately below the wife. Al-Ghazālī, *Iḥyāʾ ulūm al-dīn* (Cairo: Muʿassasat al-Ḥalabī, 1967), 2: 72.

663 E.g., al-Ghazālī writes in the *Iḥyāʾ*: “[a wife] should speak but little with her neighbors, and she should not visit them except in a situation necessitating her going there.” Ibid., 2: 75.

**Ibn al-Ḥājj on women’s networks of knowledge**

Ibn al-Ḥājj famously writes in his *Madkhal*, “a woman takes three trips out in her lifetime: out to the house of her husband when she is given to him, out when her parents die, and out to her own grave.” However, in the same book he writes, “If a woman has a husband he is required to teach her, if she is ignorant of the law. If he does not, she should ask him to do so. If he does not do so, she should ask to leave [the house] to acquire knowledge. If he does not permit her to leave, she should do so without his permission.” He says outright that “an ‘ālim must prevent his family [i.e. wives] from female socializing.” Immediately following this statement, however, he makes an exception. When women have no access to knowledge from men in their own household, it is right for a woman who has been taught law by her husband to meet with such women in groups to teach them Islamic law which pertains to them. He writes that at such an assembly one must be wary lest the gathering becomes a forum for

. . . any corrupt practices which women do when they gather together. Since most of their gatherings are not without talk of those deplorable practices with which they have grown up and which have found a place in their hearts as though they were religious rites. . . . Among the practices which some of them hold to – which have become deeply ingrained in their hearts, and which have become so through women’s talk and through talk with those men who indulge women (for anyone who witnesses and is silent is like one who participates) – among the deplorable practices is the designation of some of the days of the year and days of the week, such that every day has its particular activities which cannot be done on any other day. They regard anyone who disagrees with them [fem.] on this matter as portending evil and they attribute to him ignorance (*jahāl*) and lack of knowledge.

Ibn al-Ḥājj says that women’s gatherings are sites for the promulgation of a female religious culture, complete with “religious rites” and their own notions of knowledge and ignorance. In other places in the *Madkhal*, Ibn al-Ḥājj indicates that women have their

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671 Ibid., 1/2: 199.
672 Ibid., 1/2: 198.
673 Ibid., 1/2: 199-200.
own parallel religious system. He refers to *khilāf* (differences of opinion) among women about how to calculate the duration of menstruation and how to purify oneself, all of which are contrary to the laws of the *sharī'a*. He says women have elaborate rules for observing the Sabbath (on Fridays, Saturdays, and Sundays) and annual holiday rituals to bring good luck for the following year. They also have a slew of rituals surrounding childbirth. It is in the context of his description of midwifery and the culture surrounding childbirth that Ibn al-Ḥājj makes the remarkable observation that this impious female religion is the natural result of gender segregation.

Men have more direct contact with the ‘ulamā’ than women do, for women are secluded (mulītajībāt) and as a result they generally grow up in ignorance (jahl). Because of their remoteness from knowledge and from knowledgeable people, they generally take up many deplorable practices and rarely do they avoid that which the pure *sharī’a* opposes.

He spells out the problem: the ideal of *ḥijāb* isolates women from men, as it should. However men, in the form of the ‘ulamā’ and their students, are the transmitters of “pure” Islam, as are the books of the ‘ulamā’. As a result of their isolation from both the society of men and from Islamic religious knowledge, women turn to the company of other women and to the knowledge they have to offer. Thus *jahl* is the direct consequence of *ḥijāb*. Ibn al-Ḥājj’s solution for fixing this deplorable state of affairs is to discourage each woman from the company and religion of her fellow women, and to replace this with greater access to one man, i.e. her husband and to her husband’s religion.

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674 Ibid., 1/2: 154-5.
675 Ibid., 1/2: 201-2.
676 Ibid., 3/4: 220.
677 Ibid., 1/2: 155.
Ibn al-Ḥājj repeatedly describes women as engaging in innovation and syncretism, but rather than connecting it to intrinsic intellectual and moral weakness on their part, he usually attributes it to lack of male interest in sharing ‘ilm (knowledge) with women and with conversing with them generally.

It is disgusting in a would-be-‘āлим or an ‘ā ilma whose wife is asked about something religious which women need, for her not to have knowledge of it, while he is supposed to be responsible for her. This is one of the most disgusting things, and it is most contemptible when he is supposed to be an example to be followed.

It is incumbent upon him to make a great effort to teach his family [i.e. wives] . . . for women generally will learn the laws which apply to them. So if they are ignorant about something which is required of them, then that is due to the concealment of knowledge.

He writes humorously that if a man is so devoted to his own acquisition of religious knowledge that he cannot make time to communicate knowledge to his wife, then the honest thing for him to do is to not interact with his wife in any way whatsoever.

He devotes himself to learning and leaves no room for anything else – and good for him -- so he busies himself with what is in front of him and does not become sidetracked. It is said about the qāḍī ‘Abd al-Wahhāb: when he came to Cairo he got married and lived with his wife for years and then he died. Her family wanted to marry her off, and she said to them “marry me off as a virgin.” They said to her, “How? You lived for years with him.” She said, “The first night he came to me and prayed two rak‘as and then sat and looked in his books and did not raise his head. And he did that for several days. So one day I got up and got dressed and adorned myself and flirted before him. Then he raised his head, looked, smiled, and then took the pen which was in his hand and drew it across my face, and so destroyed my adornment. Then he bent his head down in his book and never again lifted it again until he went to join his Lord.” So anyone who has such sublime determination, let him proceed in his footsteps.

The ‘ulamā’ say, “One who seeks knowledge needs six things which he cannot do without, and if he lacks any one of them his knowledge is commensurately lacking. They are: eager determination, piercing intellect, patience, sustenance, a guiding shaykh, and long life.” So if he wishes to relax, how can he make the intention of doing so while exemplifying the sunna, as [the Prophet] said, “Relax your hearts from time to time?” He intended by this that one should introduce gaiety to one’s family [i.e. wives] by attending to them [fem. pl.] and talking with them.

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On the attribution of intellectual weakness to women, see Karen Bauer, “‘Traditional’ Exegesis of Q 4:34,” Comparative Islamic Studies 2 (2006), 129-142. Huda Lutfi, in a previously cited article, notes that Ibn al-Ḥājj also mentions the infamous ḥadīth stating that “women are lacking in intelligence and religion.” Ibn al-Ḥājj invokes the ḥadīth three times. In the first instance, he explains that although women are permitted to wear silk, men are not. The reason for this is that women are deficient and men are perfect, so what need have men to add to their own perfection. In the other two instances, he argues that men have allowed women to determine the laws pertaining to themselves and have accepted women’s authority with regard to law, even though women make up the laws themselves rather than rely on the norms expounded by the jurists. He reminds husbands that male religion is correct and female faux-religion is incorrect, so husbands should evangelize women. Ibn al-Ḥājj, al-Madkhal, 1/2: 107, 174, and 3/4: 312-3.

Ibid., 1/2: 356.

Ibid., 1/2: 358.
It is incumbent upon him to be with his family and his children as one of them and not above them. I mean by this that he should be friendly and agreeable with them.\footnote{Ibid., 1/2: 358-59.}

He then goes on to describe how Muḥammad socialized with and taught his wives. He emphasizes communication both in the sense of the Prophet and his family enjoying each other’s company, and in the sense that the prophet took interest and taught his wives how to go about their activities.

The communication of learning from husband to wife is not necessarily as pleasant as the above passage suggests. Elsewhere Ibn al-Ḥājj cites approvingly the example of another ‘ālim:

I heard my master Abū Muḥammad say, “When I got married I told my wife: do not move and do not speak a word in my absence, rather set it aside until I come back, for I am responsible for your behavior in its entirety. I was responsible for myself alone, but now I am responsible for myself and for you, and so I must fulfill ten prayers [i.e. the five daily prayers required of two people] and similarly for all of the obligations and so too for every virtue which I am accountable for,” etc., such that he exaggerated to her saying, “if you move the jug from one place to another, inform me of it.” He said, “[I did] that for fear that she would do something thinking that no religious law applied to it when in fact there was one that did, and she continued to inform me about everything she did.”\footnote{Ibid., 1/2: 152.}

Ibn al-Ḥājj urges husbands to be extremely controlling over their wife’s domestic activities – a wife should not even move a jar in her home without her husband’s input. But this control has a purpose beyond the mere display of power and submissiveness. Its purpose is to create a situation where a wife asks her husband for religious instruction and he supplies it to her. This situation is the pious alternative to a woman seeking guidance from her fellow women, as Ibn al-Ḥājj indicates in his discussion on washing (ghusl).

He should instruct [his wife] also about what happens if the [menstrual] blood persists and continues beyond its usual course and then stops. The laws of this are discussed in the books of jurisprudence. Also, if it persists and does not stop, then she is a mustahāda and he must instruct her regarding [i.e. warn her against] what some [women] do: when one of them stops menstruating, she goes out to the bathhouse and washes in it, not knowing the laws of washing and...
what they require of her and instead she just cleans her body and nothing more. Now if she prays in this state of washing her prayers are not correct, and it is not permitted for her husband to have intercourse with her if she does not, after menstruating, wash herself with a *ghasl al-shar‘ī* (religious washing), because there is no intention (*niyya*) present in [her actions]. So it is obligatory for him to teach her the laws of this. If she does formulate the intention, her washing is correct and so prayer, intercourse, and everything which was forbidden to her during her state of menstruation becomes lawful to her, irrespective of whether this was before the filth ceased or after, contrary to what some [women] do -- in [thinking] that the washing consists of going into the bath and cleaning oneself in it, without an intention – due to their ignorance of the laws in this regard.

He should also instruct them regarding this innovation (*bid‘a*) which some women do in declaring things unlawful, in that they believe that one of them [i.e. a woman] is not purified until she puts her hand in her vagina and cleans inside it, and that if she does not do this she is not considered to have washed . . . and the cause of this is lack of learning and lack of understanding of the *ḥadīths* of the messenger of God.683

Ibn al-Ḥājj repeatedly, throughout the *Madkhal* encourages husbands to communicate with their wives, to become more involved in women’s spheres of activity, and to offer a substitute for the advice of other women. He is so insistent that men be involved and even direct traditionally female spheres of activity that he tells husbands (and, to a lesser extent, other responsible males if no husband is present) to involve themselves in midwives’ traditional domains. He even goes so far as to instruct husbands to converse with midwives (who are presumably unrelated to them) so that midwives can receive male, Islamic instruction:

> It is incumbent upon the guardian [of the newborn], and certainly within his rights, to ask the midwife how she receives the newborn. For the midwives in our time are rarely careful about avoiding impurities, and the midwife comes in contact with the parturition blood and other impurities and then touches the newborn and his clothes – all without washing off the impurities with pure water. This is not permitted, still some of the midwives let the newborn suck on their [the midwives’] fingers which have been in contact with impurities and claim that it is healthy for this and that. But this is all utterly false and contrary to the pure *sunna* . . . But if the guardian were to ask about these things, such corrupt practices would be discontinued, then he could instruct her as to what precautions against impurities she must take for her part and for the newborn’s. If she is already knowledgeable about this, well and good. If she is not knowledgeable, then she will learn the laws of this as a result of his questioning of her about them. Even so most [midwives] have grown up practicing abominable customs which lead to the altogether forbidden practices previously mentioned.684

683 Ibid., 1/2: 155.
684 Ibid., 3/4: 221.
In spite of his claim that midwives will welcome such instruction and adopt male, “Islamic” childbirth in place of their own customs, Ibn al-Ḥājj is not impervious to other ways women may view such interference. He prefaces his demand that husbands involve themselves in events leading up to and following childbirth with the warning: “It is incumbent on the guardian of the newborn not to defer to [midwives], neither to their opinions nor to their practices, even if they become angry or disdainful, or his interference with them leads to them quitting and going away.”

Ibn al-Ḥajj comes to the conclusion that husbands need to oversee and instruct midwives because it is the logical endpoint to his claim that husbands should be the primary providers of knowledge and social context to their wives. He claims this role for husbands because the alternatives to it are for women to acquire information and culture either by violating the rules of gender segregation and interacting with non-kinsmen, which is abhorrent because of the sexual indecency of such behavior, or by turning to other women, which is abhorrent because these other women promulgate their own culture which he believes consists of a thin veneer of misunderstood Islamic practices which are undergirded by Christian/Jewish/pre-Islamic beliefs.

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685 In an article about a twentieth-century Palestinian bedouin tribe, Lila Abu-Lughod describes how the facts of male-female social segregation in that particular tribe create a situation where there is an autonomous female society, whose conversations men are not privy to, and which considers itself authoritative and responsible for bringing up young women and inculcating them with culture and knowledge. When men involve themselves, or women involve men, in the women’s sphere they are resented for doing so. In this society, husbands may have little conversation with their own wives. Abu Lughod reports, “even when they are not working, men and women rarely socialize together. Indeed, my host’s senior wife confessed to me that before I had come to live with them and to spend time chatting with my host in her room, she had never spent an entire evening in his company.” Abu-Lughod, “A Community of Secrets: The Separate World of Bedouin Women,” Signs 10 (1985), 640.

686 For a brief overview of these practices, see the above-mentioned article by Huda Lutfi. In at least one passage, Ibn al-Ḥājj may actually be conflating Muslim women with non-Muslim women. He writes, “He must not allow his wife to enter the bathhouse, since nowadays it consists of corrupt religion and deplorable practices. For our ‘ulamāʾ disagreed regarding a woman with a woman: is it categorized like the law of a man with a man? Or like the law of a man with a non-kinswoman? Or like a man with a maḥram
women’s culture is so un-Islamic, he says, is that women are kept from Islamic knowledge and ritual practice by virtue of the dictates of gender segregation (which he approves of whole-heartedly) and because of male Muslim’s neglect and lack of interest in the intellectual lives of their womenfolk, for which he castigates them repeatedly.

When others jurists apart from Ibn al-Ḥājj urge husbands to keep their wives from spending too much time with family and with female friends, while at the same time urging husbands to find ways of communicating religious law to their wives, are they motivated by the same concerns as Ibn al-Ḥājj? We cannot know for sure, since the jurists do not explain their motivations. But their formal legal recommendations are largely the same as Ibn al-Ḥājj’s: men should limit their wives’ participation in the gatherings surrounding birth, sickness, marriage, and death; and they ought to provide their wives with some sort of access to Islam as interpreted by the ‘ulamā’.

III. Conclusion

Curing illness was for the most part deemed compatible with Islamic theological orthodoxy, but the desperation brought on by illness, the lack of consensus about how to understand illness, the frequent failure of purported cures, and the “faith” and power dynamics implied in the relationship between patient and practitioner, invested sicknesses and healing with theological repercussions which skewed toward shirk in one form another. Women, who were kept

woman? But they (fem.) have dispensed with all of this and have violated general consensus by entering bathhouses stark naked. Even if we grant that a woman may [choose to] conceal what is between her navel and her knees, they (fem.) reprove her, saying things they must not, until she removes her covering. Then this is compounded with another forbidden thing, and that is a Jewish or Christian woman, who is not permitted to see the body of a free Muslim woman. But in the bathhouse, Muslim, Christian, and Jewish women get together, exposed to each other’s nakedness. So how can one allow his wife to enter it? Ibn al-Ḥājj, al-Madkhal, 1/2: 352. What is remarkable about this passage is that he claims that some ‘ulamā’ argued that two Muslim women are allowed to see no more of each other than an unrelated man and woman. I am not sure that any jurist formally argues this with respect to Muslim women. Rather, some argue this with respect to a Muslim woman being viewed by a non-Muslim woman. It is almost a consensus among the jurists that the laws regarding viewing nakedness are for “a (Muslim) woman with a (Muslim) woman” like “a man with a man.” See al-Mawsūʿa al-fiqhīyya, 40: 359-60.
physically remote from the authorized interpreters of Islam, and who were deemed by some to be mentally deficient in religious matters, are in even greater danger in this regard. The jurists’ quasi-religious interpretation of the field of medicine, when augmented with concerns about the religious ignorance and heterodoxy of Muslim women, and coupled with concerns about the physically intimate nature of medical intervention, could put Muslim women seeking medical treatment in a particularly uncomfortable position. Moreover, for young women who were mothers and aspiring mothers, it might have been even more difficult to make a distinction between medical and religious practice and authority, since their physical health was intertwined with their social roles and their ritual purity. Physical robustness, sickness, and death were likely to have been a constant concern in their religious lives – in the form of menstruation, pregnancy, miscarriage, birth, stillbirth, lactation and childhood death. All of these themes are, in my opinion, encapsulated in an anecdote told about Eve which appears in many different versions.687

The following are the versions recounted in al-Ṭabarī’s (d. 310/923) history:

(1) According to . . . Samura b. Jundab – the Prophet: None of Eve’s children survived. Therefore, she vowed that if one of her children were to survive, she would call him ‘Abd al-Ḥārith. When a child of hers survived, she called him ‘Abd al-Ḥārith. That was due to Satan’s inspiration.

(2) According to . . . ‘Ikrima – Ibn ‘Abbās: Eve would give birth to Adam’s children and make them worship God, calling them ‘Abdallāh, ‘Ubaydallāh, and the like. But then they would die. Now Iblīs came to her and to Adam and said: Were you to give them other names, they would survive. So, when she gave birth to a male child for Adam, they called him ‘Abd al-Ḥārith. In this connection, God revealed His word: “It is He Who created you from a single soul” to “the two set up for Him associates in connection with what He had given them” to the end of the verse.688

(3) According to . . . Sa’īd b. Jubayr: When Eve became heavy with her first pregnancy, Satan came to her before she gave birth, and said: Eve, what is that in your womb? She said: I do not know. He asked: Where will it come out, from your nose, your eye, or your ear? She again replied: I do not know. He said: Don’t you think, if it comes out healthy, you should obey me in whatever I command you? When she said: Yes, he said: Call him ‘Abd al-Ḥārith! Iblīs – May God curse him! – was called al-Ḥārith. She agreed. Afterwards, she said to Adam: Someone came to me in my sleep and told me such and such. Adam said: That is Satan. Beware of him, for he is our enemy who drove us out of Paradise. Then Iblīs – May God curse him! – came to her again and repeated what he had said before, and she agreed. When she gave birth to the child, God brought him out healthy. Yet, she called him ‘Abd al-Ḥārith. This is [meant by] God’s word: “They set up

688 Q. 7: 190.
for Him associates in connection with what he had given them” to “And God is above your associating [others with him].

(4) When [Sa‘īd b. Jubayr] was asked whether Adam associated [others with God], he replied: God forbid that I should assume Adam did that! However, when Eve was heavy with child, Iblīs came and said to her: Where will this one come out, from your nose, your eye, or your mouth? He thereby caused her to despair [because she did not know and was afraid of what was going to happen]. Then he said: Don’t you think that, when it comes out perfectly formed – Ibn Wakī’ said that Ibn Fuḍayl added: without harming or killing you – you should obey me? When she agreed, he said: Call him ‘Abd al-Ḥārith, and she did. Jarīr added: So Adam’s associating [others with God] was only in the name.

(5) So she – meaning Eve – gave birth to a boy. Iblīs came to her and said: Call (pl.) him my servant (‘abdī)! If you don’t, I shall kill him. Adam said to him: I obeyed you [once before], and you caused me to be driven out of Paradise. So he refused to obey him and called the child ‘Abd al-Raḥman “Servant of the Merciful One.” Satan – May God curse him! – gained power over the boy and killed him. Eve bore another child, and when she gave birth to it, Satan said: Call him my servant! If you don’t, I shall kill him. Adam said to him [again]: I obeyed you [once before], and you caused me to be driven out of Paradise. So he refused to obey him and called the boy Ṣāliḥ, and Satan killed him. The third time around, Iblīs said to Adam and Eve: If you (pl.) want to overcome me, call him ‘Abd al-Ḥārith. Iblīs’ name was al-Ḥārith. He was called Iblīs when he was bedeviled (ublisa) – became confused. This [is meant by God’s word] where He says: “They set up for him associates in connection with what He had given them” – meaning in connection with the names.689

Eve is quite literally hell-bent on producing a viable son. In versions (1), (2), and (5), her desperation stems from the fact that she has already experienced either pregnancy loss or infant death,690 despite the fact that (in versions 2 and 5) she shows her devotion to the true God by naming her children as His servants. In versions (3) and (4) her desperation stems from her fears prior to her first birth about how biology works. Any audience to the story would recognize the fear that the thing in her body might emerge from her facial orifices as extremely naïve, although some might empathize with her ignorance about the physiology of birth and her inability to know what precisely is inhabiting her body.691 To

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690 It is not clear from al-Ṭabarī’s account when the death takes place. In Ibn Ḥanbal’s account, which he traces to Samura ibn Jundab, Satan seems to kill the fetus in utero. Ahmad ibn Ḥanbal, Musnad (Cairo: n.p., 1895), 5: 11.

691 In Ibn Sa’d’s version of the story, Satan appears in disguise to Eve during one of her later pregnancies and tells her that unlike in her previous (successful pregnancies), this fetus is misformed like an animal, and she panics. He says he will heal the fetus if the child is named for him. Ibn Sa’d, Ṭabaqāt, 1:14. A medieval audience, living in a period when endogamy and malnutrition were common, may have been particularly receptive to Eve’s terror about her fetus’ birth-defects.
a medieval audience, her fear that either her child or she herself might not survive the ordeal is perfectly sensible. In these respects, Eve’s concern to ensure her own in health, the health of her child, and her success in giving “birth to a male child for Adam,” is reflective of the concerns of medieval wives generally.

In versions (2) and (5), Adam and Eve find that their choice to call their child “the Servant of God,” i.e. to show their dedication to true religion, does not result in health – their children die. In response, either Eve or both parents call their child “the Servant of the Devil.” This proves to be an effective course of action, for their children are healthy. The texts are of two opinions as to why this happened. In versions (1) and (2), the children dedicated to God die for no apparent reason. No foul play is mentioned but God simply does not choose to keep them alive. So Eve “shops around” for another source of health and settles on invoking Satan. In version (3), the child dedicated to Satan survives due to God’s efforts, not Satan’s, although Eve gives credit to Satan. In version (4) too, Eve gives credit to Satan, but it is unclear whether this is deserved or not. In version (5), the children dedicated to God are killed by Satan, while the one dedicated to Satan lives on. The children’s ill-health is thus not a result of nature or Divine negligence, as Satan himself provides the disease. Adam and Eve are perfectly aware that Satan is the cause of their troubles, yet they choose to throw in their lot with him because he is ultimately more effective than God is when it comes to securing their child’s health. Remarkably, in all versions of the anecdote the decision to dedicate the child to Satan is depicted as a
perfectly logical and effective course of action, if birthing successfully is the ultimate goal.\textsuperscript{692}

In this anecdote Satan is a figure who has the power to protect, who can understand things which Eve is at a loss to explain, who poses a threat which necessitates propitiation, and who offers a plausible alternative after a first attempt proves to be ineffective. In these respects, Satan is similar to both the “high” physicians and the “low” medical practitioners, and to their respective medical systems, as depicted by the jurists who consider them a threat. The jurists warn that these medical practitioners and systems may indeed be effective and they may indeed offer knowledge which Islam seemingly lacks. The jurists also warn that sometimes malicious physicians in fact cause the illnesses which they purport to cure. The jurists indicate that Muslims turn to un-Islamic medicine because when people are sick they will turn to anyone and everyone. Even the Prophet, when he was sick, turned to both Muslims and non-Muslims for help.

In the story of Eve and her quest for healthy children, turning to Satan to keep her child healthy is one and the same thing as dedicating her child to Satan. There is no ultimate difference between the realm of \textit{abdān} (bodies) and the realm of \textit{dīn} (religion), except that God is seemingly less effective in the former than in the latter. It is not entirely clear whether Eve is aware that the individual she ultimately entrusts her health to is Satan. In version (5), she definitely is aware, but in versions (1), (2) and (4), Eve is “inspired” or instructed by someone whom she may or may not recognize to change her child’s name to ‘Abd al-Ḥārith, but it is not at all clear that Eve is aware that al-Ḥārith is

\textsuperscript{692} The one exception is Ibn Sa’d’s version in which ‘Abd al-Ḥārith dies.
Satan’s name. In version (3), Eve seems to be unaware until Adam explains that al-Ḥārith refers to Satan. However, even with this information in hand she dedicates her son to al-Ḥārith thinking that it was he who caused her to give birth to a healthy child. In this respect too, Eve’s relationship with Satan reflects the jurists’ concerns about patient-provider relations. Patients may not realize that what they are doing constitutes *shirk*, and even once they do realize it they may no longer be concerned. In Eve’s case, in version (3), she is rendered especially vulnerable because she, unlike her husband Adam, does not have direct knowledge about Satan’s identity and about who does and does not constitute “the enemy.” This too reflects the view held by jurists such as Ibn al-Ḥājj that a woman, unlike her husband, does not have direct knowledge about what constitutes correct religious practice and hence has trouble identifying its opposite.

Denise Spellberg understands the above story as promoting “the demonization of motherhood.” This is a plausible interpretation but, if so, the story does so in a very strange manner. Whereas Eve’s other sin, the eating of the fruit of the forbidden tree and the “cutting” of the tree, is characterized as resulting from stupidity, appetite, or the desire to violate the divine order by acquiring immortality, this sin is characterized as the result of Eve’s desire to achieve what is not only possible but also desirable for her as a wife – she would like to produce children for her husband. The story thus does not demonize motherhood, I think, so much as it depicts the ferociousness of mothers’ dedication to their own fertility. They will turn to God to produce children but, if that fails, they will turn elsewhere too.

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693 In Ibn Sa’d’s version, it is explicitly stated that Satan cleverly refers to himself as al-Ḥārith so that Eve will not recognize him.
Conclusion

INFERTILITY AND THE STUDY OF WOMEN’S HISTORY

To study barrenness is to study “women’s history” in one of its most concentrated forms. By this, I mean that infertile women encountered the same expectations, were subject to the same restrictions, looked to the same forms of support, and engaged in the same religious practices as did fertile women, but the repercussions of the circumstances that surrounded womanhood were potentially starker for them. As a result, in studying the factors which particularly inform the lives of barren women, we also illuminate important swaths of women’s experiences more generally. This dissertation has examined three bodies of evidence which bear on the experience of female infertility: Islamic legal discussions which pertain to women’s reproductive capacities, Greco-Arabic medicine and its gynecological teachings, and moralistic attitudes towards the practitioners and rituals of healing.

These three foci reflect the aspects of women’s infertility which had the most to do with men and, more specifically, the aspects of women’s infertility which were subject to the most influence exerted by exclusively male institutions. The choice to attempt to understand women’s experiences through such masculine lenses might have initially struck readers of this study as odd, even frustrating. It is my hope that the fruits of this endeavor will have proven its usefulness, and will be of interest both to scholars who make use of other approaches to study women’s experiences, and to those in other fields
who similarly find themselves in need of using roundabout sources of information to learn about the lives of those whose voices cannot be heard directly.

Among my primary reasons for studying infertility through these particular approaches is that I believe that, in so doing, I can best answer modern questions about medieval mindsets without risking manipulating medieval sources. I have attempted to produce an analytical study which speaks to “modern” concerns regarding patriarchy, the construction of gender, ritual, and female empowerment. To a large extent, these categories of analysis would be foreign, if not incomprehensible, to the authors of the medieval texts upon which this study relies. These categories would also likely be foreign to medieval women themselves. My concern, therefore, has been to shed light on these

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694 This is not to argue that medieval women would have been shocked to learn that men had privileges that were enviable and largely denied to women. Rather, I think most medieval women would have been resistant to the view that such gender roles are a result of subjective social constructions rather than a necessity based on visibly objective truths. (This is perhaps comparable to contemporary Western attitudes towards transgenderism and gender fluidity. There has been a growing embrace of the notion that a person can belong to a gender that does not correlate with their sexual organs, while others are resistant to the idea that gender can be differentiated from visibly objective sex phenotype.)

One of the most striking medieval depictions of what men imagined women found wanting in their society can be found in a ḥadīth in Ibn Ḥabīb’s Kitāb adab al-nisā, 264-5 which includes this remarkable dialogue between the Prophet Muḥammad and Asmā’ bint Yazīd:

“The messenger of God was sitting with a crowd of his companions when he encountered a woman of the Anṣār named Asmā’. She greeted him and then said, ‘O messenger of God, I am the messenger of those who are behind me – the whole of Muslim women, all of whom speak with my voice and are of my opinion! God sent you to all people, to men and to women, and we trusted you and followed you and we believed what was revealed to you. Then God favored you – the community of men – over women, with manifold advantages, and bestowed upon you Friday communal prayer and the acts of congregating, visiting the sick, following funeral processions, the hajj, and ‘umra after the hajj. And He singled you out for greater favors than this – with frontier mobilization (ribaṭ) and jiḥād in the path of God. But what about us – the community of women? We are confined and curtained off, the fosters of your offspring, the climax of your desire, and the foundations of your homes. We raise your children for you. We weave your clothing for you, and we let no one else but you into your beds. So what reward do we get, O messenger of God?’

The Prophet turned to his companions and said, ‘Have you ever heard anything like this woman’s speech.’ They said, ‘No! By the One who sent you with prophecy, O messenger of God. We have not seen among women one with so far-reaching a mind and such a deep question as this.’

Then he faced her and said to her, ‘O woman, go and be instructed and instruct the women of your quarter, and all those women, Anṣār and Muhājirīn, that you encounter, and all Muslim women: if one of you is a good spouse to her husband, and he is pleased with you for one hour of the day, it is equal to
modern concerns in a way which respects and preserves the modes of thought, the genre expectations, and the authorial intent behind these medieval texts. Of the texts we have, the writings of the jurists and the physicians are best-suited to this task because the modes of thought of the works that they produced are (for the moment at least) better understood by historians than are other written sources, because they exist in great abundance and have attracted a great deal of scholarly attention. My hope is that, as a result of my adopting such an approach, medieval audiences would recognize the individual topics of discussion in this dissertation as familiar ones, though they might be surprised by the juxtaposition of those individual topics or the weight attributed to them. The drawback to this approach is that sometimes these source texts simply cannot be made to speak to certain issues which a modern scholar would dearly like to address.

I. Using Infertility to Learn About Women’s Roles Within Families

As we have seen, particularly in the first chapter of this dissertation, the forces in family law which had disparate impacts upon infertile women also impacted women more generally. For example, we have seen that first marriages for medieval women likely frequently took place when those women were likely to be developmentally sub-fecund. This has consequences for understanding infertility, but it also has consequences for understanding women’s history more broadly. With regard to infertility, the implications of early marriages are, first, that women may well have come to be viewed as infertile much earlier in their lifetimes than one might assume, and consequently would have experienced the pressure to find a cure early on. Such cures could themselves

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*jihād* and *ribāt* and *hajj* and ‘*umra* and following a funeral and visiting the sick, and communal prayer – that is the meritorious deed of a woman.”
have exacerbated fertility problems or created ones where none existed. A second implication of early marriage is that, in the worst circumstances, coitus could have itself resulted in damage to a girl’s reproductive organs. Such situations are mentioned in Islamic legal manuals and some fatwā collections, though I surmise that they were rare. However, even when early marriage did not have these severe medical consequences, the phenomenon may inform our understanding of certain marriage dynamics. If many women did not complete the puberty process until they were in their early 20s, then wives in their mid-teens likely appeared to be physically more child-like than they do today, and thus more likely to be viewed as in need of protection, tutelage, and supervision. It is perhaps then no wonder that, for first marriages, brides were given little autonomy, and their preferences commanded relatively little respect; but, when they became matrons, mothers-in-law, widows, or divorcées, they seem to have acquired much more control.

With regard to Islamic law, infertility highlights medieval ambivalence toward the institutions of divorce and polygamy. In some instances, divorce seems to have been viewed as running counter to the wife’s interests, and this made the option of accepting polygamy as a means of avoiding divorce sometimes palatable. It seems that sometimes infertile women who were subject to the threat of divorce would also attempt to shield themselves from its effects by insisting that they were in fact pregnant, or had not menstruated, and thus they could continue to be attached to their former husband for an extended period beyond the divorce. On the other hand, we also hear of women

attempting to hasten divorce proceedings so that they can find new husbands, and
sometimes having trouble doing so because they are not menstruating regularly.

This dissertation has shown that references to menstrual irregularity and unusual
claims of pregnancy have broad significance for social historians, because they call
attention to the areas in which women had some degree of privacy and ability to choose
how to present their bodies. We have seen that, even in regards to biological matters
which were legally significant for marriage and divorce, women in a range of societies
seem to have been in a position to conceal, reveal, or define their own status before
society at large and before their husbands. We have encountered newlywed husbands
who seem to be surprised to find that their wives are younger than expected or are not
menstruating regularly. We have seen husbands and wives resorting to the competing
testimonies of midwives to establish the wife’s level of maturation or pregnancy status.
We have seen wives and midwives expediently changing their testimony about pregnancy
status. Women themselves would testify regarding whether or not they have menstruated
or felt signs of pregnancy. They even testify whether the father of their fetus is a long
dead-husband rather than a living one. This has implications for our understanding of the
intrusion of society at large into the lives of individuals in regards to matters that were
considered to be of public religious and legal concern, such as the preservation of clear-
cut lines of paternity. The dependence upon women’s testimony suggests that despite the
scrutiny and restrictions attached to women’s reproductive roles, women did have
opportunities for privacy. This means that women could sometimes not only fashion their
own responses to external pressures on them, but could exert a practical pressure of their
own. We see this, for example, with the woman who claimed to be carrying her long dead
husband’s child, even when she remarried. Her testimony is such that her deceased husband’s relatives consider her child to be one of their own kin. Thus women were sometimes invested with a certain trust and a capacity for defining their own public status.

The study of childlessness also highlights conflicting attitudes towards women’s inheritance rights and, more fundamentally, toward their familial affiliation. A married woman was part of two families, the one she was born into and the one she married into, and she transferred wealth between them. She received wealth from her birth family via her dowry and through her inheritance. If she had children at the time of her death and she predeceased her other heirs, her father and her mother would inherit one sixth each, and the rest would be inherited by her husband and children. Thus, two thirds would be lost to the birth family. If she had no children, her birth family would lose half, and that would include half of her trousseaux, items which had sentimental as well as monetary value, and which would pass into the hands of the husband and his family. If, on the other hand, a woman was predeceased by her husband, then she would inherit from him an eighth of his wealth if he had a child, and a quarter of his wealth if they were childless, thereby depriving the other heirs from his family of it. In theory, such laws meant that married women always represented the removal of a significant amount of wealth from one of their two families, but childless married women represented an often greater loss

697 al-Wansharīsī, al-Mi’yār al-Mu’rib, 4: 54-5.
698 By contrast, her husband belonged to the family in which he was born, and their son would be part of his father’s family too. This form of association is visible in a variety of settings, but it is most easily seen in the Islamic inheritance laws pertaining to grandchildren. The son of a son belonged to his father’s and paternal grandfather’s lineage, and he could potentially inherit from his paternal grandfather and paternal uncles. But the son of a daughter did not belong to his maternal grandfather’s lineage, and could not inherit from any of his maternal relatives other than from his mother herself.
with fewer tangible benefits. We see that when married childless women predeceased their husbands, the women’s birth families pursued aggressive legal measures to prevent such losses. Meanwhile, childless widows were at risk of being disinherited in favor of their husbands’ blood relatives.\textsuperscript{699}

II. Medieval Gynecology and its significance

Studying the medical approach to infertility not only tells us about some of the explanations for her situation that a childless woman might have encountered, but also contributes to our understanding of the broader role of science in society. My findings have not been conclusive, but they have been suggestive. The evidence suggests that in the medieval Middle Eastern context, there is less of a correlation between scientific theory, medical treatment, and social attitudes than one might intuit. We can see this when it comes to questions of medical practice. For example, the garlic test for fertility was premised on a long-held physiological theory that there was a passage extending from a woman’s vagina up through her mouth and nose, but it was invested with radically different interpretations of its diagnostic value. The opposite phenomenon can be seen in the history of “hysterical suffocation,” in which the diagnosis remained constant but the physiological theory underpinning it changed over time. We can see a similar phenomenon with regard to menstruation; although there was a great deal of variation in the biological understanding of how conception occurs and what mothers contribute to the fetus, the assessment and manipulation of menstrual blood consistently remained a mainstay of fertility treatment. Why is this the case? I think that the mostly likely factor

\textsuperscript{699} E.g. The story of Khātūn and Dalīla in \textit{Alif Layla or Book of the Thousand Nights and One Night}, W. H. Macnaghten (Calcutta, 1839), 3: 418.
which accounts for these discrepancies is that these medical books reflect not only “book-learned” theory but also some degree of actual medical practice, and medical practice itself contains ritual which cannot easily be entirely disrupted. In this respect, one could argue that 10th-century gynecology is similar to mid-19th-century Western medicine, in which many doctors were still bleeding patients two centuries after William Harvey proved that blood circulated and long after humoral theory had been undermined and relatively few ailments could be attributed to a superfluity of the blood.

There is a complicated relationship between scientific understandings of anatomy and conception on the one hand, and societal beliefs and practices on the other. Some of the theories put forth in medical books matched religious beliefs and correlated with legal and practical norms. For example, as Basim Musallam has already shown, the two-seed understanding of conception was a scientific theory particularly favored by Ibn Sīnā and his physician-jurist successors such as Ibn Qayyim al-Jawzīya, that both matched up with a particular hadīth ascribed to the Prophet Muḥammad, and correlated with a legal and practical willingness to make use of contraception.700 Similarly, the notion that menstrual blood both nourished the fetus and was converted into breastmilk accorded well with Islamic notions of kinship via breast-milk. This concept was retained even as a competing notion that milk was a product of semen was also widely believed.701

Other theories found in medical books do not seem to reflect or influence attitudes beyond the medical context. Medical theorization about gender differences does not

700 A. Giladi, Infants, Parents and Wet Nurses: Medieval Islamic Views on Breastfeeding and Their Social Implications, 60.
701 Ibid. 21, 26, 80.
necessarily mirror social attitudes towards gender relations. Sherry Sayed Gadelrab, for example, published a substantial article on medical depictions of the anatomical differences between the genders. Gadelrab’s article takes up the question of whether the physicians of the medieval Islamic world viewed women’s anatomies and hence qualities as essentially defective versions of men’s bodies and qualities, or whether (to borrow a slightly more modern turn of phrase, which is not Gadelrab’s) “men are from Mars and women are from Venus,” i.e. two opposite species. She answers the question based on an analysis of the writings of Ibn Sīnā, Ibn Rushd, Ibn al-Nafīs, and Ibn Qayyim al-Jawzīya. When analyzing Ibn Sīnā’s work, she notes that in his Qānūn, a work focused on medical treatment, he depicts male and female genitalia as near equivalents, which were to be treated based on shared premises about bodily health, from the point of view of the physician. However, in his book on nature, the Kitāb al-ḥayawān, Ibn Sīnā depicts masculine and feminine nature as “more divergent behaviorally in human beings than in any other animal as has been noticed by the natural philosophers.” Thus, Ibn Sīnā could hold the view that men and women were completely different and unequal (with women comparing unfavorably to men) in their natures by virtue of bodies and the conditions of their gestation, and simultaneously could argue that, anatomically, men’s and women’s reproductive organs were largely equivalents. In other words, even among people who held “chauvinistic” views of women, that chauvinism did not extend into every scientific area involving gender, and even among people who held egalitarian

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views regarding men and women’s reproductive organs, that did not translate into a social egalitarianism.

**III. The Quest for Conception: Women’s Access to Medical Practitioners**

This dissertation has considered from whom it was appropriate and inappropriate for women to seek treatment. Medical works and *hisba* manuals suggest that trained male practitioners did treat women in a variety of medical situations, including intimate ones which involved direct observation of the patient, taking her pulse, bleeding and cupping her (including in the area near the groin), and discussing contraceptives and abortifacients. There is little reason to doubt that such interactions were commonplace in many parts of the Middle East. There is more ambiguity surrounding medical situations which involved viewing and touching women’s genitals and performing surgery on them. Such interactions are described in medical manuals, sometimes with a midwife taking on an explicitly-defined role as intermediary and sometimes not. Usually these intimate interactions between male physician and female patient are described in emergency situations involving obstructed labor, but not always. It seems that many of the heroic interventions described in medical books were theoretical possibilities only, rather than practical ones. This is certainly the case with regard to cesarean sections, and probably with regard to perinatal dismemberment, but in other cases the practicability of suggested treatments is less clear cut. It is however fairly clear that it was thought appropriate for
male practitioners to engage in cliterectomies,\footnote{Al-Zahrāwī, \textit{Albucasis on Surgery and Instruments}, 457 and Ibn Ukhuwwa, \textit{The Ma'ālim al-qurba fī aḥkām al-ḥisba}, 56.} even though in modern contexts the practice is largely associated with female practitioners.\footnote{J. Berkey, “Circumcision Circumscribed: Female Excision and Cultural Accommodation in the Medieval Near East,” 20.}

Legal and moralistic writings authored by jurists provide a different perspective, one which both complements and contradicts the view we get from medical writings. We can see this in Ibn al-Ḥājj’s plea to Muslims to avoid (male) non-Muslim physicians:

The sixth reason [why it is unacceptable for a non-Muslim doctor to treat a Muslim even if a Muslim doctor serves as a second physician] is that it is detestable and abominable if the patient is a Muslim woman, because the infidel is the enemy of God, and he would enjoy viewing her and palpating her. It has already been said that a Muslim woman is not permitted to reveal any part of her body to a Christian woman or Jewish woman. If this is true regarding a woman, how much more so regarding a man? For a Muslim woman would need to reveal some of her body so that [the physician] could see the part that hurts, and this would be welcomed by an enemy of God and an enemy of his Prophet, . . . Even if nothing happens except that the infidel describes to someone a Muslim’s wife or daughter or [demonstrates] some other kind of their many reprehensible tendencies, it would be too much for Islamic jealousy (ghayra), even if it was not forbidden in the noble Law, God forbid. If someone were to say: “But the ‘ulamā’ have permitted uncovering nakedness before a physician whether the patient is a man or a woman!” the response is that this is the case when there is a necessity, and there is no necessity that calls for inviting an infidel when there exists a Muslim physician.\footnote{Ibn al-Ḥājj, \textit{al-Madkhal}, 3/4: 318.} In this passage, it is clear that in 8\textsuperscript{th}/14\textsuperscript{th} century Cairo there is an expectation that the male physician, regardless of religious affiliation, would view and touch his female patient, or at least the specific part which is in need of medical attention. It is also clear that there are those in Ibn al-Ḥājj’s audience who commonly assert that jurists have no objection to uncovering nakedness (though Ibn al-Ḥājj does not mentioned whether this includes genitals) before a medical practitioner regardless of gender or religion. Against this backdrop, Ibn al-Ḥājj argues that Muslim women should not even be revealing themselves to non-Muslim 	extit{women}, let alone to non-Muslim men. Against those who raise the argument that the impropriety associated with nakedness does not pertain to
medical situations, he argues that the impropriety is still there if a woman is exposed to a non-Muslim, male or female, when she has the opportunity to be seen by a Muslim practitioner. As we have seen, Ibn al-Ḫājj’s legal positions on this matter are not unique to him. There was a long tradition, stemming from certain ḥadīths attributed to the time of ‘Umar’s conquest of Jerusalem, of forbidding Muslim women from exposing themselves to non-Muslim women. When it came to the practical ranking of preferred medical practitioners, there is a debate among the jurists as to the relative distastefulness of exposing Muslim women to female non-Muslim, versus male Muslim medical practitioners.

The objection to non-Muslim practitioners was not based exclusively on concerns of sexual impropriety. (The concerns extended to male non-Muslim practitioners and their male patients, and even to nominally Muslim practitioners who were overly worshipful of the Greek medical tradition and dismissive of the Prophetic pronouncements on medicine.) Rather, in addition to the issue of sexual exposure, the objections were also based on concerns about the intellectual and spiritual influence healers have over their patients. This is not to suggest that there is a concerted trend in fiqh itself to legislate restrictions on seeking treatment from those practicing Greco-Arabic medicine. There is no such legal tradition. But there is a history of such sentiments being expressed in the adab literature produced by jurists, who seem to be casting themselves in the role of embattled scolds.

This dissertation has made the argument that the objections to subjecting oneself to the intellectual and spiritual influence of those who were proffering a system of belief and a system of authoritativeness outside of the orthodox Islamic one, had particular
implications for women. These implications are most clearly articulated by Ibn al-Ḥājj, but Ibn al-Ḥājj is certainly operating within a long-standing tradition which finds expression in both legal and *adab* literature. Ibn al-Ḥājj argues not only that non-Muslim women pose an intellectual threat to Muslim women and lead them astray (and through them also their husbands and families) by encouraging the adoption of syncretistic practices, but also that Muslim women can pose this threat as well. This is not entirely the fault of Muslim women or a result of their inborn spiritual deficiencies. Rather, Ibn al-Ḥājj argues, because Muslim women are secluded from most Muslim men, they do not have sufficient access to the teachers of orthodox Islam (what he refers to as “the pure Law”) who are themselves men. The result, he claims, is that there is a religious vacuum among women, a vacuum which they fill by meeting with each other, exchanging beliefs and rituals with each other, and setting up each other as authorities in religious matters. They thereby establish their own parallel religious system. The sites and occasions at which this “women’s religion” is promulgated are in the bathhouses, at weddings, at sickbeds, at graves, and in houses of mourning. These are occasions which are invested with rituals pertaining to the life-cycle, particularly with fertility, health, and death; and it is precisely these sites which repeatedly come under fire from the jurists.

**IV. Some Suggestions for Successors to this Study**

One of the great sources of excitement and trepidation when it comes to the study of women in medieval Islamic societies is the abundance of desiderata in this field. Part of that trepidation stems from the sense that the historian is “flying blind” without the benefit of a structure to build upon or to seek to undermine. But of even greater concern is the fear that it is difficult to know what investigative projects are feasible, let alone
worthwhile. In the course of this study I believe I have identified several such projects, some of which I intend to pursue myself and others which I hope to eventually read but not to write.

Among the projects which I hope to pursue myself is an investigation into the connections between the treatments detailed in medical manuals, and the healing practices found in books of magic and in folk practices. Having established how the etiology of infertility was understood in Greco-Arabic medicine, it now makes sense to evaluate the extent to which that understanding of physiology is present or absent in “folk medicine” and in fertility rituals associated with pilgrimages and holiday observances. For example, an anthropologist in Lebanon has described fertility rituals at several shrines which include an attempt to make a pebble or coin stick to the side of a niche at a pilgrimage site, and the belief that if it fails to adhere it foretells infertility. Perhaps this is comparable to the medical notion that infertility is caused by an inability of the sperm or embryo to adhere to the wall of the uterus. 708 I would also like to investigate the extent to which there is an overlap between the drugs, objects and rituals found in medieval medical books, and the substances and rituals associated with medieval and modern mawlid celebrations, pilgrimages, and holiday observances. The purpose of such an investigation would be to establish the extent to which folk medicine, magic, and “high” medicine constituted separate entities or influenced one another. This in turn would help us better understand the ways in which women participated in literate culture.

The final chapter of this dissertation has focused attention on Islamic discourse about “gyno-sociability,” that is, women associating with each other. While others have made much of Islamic attitudes towards women’s access to male spaces and mixed-gendered spaces, there is a great deal of as yet not fully exploited material about attitudes towards women’s access to women’s spaces. What makes this material particularly interesting is that male authors, when discussing limits on gyno-sociability, often take the opportunity of pronouncing their own sympathy with women, even urging men to imagine things from the perspective of women who are discontented. I have already addressed some instances of this elsewhere in my work, but there is certainly more fruitful research to be done. In addition to Ibn al-Ḥājj’s Madkhal, I have found primary sources rich in philosophical reflections on such matters in hadīth collections, particularly in chapters about women’s mosque attendance, in histories such as al-Maqrīzī’s Khiṭat, and in legal writings about women’s domiciles and the prevention of domestic violence.

This study has also drawn attention to conflicting depictions of women’s lives and womanhood. There is a dissonance within scientific books, and a dissonance between the medical literature and other forms of literature about women. Not all medical literature reinforces the same notions of what reproductive role women play, and not all literature reinforces the social order when it comes to women. People seem to have subscribed to multiple truths about women. I think it would be worthwhile for a scholar to delve into the works of an author who writes in multiple genres and to explore how his depictions of women vary by genre. I am quite certain that this would be particularly fruitful when it comes to the works of Ibn Qayyim al-Jawzīya, and possibly those of Muḥammad ibn Zakarīyā al-Rāzī and al-Suyūṭī as well. Such a study would help contribute to our ability
to make sense of what appear to be drastically different depictions of how women participated in medieval urban life.

Lastly, I have shown that the minimum age of marriage was not as closely tied to the onset of menarche as is sometimes assumed. There has been some conflation of references to puberty, age as measured in years, and menarche, and those three elements now need to be disentangled and reevaluated. I am not certain as to the ramifications and outcome of this exercise, but at the very least it would promote greater accuracy.

V. Infertility and Choice

The legal, biological, scientific, and religious concepts described in this dissertation constitute gravitational poles which exerted sometimes overt and sometimes subtle pressure on the environments in which infertile women found themselves. These forces did not all exert pressure in the same direction. For example, the legal tendency to define the requisites of marriage as based on sexual rights and responsibilities ran afoul of those social pressures which accorded a greater role to the reproductive element of marriage. The desirability of marrying fertile women competed with the desirability of marrying virgins, some of whom were too young to be able to show signs of fertility. In the wake of widowhood or divorce, the pressures to ensure lineage by monitoring women’s menstrual cycles were hampered by the biological fact that menstrual cycles are inexact proxies for reproductive status. Moreover, the tendency to seclude women from men, and women from society at large during the ‘idda period, made monitoring menstrual cycles difficult or unfeasible. The pressure exerted by Islamic law to include

women as heirs to family property competed with the roles women necessarily played as liaisons to other families. The tendency to concentrate both scientific knowledge and religious authority in the hands of men, and to thereby make women dependent on men for medical and religious guidance, ran up against modesty restrictions, restrictions which pulled women towards turning to other women for medical and religious guidance, much to the chagrin of male authorities.

All this suggests that there was a range of ways in which a barren woman could experience infertility, and there was a range of ways in which people could choose to treat barren women, in both the medical and social senses of “treat.” It also suggests that many of those choices would have been fraught and unstable. For example, a couple or a husband could choose to remain childless and monogamous, but in such a situation the inheritance system would create conflicts between the members of the couple and their in-laws, and possibly with their own birth families. Or, a woman could choose to seek treatment for her barrenness at the hands of either Galenic medical practitioners or practitioners of folk medicine, or of magic, or through the intercessions of holy persons – but none of those options would necessarily come without condemnation on the grounds of either sexual impropriety or heterodoxy.

This range of choices, and the instability of those choices, takes on greater dramatic significance when we consider that infertility was often a life sentence and therefore those choices once made could be revisited again and again over the course of many years. Even the diagnosis of infertility was not acknowledged as being set in stone until a woman definitively reached the minimum age of menopause. It might even take years to resolve the question as to whether a woman was currently pregnant with the
offspring of her former husband. Thus, the experience of infertility was a dynamic one, subject both to forces beyond anyone’s control and subject to the individual choices and maneuverings of women, their husbands, their midwives, and their extended families.
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