WOMEN, GENDER AND LAW:
MARITAL DISPUTES
ACCORDING TO DOCUMENTS FROM THE CAIRO GENIZA

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Abstract

This dissertation examines how Jews in medieval Egypt negotiated marital disputes while maneuvering between individual desires, legal prescriptions and societal expectations. The main sources for this investigation are the documents of the Cairo Geniza, a rich cache of manuscripts discovered in the Ben Ezra synagogue in Old Cairo. The study of medieval Jewish communities is often dominated by a top-down approach that focuses on the elites and adopts the perspective of the communal leadership as it examines the ‘Jewish community’ as the fundamental manifestation of Jewish life. The present study complements this perspective by offering a ‘view from below’ of married life and communal institutions. Recovering the life-stories of non-elite individuals as they experience communal institutions and creatively negotiate the legal arena reveals a substantially different image of Jewish communal life. For example, I show how women experienced the legal arena differently than their husbands as communal officials tended to pressure women to compromise their monetary rights. This, in turn, led women to adopt certain characteristic practices and behaviors in their interactions with communal leaders so as to withstand these pressures. In this way, rather than seeing communal legal institutions as merely imposing religious law on deviant practice, I shift the focus to the litigants’ point of view as “consumers” of legal resources whose navigation of the pluralistic legal arena depended on status and personal networks as much as on legal considerations. Gender and status are revealed to be crucial categories in our understanding of Geniza society and medieval patriarchy. The result of this analysis is a better understanding of the instability and flexibility of married life and of their implications for the pursuing of legal disputes in medieval Egypt. The study is accompanied by an edition of nineteen previously unpublished Geniza documents that demonstrate the various aspects of married life examined in the study.
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faulty transliterations (only occasionally were the features of Middle Arabic to blame!) as well as my deficiencies in English. I hope that I will be somewhat able to repay the debt incurred to him by integrating the findings of this study back into the broader context of medieval Egyptian society.

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A special *shukr* for an extraordinary *niʿma* (beyond those already mentioned above) is due to Marina Rustow for setting up a dissertation chapters reading group (held via Skype) between Eve Krakowski, Craig Perry and myself. Marina presided over the first few sessions and set the tone and the format for all that followed. These sessions were one of the truly wonderful experiences involved in the writing of this dissertation. What joy it has been to discuss each other’s work critically but in a supportive and friendly environment! I am deeply grateful for Eve Krakowski and Craig Perry for their numerous comments, criticisms and suggestions all made in the spirit of friendship and the pursuit of knowledge. I could not have asked for more perceptive, critical and helpful colleagues. Lately we have been joined by Moshe Yagur and Brendan Young and I am full of hope that these fruitful sessions will continue in the future.

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Naama Paz has taken the risk of living alongside a person obsessed with marital strife and medieval life. She has suffered courageously throughout the last stressful months and was wise enough not to take too seriously anything academic. Recently she has been short-sighted enough to agree to married life with me. I find this incongruous, but it has made me very happy.

Finally, I would like to dedicate this study to the loving memory of my father, Baruch Zinger, murdered by hate and ignorance on 2/12/2001. With my mother, he gave me the most wonderful experience of family life one could ever hope for.
Citations, Transliterations, Transcriptions and Other Matters

This study utilizes hundreds of Geniza documents, most of them unpublished. Whenever a Geniza document is mentioned its shelfmark is cited in abbreviated form. These abbreviations are explained in the “Geniza Documents Consulted” section. Editions and important discussions of the document are noted with the abbreviated citation to facilitate consultation.

In transliterating Arabic I follow the guidelines of the International Journal of Middle Eastern Studies. In transliterating Hebrew I follow the guidelines of the Jewish Quarterly Review (see jqr.pennpress.org), with the following exceptions: ү=т, ژ=ق, ـ=q and final ַ without mappiq is omitted. For Judeo-Arabic, however, there is no satisfactory transliteration system. If it is transliterated like classical Arabic, its deviations from the latter are lost; however, even if we were to try to transliterate it faithful to its deviations, we often do not know how a word was pronounced. Furthermore, transliterating it with all its deviations risks evoking the puzzlement of Arabists. One solution is to circumvent the problem by simply using the Hebrew script; however, this would pose difficulties for those who can easily understand the language but not the script. To take two rather simple examples, Geniza documentary texts spell the Arabic word raʾīs in various ways (רייס, ריס, ראיס). Any attempt to maintain the distinction between these forms would be futile and confusing, and I followed Goitein, Blau and Friedman in using rayyis. Transliterating whole sentences poses even greater

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1 Even when editing a philosophical Judeo Arabic text, Goldziher speaks of the conflict of conscience (Gewissenskampf) involved in editing such texts; see I. Goldziher, ed. Kitāb maʾānī al-nafs: Buch vom Wesen der Seele (Berlin: 1907), 9.
2 For a short discussion, see Mordechai Akiva Friedman, “Maimonides ‘Rayyis al-Yahūd’ (Head of the Jews) in Egypt” (Hebrew) in By the Well: Studies in Jewish Philosophy and Halakhic Thought, Presented to Gerald J. Blidstein, eds. Uri Ehrlich, Howard Kreisel and Daniel Lasker (Be’er Sheva, 2008), 413, n. 1.
difficulty. In TS 10 J 10 13 we find the following: וַאֲנָהּ נָטַעְתָּ מְשַׁתַּמֵּן פֶּרְאָלְכָּבְס וַקּוֹרָה. A classicized transliteration would read wa-kānū jamāʿa mujtamiʿīn īn fī al-kanīs wa-qāri īn al-kitāb. A transcription that adheres more closely to the way the text is written would yield something like wa-kānū jamāʿa mushtamiʿīn īn fī al-kanīs wa-qarīn (but maybe also wa-qariyin or wa-qari īn) al-kitāb.³ I have tried to tread a middle path by generally classicizing the text while noting important deviations from Classical Arabic.

In transcriptions and translations of Geniza texts, I have followed these conventions:

[Square brackets] – a lacuna in the manuscript.

//slashes// – text added by the scribe above the line (/a slash/ – a single letter added).

Strikethrough – a word erased by the scribe.

Doţted underline – an uncertain reading or an incomplete letter.

(Parentheses) – words I added for clarity or to complete abbreviations.

Hebrew names and common place names are given in their English form (‘Solomon’ rather than ‘Shelomo,’ ‘Jerusalem’ rather than ‘Yerushalayim’). Arabic names are given in full transliteration, though I have tended to standardize them, i.e., both ‘אסחאק and ‘אסחק are rendered as ‘Iṣḥāq.’ The abbreviation ‘b.’ is used for Arabic ibn and bin, Hebrew ben and Aramaic bar; ‘bt.’ is used for Arabic bint and ibnat, Hebrew bat and Aramaic berat.

The authors of Geniza letters often refer to themselves in the first person plural, while addressing the recipient in the third person. To avoid confusion, I translated such cases into the conventional “I” and “you.”

³ On jt > sht, see Joshua Blau, A Grammar of Medieval Judeo-Arabic (Heb.) (Jerusalem: 1989²), 37. On the shortening of long vowels, see ibid, 19-20. On √قرأ > √قري, see ibid, 27-28 and 84.
A variety of dating systems was used in the Geniza period. I always give the year in the Common Era (CE), often noting also the dating given in the document, whether Anno Mundi (AM), Anno Graecorum (AG – i.e., according to the Seleucid Era, which putatively began in 312 BCE) or Anno Hegirae (AH).

The two main coins mentioned in Geniza documents are the golden dinar and the silver dirham. A dirham could be either of good quality – nuqra – or of low quality – waraq. While exchange rates varied, on average, 1 dinar = 13.3 nuqra dirhams = 40 waraq dirhams.

All translations are my own, unless stated otherwise.

**Dictionaries used:**


**Abbreviations used:**

r. = recto

v. = verso

FGP = Friedberg Geniza Project

PGB = Princeton Geniza Browser (of the Princeton Geniza Project)

Journals:

AJS Review = Association for Jewish Studies Review

IJMES = International Journal of Middle East Studies

JAOS = Journal of the American Oriental Society

JESHO = Journal of the Economic and Social History of the Orient

JQR = Jewish Quarterly Review

JSAI = Jerusalem Studies in Arabic and Islam

JSS = Jewish Social Studies.

PAAJR = Proceedings of the American Academy for Jewish Research
Jewish Marriage 101: In Lieu of a Glossary

While this study is not a legal analysis of the formation and dissolution of Jewish marriage, a rudimentary familiarity with the structural contours of marriage in the Geniza period is needed to understand the dynamics of marital disputes it explores. This short section is designed to orient the non-specialist in the landscape of Jewish marriages by way of introducing the basic Hebrew, Aramaic and Arabic vocabulary encountered in the chapters below. To facilitate quick perusal, key terms appear in bold.\(^1\)

The formation of Jewish marriages in the Geniza period proceeded via three basic stages. In the engagement (\textit{shiddukhin}), the two parties or their representatives (typically their parents) declared their intention to marry and agreed upon some of the conditions of the marriage. This stage did not alter the personal status of the parties, and the agreement could be dissolved like any monetary agreement (i.e., without requiring a divorce). Around the turn of the 12\(^{th}\) century, these agreements began to be recorded in special deeds.\(^2\)

In the betrothal (\textit{erusin}) ceremony, the basic act of marriage (\textit{qiddushin}) was executed and the parties became married, but they continued to live apart and did not yet perform the basic obligations of marriage including material maintenance and the conjugal duty.\(^3\) The marriage (\textit{nissu\'in}) was finally completed when the couple began to

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\(^1\) On Jewish marriage and family law, see Benzion Schereschewsky, \textit{Family Law in Israel} (Heb.) (Jerusalem: 1992\(^2\)); Michael L. Satlow, \textit{Jewish Marriage in Antiquity} (Princeton: 2001); Adiel Schremer, \textit{Male and Female He Created them: Jewish Marriage in the Late Second Temple, Mishnah and Talmud Periods} (Heb.) (Jerusalem: 2003); Zev \textit{ev Falk, Jewish Matrimonial Law in the Middle Ages} (Oxford: 1966); Abraham Haim Freiman, \textit{Seder qiddushin ve-nissu\’in} (Jerusalem: 1945). I have benefitted from Eve Krakowski\’s valuable comments to this section.

\(^2\) On engagement in the Geniza period, see Amir Ashur, “Engagement according to Cairo Geniza Documents” (Heb.) (MA diss., Tel Aviv University: 2000), and his “Engagement and Betrothal Documents from the Cairo Geniza” (Heb.) (PhD diss., Tel Aviv University: 2006).

\(^3\) The erusin thus created a state of formal marriage which was not yet consummated, such inchoate marriage are common to several middle eastern legal cultures; see Lev E. Weitz, “Syriac Christians in the
live together (symbolized by their standing together underneath the marriage canopy) and assumed their monetary and conjugal roles. While separate deeds of engagement and betrothal were not required, the indispensable marriage agreement was the ketubba (pl. ketubbot), which outlined the basic monetary arrangements of the marriage and further conditions designed to regulate married life.

As set out in the ketubba (and often in other prenuptial agreements), Jewish marriage is built upon several monetary arrangements. These arrangements involved unequal yet reciprocal monetary acts and commitments, which created a new entity, not unlike the way merchants would pool property together to create an economic partnership. The dower accorded by a husband to his wife consisted of several payments. The basic ketubba (iqqar ketubba) was a standard minimum payment whose amount depended on the bride’s virginity (for example, in the Babylonian tradition, a virgin bride would be allotted 25zuz – a silver coin – and a non-virgin, i.e., a formerly married woman, received 12.5zuz). The additional ketubba (tosefet ketubba) was usually a much more significant sum (indeed, it seems that occasionally it subsumed

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4 This presentation of the three stages of marriage follows Ashur, “Engagement and Betrothal,” 1.
6 I emphasize the reciprocal nature of the commitments to dispel a common notion that marriage was an acquisition of the wife by her husband through payment. See Friedman’s review of Schremer’s Male and Female He Created Them in Zion 70 (2005), 411-412 (on pp. 240 and 291) and Yossef Rapoport, Marriage, Money and Divorce in Medieval Islamic Society (Cambridge: Cambridge University Press, 2005), 18-19. On the relationship between marriage and partnership, see Friedman, Jewish Marriage in Palestine, 19, and Phillip Ackerman-Lieberman, “A Partnership Culture: Jewish Economic and Social Life Seen through the Legal Documents of the Cairo Geniza” (PhD dissertation: Princeton, 2007), 148 and 214. See also Weitz, 102.
7 Notice that ‘ketubba’ can designate the deed of marriage as well as the dower or dowry.
8 See Friedman, Jewish Marriage in Palestine, 237-267.
the basic ketubba9), to be accorded in gold coins (dinars). In Geniza society, this sum was divided into an advance and a delayed portion. The former, called the **early marriage gift** (Heb. *muqdam*, Ar. *muqaddam*), was typically given to the bride at the ceremony of *qiddushin* or of *nissu’in*, while the latter, called the **delayed marriage gift** (Heb. *me’uḥar*, Ar. *mu’akhkhar*), was a promise to be paid on the occasion of divorce or widowhood.10 It is important to note that the *muqdam* and the *me’uḥar* are the central payments of the dower mentioned in the documents. The *me’uḥar*, which was typically at least twice the size of the *muqdam*, features prominently in Chapter Three.

The **dowry** (Heb. *nedunya*) brought into the marriage by the bride consisted of two parts. The “**iron sheep property**” (Heb. *nikhse son barzel*) was property recorded in the ketubba, typically alongside its worth (e.g., “two pillows worth one dinar”). Theoretically, the husband was entitled to use and manage this property and to enjoy any profit derived from it (usufruct), but he required his wife’s permission to mortgage or sell it. However, as Goitein notes, “it cannot be stressed enough that during the classical Geniza period the dowry did not consist of cash given to the husband, but the wife’s objects, thus emphasizing that it was her property.”11 The husband was responsible to the wife for the value of these items as stated in the ketubba, even if their market price decreased or they were worn out (*belayot*).12 As the ketubba states unambiguously, the husband’s entire property (“even the cloak on his back”) stood as security for his debt to

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9 Ibid, 241, n. 8, and 269, n. 120.
10 Ibid, 267-285, and Friedman, “Division of the Marriage Gift into Immediate and Postponed Portions in the Cairo Geniza Documents” (Heb.) in Proceedings of the Sixth World Congress of Jewish Studies (1977), 3:377-387. In rare cases, it seems that the delayed marriage gift was given to a wife who agreed that her husband take a second wife; see Friedman, Jewish Polygyny in the Middle Ages (Heb.) (Tel Aviv: 1986), 36-39.
12 Hence the name “iron sheep:” this property is held secure like iron that does not decrease or increase.
the wife. Moreover, many ketubbot included a condition stating that the husband would pay the ketubba from choice property, rather than from low quality property, as stipulated in Mishna, Gittin 5:1. Occasionally, the husband would give the wife free disposition (Ar. tašṣaruf) of the iron sheep property, in return for which she would release him of responsibility for it. In Geniza society, the value of the dowry was significantly larger than the dower.

Any property brought into the marriage by the wife and not recorded in the ketubba is called melog property. This might include items or real estate possessed by the wife at the time of marriage, or property obtained during the marriage (for example when a wife received an inheritance). Because it was not recorded in the ketubba, the husband neither controlled this property nor was held responsible for it, but he was entitled to any profit derived from it. It should be noted, however, that because this property was not recorded in the ketubba, we hear much less about it in Geniza documents, and indeed, one suspects that most people in the Geniza may not have understood or been familiar with the concept of melog property.13

In Judaism (as in Islam), marriage, though religiously endorsed, is severable. Jewish divorce (gerushin) involves the husband (or his proxy) giving the wife (or her proxy) a writ of divorce (get). Divorce is fundamentally asymmetrical: the Mishna states that “While a woman may be divorced with her consent as well as without it, a man can give divorce only with his full consent.”14 A husband may divorce his wife, “even if she has merely spoilt her food” or “even if he finds another woman more beautiful than

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13 See more on this in Chapter Three, n. 172. For more on the various types of payments at the marriage in practice see the appendices of Vol. Three of Goitein’s Med. Soc. as well as the first chapter (“The Economics of Female Adolescence”) in Eve Krakowski, “Female Adolescence in the Cairo Geniza Documents” (PhD diss., University of Chicago: 2012), 28-54.
14 Mishna, Yevamot, 14:1 (BT Yevamot 112b).
A wife can demand that her husband divorce her only in several rare and well-defined circumstances. If a man desired to divorce his wife, he had to pay her the delayed marriage gift and return her dowry. If a wife desired to be divorced, she often had to appease the husband, typically by monetary concessions, until he consented to give her a *get*. Chapter Three discusses an important procedure called the **ransom divorce** (Ar. *iftidā*), whereby a wife would relinquish her claim to the delayed marriage gift in return for which the court would force the husband to divorce her.

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16 See Mishna, *Ketubbot*, chap. 7. Scholars debated at length about whether the list of reasons for which a wife may demand a divorce was closed or open-ended.
Introduction

Around the middle of the 12th century a suffering Jewish wife had a petition composed on her behalf to the head of the Egyptian Jewry, Samuel b. Ḥananya, asking for his help with her broken marriage. She described herself as a “desolate woman” lacking male support, with no one to turn to except God and Samuel. Her husband was a fearsome man who terrified her late father and herself. He exerted pressure on her to accept a divorce without the due monetary compensation, saying: “Look at the misery and fear your father was in. Do what will release me and not hurt you.” The details of what followed are not entirely clear, but the divorce did not take place. Instead, the husband left their home in Fustat, the original capital of Islamic Egypt, and moved to Cairo. The wife followed him there and demanded that he return to their home in Fustat, as he was obligated to do according to a condition found in an earlier agreement. The wife reports that

He an[swered] to my face: “You have no home with me.” I asked him: “[For] what reason?” He said: “You will not […] until you agree to a delayed marriage gift of two dinars.” I left the city (i.e. Cairo) to my home […] five months. He provided neither for me nor for my family. I [lef]t the matter to his gentlemanly character ([kha]llaytu hu bi-muruwwatih) and tho[ught] that the matter would be settled and I would not burden his Excellency, our lord. However, when he sensed that I intended to inform his Excellency of the matter, he started demanding a reconciliation between us according to what he thought best.

The wife refused to compromise without first obtaining the opinion of Samuel b. Ḥananya. The petition ends with the pious pleading: “May God, the exalted, not lock your gate in the face of anyone of Israel … and may He bring about the days of the Messiah in your lifetime, so let it be. Amen and Amen.”

1 TS 13 J 13 30, r. 15-21, fully edited as Doc. #13 in Appendix Two.
One need not be a professional historian in order to be fascinated by such a story. The wife’s narrative about her failed marriage lures us in and elicits our sympathy for her plight across the divide of time, space and culture. But our appreciation of such a historical source is enhanced further when we bring into account the paucity of sources about everyday life in the medieval Islamic world. Traditional Jewish and Muslim sources from this period display little interest in the lives of women and the quotidian interaction between husbands and wives. Relatively little documentary material has survived from the Islamic Middle Ages, and scholars are left trying to reconstruct social history from literary works such as historical narratives, legal compendiums and biographical dictionaries. While such sources are often rich in certain types of information, they lack the immediacy of documentary sources, which were not composed with an eye to posterity.

Documentary sources, however, precisely because they were composed to produce a specific effect in specific circumstances, often leave us with numerous open questions when we read them hundreds of years after they have been written, read and discarded. So, for example, faced with the heart-rending petition quoted above, we want to know more: What caused the couple’s marital problems? Had the couple’s negotiations taken place formally in court? How typical was their predicament in twelfth-century Egypt? How would the husband tell his side of the story? What was Samuel’s reply? The petition raises these (and other) questions but answers none of them, fueling our curiosity

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and propelling forward our inquiry as we strive to understand the plight of this twelfth-century woman. In this sense, the petition is a valuable historical source not only for the information it contains but also for the possibilities it raises and the questions it leaves unanswered.

This study is an attempt to follow up on some of these unanswered questions and explore the dynamics of marital disputes in the Jewish communities of medieval Egypt. Such an inquiry is enabled by the richness of the documents from the Cairo Geniza, a unique trove of records found in the Ben Ezra Synagogue in Fustat, from which hails the petition presented above. Geniza documents provide scholars with both an unparalleled panorama of social realities in Fatimid and Ayyubid Egypt and the Levant (969-1250CE), and precious glimpses into the private lives of men and women that compensate, at least partially, for the scarcity of historical documents from the medieval Islamic world. Yet despite decades of meticulous, innovative and inspiring scholarship produced since the recognition of the Geniza’s importance in 1897, many of the documents are still


unpublished or understudied. For example, the wife’s petition, despite its obvious interest, has not only remained unpublished but has also, as far as I am able to determine, never before been mentioned.

Geniza documents tell stories and one of the goals of this study is to embrace the anecdotal, recover these stories and bring the marriage disputes of Jewish couples in Fatimid and Ayyubid Egypt to life as lived experiences. For this reason, I begin each chapter with a story taken usually from an unpublished Geniza document, which sets the scene for the rest of the chapter. In the body of each chapter, I lead the reader through a series of documents, each offering a unique perspective on the realities of medieval married life. Focusing on the details of each document allows me to offer a micro-study of marital disputes in the medieval Egyptian Jewish community. Each chapter discusses an important aspect of the negotiation of marital disputes and, in the course of this discussion, inevitably argues for a particular interpretation of the sources. At the same time, the practice of adhering closely to the individual stories told by Geniza fragments is designed to counterbalance our natural impulse to observe the big picture. Thus, each chapter is a complex balancing act born out of the inherent difficulty of moving from the gamut of individual fragments to what scholars call, for lack of a better term, Geniza society.


6 Scholars have long used the term “Geniza society” in full awareness that a common method for waste-paper disposal is hardly a sufficient criterion through which to frame a society. Moreover, most of the writings produced by Jews in medieval Egypt probably did not end up in the Geniza, a fact that further
Beyond the voyeuristic satisfaction of peering into the private lives of individuals across the gap of centuries, this study explores marital disputes as the sites of intense confrontation between spouses, their families and surrounding society. The most basic building block of society, on the one hand, and the primary affiliation for an individual, on the other, the family was a central strand in the fabric that connected individuals to society. Conflict brought to the surface (which, for historians, means leaving a paper trail) the tensions in the fibers of this fabric. By studying how spouses maneuvered between individual desires, legal prescriptions, familial alliances and social expectations, I attempt not only to recover aspects of the married lives of individuals, but also to explore the fundamental role of gender, law and social status in the fabric of medieval Egyptian Jewish life.

The study of women’s history and the history of married life through Geniza documents is hardly a terra incognita. Shelomo Dov Goitein has both laid the foundation for and offered a broad synthesis of the study of women and the family in his monumental A Mediterranean Society, particularly in the third volume, ‘The Family,’ published in 1978. Goitein’s work on women in Geniza documents was continued most undermining our ability to draw conclusions about “Geniza society” from Geniza fragments. Indeed, “Geniza society” is often an amorphous term that changes, amoeba-like, to cover differences in space, time, class and gender. In this dissertation I usually use the term as shorthand for “Jews living in medieval Egypt whose life we know about from Geniza documents,” leaving open the question of the ways in which these Jews did and did not constitute a single “society.” A good treatment of this question can be found in Krakowski, “Female Adolescence,” 5-11.

7 This does not, of course, hold true for all societies, nor for all individuals, but it accurately describes the Jewish communities of the medieval Islamic world.

prominently by his student, Mordechai Akiva Friedman, with his important book-length studies on Palestinian-style marriage contracts (1980) and polygyny in Geniza documents (1986), and in numerous articles published over more than forty years. Several of Friedman’s students have also made important contributions by exploring various aspects of inheritance, divorce, engagement and betrothal in Geniza documents. It is on the shoulders of such giants that the present study stands.

These studies have tended to adopt a legal-institutional approach to the study of women and the family. This can be seen as an umbrella approach that brings together a host of different but inter-related tendencies that characterize most of the studies. First,
these studies strive to explore the so-called ‘status of women’ in Geniza society. Second, they approach marriage as an institution and focus on its formation and dismantling (i.e., on such practices as matchmaking, engagement, wedding and divorce) mostly through the legal documents through which they were performed. Third, they examine practice through the lens of the law in an attempt to locate the points at which practice deviated from the prescribed law and discern whether this deviation is an internal development or the product of external influence. Finally, and most importantly for the present study, these studies often adopt a top-down approach as they examine the ways in which communal leadership handled historical change and moral infraction.

The present study approaches married life in Geniza documents from another perspective. Rather than focus on the status of women, marriage as institution, and the law-practice dichotomy, I explore the experiences of men and women in domestic disputes and the ways in which they maneuvered their lives through “rule-governed

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13 Even though the problems inherent in the conception of ‘the status of women’ have led to its general abandonment in women’s studies, this framework is still regularly applied in Geniza studies. Elsewhere, I discuss the problems involved in seeking to arrive at a unified ‘status of women;’ primarily, an obscuring of the many differences in women’s experiences due to social and economic status, occupation and age (this is especially true in languages that describe this conception as ‘the status of the woman’). Furthermore, the construct of ‘the status of women’ is predicated on an assumption of connectivity between various aspects, such as women’s image, their economic role and their legal rights and duties in different stages of life. However, this connectivity is far from straightforward and must be rigorously proved rather than assumed. See Zinger, “Long Distance Marriages,” 51 and the literature in n. 137; Moshe Rosman, “Stereotypes and Prejudices about Early Modern Jewish Women” (Heb.) in Studies in Ashkenazi Culture, Women’s History, and the Languages of the Jews Presented to Chava Turniansky, eds. Israel Bartal, Gali Hasan-Rokem, Ada Rapoport-Albert, Claudia Rosenzweig, Vicky Shifris and Erika Timm (Jerusalem: 2013), 351-2; Kecia Ali, “Rethinking Women’s Issues in Muslim Communities” in Taking Back Islam: American Muslims Reclaim their Faith, ed. Michael Wolfe et al. (Rodale: 2002), 91-98, and her Sexual Ethics and Islam: Feminist Reflections on Qur’an, Hadith, and Jurisprudence (Oxford: 2006), xii-xiii; and Terry Wilfong, Women of Jeme: Lives in a Coptic Town in Late Antique Egypt (Ann Arbor: 2002), xvi.

14 For a straightforward presentation of this methodology, see David, “Divorce,” ii, 3-5 and 186, and Ashur, “Engagement and Betrothal,” 2-4 and 7-9. This aspect of the legal-institutional approach does not form a central part of the present study.

15 This top-down approach is intimately connected with the focus on ‘the Jewish community’; see n. 23.
creativity.” This kind of micro-study of marital disputes allows me to explore the ‘view from below’ of married life and communal institutions. This view often yields a picture that diverges from the hegemonic image propagated by communal leadership, and allows us to observe the central role of gender and social status in married and communal life. It also exposes the high degree of flexibility and unpredictability of married life as experienced by women and recovers women’s agency as it explores the various ways they responded to these challenges.

The view from below thus sheds light both on women’s experiences and Jewish society at large. Indeed, women in Geniza society were not “a separate people” as they were in a constant interaction with men, whether relatives, other male members of the Jewish community or even non-Jews. Women participated in economic life through both production and consumption, and their lives were affected at numerous junctures by Jewish law and communal institutions. Thus, the examination of women’s experiences in married life and marital disputes necessarily includes the examination of men’s lives and experiences. It also leads us to re-examine Jewish communal institutions, especially the courts, from the viewpoint of women’s experience of them and interaction with them. Thus, the study of gender and the recovery of the ‘view from below’ is not a mere addition to our knowledge of medieval Jewish married life, but one that changes the way we view Jewish life in the Islamic middle ages. Therefore, the particular arguments of each chapter regarding the negotiations of marital disputes in Geniza society echo several

17 See Jim Sharpe, “History from Below” in New Perspectives on Historical Writing, ed. Peter Burke (University Park: 2001), 25-42. The connection between microhistory and “history from below” is evident in the works cited in note 5 above.
18 See BT Shabbat 62a.
19 See Paula E. Hyman, Gender and Assimilation in Modern Jewish History (Seattle: 1995), 5-6.
broader concerns about medieval Jewish communal and married life that hover, so to speak, above the explorations of specific topics.

The first of these involves our perception of Geniza society. Goitein loved the society he brought to life in A Mediterranean Society and wanted his readers to love it as well.\textsuperscript{20} For him, the paragons of Geniza society were the merchants-physicians-scholars-poets, men like Ḥalfon ha-Levi b. Nethanel, Yehuda ha-Levi, and Abraham Maimonides.\textsuperscript{21} Goitein similarly described the dominant ethos in Geniza society, and medieval Islam in general, as a bourgeois ethos, and saw medieval Islamic civilization as led by its middle class.\textsuperscript{22} This focus on the middle class was joined with the traditional dominance of ‘the Jewish community’ as the central prism through which medieval Jewish life is studied.\textsuperscript{23} The concentration on the elites and communal leadership of

\textsuperscript{20} Jessica Goldberg framed this issue best: “Perhaps the most pleasant danger of empathy is sympathy, and the most unpleasant job of Goitein’s successors is the necessity of noting or even stressing the ugly counter-side to the often sunny images of A Mediterranean Society. Goitein shows a protective sympathy for the people who wrote these documents: he thought well of them, and wished his readers to think well of them, in ways that sometimes led to unbalanced appraisal of the evidence at his command.” See Jessica Goldberg, “On Reading Goitein’s A Mediterranean Society: A View from Economic History” Mediterranean Historical Review 26 (2011), 175 and the references in n. 24.


\textsuperscript{22} See Chapters XI and XII in Goitein, Studies, 217-254.

\textsuperscript{23} This dominant approach sees Jewish history primarily as the story of how ‘Jewish self-government,’ ‘Jewish autonomy’ and ‘the Jewish community’ preserved Jewish existence in the face of external pressures. Thus, it tends to adopt a top-down approach as it explores how communal leadership (whether the rabbis or local notables) navigated the Jewish community through the troubled waters of exile. This approach is shared even between historians who strongly disagreed about the nature and meaning of Jewish history. See Salo Wittmayer Baron, The Jewish Community: Its History and Structure to the American Revolution, 3 vols. (Philadelphia: 1942); Louis Finkelstein, Jewish Self-Government in the Middle Ages (New York: 1964\textsuperscript{2}); Yitzhak Baer, “The Origins of the Organization of the Jewish Community of the Middle Ages” (Heb.) Zion 15 (1950), 1-41. This approach is still very influential; see the three volumes of Kehal Yisrael: Jewish Self-Rule Through the Ages, eds. Isaiah Gafni, Avraham Grossman, Yosef Kaplan and Israel Bartal (Jerusalem: 2001-2004). A strongly worded presentation of this approach can be found in the editors’ preface on pp. 1:i-x and 2:7-9. This paradigm has a tendency to regard the position of communal leadership as a natural part of Jewish life and thus it often avoids any examination of the power relationship between the leaders and their subjects. Two recent Geniza studies are notable for retaining the traditional focus on leadership and elites while also paving new ways of examining the politics of communal life: Miriam Frenkel, “The Compassionate and Benevolent”: The Leading Elite in the Jewish
Jewish society is clearly reflected in the scholarship on the Geniza and the Geniza documents chosen for publication.\textsuperscript{24}

Paralleling Goitein’s espousal of the bourgeois ethos and his focus on communal leadership is his presentation of Geniza society as being generally well-ordered and rational:\textsuperscript{25}

Theirs was an orderly and harmonious world, complete in itself. Whether we read the sublime concluding chapter of the *Guide for the Perplexed* of Moses Maimonides or the day-to-day correspondence of his humble contemporaries, we feel that the ideals of a world at peace and a perfect man did not appear to them to be out of reach, of course, if God decreed so.\textsuperscript{26}

Goitein was engaged in creating a synthesis out of a chaotic mass of Geniza fragments. He saw the historian as someone who “digs deeply into the soil of the past and attempts to introduce order into what he had unearthed and explain it.”\textsuperscript{27} The result was a picture of a Mediterranean society that was predominantly well-ordered, middle class, and deeply appealing to Goitein and his readers.

However, when we move away from the letters of the great long-distance merchants that captivated Goitein’s attention and imagination, we encounter a society

\textsuperscript{24} The important exception, which combines the ‘view from below’ with the ‘view from above,’ is Mark R. Cohen, *Poverty and Charity in the Jewish Community of Medieval Egypt* (Princeton: 2005) and *The Voice of the Poor in the Middle Ages: An Anthology of Documents from the Cairo Geniza* (Princeton: 2005).

\textsuperscript{25} On my use of “well-ordered society,” see Chapter Four, n. 132.


that was predominantly poor, debt-ridden, and struggling. Court records and family letters often capture a different ‘snapshot’ of the Jewish community than the one offered in mercantile letters. For example, petitions of women asking for help reveal that divorce was not easy for women, as previous scholars have argued, and that communal authorities were often reluctant to assist marginalized women. Status and gender distinctions played a central role in Geniza society, and by exploring the everyday struggles of non-elite couples, this dissertation offers an important corrective to the traditional focus on communal leadership and elites. Furthermore, scholarship that comes after Goitein’s awe-inspiring spadework ought to be more wary of the attempt to “introduce order” since it is often the messiness of the documents that is their defining characteristic. Thus, this study begins to reveal the ‘other face’ of Geniza society.

Goitein was keenly aware of “the immense extent of poverty and privation experienced by the masses” (Med. Soc. 2:381) and knew that his impressions were gained from reading Geniza letters “written by a limited circle of persons” (Goitein, “Religion in Everyday Life,” 17). I believe nonetheless that his deep identification with the luminaries of the Judeo-Islamic symbiosis, together with his conception of Jewish history as the history of the Jewish community, led him to give greater emphasis to the leadership. A similar point is made in Krakowski, “Adolescence,” 9.

Geniza documents occasionally offer us a glimpse of the difference in the perception of reality of women or the poor, on the one hand, and the elite or communal leadership on the other. See, for example, ENA 4100 21a, where the daughter of the head of the yeshiva, discontented with the financial arrangements offered her, says of those who advise her debtor to delay his payment to her: “These people speak the talk of the sated who do not know the plight of those starving.” Goitein writes that this is based on a common maxim. See Moshe Gil, Palestine during the First Muslim Period (634-1099) (Heb.), 3 vols. (Tel Aviv: 1983), #486, and Goitein, “Ha-Rav: An Obscure Chapter in the History of the Palestinian Gaonate with an Appendix: A Letter by the Daughter of the Head of the Yeshiva” (Heb.) Tarbiz 45 (1976), 72. A similar attitude is expressed by another maxim used when a person apologized for asking for financial assistance: “but need has its own laws” (lākinna al-darūrāt la-hā aḥkām/ḥukmuhā). It is found in two unrelated documents: TS 16 286, margins, ed. Frenkel, Alexandria, #31, and CUL Or 1081 J 10, r.12. See also Adam Sabra, Poverty and Charity in Medieval Islam: Mamluk Egypt, 1250-1517 (Cambridge: 2000), 8.

The landmark study on poverty in Geniza society is Cohen, Poverty, with its companion volume The Voice of the Poor. The basic attempt to stratify Geniza society is found in Goitein, Med. Soc. 3:418-422 (and see 3:97-100 and 121-123) and updated in 5:526 (and see important discussion in 5:74-75) and adopted by Cohen, Poverty, 53-54. Using marriage documents, Goitein divided Geniza society into 7 groups: destitute (15% percent of documents), poor (13%), very modest (18%), modest (14%), lower-middle class (20%), upper-middle class (16%) and wealthy (4%). Notwithstanding the tremendous achievement of Goitein’s analysis, this sort of classification always carries numerous statistical and methodological problems. One point emphasized repeatedly by Goitein in Med. Soc. is that since the Geniza was the depository in Fustat, whereas the wealthier Jews lived in Cairo, it shows us the poorer face of the Jewish population. Similarly, since the Geniza was the depository of the community institutions, it
The second broader concern involves the high degree of instability and unpredictability in married life as exhibited in Geniza documents. Once we move away from the formal nodes of marriage and divorce, we find great variability and creativity in the negotiations of married life. In the pages below, I follow the often convoluted trajectories of marital disputes as they move from one legal venue to another without resolution, while the spouses pay a heavy financial and emotional price. In Geniza society, rates of divorce, widowhood and remarriage were high,\(^{32}\) polygyny not uncommon,\(^{33}\) and the phenomenon of absent husbands due to business, scholarship, or flight – ubiquitous.\(^{34}\) These realities, while not the focus of this study, constitute the context in which marital disputes unfolded. In the following pages, I often attempt to identify the broader effect of these realities on women in general, asking, for example,

tells us more about the cases handled by the community – charity cases, petitions, court suits etc. – than about the lives of the happily wealthy. Regarding Goitein’s statistics I will raise here three points (I discussed these points at the recent “Everyday Writing in the Medieval Near East - Documentary History and the Cairo Geniza” conference at Yale University, November 2013): (1) Basing the analysis on marriage agreements means that we are measuring social status (not economic means – since the important element of the meʾūḥar is a future promise which was usually not kept in full) \textbf{at the time of marriage} – therefore, widows and divorced women are not included in these statistics. This adds a significant element of poverty to Geniza society, since we know from charity lists that divorced women and widows were ubiquitous. (2) The sums defining Goitein’s categories are somewhat arbitrary, and a different division of the sums would lead to a different stratification of society. Indeed, today it is perhaps possible to refine his categories by (a) plotting the data in a graph and seeing whether it suggests a clearer stratification; and (b) using Cohen’s taxonomy of professions to try and trace the ‘typical’ ketubba of the underclass, middle group and the non-poor, and then using these sums to determine how they line up with these categories. In this way, we establish who are the poor, then look at what marriage contracts they tend to have and what percentage of contracts are of this sort. (3) A further refinement is called for with respect to the ‘total’ figures offered in Goitein’s analysis. For example, almost all the wealthy ketubbas belong to the 11\(^{th}\) century and a disproportionately large percentage of them hail from outside of Egypt, suggesting that the Egyptian community was much poorer. Goitein’s ground breaking spadework offers us numerous possibilities to refine his findings.

\(^{32}\) Following Goitein’s calculations in \textit{Med. Soc.} 3:274, scholars are used to saying that about 45\% of women remarried. However, this figure is based on a simple calculation error on Goitein’s part (he conflated the percentage of marriage contracts with the percentage of brides), and his data actually yields a much higher remarriage rate, somewhere around 60-80\%. Eve Krakowski has recently reviewed the Geniza material and the results of her analysis will be published soon.

\(^{33}\) See Friedman, \textit{Polygyny}.

how the reality of travelling husbands affected women’s property rights. At other points I interrogate the ways in which men and women responded to the misfortunes and uncertainties of married life: how they tried to protect themselves in advance against certain scenarios and what options were available to them once calamity struck. In all these cases, the connection between the uncertainty and flexibility of married life lies at the heart of my investigation.

The focus on the experiences of individuals and on the ‘view from below’ afforded by the encounter of non-elites with communal institutions leads us to the third general concern. Courts and other venues available in the legal arena loom large in documents concerning marital strife. While this study does not deal directly with the nature and mechanisms of the venerable Jewish legal tradition and makes no claims to legal specialty, it does examine the everyday encounters and experiences of Jews with communal legal institutions. Thus, while little is said about Jewish Law per se, each chapter addresses and aims to contribute to our understanding of how medieval Jews interacted with the law and the legal establishment, revealing aspects of the workings of communal institutions not explored by previous scholarship. Thus, Chapter One and Chapter Two argue that previous literature was insufficiently sensitive to the important role played by gender, status and drama in the legal proceedings. Chapter Three connects the pressures exerted on women to relinquish their monetary rights within the courtroom with those inflicted upon them at home, thus arguing for a connection between cultural norms, economic reality and legal records. Chapter Four adopts a ‘consumption of justice’ approach that views litigants as legal consumers and examines how they were

35 This is true of both legal records and private letters, suggesting that the prominence of legal institutions is not merely a result of the study of court records.
able to maneuver within and manipulate the flexible legal arena with social patronage.\textsuperscript{36} This preoccupation with the rule-governed creativity of individuals as they balance personal goals, legal institutions and social norms accounts for the frequent use of words like “negotiate” and “maneuver” in the present work.\textsuperscript{37}

These broader concerns inform the discrete investigation carried out in each chapter. Chapter One examines the gendered experiences of women in the courts. Previous scholars have argued that the frequent appearance of women in legal records reflects the relatively strong position of women in Jewish society and that women appeared in courts essentially like men. In this chapter I show that whereas women did indeed appear frequently before the courts, their experiences there were profoundly gendered, with courts tending to sympathize with male litigants and to place disproportionate pressures on women to abandon their demands. The fact that these pressures were often not required by Jewish law suggests that they reflected a form of social control, rather than a simple imposition of the law.

Chapter Two examines marital litigation as a social drama in which dramatic performance and a tapping into culturally recognized “scripts” play a central role. Anticipating the kind of pressures explored in the first chapter, some women came before the authorities crying and beseeching, while others performed a spectacle of defiance that involved cursing and yelling. After exploring the subject of women’s voices in court records, I argue that these performances drew their meaning and effectiveness from widespread cultural scripts about the good supplicant woman and the bad disruptive

\textsuperscript{36} See Daniel Lord Smail, \textit{The Consumption of Justice: Emotions, Publicity, and Legal Culture in Marseille, 1264-1423} (Cornell: 2003).

woman. Exploring the benefits and risks of employing such scripts before the court reveals the complex interplay between gender and the anxieties of communal authority. An accompanying appendix (Appendix One) contains a quantitative survey of the occurrence of emotive language in legal disputes.

Chapter Three builds on the conclusions of the first chapter to explore the compromising of women’s monetary rights. Beginning with the procedure of ransom divorce (whereby a wife relinquishes her delayed marriage gift in return for the court’s forcing her husband to issue a bill of divorce), I argue that husbands in many cases forcibly pressured their wives to ransom themselves. This implies that scholars can no longer assume that the fact that a wife released her husband from his monetary obligations as part of their divorce agreement indicates that the divorce was initiated, or even desired, by her. This in turn challenges the conventional wisdom that the majority of divorces were initiated by wives. The chapter then expands its inquiry to cover a wider range of occasions in which women relinquished monetary rights. Rather than seeing these relinquishments as isolated phenomena to be studied separately, I argue that these cases constitute a general trend whereby women were pressured to compromise their monetary rights. Finally, I offer three complementary explanations – economic, structural, and cultural – for these dynamics. The chapter’s conclusion places its findings in the general context of Geniza scholarship and highlights their repercussions for our understanding of medieval patriarchy.

Chapter Four expands the focus outward from the courts and examines the dynamics of disputes in the wider legal arena. The “consumption of justice” approach in this chapter explores how litigants made use of the variety of legal venues available to
them. I argue that the legal arena comprised an array of overlapping forums whose jurisdictions were never fully defined. This led to fluid dynamics of negotiation whereby litigants could use one venue to counterbalance legal action taking place in another. These dynamics provided litigants with flexibility but also prolonged disputes and resulted in a high degree of unpredictability in married life. This portrayal of the legal arena advances the ongoing scholarly debate regarding formalism and informalism in Geniza society. For example, exploring letters to and from judges reveals that ties of patronage played a central role in the ability of litigants to access different venues. The chapter closes with a look at the dynamics of negotiations outside the legal arena and the ways in which they brought into account what took place (or was expected to take place) in the legal arena. Taking the phenomenon of running away from home as a case study, the chapter adopts the sociological concept of “bargaining in the shadow of the law” to show that, while law and legal action played an important role in the negotiation of marital disputes, this process of bargaining was not dominated by law.

The final chapter moves away from legal disputes to offer a “thick description” of one particularly rich letter from the Geniza in which a luckless country physician narrates to his uncle his sad marital tale.38 His first wife, who had been supportive and liked by all, passed away in a plague, and his next wife, the daughter of a prominent physician, brought him nothing but grief. The letter allows us to see how a twelfth-century physician crafted the story of his married life into a meaningful narrative. By presenting his first spouse as “the good wife” and the second as “the bad wife,” he fit his idiosyncratic experiences into a readily available gendered scheme, which served to explain away his own faults and

failures. This shows that the cultural tropes of the good and bad women do not reflect two competing views of women but form complimentary elements in a single masculine endeavor to define “the horizons of the possible” for women. Whereas the previous chapters explored how spouses pursued their marital disputes legally and extra-legally, this chapter offers a glimpse into the ways in which one country physician made sense of his married life through an autobiographical self-fashioning.

Although it is enabled in the first place by the incomparable richness of Geniza documents, this study is also constrained in various ways by the nature of Geniza sources. The Geniza is not an archive, which means that we do not possess systematically ordered documentation on the various subjects we might wish to explore. Furthermore, despite the repeated use of language of chance regarding the survival of documents, it is rather clear that the depositing of waste paper in the Geniza was neither random nor all-pervasive, and that different written materials were deposited in different manners and quantities. For example, our understanding of Geniza society is dominated by several dossiers assembled by scholars: merchant letters from the ‘Ibn Awkal group,’ the ‘Nahary b. Nissim group,’ the legal documents written by Hillel b. ‘Eli and his son-in-law Halfon b. Menasse, and the legal, communal and family documents of Elijah the Judge and his son, Solomon ha-Melammed. Such dossiers allow us to investigate in depth various questions that are

39 On the Geniza as an anti-archive, see Med. Soc. 1:7-9.
40 See Roger Bagnall’s argument that we ought to “dethrone chance” when talking about the survival of documents, Roger Bagnall, Everyday Writing in the Graeco-Roman East (Berkeley: 2010), 28.
impossible to analyze with discrete fragments, but they can also, through their very prominence, distort the image of Geniza society.\textsuperscript{42} Thus, it is often not clear whether the picture emerging from Geniza documents is truly representative of Egyptian Jewish communities in general, let alone of other Mediterranean communities.

A further difficulty is caused by the fact that, even 117 years after its “discovery,” the Geniza still contains large swaths of uncharted territory. There are as yet no catalogues for many important Geniza collections, and those catalogues that do exist are often problematic or unreliable when it comes to historical documents, which are the hardest to describe. This means that simply locating the documents relevant to a particular issue is a time-consuming and frustrating task. Furthermore, most documents are fragmentary, faded, and written in Judeo-Arabic, a subset of middle-Arabic that often presents enormous difficulty in comprehension.\textsuperscript{43} The majority of Geniza documents consulted for this study remain unpublished and their analysis involves a painstaking examination hampered by lexicographical and paleographical difficulties.

Some of these limitations can only be acknowledged in the hope that awareness will mitigate some of their effect. Other limitations I have tried to minimalize in the following ways. First, this study has a broad documentary base. Having gone through thousands of Geniza documents, published and unpublished, I feel able to make certain claims about the

\begin{footnotesize}
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\item Correspondence of Judge Elijah and his Family (Papers from the Cairo Geniza): A Chapter in the Social History of Thirteenth Century Egypt” (PhD diss., University of Pennsylvania: 1965).
\item On archives and dossiers and the various opportunities and problems they pose, see Katelijn Vandorpe, “Archives and Dossiers” in The Oxford Handbook of Papyrology, ed. Roger S. Bagnall (Oxford: 2009), 216-255 and Bagnall, Everyday Writing. I discussed some of these issues in my talk (with Craig Perry) “Archives, Documentary Preservation, and Demographic Trends: the Geniza Documents as a Corpus” at the Everyday Writing in the Medieval Near East - Documentary History and the Cairo Geniza conference at Yale University, in November, 2013. I would like to thank Roger Bagnall for his comments and Eve Krakowski and Marina Rustow for organizing this very fruitful conference.
\item On Judeo Arabic, see Joshua Blau, The Emergence and Linguistic Background of Judeo-Arabic: A Study of the Origins of Neo-Arabic and Middle Arabic (Jerusalem: 1999), and ibid, A Grammar of Mediaeval Judeo-Arabic (Heb.) (Jerusalem: 1989).
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picture that emerges from the Geniza, as I understand it, even though I have undoubtedly missed some relevant documents. Second, and more important than numerical coverage, is my practice of approaching each question through documents of multiple genres, which allows us to explore different aspects of the subject at hand. Especially important in this regard is our ability to complement Geniza documents with the responsa of Maimonides and his son Abraham, preserved mostly in manuscripts outside the Geniza. Thus, I have tried to overcome some of the inherent limitations of Geniza sources by ‘triangulating’ the subject studied through the examination of a variety of genres and sources. Examining court records, private letters, responsa and petitions allows me to examine marital disputes both at home and in the legal arena, yielding a more comprehensive view of married life.

The difficulties of deciphering Geniza documents I have attempted to address by presenting to the reader (often in lengthy notes) the deliberations involved in determining what these documents actually say. Beyond the immediate content of each discussion, the hope is that these comments convey to the reader the inherent challenges of understanding Geniza documents and the care and caution required when formulating conclusions based on the study of documentary sources. Since catalogues are problematic and databases partial, I often digress to explore a side point, whether the meaning of a peculiar Arabic expression, a tracing of the documents that mention a certain person, or a textual correction to an existing edition, even if these discussions do not pertain to the argument at hand.

45 Invaluable in this regard are two resources for the study of the documentary Geniza: The Princeton Geniza Project (PGP), found at http://asetc2051.princeton.edu/Genizaproject/, which currently contains searchable transcriptions for 4360 documents, about a fourth of the documentary Geniza; and The Friedberg Geniza Project (FGP), which offers bibliographical material for the entire Geniza and high quality images of documents for most collections. Recently, a new feature was added to the FGP that shows computer-generated possible matches to a given document; while I was able to make some use of this new function, it appeared too late to be fully integrated into the present study.
Studying the Geniza is a collaborative project and such digressions are offered as an on-going conversation with others struggling to make sense of Geniza material.46 Also to this end, the study is accompanied by an appendix (Appendix Two) containing the edition and translation of 19 previously unpublished Geniza documents. These documents offer the reader a taste of the type of sources upon which this study is based.

The nature of the sources also delineates the study’s geographical, temporal and denominational range. Following Goitein, this study is limited to the ‘classical period’ of the Geniza (~1000-1250), which rather neatly corresponds to the period of Fatimid and Ayyubid rule in Egypt (969-1250). The question of geographical range is more complicated. The Geniza famously contains documents from Spain to India, but the bulk of the material on marital disputes is confined to urban localities in Egypt (Fustat, Cairo, Alexandria, al-Mahalla, etc.) and to a lesser extent, the Levant (albeit selectively: Jerusalem but not Damascus). Thus, this study focuses on Egypt and the coast of the Levant, in the timeframe given above, while occasionally mentioning a case outside these temporal and geographical boundaries. Similarly, the study confines itself to Jewish couples, mostly Rabbanites but also Karaites. The material found in Arabic literary sources and Arabic papyri promises that a broad comparative project would be highly fruitful to both Jewish and Islamic studies – but such an investigation is beyond the purview of the present study.47

46 See Ezra Fleischer, Eretz-Israel: Prayer and Prayer Rituals as Portrayed in the Geniza Documents (Heb.) (Jerusalem: 1988), 13. For this reason I have not refrained from using and editing documents some aspects of which are still uncertain. The fact that we are not sure about everything should not prevent us from saying something. Editions of documentary sources are naturally tentative, and I welcome the corrections and critiques that further research will undoubtedly make and thus advance our understanding of the Geniza.

47 For a recent study of women in Fatimid Egypt, see Delia Cortese and Simonetta Calderini, Women and the Fatimids in the World of Islam (Edinburgh: 2006). Material comparable to Geniza documents dealing with domestic issues can be found in Arabic papyri; see, for example, Yusuf Ragib, Marchands d’étoffes du
Finally, a word of caution is in order for anyone who delves into the troubled waters of marital disputes in medieval Egypt. Conflict, as described above, raises fundamental social tensions to the surface – but it also tends to bring out the worst in people. Those who hope to find signs of the love that certainly existed in medieval married life, of the cohesiveness of medieval Jewish communal life, or the awe-inspiring intricacies of Jewish legal dialectics will inevitably be disheartened by the encounter with Geniza court records and with the private letters pertaining to marital strife.\(^{48}\) Similarly, those who seek sex scandals or law-as-entertainment, on the model of modern media, will be disappointed by the reticence and prudishness that characterize the everyday writings of medieval Jews in Egypt.\(^{49}\) Instead, Geniza documents offer us, after lengthy and arduous labor, fleeting glimpses, as if from a fractured mirror, of quotidian lives in all of their sorrows, joys, and routines.

\(^{48}\) See also Smail, vii.

\(^{49}\) Nonetheless, I believe that the first and second chapters show that Geniza legal records can be highly entertaining and dramatic in their own way. Sex scandals can be found on rare occasions, though they lack the details we have come to expect today, see Friedman, “On Marital Age, Violence and Mutuality in the Genizah Documents” in The Cambridge Genizah Collections: Their Contents and Significance, ed. S. Reif (Cambridge: 2002), 160-77; Goitein, “A Jewish Business Woman of the Eleventh Century” Jewish Quarterly Review 57 (1967), 225-42; and R. Isaac Alfasi, Responsa of R. Issac Ben Jacob Alfasi, ed. Rabbi Wolf Leiter (New York: 1954), #73. Toward the end of my work on the present study, Jose Martinez Delgado directed my attention to RNL Yevr.-Arab. I (Firkovitch II) 1701, which describes a fascinating scandal in the Karaite community. I hope to publish this document in a future study.
Chapter One

“I do not Accept This:” Women in Geniza Courts

On 9 April 1085, the Jewish court in Fustat received an anonymous tip that the former wife of a certain Ṣāliḥ has been entering his house. Later that day, Ṣāliḥ himself appeared before the court. The members of the court may have expected to hear the details of a tantalizing sex scandal and were probably surprised when he complained that his former wife had been entering his house, attacking him (Ar. tahjum ʿalayhi) and saying “I will not leave, nor go out of this house for it is my house and my dwelling.” They sent for his former wife and when she came forth, forbade her from entering her former husband’s house. However, she had no intention of yielding and told the court: “I do not accept this. You took a bribe to divorce me (from him). The house is my house and I will not leave it.” Furthermore, as if this declaration were not bold enough, she also threatened to appeal directly to the Muslim authorities and to commit enormities. The members of the court tried to speak to her, but according to the court record, she responded with threats and curses. All the while, the court record tells us, Ṣāliḥ continued to complain about her and asked the court to “relieve me of the burden of her entering into my house.” At this point the court record ends with the signature of four witnesses.

How are we to understand the curses, threats and refusal to accept the court’s instructions on the part of Ṣāliḥ’s former wife? Was she the vulgar and insolent woman the record depicts, irreverent toward both religion and the court, or a strong-willed,

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1 See other cases in which a man was reported to have been entering a woman’s house: TS 18 J 2 13, partially ed. David, “Divorce,” 206-207, and RNL Yevr.-Arab. I (Firkovitch II) 1701. See also ENA NS 7 24 1, ed. Elinor Bareket, “Books of Records of the Jerusalemite Court from the Cairo Geniza in the First Half of the Eleventh Century” (Heb.) Hebrew Union College Annual, 69 (1998), 23-4.

2 fa-qālat innānī lā aqbal ḥādhā annakum aḥ kadhum ʿal-baṣal ḫattā jallaqtūnī wa-l-bayt baytī wa-mā abraḥ minhu.

3 Bodl MS Heb d 66 133, partially ed. David, “Divorce,” 199-200, and edited as Doc. #2 in Appendix Two.
independent woman willing to resist a patriarchal judicial system? Is her confrontational attitude to the court a strategy employed on her part to deal with an irresponsible system or is it a stereotypical depiction cast upon her by the court scribe? Raising these questions suggests that we cannot separate the inquiry about what happened in the courts from an examination of the ways in which court records craft events into narratives.

The drama of Ṣāliḥ’s former wife and the questions it raises will accompany us in this chapter and the next as they explore the experiences of women in Geniza courts. The present chapter attempts to go beyond the conventional observation that women appeared frequently before Geniza courts, to challenge the common argument that they appeared before them ‘just like men’ and that the courts typically assisted women in obtaining and protecting their rights. It begins with an introduction to Geniza courts and court records and explores some of the problems that arise from the use of legal records as historical sources, with special attention given to the possible gap between what may have occurred in court and how it was recorded in the legal record. Since problematizing this relationship highlights the extent to which court records construct narratives rather than merely report facts, we begin our examination of women’s experiences in the courts by exploring how they were reported by sources other than legal records. Looking at responsa and at women’s petitions provides us with a different perspective of women’s experiences in court records. These sources show that the experiences of women who appeared before the court without male backing were often far less benign than the common depiction suggests. Following these leads from responsa and petitions, similar tendencies can then be uncovered within the court records.
Inspired by recent studies of Ottoman court records and drawing insights from such fields as Law and Literature, Law and Society and the anthropology of law, this chapter offers a new way of reading Geniza legal records. Examining how legal records craft narratives and portray litigants, rather than merely mining them for what they report, reveals that women’s experiences in Geniza courts were profoundly gendered. Courts often showed a greater degree of understanding for a man’s point of view and, furthermore, tended to pressure women more than men when striving to reach a compromise in marital disputes. Thus, we repeatedly find women admonished in religious language to perform their ‘duty,’ in a way in which we do not find men admonished. The fact that in several cases the actions women are pressured to undertake are not actually required by Jewish law suggests that the courts were engaged in social control rather than straightforward imposition of Jewish law.

**Introduction to Geniza courts and legal records**

Given the vast literature on Jewish law, the history of Jewish courts has received surprisingly little scholarly attention. While it is often stated that the existence of a regular court was the cornerstone of the autonomous Jewish community, we know little of the actual procedures of these institutions in times and places for which the Geniza

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4 Geniza courts still await a comprehensive social and institutional history. Such a history should then be integrated into a more comprehensive study of the legal arena and dispute resolution, see Chapter Four. For useful introductions to Islamic juridical organization, see Emile Tyan, “Juridical Organization” in Law in the Middle East, ed. Majid Khadduri and Herbert J. Liebesny (Washington: 1955), 236-278 (a summary of his larger Histoire de l’organisation judiciaire en pays d’Islam (Leiden: 1960)). See also David Powers, Law Society and Culture in the Maghrib, 1300-1500 (Cambridge: 2002), 17-22.

does not provide us with its treasures. Indeed, even regarding Talmudic times there is an ongoing debate about the existence of regularly-held courts. Due to the nature of the available sources, scholarly literature tends to focus less on what took place in court and more on institutional questions such as whether regular courts existed, where they were held, who nominated the judges, who the judges were, and how the courts related to the yeshivot and to prominent scholars.

The examination of legal records has been at the center of the study of the Geniza since its discovery. Almost every scholar of the historical Geniza has published and

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6 This is repeated in most discussions of the Jewish community. For example, see Moshe Gil, *Documents of the Jewish Pious Foundations from the Cairo Geniza* (Leiden: 1976), 41: “Along with the synagogue, the court was the real expression of Jewish communal life,” or Bareket, “Books of Records,” 2: “The system of courts was the strong base for the existence of the Jewish communal framework. The court was the main expression of Jewish autonomy and the firmest foundation for communal organization.”


studied court records. More than any other scholar, it was Goitein who provided a synthesis of the functionaries, the substantive law and the court procedures in the Geniza. According to his synthesis, courts dealt mainly with issues of personal status and monetary disputes. They displayed a strong predilection for reaching a brokered compromise (see more below). Geniza court records are not steeped in Jewish legal language or halakhic discussions, and when the content of Jewish law is mentioned it is usually a well-known maxim brought up by one of the litigants. Goitein points out that “it was not so much the content of the law applied as the authority administering it which gave the parties the feeling that they were judged according to the law of the Torah.”

Goitein emphasizes the fluidity of the Jewish judiciary and highlights the great variety found in legal records, owing to the principle of “freedom of contract” (according to which a monetary agreement accepted by both parties is valid).

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11 Of course, there are many legal records published in the books of Ashtor, Bareket, Gil and Friedman. Occasionally, a particularly interesting court record is the subject of an entire article. See, for example, Mordechai Akiva Friedman, “A Kohen Divorces his Wife in Eleventh Century Egypt – A Geniza Study” (Heb.) Diné Israel 5 (1974), 205-227 and Benjamin Hary and Marina Rustow, “Karaites at the Rabbinical Court: A Legal Deed from Mahdiyya Dated 1073 (TS 20.187)” Ginzei Qedem 2 (2006), 9-36.

12 Goitein, Med. Soc. 2:311-345, especially 334-345. To appreciate the achievement of Goitein’s synthesis, compare with Mann, Jews, 1:264-268. Important discussions of the court are found also in Ben-Sasson, Qayrawan, 294-345, and Bareket, Fustat on the Nile, 53-69.


The court was held in or nearby the synagogue and consisted of three or more members, one of whom was the presiding judge. Court sessions typically began with an identification of the various parties (or their representatives). If the matter at hand involved a dispute (rather than ratifying an agreement arrived at outside of court), the parties then presented their respective claims, a process that often involved raised voices and mutual accusations. Indeed, the dynamics of the sessions often involved reciprocal claims, whereby a litigant’s claim brought about a counterclaim. Goitein notes that “the allegations made by the litigants sometimes differed so much from one another that they appear to be trial balloons rather than attempts to report facts.” The court would question the parties in an attempt to establish the facts and call on witnesses or request documentation as needed. Occasionally, when faced with a difficult case, the court sought counsel from legal experts (either local or the heads of the academies), who might

15 However we also hear of the court convening in the judge’s home, see TS 10 J 25 3, r. 15-16, ed. Frenkel, *Alexandria*, #57. It is occasionally difficult to tell from the legal deed which court member was the presiding judge. In Geniza parlance “court” (_bet din_) means “judge” or member of the court; see Goitein, *Med. Soc._ 2:314 and Friedman, _Halfon_, 35, n. 93. This seems to me to form part of a general attempt to obscure the role of the court in litigation, on which see more below. For an interesting parallel, see Leslie Peirce, _Morality Tales: Law and Gender in the Ottoman Court of Aintab_ (Berkley: 2003), 92-93 and 98. It is also important to add that the Jewish courts were considered, to a certain extent, an extension of the Islamic judicial system and Jewish judges would receive deeds of appointment from the Muslim authorities; see Friedman, _Halfon_, 239.

16 The Islamic procedure may have been rather different. See Tillier, “L’identification en justice á l’époque abbasside” _REMME_ 127 (2010), 99-101.

17 See, for example, ENA NS 19 14 + ENA 4010 7, ll. 6-7: “And there were m[any?] words between them and argument, blaming and attacks, some in earnest and some in jest,” ed. Mordechai A. Friedman, “The Ransom-Divorce: Divorce Proceedings Initiated by the Wife in Mediaeval Jewish Practice,” _Israel Oriental Studies_ 6 (1976), 289-293 (the translation is Friedman’s). For comparison, it is enlightening to read anthropological descriptions of contemporary Islamic courts, see Rosen, _Anthropology of Justice_, 7, and Anna Würth, “A Sana’a Court: the Family and the Ability to Negotiate” _Islamic Law and Society_ 2 (1995), 321.

18 See, for example, TS 8 K 20 1 2v (2nd item), ed. Bareket, “Books of Records,” 48-50.

19 _Med. Soc._ 2:337-8 and 5:206 and 211. By “trial balloons” Goitein means that a litigant would air a claim, regardless of its actual truth, in the hope that no one would contest it and that it would be accepted as true. For a discussion of similar contemporary dynamics, see Rosen, 11, 16, 22 and 32. See further discussion in Chapter Three. For an example of such trial balloons, see ENA 4010 43v, ed. Bareket, _Jews of Egypt_, #100 and TS Ar 49 166, verso right-hand side, ll. 1-2, ed. Moshe Gil, _Palestine during the First Muslim Period (634-1099)_ (Heb.), 3 vols. (Tel Aviv: 1983), #388 (fourth case).
choose not to respond and whose response, anyway, was not binding.\textsuperscript{20} On rarer occasions, it seems that the head of the Jews made the decisive ruling and then passed it on to the court to finalize the details.\textsuperscript{21} Judges also tried to broker agreements through the semi-formal mediation of respected members of the community (“righteous elders came between them by way of compromise and conciliated them”),\textsuperscript{22} and less frequently, through formal arbitration (whereby the parties agreed to be bound by the decision of accepted arbitrators).\textsuperscript{23} Court procedures often involved many postponements and

\textsuperscript{20} See Berachyahu Lifshitz, “The Legal Status of the Responsa Literature” in Authority, Process and Method: Studies in Jewish Law, ed. Hanina Ben Menahem and Neil S. Heet (Amsterdam: 1998), 59-100. Goitein reminds us that responsa were often sought not out of a lack of expertise on the part of the judges, as some scholars have assumed, but simply as a means of relying on the authority of their superiors; see Med. Soc. 2:339.

\textsuperscript{21} See Bodl MS d 66 7, ed. Weiss, “Halfon,” #8, and also Friedman, Polygyny, 79 n. 2; TS 10 J 6 11, ed. Weiss, “Halfon,” #138 and ULC Or 1080 J 49, ll. 3-4, tr. in Med. Soc. 4:325-328. See more in Chapter Four.

\textsuperscript{22} JNUL 4 577, 3, no. 5 ll. 6-7, ed. Goitein, “Court records,” 269-271. For a description of how such a reconciliation was achieved (and later broke down), see TS Ar 49 166, left-hand side, r.5-7, ed. Gil, Palestine, #388 (on l.2 of this document see Blau, Dictionary, 307). On the role of the “elders” in the court room see, Goitein, Med. Soc. 2:58-61 and 342 and Ben Sasson, Qayrawan, 326-329. In a recent study, Phillip Ackerman-Lieberman argues that the Geniza portrays a “legal system relying heavily on a process of mediation that educated Jewish economic actors at the norms of Jewish law.” See his “Commercial Forms and Legal Norms in the Jewish Community of Medieval Egypt” Law and History Review 30 (2014), 1011 and Ackerman-Lieberman, The Business of Identity, 172-193. On the role of the court clerk to educate those who come before him see Jeanette A. Wakin, The Function of Documents in Islamic Law (Albany: 1972), 10, 32 and 35. A discussion of Ackerman-Lieberman’s interesting argument would take us too far afield (though it should be noted that the comment in ibid, 396, n. 99 is a result of a misunderstanding).

\textsuperscript{23} See TS 8 J 4 2, ed. Bareket, “Books of Records,” 12-15. A different type of arrangement is found in ENA 4010 43-44, where the father of a Karaite woman whose husband is a Rabbanite agrees to be judged by the Rabbinite laws. It should be noted that it is often difficult to determine from the records whether a case involves formal arbitration. For example, a case described by Goitein as involving arbitration among nine people seems to me to contain too many expressions relating to decisive rulings (\textit{wa-\textit{yufs}il baynahum wa-
\textit{yar}fa\textit{\textprime}\textit{as}bāh al-ta\textquoteleft an\textquoteleft\textprime\textit{v}e-yosī\textquoteleft ha-din le\textquoteleft ami\textprime\textit{to}), see TS 24 52, r.10 and Med. Soc. 2:339. Incidentally, the disputed matter is itself unclear in this case, though it appears to involve a divorce (it is possible to read in r.1: \textit{\textquoteleft asbāh[\textit{h}a\textit{\textprime}}\textquoteleft an\textquoteleft\textprime\textit{v}e-yosī\textquoteleft ha-din le\textquoteprime\textit{ami\textprime\textit{to})}. On the distinction between arbitration and mediation see P. Van Minnen and Traianos Gagos, \textit{Settling a Dispute: Toward a Legal Anthropology of Late Antique Egypt} (Michigan: 1994), 30-34 and see also Jill D. Harries, “Resolving Disputes: The Frontiers of Law in Late Antiquity” in Law, Society, and Authority in Late Antiquity, ed. Ralph W. Mathisen (Oxford: 2001), 68-82. Both arbitration and mediation differ from the notion of a ‘compromise’ (\textit{pesharāh}) so central in Jewish law. See Itay E. Lifschits, “The Procedural Limits of Compromise (Pesharah)” Shenaton Ha-Mispat ha-Ivri 24 (2007), 66. On arbitration in Arabic papyri see Gladys Franz-Murphy, “Settlement of Property Disputes in Provincial Egypt: The Reinstitution of Courts in the Early Islamic Period” al-Masāq 6 (1993), 93-105. Rapoport argues that in Mamlık courts “most divorce negotiations were informal,” the courts’s role was “mainly confined to putting an official stamp on the settlement before them,” and that court officials saw themselves as an “additional layer of mediators;” see Rapoport, Marriage, Money and Divorce, 74 and 78.
intentional procrastination on the part of the courts aimed at prodding the parties to reach a settlement (by giving time for mediation).\textsuperscript{24} The court not only imposed Jewish law and settled disputes, but also saw itself as responsible for maintaining the social fabric and protecting the weak.\textsuperscript{25}

During the court session, the scribe or the judge would take notes, and before closing the “presiding judge would recapitulate the statements made by the parties, the recapitulation being taken down verbatim by the clerk or the beadle of the court.” Occasionally, the drafting or signing of the legal record would be substantially delayed.\textsuperscript{26}

As in the Islamic legal tradition, but unlike in the Greek or Coptic, the deed’s completion required the signatures of the witnesses rather than the litigants.\textsuperscript{27}

The relation between what happened in court (or before the witnesses) and the legal record we have before us is far from straightforward.\textsuperscript{28} First, the court records often

\textsuperscript{24} The common English expression “settlement out of court” is misleading in the context of the Geniza as settlements were often reached inside the court room physically but “out of court” insofar as they were supposedly grounded in the free choice of the litigants. On the procrastination of the courts see Goitein, \textit{Med. Soc.} 2:321-2. On the formal reasons for delaying judgments, see Gideon Libson, “The ‘Court Memorandum’ (mahdar) in Saadiah’s Writings and the Geniza and the Muslim mahdar” (Hebrew) \textit{Ginzei Qedem} 5 (2009), 116. On Maimonides’ use of delay to assist a party he finds more trustworthy, see Gerald J. Bliststein, “The Judge’s Own ‘Truth’ as a Judicial Instruments: Maimonides’ Law of Sanhedrin 24:1-3” \textit{Dînê Israel} 24 (2007), 132. Some examples are discussed below. See also Bogaç Ergene, \textit{Local Court, Provincial Society and Justice in The Ottoman Empire} (Leiden: 2003), 120. Several examples of complaint against the inaction of courts are provided in Chapter Four.

\textsuperscript{25} Hence the common reference to the court as the protector of widows and father of the orphans, based on Psalms 68:6 - see Cohen, \textit{Poverty}, 142 (and on how this sentiment was used in approaching the court or the head of the Jews, see Bodl Heb. d 66 16, discussed in the opening of Chapter Four, and Mosseri IV 12 2, ed. Bareket, \textit{Jews of Egypt}, #73 and Samuel Glick, \textit{Seride Teshuvot: A descriptive Catalogue of Responsa Fragments from the Jacques Mosseri Collection} (Leiden: 2012), 63-67. For the court as an upholder of the social fabric, see TS 10 J 7 8, r.17: “It is impossible to leave the daughter of Israel lacking all,” ed. Bareket, \textit{Jews of Egypt}, #102. See Rosen, \textit{Anthropology of Justice}, 17. Another example of the dynamics Rosen describes is found in TS 12 587 (described in \textit{Med. Soc}. 2:323 n. 49) where even though a court ruled that one side had no legal claim, righteous elders intervened and brought about a compromise.


\textsuperscript{27} See Frantz-Murphy, 98-99.

\textsuperscript{28} The terminology for the different legal records is confusing, particularly since the documents themselves consistently display a high level of internal variety. In what follows, I use ‘court records’ to refer to all
elide much of the information sought by historians. Background information and the
details of what transpired in court were often considered to be of no future legal
significance and thus were not written down. The following legal record demonstrates
this well:

His H(onor), Mr. Sar Shalom, may the Rock [preserve him] b. his H(onor), Mr. Yeshu’a m(ay he rest in) E(den), asked us, the witness undersigned [in this document,] to enter into his house, in the presence of his wife, [Si]tt al-[…] bt. his H(onor), G(reatness and) H(oliness) Mr. Abraham, the beloved of the Yeshiva, m(ay he rest in) E(den). Her brother was present and identified her. Then, she told us: “Make the symbolic purchase from me and bear witness for me, as of now, cancelling any notifications and conditions, according to my will, while not being coerced, that I have released, I mean released, my husband, the aforementioned Sar Shalom b. Mr. Yeshu’a, from fifty dinars of good and high quality of the seventy dinars he prescribed as a debt owed by him for my delayed marriage gift written in his ketubba. I do not leave for myself anything except only twenty dinars. I also have relinquished [in addition to that] the trustworthiness that he had bestowed on me in my ketubba. The legal record does not disclose why Abraham’s daughter relinquished her rights. Goitein notes that “very special circumstances” must have caused her to do so considering that during his lifetime her father, Abraham b. Nathan ‘the seventh’ b. Pinḥas, had ties to the highest echelons of the Jewish community as well as to the Islamic government. Goitein suggests that “apparently, she had plundered her husband’s house

legal documents in general, reserving ‘deeds’ (shetarot) for the legal document given to a litigant and ‘court notebook’ (mahdar/shimmush) for the records kept by the courts. The other meaning of shimmush is a record of proceedings that did not reach a conclusion – see Libson, “Shīmūsh.” Still, as always, Geniza documents do not adhere to neat definitions.

29 This has interesting parallels with Late Antique Egyptian legal documents. See Minnan-Gagos, 37.
30 See Libson, “Court Memorandum,” 129, n. 83.
31 Women were typically introduced through such a ‘recognition clause’. See more on this below.
32 The woman said first mahaltu, which is a Hebrew root in Arabic conjugation and then corrected herself to sāmaḥtu, which is regular Arabic. See more in Chapter Two, n. 31.
33 Occasionally a ketuba is mentioned in Geniza documents as the husband’s.
34 This is the ‘trustworthiness clause’ that appears in many marriage agreements. It means the wife need not make an oath before collecting her ketuba payments; see Friedman, Jewish Marriage, 262-267.
35 TS 18 J 1 20, fully edited as Doc #14 in Appendix Two.
36 I.e. Nathan was the seventh in the hierarchy of the Palestinian Yeshiva.
during his lifetime.” But, it is also possible that Sar Shalom had aggressively pressured his wife to relinquish monetary rights, without any ‘plundering’ on her part (see Chapter Three). We can only guess whether this agreement represents a resolution of a marital dispute, a divorce settlement or a freely volunteered acknowledgment. The legal record merely records the agreement and leaves the historian in the dark.

Even in records of cases that clearly involved a heated dispute between the litigants, the various claims and counterclaims, as well as the process leading up to the resolution, were often left out (“matters took place whose explanations would take too long,” “many words passed between them”). Since the emphasis was on the final resolution, and such details were considered to bear no legal significance, the ‘fact finding stage’ was often omitted, resulting in a legal record that is, as Kelleher puts it, “as much an act of forgetting as it is one of remembering.”

More importantly, Goitein observes that “formal judgments, quoting the legal sources and detailing the reasons for the decisions made, are almost entirely lacking.” Litigations were usually concluded with a declaration by one or both parties (i.e., either “I have released so and so from any debt” or “I acknowledge that I owe so-and-so such-and-such”) without any mention of a judgment by the court. Indeed, it often seems that, in the court records, the members of the courts sought to minimize the appearance of their

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37 Med. Soc. 3:256. Goitein must have meant “during their marriage,” since Sar Shalom was clearly still alive at the time of the legal proceeding.
38 Marie A. Kelleher, The Measure of Woman: Law and Female Identity in the Crown of Aragon (Philadelphia: 2010), 10. See also Peirce, Morality Tales, 100-106. And 132. One suspects that omitting these details was also a useful way of ‘protecting’ the resolution as well as the court’s authority from future contestation. Occasionally, legal records preserved the ‘fact finding’ phase of the session – such records are of immense importance in any attempt to reconstruct the work of the court. See, for example, TS 13 J 1 22, a very interesting court record copied to a deed recording the court’s interrogation of a woman until she was required to take the oath of destitution (fa-‘ājiba ʾalayhā al-yamīn bi-l-ʿadam). When she was about to take the oath, however, righteous elders intervened and reached a compromise, “according to her desire” (stated in Hebrew). See also TS 18 J 1 23 and TS 10 J 26 4.
own actions and involvements. However, Goitein claims that “it would be entirely wrong to assume that the courts acted merely as boards of arbitration, without having recourse to statutory law.”

Goitein explains the lack of authoritative judgments in the legal records as a “mere matter of form and procedure.” Fearing the prospect of pronouncing a wrong judgment,

The judges refrained altogether from giving formal judgments …. the decisions of the courts were given the form of declarations of the parties. Rather than stating that the court sentenced a person to make such and such a payment, the minutes would contain an ‘acknowledgement’ by that person that he owed this sum to the other party. Instead of an acquittal by a court, a party thus freed from obligations would receive a ‘release’ from the claimant. But the user of the Geniza records should not be misled by this legal formality.

According to Goitein, apart from settlements reached by compromise, “the countless releases and acknowledgements …have to be regarded as results of judicial decisions.”

Goitein provides relatively little evidence for such a bold thesis and it is remarkable that his claim has not been seriously revisited by scholars in the past forty years. Even though an in-depth exploration of the workings of Geniza courts lies beyond the scope of the present study, a few remarks are in order with respect to his argument.

First, Goitein’s point about the religious scruples of judges is hardly period specific (he mentions the Talmud, Mishne Torah and 16th century Shulkhan Arukh). These citations

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40 When Goitein argues that Geniza courts were not mere boards of arbitrations he has in mind the specific technical terms bet din shel borerin and bet din shel hedyofo which are not required to rule according to Jewish law. See Assaf, Courts, 54-56, Albeck, Law Courts, 70-75, Elon, 18-27 and most studies cited in n. 8 above. Thus, the stress should be put on Goitein’s use of “merely” – i.e. recognizing the centrality of mediation in the workings of the courts yet claiming that they were not engaged merely in mediation, but adhered also to the Halakha. Cases were negotiated in court within the bounds of the Halakha and under its guidance. Weiss wrote that courts have “largely the character of a jury or a board of arbitration,” “Halfon,” 59-60. See n. 22 above. On the courts

41 Med. Soc. 2:335

42 Ibid., 334-335; See also Weiss, “Halfon” 1:60-62 and Ergene, 200.

43 Such scruples go back even to Chronicles 2 19:4-9. See also Albeck, 129-130; MT, Sanhedrin, 23:7; and Frank, 100-103. Recently, Goitein’s thesis has been revisited in Ackerman-Lieberman, “Commercial Forms
cannot explain why Geniza judges camouflaged their verdicts while Jewish judges in other places and periods pronounced such judgments explicitly. Second, the tenth-century query mentioned by Goitein concerning a judge who accepted an appointment on the condition that he not make outright judgments is taken from Iraq, and does indeed reveal the compunctions of a particular judge, but also that the normal expectation from judges was that they deliver judgments. Indeed, announcing a judgment has been the norm in Jewish law and features as a natural part of the legal process in the Talmud, in geonic responsa and in the Mishne Torah. Even more significantly, contemporary collections of formularies contain formulas for court judgments. In other words, both the theoretical and practical expectation appears to have been that judges deliver decisive judgments explicitly.

44 The responsum is found in Louis Ginzberg, Genizah Studies (New York: 1929), 2:137.
45 While compromise is preferred, the Talmud, Geonic responsa and Mishne Torah all take it for granted that judges do in fact pass authoritative judgments. See, for example, Albeck, Law Courts, 89-90 and 134 and Talmudic Encyclopedia 6:124-173; MT, Sanhedrin, 21:3 and 22:4-9 (esp. 4). On the complex issues surrounding compromise see Lipschits, “The Procedural Limits of Compromise,” 63-122 and see more references in p.63.
Furthermore, Goitein points to a case in which a merchant complained that the judge dealing with his case was unwilling to make decisive judgments.\(^47\) This case and others like it work both for and against Goitein’s argument.\(^48\) Complaints about judges unwilling to issue a judgment support Goitein’s claim about judges’ reluctance to make a decisive ruling (to which we should also add judges’ reluctance to administer oaths).\(^49\) At the same time, they suggest that people expected judges to make decisive rulings, and that the absence of authoritative judgments is not merely a “matter of form.”\(^50\)

Similarly, reading through hundreds of legal documents reveals not a few references to decisive judgments.\(^51\) This shows, on the one hand, that Goitein was not

\(^{47}\) TS NS J 7, ed. Goitein-Friedman, Halfon, VIII, 70 (older IV, 60).

\(^{48}\) See TS 10 J 25 3, ed. Frenkel, Alexandria, #57; and TS 13 J a 1 1, ed. Gil, Palestine, #593, and ed. Şabith ’Aodeh, “Eleventh Century Arabic Letters of Jewish Merchants from the Cairo Geniza” (Heb.) (PhD diss., Tel Aviv University: 1992), #61. These documents are discussed in Chapter Four where I also examine similar difficulties in obtaining responsa.

\(^{49}\) On the reluctance to administer the various types of oaths and bans, see Gideon Libson, “Gezerta and Herem Setam in the Gaonic and Early Medieval periods” (Heb.) (PhD diss., Hebrew University: 1979), 23-62; “Determining Factors in Herem and Nidui (Ban and excommunications) During the Tannaitic and Amoraic Periods” (Heb.) Shenaton ha-Mishpat ha-Ivri 2 (1975), 292-342; “The Use of the ‘Gezerta’ during the Gaonic Period and Early Middle Ages” (Heb.) Shenaton ha-Mishpat ha-Ivri 5 (1978), 79-154; “The Origin and Development of the Anonymous Ban (Herem Setam) During the Gaonic Period” (Heb.) Shenaton ha-Mishpat ha-Ivri 22 (2003), 107-232.

\(^{50}\) It is important to note that scholars of Islamic law also face the problem of a lack of decisive judgments (ḥukm) in court records. See Müller, “Settling Litigations” and Mallat, 62-63. However, the ḥukm-less cases described by Müller are still much more explicit about the judge’s rulings than Geniza cases.

\(^{51}\) Though it should be said that even these references do not quote the legal sources for the decisions and one can reconstruct the reasoning behind them only by context. On this matter see Eliav Shochtman, “The Obligation to State Reasons for Legal Decisions in Jewish Law” Shenaton ha-Mishpat ha-Ivri 6-7 (1979-1980), 319-397. Another important distinction to keep in mind is between a decisive ruling and a procedural court order (i.e. an order to provide proof or take an oath), see Müller, 57 and 67 and Tyan, “Judicial Organization”, 262. Since this question is central also to the study of the work of Muslim courts and in order to encourage further inquiry into this question in Geniza courts and Muslim courts, I thought it would be beneficial to present a few references to decisive rulings. A very good example for the orderly way a court proceeded in a case is TS Ar 53 53v (mixture of Arabic and Hebrew): nazara al-rihān fa-ḥakama bet din an tabqa al-ruhān mawdā‘a... thumma nazara fī... fa-anṣaba bet din la-hum shelosha zeqenim ne’emne bet din... thumma nazara.[raf] fi naskhat al-mattana... wa-su‘a ila bet din‘ an siḥhat ḥadhīhi al-mattana fa-ḥakama... li-sabab an (vestige of tanwin) ra‘ahu fi al-waqt ma‘a ra‘y al-zeqenim... thumma nazara fī al-dār ... fa-ḥakama bet din tu‘ra‘d ḥadhīhi al-dār lil-bay‘ ‘al yede zeqenim hagunin yod‘ im be-meḥir ha-qarqa‘ot (I have identified TS NS 324 75 as a parallel version of this document). TS NS 169 33, r.22 (ed. Friedman, Polygyny, 284): fa-ḥakama lahu bet din bihi (“The court ruled in his favor”). From some documents we can learn indirectly that the court usually issued decisive rulings, for example, BL or 5563 27v (a responsum, ed. David, “Divorce,” 253): kānat li-bet din ḍarūra mana‘a’tu‘ an faṣl ḥukmihi-mā. Bodl MS Heb b 13 38, r.5: [istaqarra al-‘amr bayanan?] bi-peshara min ghayr ḥukm ḥākim. References to
wrong in his claim that Geniza courts passed decisive judgments. Moreover, the fact that court notebooks (*shimmush/mahdar*) make more frequent and explicit mention of decisive judgments than regular deeds (*shefarot*) suggests that courts presented judgments as voluntary acknowledgements or releases. In fact, a rare case demonstrates how what took place in court was erased and a compromise reached by agreement through the intervention of righteous elders was presented in its stead.\(^{52}\)

On the other hand, the fact that references to decisive rulings *can* be found casts doubt on Goitein’s argument insofar as the existence of such references obviates the need to explain releases and acknowledgements as a foil for decisive judgments.\(^{53}\) At the very least, the diversity and fluidity that characterized the Geniza courts suggests that Goitein’s formulation is too strong, since whereas some decisive rulings were undoubtedly presented as declarations by litigants, the evidence does not support the claim that all of them were so presented. It seems that unless a court record reveals its


\(^{52}\) See ENA 4020 47, examined in Chapter Three. Another case appears in ENA NS 7 24 2 where we first read (v.5) “The matter was settled between them” and later (v.10) “and she was not content with it” (*wa-ataqarrara* {a fifth form with a prosthetic alif, see Blau, *Grammar*, 77} *al-’amr* baynahum *... wa-lā radiyat bi-dhālika*). It appears that the resolution was a decisive ruling of the court merely presented as a mutual agreement.

\(^{53}\) Note that elsewhere Goitein suggests a somewhat different scenario: “After the experts had given their opinions as to the legal position according to the religious law … the parties knew what they could expect from a judgment and tried to come to an agreement as favorable as possible to each other,” *Med. Soc*. 2:328. On the question of why a party that had just learnt it would win the case might nonetheless compromise, see Ginzberg, *Geniza Studies*, 2:126: “On occasions, litigants come before the court, one strong and one meek. They hear their claims and their evidence and reveal to them what the law requires. However, when they leave us, the strong refuses to give what he ought to by law and goes to the Muslim authorities and so on. Then they come back before us, and we arrange a compromise between them.” In another case, righteous elders intervene and arrange a compromise after a party had lost its case in court – see TS 12 587 described in *Med. Soc*. 2:323, n. 49. On the procedural issues of compromise, see Liphschits’ article in n. 23.
secrets, we simply cannot tell if a reported resolution was reached through a decisive judgment presented as an agreement, a mediated compromise or an agreement reached outside the court. More than just an agnostic position, this description underscores the fact that the procedures in Geniza courts were mixed and fluid.\footnote{54} Scholars have long distinguished between an ‘adjudicating’ and a ‘mediating’ model of conflict resolution, and Geniza courts employed a combination of the two.\footnote{55} On occasions, courts made decisive rulings (usually, but not always, presented as compromises or agreements), and other times they mediated between litigants. Further research is necessary to clarify the factors that determined when a court would follow the mediation or the adjudication model, although it is probable that social status and gender played an important role.

While scholars have recently pointed out the importance of the legal pluralism in the Islamic world, it seems that one may locate legal pluralism even within the workings of the communal court.\footnote{56}

\footnote{54} The fluidity of court procedure comes out clearly in a statement in the fifth volume of Med. Soc. which seems to me to indicate that Goitein himself has changed his approach to court procedure since the writing of Volume Two. This statement ties in the “trial balloons” mentioned earlier and the lack of decisive rulings through the “ways of the bazaar”: “The ease with which absurd allegations and unfounded demands were made appeared natural to me in the world of the bazaar, where no one would assume that the price mentioned first was final. The sum actually paid was the result of negotiations; how much it represented the true value of the object changing hands was quite a different matter. ‘‘Bad, bad,’ says the buyer, but after he has gone away, he boasts” (Proverbs 20:14). My surmise that the ways of the bazaar dominated the thought and talk of the people seems to be brought out by the overwhelming majority of court records that do not tell us about decisions made according to law or reason but represent settlements reached after utterly contradictory depositions. In many cases the clerk does not deem it worthwhile to report those happenings, but notes dryly: “Many altercations took place, which to put down in writing would lead too far afield;” Med. Soc. 5:206. It is quite clear that in this passage we witness the profound influence of Clifford Geertz on Goitein’s later work. See especially Geertz’s study “Suq: The Bazaar Economy in Sefrou” in Meaning and Order in Moroccan Society, eds. Clifford Geertz, Hildred Geertz and Lawrence Rosen (Cambridge: 1979), 123-313. It is also worthwhile to note that Goitein’s work earns a prominent mention in this classic work of anthropology; see p. 123.

\footnote{55} See Ergene, 190-4 and Laura Nader, “Styles of Court Procedure: To Make the Balance” in Law in Culture and Society, ed. Laura Nader (Chicago:1969), 86-91 (both containing further bibliography). My debt here to Ergene’s work is clear.

\footnote{56} Indeed, the ‘mixed economy’ of mediation and adjudication can be linked to the ‘mixed economy’ in employing an adversarial or inquisitorial approach. On legal pluralism see Chapter Four.
This brief discussion of court procedures and the production of legal records raises the methodological question of how Geniza court records should be used as historical sources. Scholars have generally tended to regard legal records as storehouses of easily retrievable information, paying close attention to the various legal formulas found in these records and to the relation between the records and legal formularies but largely avoiding the question how they were produced and how this affects their use as historical sources. The discussion above shows just how many steps removed from what took place in court a Geniza court record could be: the record was the scribe’s recording of the judge’s summary of the events that unfolded before the court and was written or signed sometimes as much as several months after the court session. As we have seen, scribes often presented decisive rulings by the courts as voluntary releases and acknowledgments. In fact, the possibility that the scribe’s recording of events might differ significantly from what actually took place is explicitly recognized in one Geniza document. While legal records often contain seemingly authentic quotations of direct speech, we have no clear way of knowing whether the quote indeed represents what was said, how the scribe/judge remembered it, how he summarized the litigant’s position, and

57 The important exception is David Marmer’s article discussed in the next chapter and see also n. 60 below. Here I am building on a common observation among scholars of Ottoman legal records. See the works of Ze’evi and Agmon cited in n. 131. A similar point has been made recently regarding commercial letters in Jessica Goldberg, “The Use and Abuse of Commercial Letters from the Cairo Geniza” Journal of Medieval History 38 (2012), 129. Generally speaking, the study of the historical documents from the Geniza has avoided explicit questions of methodology. In this respect, Geniza scholars have much to learn from adjacent fields such as papyrology and from studies like Roger S. Bagnall, Everyday Writing in the Graeco-Roman East (Berkeley, 2011) and ibid, Reading Papyri, Writing Ancient History (New York: 1995).

58 Goitein notes a case in which one member of court sent a note to another member asking the latter to refresh his memory regarding what had taken place in court; see Med. Soc. 2:336.

59 In a 1099 appointment deed for a synagogue beadle who would also serve as a court scribe, he is explicitly warned that he would be removed from office if he “would show disrespect to someone of the congregation or one of the heads of the community or if he would be seen recording matters not as they happened,” TS 8 J 4 9d, ed. Goitein, ‘Synagogue,” 93-94.
Moreover, before the mid eleventh century, the primary language of legal records was Hebrew, involving a further process of translation.

Taking Geniza legal records at face value, therefore, is a naivety we can no longer afford. However, the court records’ mediation between historians and the historical reality can be used productively to pose a different set of questions about our sources. The gap between what may have happened in court and the record of these events stresses the deeds’ fictionality – implying not its falsehood but rather its practice of selective story telling. The way in which a legal record describes events in court offers us a glimpse not only of the narratives of the litigants but also of the social values and the narrative promoted by the court itself. So, for example, whereas modern American/Israeli court rulings are often wordy and adopt a poetic tone, quoting literature and scripture, Geniza legal records present different poetics. When the courts present case after case in the following terms: ‘X and Y came before the court. Many words passed between them until righteous elders intervened and it was settled that …’ we see how conflict is minimized (though not erased – conflict is an essential element in drama, as without tension there is no release) and the peace-brokering actions of the instruments of the

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60 Goitein shows awareness of this in Med. Soc. 2:336: “The clear and concise wording of most of the court records preserved in the Geniza might reflect professional skill (of the judge or scribe – OZ) rather than natural gift (of the litigants – OZ).” In this paragraph Goitein betrayed some of his romantic preconceptions wondering whether the eloquence of the court records reflects “a natural propensity of the Mediterranean atmosphere.” Goitein formally abandoned these notions when he changed the title of the last volume of Med. Soc. from “The Mediterranean Mind” to “The Individual”. See also David Marmer, “Patrilocal Residence and Jewish Court Documents in Medieval Cairo,” in Judaism and Islam: Boundaries, Communication and interaction. Essays in Honor of William Brinner (Leiden: 2000), 80: “I think we must recognize the fact that these court records do not necessarily tell us what took place, but rather the scribe’s impressions of what took place, and as such are informed by issues of social status.”

61 On different languages in court, see Maimonides, Responsa, #233, p. 2:419.

62 See Geertz, “Found in Translation: on the Social History of Moral Imagination” in Local Knowledge (Princeton: 1983), 44. I would like to thank Marina Rustow for discussing this point with me.

63 It can be argued that Geniza court records may be analyzed as narratives regardless of their distance from reality. However, the realization of the constructed nature of the court records makes such an investigation much more acute. In this pursuit I am directly inspired by the important advances in the study of Ottoman court records. See n. 131 below.
community are emphasized. Litigants who enter the stage yelling in disagreement are presented exiting the court as negotiating members of the community, operating within the communal fold. In place of the untold specifics of conflicts, the records repeat a communal meta-narrative of conflict resolution that affirms communal cohesiveness and adherence to communal institutions. While we lose the details of individual conflicts, we gain an understanding of the stories the communal authorities “told themselves about themselves” through legal records.

In the remainder of this chapter and in the subsequent one, I try to go beyond the data stored in individual legal records to examine conceptions of gender, justice and the community as they were performed in the legal arena and recorded in the legal record.

Women and courts

Feminists, sociologists and criminologists have extensively studied the various ways in which women’s experiences in the modern court room and legal system are gendered. Women tend to commit different types of crimes than men, often receive different punishment than men for the same crime, and in the process are subject to a whole range of gendered stereotypes. In modern societies, women’s experiences of the justice system are different than men’s from the initial arrest, through the investigation,

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64 This observation is influenced by Lawrence Rosen, *Bargaining for Reality* and ibid, *Anthropology of Justice*. While Rosen (taking the lead from Clifford Geertz) rightly points out that anyone who has ever visited a courtroom is quickly disabused of the idea that courts are busy with conflict resolution, my point here concerns the narratives produced by the court about its own operations. Rosen, *Anthropology of Justice*, 4.

65 This famous formulation is the pinnacle of Geertz’s classical essay “Deep Play: Notes on the Balinese Cockfight,” in *The Interpretation of Culture* (New York: 1973), 412-453.

the decision to prosecute, the appearance in court, sentencing and punishment.67 Most importantly for the present study, it has been shown that women often speak in court differently than men, that they are addressed differently by court officials, and that their testimonies are often evaluated differently than those of men.68

Although conclusions drawn from modern circumstances obviously cannot be projected onto medieval societies, the rich research conducted on modern realities, which does not suffer from the medievalists’ scarcity of sources, can serve as useful inspiration for the type of questions a historian might ask about his sources. More specifically, it serves to alert us to the gendered nature of the supposedly objective judicial records. While much of the scholarship concerning modern women is quantitative and focused on criminal law and issues that are entirely alien to the realities of women in the Geniza, it draws attention to issues that scholars of medieval Judaism have only begun to consider.69


68 See Gerry Chambers and Ann Millar, “Proving Sexual Assault: Prosecuting the Offender or Persecuting the Victim” in Gender Crime and Justice, 64-73; Simon and Ahn-Redding, 73-74; Morash, 133, 141-143, and Calavita, 37. See also Shulamit Valler, Women in Jewish Society in the Talmudic Period (Heb.) (Bene Beraq: 2000), 124-5.

Women feature in some of the earliest legal records published from the Geniza.\(^{70}\) Not surprisingly, it is Goitein who provides the fullest treatment of the presence of “women in court” in a section so titled of the chapter on “The World of Women” in the volume of *A Mediterranean Society* devoted to “The Family.”\(^{71}\) Like scholars studying the presence of women in Ottoman court records at that time, Goitein emphasizes that women appeared regularly in court.\(^{72}\) Even when accompanied by their husbands, “the men play a secondary role; the women act, the husbands only confirm the transaction after its conclusion.” Indeed, commenting on the notion that women ought to be protected, Goitein writes that “there was no need to be considerate, for women were neither weak, nor inexperienced, nor overly shy or snobbish.” He argues that the many cases in which a husband approves the actions of his wife do not reflect a subordinate position but are simply a legal requirement resulting from the nature of property relations between the spouses.\(^{73}\) Similarly, the fact that women nominated representatives to appear in their stead in court should not be taken to imply a disadvantage, since “men did the same.”\(^{74}\) His conclusion is that “women were as active in court as men. Sometimes

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\(^{71}\) It is reflective of the gendered notions of Goitein’s own time – the 1970s – that he chooses to describe the workings of the courts in the volume on ‘The Community’ while relegating the discussion of women in the court to the volume on ‘The Family.’

\(^{72}\) This connection is not arbitrary. Goitein is explicitly cited in the landmark article on women in Ottoman court records: Ronald C. Jennings, “Women in Early 17th Century Ottoman Judicial Records: The Sharia Court of Anatolian Kayseri” *JESHO* 18 (1975), 56, n. 5.

\(^{73}\) Since the husband’s property is mortgaged against the debt of the Ketubba, the wife’s consent is required for his actions. Since he is responsible for any loss of her dowry, he needs to approve her dealings with it.

\(^{74}\) Here Goitein is treading on shaky ground because while men occasionally nominated representatives, the records clearly show that women did so in greater numbers and for gender specific purposes.
one gets the impression they were even a bit overzealous in keeping the court occupied.”

Goitein’s conclusions have been repeated regularly by later scholars. Indeed, with the passing of time, scholarly evaluations of women’s experience of the court have become even more glowing: “It was easy [for women] to obtain a divorce …. The courts assisted women to divorce their husbands. The sages in that period did not stand in their way but strove to help them.” However, an important indication of how women’s experience of the court might after all have differed profoundly from that of men is found in Goitein’s general description of the courts:

The members of the Jewish courts were, as a rule, personally known to the parties either from the synagogue or otherwise, and, in any case were regarded by them as people of their own kind. Finally, since the Jewish court was composed of three or more members, litigants themselves frequently had experience of the bench, which naturally made them more inclined to entrust their cause to an authority and a procedure with which they were familiar.

75 All quotes are from Goitein, Med. Soc. 3:332-336. In his vast ‘Geniza laboratory,’ Goitein had a card entitled “women troubling authorities with their little affair(s),” roll 22, 00725v.
76 “We find women suing, vouching, taking initiative, resisting and putting obstacles in the way of the husband obtaining a divorce until they receive their full claims,” Bareket, “Books of Records,” 54-55. See also Kraemer, “Women Speak for Themselves,” 191; Goitein, “The Position of Women according to Geniza records” (Heb.) Fourth World Congress of Jewish Studies (Jerusalem: 1968), 177-179, and Friedman, “Ethics,” 95. It should be noted that women in pre-Islamic Egypt, Byzantium and many Islamic societies also made abundant use of the courts, see Joëlle Beaucamp, “Les femmes et l’espace public à Byzance: le cas des tribunaux” Dumbarton Oaks Papers 52 (1998), 131 and 136-142; Mathieu Tillier, “Women before the Qāḍī under the Abbasids” Islamic Law and Society 16 (2009), 280-281 and 293; Rapoport, Marriage Money and Divorce, chaps. 3-4; Maya Shatzmiller, Her Day in Court: Women’s Property Rights in Fifteenth-Century Granada (Cambridge (Mass.), 2007), 1; Jennings, 59; and Peirce, Morality Tales, 2. Thus, Jewish society was in general agreement with surrounding cultures, cf. René Levine Melammed, “The Influence of Moslem Society on Jewish Women in Light of Documentation from the Cairo Genizah” (Heb.) Massekhet 3 (2005) 42 and Ora Molad-Vaza, “Clothing in the Mediterranean Jewish Society as Reflected in the Documents of the Cairo Geniza” (Heb.) (PhD diss., Hebrew University: 2010), 297. See also Friedman, “Halakha as Testimony to Sexual Life,” 94. Indeed, it is hardly imaginable that Jewish women would have appealed as commonly as they did to Islamic courts if Muslim women did not regularly appear before such forums.
77 Yehezkel David, “Divorce on the Wife’s Initiative according to documents from the Cairo Geniza” (Heb.) Sinai 143 (2009), 56.
This description intuitively adopts a male point of view that fails to acknowledge just how different women’s court experiences might have been than men’s. While women might have known some of the members of the court, their pool of male acquaintances was much more limited than that of men. All the regular functionaries in court were male, as was anyone else who might have been present as an “audience.” Women probably came to the court only for cases that involved them personally, and they did not, of course, have experience of the bench. Some women received formal and informal advice before appearing in court, but we cannot assume that their familiarity with the religious law was equal to that of men. Thus, whereas women did indeed appear frequently in courts, it is doubtful, as the cases described below will further...

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79 Another example can be found in the following statement: “Geniza papers convey the impression of an extremely intensive communal life. The small size of the communities made it possible for everyone to take part in the deliberations, and often in the decisions made for the common good,” see Goitein, “Jewish Society and Institutions under Islam” in Jewish Society through the Ages, ed. H. H. Ben Sasson and S. Ettinger (New York: 1971), 184. By “everyone” Goitein does not mean just men, but more specifically the men who count, i.e. the middle class which he considered to be the essence of the medieval Islamic world. Going back to the quote above, it is clear that Goitein is describing the court from the perspective of middle class men, because elsewhere he writes that “it must be remembered that the courts were, to a large extent, a sort of merchants’ tribunals. This was also their strength: the presiding judges were themselves prominent merchants, well versed in the (legal) questions which they debated and thoroughly experienced in the upheavals of maritime trade;” see Goitein, The Yemenites: History, Communal Organization Spiritual Life (Hebrew), ed. Menahem Ben-Sasson (Jerusalem: 1983), 57. The way the courts functioned for merchants is examined in Goldberg, Trade and Institutions, 159-164 and see Chapter Four.

80 This is the assumption that underlies the identification clause. See also Krakowski, “Adolescence,” 15.

81 On rare occasions, we hear that a young bride was accompanied by her mother, see TS 16 214, ed. Friedman, Polygyny, I-1. In TS 10 J 10 13 both the father and the mother of the bride were present in the synagogue; see Chapter Two.


83 Here an important distinction must be drawn between familiarity with procedural norms and knowledge of legal intricacies. The extent of women’s knowledge of the law and the ways in which they received legal guidance deserve a separate study. One legal maxim seems to have been generally known by women and was occasionally asserted by them in courts: “He shall not deprive her of food, cover and her conjugal rights” (Exodus 21:10), see TS 18 J 3 2, ed. Bareket, Shafrîr, #18; TS 13 J 1 2, ed. Gil, Palestine, #22; TS NS J 149; TS 10 J 4 11; TS 16 214, ed, Friedman, Polygyny, II-1, 83-88; Maimonides, Responsa, #15 (an example of a woman approaching the judge to receive advice); Bodl MS Heb c 13 20, ed. Friedman, Polygyny, V-2, 136-144. However, a wide gap remains between citing this maxim (if indeed women actually said this in court) and possessing detailed legal knowledge. For an example of women’s ignorance of their rights and of legal procedure, see Maimonides, Responsa, #37. On the same question in other medieval societies, see Kelleher, The Measure of Woman, 59, n. 72, and Fredrik Pedersen, “Did the Medieval Laity Know the Canon Law Rules on Marriage? Some Evidence from Fourteenth-Century York Cause Papers” Mediaeval Studies 56 (1994), 111-152.
demonstrate, that Geniza women saw the members of the court as ‘people of their own kind.’

Furthermore, women’s experience of the court was gendered in several obvious technical aspects that must be mentioned even though they lie outside the focus of the present investigation. First, while the Talmud contains some instances of women fighting for their rights in court, it also refers to a social norm by which “it is not the way of a woman (to go to court) because ‘a king’s daughter’s honor is indoors.’”84 In our records, women often nominated a representative to appear before the court in their stead,85 and for women of high social class or those considered particularly modest, the court would send representatives to collect her testimony in the woman’s home.86 Second, women’s


85 I should clarify that since my focus in this chapter is on women’s experiences in the courts, the many cases in which a woman nominated a (male) representative to appear on her behalf in court fall outside its purview. In n. 114 below, I mention a case (Maimonides, Responsa, #11 and #233) that suggests that when a woman was represented by a man, in this case her father, the court’s attitude may have been much closer to Goitein’s description above.

86 The topic of courts sending representatives to the homes of women deserves a separate study. In the letter of a man identified by Bareket as Sahlān b. Abraham to Segan ha-Yeshiva (Aaron the cantor), we read that “when the complaining of the wife of ‘Alī b. Bishr ben Dardān/Durdān continued, the matter required the appointment of a representative to go to her to investigate her matter since she is veiled (idh kānat dhāt hijab),” see TS NS 298 38, ed. Elinoar Bareket, “Sahlān b. Abraham” Tarbiz 52 (1983), 39-40. Bareket translated the last part as “since she hides something.” The court also sent representatives to a woman’s home when she was of high social status. See, for example, TS NS 321 54, mentioned in Med. Soc. 3:358. Women occasionally attempted to avoid showing up in court or nominated representatives to appear on their behalf and the authorities looked upon such attempts with disfavor. See, for example, TS 13 J 16 11 (ed. David, “Divorce,” 204 and Goitein, “Eḥinanān b. Shemarya,” 121-122) and Mosseri VIII 407, ed. Glick, Seride Teshuvot, 295-299 and recently discussed by Mordechai Akiva Friedman in his SJAS lecture in Jerusalem 2013. The topic also features in a famous geonic responsum, see S. Assaf, ed. Geonic Responsa (Jerusalem: 1927), 20-21; and see the discussion in Gideon Libson, Jewish and Islamic Law: A Comparative Study of Custom during the Geonic Period (Cambridge: 2003), 53 and 107-110; Friedman, “Ethics,” 93-94; and Krakowski, “Female Adolescence,” 137. An interesting case is offered by TS 18 J 1 23 which records how a representative for orphans who had a claim against an obviously wealthy woman appeared in court when she was present for a different case. The way she commits to show up in court whenever he asks suggests that she previously tried stall and avoid coming to court and that he had to seize the opportunity when she came to court for another matter.
testimony is, generally speaking, not valid in Jewish law.\footnote{In various cases, however, women’s testimony is accepted and even required, see Gershon Holtzer, “A Woman’s Testimony in Jewish Law” (Heb.) Sinai 67 (1970), 94-112; R. Samuel T. ha-Levi Rubenstein, “Acceptance of Women’s, Relatives’ and other Pesulims’ Testimony in the Halakha.” (Heb.) Torah She-Be-‘Al Peh: The Lectures in the Tenth National Convention for Oral Law, ed. Isaac Refa’el (Jerusalem: 1968), 99-108; Shimshon Ettinger, “Testimonial Competence of Women in Civil Matters Under Jewish Law” (Heb.) Diné Israel 20-21 (2001), 241-267 and Eliezer Hadad, The Status of Women in Rabbinical Courts (Heb.) (Jerusalem:2013), 32-82. On the Islamic front, see Ron Shaham, “Women as Expert Witnesses in Pre-Modern Islamic Courts” in Law Custom and Statue in the Muslim World: Studies in Honor of Aharon Layish (Brill:2007), 41-65; and Mohammad Fadel, “Two women, One Man: Knowledge, Power and Gender in Medieval Sunni Legal Thought” IJMES 29 (1997), 185-204. An interesting case is TS 8 J 36 10v, where Muna bt. Ishmael’s name appears as that of a witness (though this probably implies no more than that she was present in the room).} It follows that women may not serve as judges.\footnote{See the comments of Asher b. Yehiel on BT, Shavu’ot, 30a. See also Hadad, 88-115. On the Islamic side, the picture was similar, though one occasionally comes across opinions permitting a woman to function as a judge. For one such example see Patricia Crone, Medieval Islamic Political Thought (Edinburgh: 2004), 350.} Special concern was raised by the oath required of a widow or a divorced woman when collecting her ketubba.\footnote{On this issue there is an abundant literature, both primary and secondary. See Simḥa Assaf, “From the teachings of the Geonim,” (Heb.) A Memorial for the Soul of the Righteous Gaon R. Abraham Isaac ha-Cohen Cook (Heb.) (Jerusalem:1937), 4:47-56; Liberman, Tosefta ki-Feshutah, Ketubbot, 330-336, ha-Livni, Sources and Traditions, Women (Toronto:1993), 227-231; Friedman, Jewish Marriage in Palestine, 1:262-267; Ben Sasson, Qayrawan, 128-129 and most recently Joseph Rivlin, “The Oath of the Widow between Sefarad and Ashkenaz” (Heb.) Mehkare Mishpat 21 (2005), 705-720. On the procedure’s practical application, see TS 13 J 3 10 2v and ENA 4011 5. See also Chapter Three.} Finally, the most evident technical difference regarding women’s presence in the courts as reflected in Geniza legal records is the special ‘identification’ clause applied in nearly all cases involving women. Whereas men were introduced by their names and their fathers’ names, accompanied often by various honorifics, a woman could typically only bask in the titles bestowed on her father and could only act after being identified to the court by someone else – or, in the court’s more wordy formulation, “after her identification was verified for us in the ways the identification of the likes of her is established concerning her name, personality and progeny.”\footnote{TS 13 J 2 16 r.10-11. One wonders whether the honorifics attached to the names of litigants in the records were also proclaimed aloud in the court room – an act that, on the face of it, could be interpreted as undermining the principle that justice is blind to class and status (see Deuteronomy 1:17). Exceptions to the} This technical difference reflected a cultural assumption that males were publically known, while women were not.\footnote{TS 13 J 3 10 v. and ENA 4011 5. See also Chapter Three.
Women were indeed allowed into the court to conduct their legal affairs and it is understandable that this fact has been highlighted by scholars in order to dismantle pre-conceived ideas about the so-called low status of women in traditional Jewish or Muslim societies. However, this emphasis should not obscure the fact that the court was essentially a male space that followed a law developed, interpreted and adjudicated by men.92

Women's experiences of the court from other genres

Legal records present women’s experiences of the courts from the perspective of the courts themselves. As we have seen, the legal records often omit much of the background information and present the actions taken in court in dry legal formulas. We certainly should not expect to find in court records explicit admission of a court’s bias or mismanagement.93 Therefore, in order to counterbalance the perspective of the courts it is instructive to consider sources other than court records such as petitions, letters and

rule that women’s names were not accompanied by honorifics are found in TS 13 J 2 3 and TS NS 264 21, where “Turfa ha-kohenet” and “Sitt al-Kafā ha-i′ishha ha-maskelet” make an appearance, respectively. For a related issue in Islamic tradition, see Tillier, “La société abbasside,” 157-186. See also Peirce, Morality Tales, 143-145.
91 On Islamic identification clauses for women see Tillier, “l’Identification,” and also Khan, Arabic Legal and Administrative Documents in the Cambridge Genizah Collections (Cambridge: 1993), 11-20. It is tempting to see the difference between the Muslim and Jewish identification procedures – physical identification in the former versus name-based identification in the latter – as stemming from the different sizes of the Jewish and Muslim societies and reflecting a Jewish assumption, which did not hold in the Muslim case, that the inhabitants of any given town knew one another.
92 See also Beaucamp, 129-145, Shaham, “Women,” 64 and Layla ‘Abd Rabbo, “The Shari’a Court and Women’s Empowerment” (Heb.) in Facing the Shari’a Court: Transformations in the Status of Muslim Women in Israel and in the Middle East, ed. Liat Kozma (Tel Aviv: 2011), 184-185. I am not assuming here a ‘battle of the sexes’ in which men are ipso facto antagonistic toward women. However, it is important to recognize that an institution that appears to men to be neutral may be experienced profoundly differently by women.
93 The rare instances in which bribery is mentioned in a legal record, as in the case of Sāliḥ’s former wife described at the top of the chapter, serve typically to present the woman in a negative light, as quarrelsome, rather than to admit any sort of guilt on the part of the courts. See more on this in the next chapter.
More than in the often dry and formulaic court records, these alternative sources convey the centrality of gender and social status to the workings of the courts. The perspective they afford will allow us in turn to revisit the legal records with a new understanding of women’s experiences in court, shaped by the depiction of these courts as zones of masculine and communal power and control.

In our first such case, a poor, desolate orphan wrote an extremely direct and informal petition to an unnamed communal leader. She had been married off to a man who did not provide for her and for the previous ten years had been living from her labor. The disgraced (Ar. mahtūka) orphan reports that “for a year or more he has given me a bad name. I went to the judges and ransomed myself free with everything (due to me from him) to save my honor. But they did not grant me a divorce.”

The story of another wife who sought a divorce and met with a refusal is told in a fragmentary query submitted to “the distinguished Rabbi.” A young girl in a group of ransomed female captives was taken in by a woman, as an act of charity, and raised together with her own children. Some four or five years later, when she came of age, one of the boys married her with the approval of the local judge. After the marriage, however,

She did not stay with her husband longer than four [months ... and re]turned to the house of the woman, in which she had been brought up. […] and said: “I shall not stay with this man one single hour.” [The elders

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94 The ability to examine a single phenomenon through sources from a variety of genres is one of the great advantages of the Geniza, lacking to a large extent in the study of Ottoman court records. See Ergene, 111-3, 122, 131 and esp. 170-188.
95 I.e. she relinquished her ketuba through the iftidāʾ/ransom procedure, whereby a wife relinquishes her delayed marriage gift and in return the court is supposed to force her husband to grant her a divorce. See more in Chapter Three. In this case, even though she performed her part, she was not granted a divorce.
96 TS NS J 68, translated into English in full in Goitein, Med. Soc. 5:201 (I have used his translation with modifications). The document was recently edited in David, “Divorce on the Wife’s Initiative,” 50-51.
97 Goitein suggests this might be Isaac b. Samuel ha-Sefaradi, see Goitein, Palestinian Jewry in Early Islamic and Crusaders Times in the Light of the Geniza Documents (Heb.), ed. Joseph Hacker (Jerusalem, 1980), 311.
98 In the earlier English version Goitein suggested weeks, in the later Hebrew version he suggested ‘months(?)’.
and the judge (may G(od) k(eep him) urged her all the time to reconsider the matter, but she said: [...] They exercised on her all kinds of pressure and talked to her in different [ways, but she said: “I shall not stay with this] man even if he pours gold over my head.” [...] Then the women’s children drove her out of the House […].

The court refused to assist the young wife, who had no family to back her, in her bid for divorce. Moreover, the judge and the elders exercised on her “all kinds of pressure and talked to her in different [ways]” to bring her to conform to the wishes of her husband and his family. Such pressures, whereby men in official or semi-official position attempt to persuade women to yield to societal pressure, will be encountered throughout this chapter and constitute a major aspect of the gendered experience of women in court. It is significant that in the last two examples the wives were both poor and had no family of their own to support them. For such women, the court was not a welcoming space through which they could advance their goals.

We get a closer look at these ‘pressures’ in an important letter written by Yeshū’a b. Joseph ha-Kohen, a judge and a haver in Alexandria, to Nahray b. Nissim in Fustat. Yeshū’a asked Nahray to consult ‘the Rav,’ i.e. R. Judah b. Joseph ha-Kohen about a

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100 Eve Krakowski has suggested to me that the court’s reluctance to initiate divorce proceedings in the case of orphans might have to do with the court’s concern that once divorced they would become a social liability, see also her analysis of how the community exerted itself, for the same reason, to help marry off orphan girls, in Krakowski, “Female Adolescence,” 73. I do not consider these different explanations mutually exclusive, although it is worth keeping in mind that the cases described above concern divorced orphans, who were regarded as less problematic than mature virgin orphans. Another example of a woman who asked the court for months in vain to be divorced from her husband “in any way possible” is found in Bodl MS Heb d 66 16, discussed in Chapter Four. See also the custom of Joseph ha-Kohen b. Solomon of delaying the delivery of a get to a Kohen’s wife (in this case for over two years) in order to give the couple a chance to reconcile, see TS 28 5, r.6-8 ed. Friedman, “A Kohen Divorces his Wife,” 206 and 211-2. Thus, I cannot accept David’s conclusions that “It was easy for [women] to obtain divorce, whether by rebellion, by ransoming themselves, or by employing a condition written in the ketubbot …. The courts assisted women to divorce their husbands. The sages in that period did not stand in their way but strove to help them” (my translation), see David, “Divorce on the wife’s Initiative,” 56; see also Friedman, Polygyny, xiv. While divorce was common, it was not easy for all Geniza women. Status and personal networks were crucial to a woman’s ability to recruit the assistance of the court in her claim. We should also not make light of the pressures exerted on women to renounce their delayed marriage payments and the grave economic consequences such renunciations entailed (see Chapter Three).
troublesome case of levirate marriage (Heb. *yibbum*). After the death of a childless husband, the wife refused to marry one of his married brothers but agreed to marry one of his single brothers:

The court sent five elders from the synagoge, among them Abraham b. Farāḥ and four elders like him. They went and returned to court with this answer: “We went to this *yevama* (deceased brother’s wife) and identified her through a proper woman.101 We intimidated her and told her: ‘By heaven and by the Torah, God cast (this duty) upon you. You cannot withdraw from him (i.e. from the married brother) and it is your duty to be taken in levirate marriage by him even against your will. Do not refuse, do not decline him and do not listen to those who tempt you and make you err …’” She answered us and said thus: ‘I refused his brother who passed away, even though he was single; should you insert me as a second wife to this one who has a wife and sons? Even were you to cut my flesh to pieces, I would not be persuaded to your talk, nor listen to your words so that you insert me as a second wife. He has single brothers and if they (are willing) to take me in levirate marriage, they shall do so, and if they (are willing) to release me (*halitza*), they shall do so. Do not force me, lest you cause me to fall into evil ways and my sin will be on your neck.”102 When the court and the elders heard the words of the other elders, the court said to the levir: “What do you say? For she said that she is not pleased to be a second wife.” The levir insisted and swore that he would not give her a release […] and he would not be compelled by the law…103

This document reveals the nature of the ‘pressures’ inflicted by courts upon women. The *yevama* was rebuked and instructed in religious terms on how she ought to act (“by heaven and by the Torah, God cast (this duty) upon you”).104 The way in which she was addressed is even more striking when we consider what happened after she refused to comply: the levir was asked to release her from her duty. When he in turn

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101 Here the identification was performed by a woman.
102 This is probably a threat to convert to Islam, or at least to appeal to gentile courts.
103 Bodl MS Heb c 13 20 (my translation from Hebrew), ed. Friedman, *Polygyny*, 136-144 (where reference to Mann’s earlier edition is given). See also TS NS 312 37, a fragment from a letter that Friedman identifies as possibly belonging to the same case, ed. ibid, 144-145.
104 Similar means were also applied after a divorce took place. In Halper 418, a divorced woman complains that her former husband constantly asks her to return to him. She has left for Alexandria and all the time he keeps asking her to return to him in Fustat which she is afraid to do. Even the Rabbi’s servant continues to pressure her to comply (*ghulām al-rav baqiya yulzi (mu)nī `alā al-safar*) saying that “it might be good for you.” In TS 12 163v, similar pressures seem to have been effective in reuniting a couple long after the divorce.
refused, a higher religious authority was consulted, and it seems as though both his ruling and the opinion of the writer of the letter was that “Not all yevamot are released and not all yevamot are taken in levirate marriage. The court may rule according to specific circumstances and litigants.” In other words, the woman was first intimidated and told repeatedly that she must conform to the wishes of the levirate and the court. Only after she withstood this campaign and continued to refuse did the court turn to pressure the man - even then doing so with considerably less force. Later a higher authority was consulted who insinuated that the pressures and religious intimidations inflicted upon the yevama had been inappropriate. The fact that, even according to Jewish law the proper course of action in this case was not clear cut, reveals the extent to which pressuring the woman represented the court’s default position. This default position can be gleaned in other Geniza documents.

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105 Verso 11-12, for the opinion of “the Rabbi,” see recto 20-22 and see Friedman, Polygyny, 136-137.
106 Compare with Goitein’s observation on the duty of levirate marriage: “A heavenly commandment, which seemed the more sacrosanct and meritorious the more senseless and harmful it was in practice … I fancy that at least some of the persons about whose sufferings by an outdated law we read in the Geniza might have been indemnified and fortified by a similar religious posture,” Med. Soc. 3:211.
107 Friedman also expresses his dissatisfaction with the court’s actions in n. 38 and n. 42 on pp. 141-142.
108 See ENA 2958 2, TS 13 J 16 11 and TS Ar 47.244 (esp. l. 18), ed. Asur, “Engagement and Betrothal,” A-28. A particularly interesting case is found in TS 8 J 38 11, where Abrahm b. Nathan sends an emissary to reconcile Maḥfūẓ al-Qudsī and his wife. The emissary is told to “reconcile them and rebuke her […] for she needs someone who would exert pressure on her and settle their matter and facilitate it” fa-tuṣālīḥ baynahum wa-turājiʿuhā […] wa-hiya taḥtāj ilā man yashudd minhā wa-yudabbir amrāhum wahusahhiluḥu. On rendering yurājiʿ as “rebuke,” see Blau, Dictionary, 241. More intriguing is yashudd min. This expression usually means “to support;” in this case, however, it seems to be used like yashudd ʿalā, “to exert pressure on” as found in Maimonides, Responsa, #196, p. 2:353 and see Blau’s comment in n. 12 there and also his Dictionary, 329. For similar “pressures” and religious admonition directed at a woman in a letter, see TS 10 J 11 29-30 (ed. Gil, Palestine, #104 and discussed in Zinger, “Long Distance Marriages,” 34-37). In other legal documents we find possible hints of other forms of advice and suggestions. For example, in TS 10 J 7 10 1v (ed. Rivlin, Inheritance, #47). Khula bt. Shabbat manumitted a slave and bequeathed half the proceeds to the synagogue at Damāmūhl and the other half to the funeral arrangements or poll tax of people who did not have enough means. As they were instructed by a communal leader, the witnesses tried to convince her (wa-sharnā ʿalayhā – see Blau, Dictionary, 352 – Rivlin read סרה) to allow the money to be used for repairing codices in the Palestinian and Iraqi synagogues, but Khula refused. This difference in charitable priorities may possibly be attributable to gender.
In contemporary responsa we find similar pressures, unwarranted by Jewish law, applied by courts on women in an attempt to bring them to relinquish their claims or consent to men’s demands. Maimonides was asked whether a husband may give his wife the items of her dowry and demand that she release him of his responsibility for them. Apparently, the local judge had earlier told the wife: “True, the divine law requires you to take your items and release him,” upon which the wife had consented to her husband’s demand. In his answer, Maimonides wrote that the wife was not required to consent and if her consent had resulted from the judge’s decree, then her actions were void. In another case, Maimonides was asked about an Alexandrian man who refused to support his four-year-old daughter so long as she was in his former wife’s custody. The judge had ruled – mistakenly – in the husband’s favor and “due to the speech of the judge the woman was frightened and made the symbolic purchase to sustain and support her daughter.” Another example is found in a responsum of R. Sherira Gaon. On his deathbed, a father divided his estate among his children after giving his wife a quarter of a house for her delayed marriage gift and dowry and releasing her from any vow or ban.

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109 wa-qāla dayyan al-mawdū’ li-l-mar’ā na ‘am al-shar’ yudzimuki bi-‘an ta’khudhī qumāshakī wa-tubrī ihi minhi.
110 See Maimonides, Responsa, #102.
111 Maimonides, Responsa, #367. Two years later the woman appealed to the same judge, who, realizing his mistake, overturned his former ruling. Another example from Maimonides’ responsa is found in ibid., #196 where the witnesses try to convince a mature orphan to marry a man against her will, because he is her relative (the case is more complex, see Blau’s edition for fuller detail). As in many of the examples presented in this chapter, the woman is reported to have responded with a strong statement of refusal: “Witness and make the symbolic purchase from me that I have no desire to be with him, nor do I see him or look at him.” She also appoints her mother’s brother as her agent to receive the get. A further example is found in Maimonides, Responsa, #15 where a wife released her husband of the obligation of her ketubba, but instead of divorcing her, he absconded to the Delta and died there. When the widow asked to receive her ketubba, she was told that since she had released her husband of the obligation she would receive nothing. The woman’s argument that she only released her husband in return for a divorce was rejected by the court, which even forbade her from remarrying since after two of her husbands had died, she was considered a killer. In his answer, Maimonides ignores the question of the ketubba but suggests leniency in the matter of the ‘killer wife.’ On the ‘killer wife,’ see Avraham Grossman, He Shall Rule Over You? (Heb.) (Jerusalem: 2011), 133-136; and Mordechai Akiva Friedman, “Tamar, A Symbol of Life: The ‘Killer Wife’ Superstition in the Bible and Jewish Tradition” Association for Jewish Studies Review 15 (1990), 23-61.
After his death, the eldest son disputed the arrangement. Several people are described as “dragging” the widow, probably to court, and placing her under a ban telling her that she must compromise with them. Due to the ban, the widow yielded and gave the eldest son three hundred dirhams, after which the ban was lifted. Sherira Gaon ruled that the widow had been wronged and the money should be returned to her. These examples suffice to establish the tendency of the courts to pressure women, even when such pressure was not required by the law. However, we must keep in mind that these examples involve those cases in which a woman was strong enough to resist the pressures and obtain justice, or at least a hearing, through a different venue. Therefore, these examples reflect only the visible tip of a far more widespread reality.

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112 *jarjarū al-almana*. The editor was puzzled by this verb and translated it as “threatened.” However, see now Blau, *Dictionary*, 83, and also Kazimirski, 2:457. This usage appears with a similar meaning in Mosseri III 121 1, r.16, ed. Glick, *Seride Teshuvot*, 211-219. While the editor reads מֹשֶׁר בַּר וַיְבִיעֵן הָעִבִּיר מֶסְרוּ הַמְּשֻׁרַיִם יְכָרָזְוָו מַדְעַר וְלָא בְּשַׁבַּה הַבְּשַׁבַּה מַדְעַר מַדְעַר וּבָשֵׁר מַדְעַר מַדְעַר. See also TS 13 J 6 30, r.14; TS Misc 25 62, r.5, ed. Gil, *Ishmael*, #572, and the wonderful comment in TS NS J 58: “It has reached me that Ḥumm Bayān opened his (i.e. her husband’s) storage crate which is in the house and sold from it and paid some of her debts. Every day she is dragged to court by the creditors (*wa-hiya kull yawm mujarjara maʿa al-muṭālibīn*). Were [he] wise, he would have left her something at the house.” The meaning seems to be “dragged to court” rather than merely “harassed,” and see also TS NS J 7, r.12, ed. Friedman-Goitein, *Ḥalfon*, VIII, 70 (IV, 60): *wa-qad tajarjartu maʿa al-nās fi al-ḥkām.*


114 Notice that the only example (of which I am aware) in which a judge bent the law in a wife’s favor involves a woman who was represented in court by her father (i.e. she had male support, unlike in most of the examples provided above). In this case, the judge tried to invalidate the actions of a wife who had released her husband of responsibility to her dowry with the argument that whereas the deed was valid, the wife was legally incompetent (*safīḥa*), “for she who gives her dowry in the first year of her marriage is a fool (*safīḥa*)” Maimonides dismissed the judge’s claims. See Maimonides, *Responsa*, #111 and #233 (and see also #191). There might be a possible parallel between the judge’s claim that a woman may not transfer her dowry to her husband in the first year of marriage and Maliki doctrine, see Shatzmiller, 79-86. A similar conception can be found in Renaissance Italy, see Thomas Kuehn, *Law, Family & History: Toward a Legal Anthropology of Renaissance Italy* (Chicago: 1991), 197-211. For another case of a wife who transferred her dowry to her husband, to the displeasure of her father, see Rapoport, *Marriage, Money and Divorce*, 17, n. 38. For another case in which a wife claimed to be a *safīḥa* in order to undo her prior releasing of her husband, see Ibn Taymiyya, *Majmūʿ al-fatāwā* (Beirut: 2000), 32:145, #1617. See also Rapoport, *Marriage, Money and Divorce*, 23-24.

115 One can also add that even if not every woman who came to court was pressured to relinquish her claim, the fact that some women were treated in this way made such pressures a likely scenario that women had to take into account when contemplating whether to bring their claims before the court.
The attribution of such pressures to the combination of gender and status is strengthened by the fact that only rarely do we find men addressed in a similar way by the court. The closest male parallel of which I am aware is found in a letter with signatories, resembling a legal deed. The letter, written by judge Manasse b. Saʿadya to Abraham b. Nathan, reports how, when a group of people came from Sumbutya, Manasse “shamed, reproached and caused to cry” a certain Sasson b. Yefet until the latter gave up his claims and made amends with his in-laws (who were also his relatives). However, notice that in this case the conflict is presented as a dispute between the husband and his in-laws rather than with his wife. In the documents discussed above we have seen how the bulk of the court’s pressure was placed on the woman, while pressure on the man was substantially weaker. Other documents suggest that men were admonished in a different manner than women. For one thing, the reproach was often communicated in private letters rather than directly by the court or its representatives. Second, whereas women were repeatedly urged to take certain actions on the grounds of “religious duty,” men were usually admonished retroactively for actions already committed (“how have

116 See TS 13 J 6 21. Sasson b. Yefet is known from two other documents involving legal agreements with a woman who was probably a different wife: TS 13 J 2 17 and ULC Or 1080 J 175. Another example is ENA NS 17 10, v.6, ed. Friedman, Polygyny, VIII – 2.
117 Compare the example in n. 114 above.
118 It is interesting to compare the case of Ṣāliḥ and his former wife with we opened this chapter to TS 18 J 2 13, partially ed. David, “Divorce,” 206-207 and 302-304. This case also begins with rumors, this time that a man has been having sex with his former wife (mujtami` ma`a muṭallaqatihi – see Blau, Dictionary, 95). The problem was further complicated because the former husband was a Kohen, who cannot marry a divorced woman. The court record reports how “we summoned him to court and rebuked him for the rumors we heard about him. He denied (the rumors) and took stringent oaths in our presence that he is innocent of this.” The former husband convinced the court in the falsity of the rumors, but the court demanded that a new get be given to the wife, to remove all doubts. While we can see that the husband was “rebuked” by the court, we do not hear what the court told him, nor do we know it was framed in the same hyperbolic “God demands that you…” way we have seen in the women cases above. Incidentally, l. 14 reads: "וזאלה אלט֗נון וארתִפאִע אלשבה פי הדה אלנובה פקלנא לה אנו בית דין לן תרתפע". A more complex example can be found in Yevr.-Arab. I 1701, to which I hope to dedicate a future study.
119 This seems be connected to what Cohen observed about petitions for assistance. While men asked for help in private letters, women address their petitions to communal leaders and the community; see Cohen, Poverty, 147.
you done such a thing”). Furthermore, the actions for which men are found to be admonished are almost always in clear contradiction of Jewish law, and there is no evidence of a male parallel of the phenomenon explored above in which women were admonished to take actions not actually required by Jewish law. Thus, the religious admonition to cede their claim or to accommodate a man’s demand was a common feature of women’s experiences in Geniza courts.

The most vivid account of a woman’s travails with a local judge is found in an extraordinary letter by Jalīla bt. Ibrahim to Mevōrakh b. Saadya, the head of the Jews in Fustat. In her letter, whose length and repetitiveness require it to be summarized rather than presented in full, Jalīla describes how, after the death of her husband on one of his regular flax buying trips, a group of Jews and Muslims came forth and declared themselves his creditors. She then claims that, together with the Jewish judge in Alexandria, they proceeded to deceive her by bringing her before the Muslim judge and telling her what to say while promising that she and her children would receive the late husband’s estate. When she obeyed, they took her minor son to collect the estate from the tax farm in which her husband died, and once they had obtained it, gave her son a pittance and kept the rest for themselves. Instead of a ketubba of sixty dinars and the inheritance for the orphans, she and her children received a total sum of seven dinars. When she complained to the Jewish judge in Alexandria, he answered: “The wish of this woman will not be granted. We will sell and divide the money and give to each one what

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120 This can be seen in letters reproaching absent or runaway husbands for neglecting their wives or ill treating them, see, for example, Zinger, “Long Distance Marriages,” 25-30, and TS 8 J 5 8 (fully translated in Med. Soc. 3:196), TS 18 J 2 10 (ed. Goitein, Palestinian Jewry, 265-267), TS 20 140 (ed. Goitein, “Shemarya b. Elhanan,” 269-270), ULC Or 1080 J 107 (ed. Gil, Palestine, #119), ENA 2804 7 (ed. ibid, #418), TS 13 J 15 23 (ed. ibid, #455), TS J 2 26, Halper 398 (ed. Motzkin, “Judge Elijah,” 2:207-8), Bodl MS Heb a 3 12v – a fascinating letter to an absent husband – not mentioned in the literature so far. This can also be seen in documents not related to abandoning one’s wife, see TS 13 J 16 3, (ed. Frenkel, Alexandria, #66) and ENA 3792 4, (ed. Gil, Ishmael, #798).
he claims.” Disappointed with the Jewish judge, Jalīla brought her case to the Muslim judge who agreed with her that the estate should go to the orphans, and anyone else who believes he has a rightful claim to the estate should prove it in court. According to Jalīla, the creditors then bribed the courts and told her: “Take these seven dinars so that you would not remain without anything and tell the Muslim judge not to make us take an oath.” Lacking a better option, Jalīla consented and released them formally in the Jewish court of any debt to her and of the oath.121

Several features in Jalīla’s letter are pertinent to our current inquiry. From the size of Jalīla’s ketubba, it is clear that she belonged to the middle stratum of Jewish society. However, when she was widowed, she found herself in a weak position vis-à-vis the communal authorities and her husband’s business partners (notice that her son was still a minor and neither her brother nor her father is mentioned in the letter). Thus, Jalīla belongs in the same category as the other women of weak legal status encountered so far in the chapter who were failed by the communal legal system in their weakest moment.

Indeed, while Goitein described this document as “the most detailed account found in the Geniza of the struggle of a widow with the former partners of her late husband,” it is actually the local Jewish judge in Alexandria, known from other documents by the name Shela b. Mevasser (documents in his hand are dated 1065-1103; he served as a judge in 1079-1103), who is the primary target of Jalīla’s anger.122 Of course, there is no way of telling whether Jalīla’s serious accusations against him are true, as we have only her side of the story. Similarly, we do not have enough information to

decide between the claims of the creditors and that of the widow. On the other hand, her accusations had at least to be plausible if Mevorakh was to believe her.

In order to understand the context of Jalīla’s petition to Mevōrakh it is important to note that in Mevorakh’s first term in office he was involved in a high-profile conflict with Shela, the Alexandrian judge. Thus, insofar as she was complaining about Mevorakh’s opponent, she might have calculated that her letter would fall on ready ears, and this may explain some of Jalīla’s daring accusations against a prominent community leader. We see here how the local political configuration could be of vital importance to a woman’s chances of obtaining justice. Navigating the legal and communal arena was not just a matter of legal right; such factors as political expediency, luck and timing could all tilt the balance for or against a litigant.

In her petition, Jalīla explicitly attributes her loss of what was rightfully hers to her gender when she writes: “I was tricked because I am a woman” (r.39, Ar. fa-ʿumila ʿalayya ḥīla li-ʾannī mara). This evaluation is reflected not merely in this direct statement, but also in Jalīla’s description of the condescending manner in which the

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123 The issue of the conflicting claims of the orphans, the widow and the creditors is treated in Mishna, Gitṭin 5:1, and see the discussions in BT Gitṭin 48b-50b and MT, Nashim, Ishut, 16:3-7. See more in Chapter Three.
124 Frenkel, Alexandria, 82-85. In Mevorakh’s second term in office, the relationship between the two warmed up.
125 It also allows us to date the letter with greater precision. Frenkel identified ʿAtzeret, mentioned on the verso’s margins, as Shemini ʿAtzeret and thus all the events narrated in the letter took place within the single month of Tishrei (ibid, 432). However, between 1060 and 1160, Shemini ʿAtzeret never fell on a Friday, as mentioned in the letter. ʿAtzeret must therefore refer to Shavu ʿot, commonly called ʿAtzeret in Geniza documents (for example, see TS 10 J 19 19, ed. Gil, Ishmael, #180; Mosseri VII 74 1 r.4; TS 13 J 23 11, r.17, ed. Gil, Palestine, #66; and it seems like we should understand Freer 1908 44 E, r.27, ed. Gil, Palestine, #54, as also referring to Shavu ʿot). Shela first signed as a judge in 1079 and died in 1103. Mevorakh was head of the Jews in 1078—1082 and 1094-1111; see Cohen, Self-Government, 171-177 and 213. The letter can thus be dated to between 1079-1082 or 1094-1103. During these years Shavu ʿot fell on a Friday in 1079, 1082, 1096 and 1103. Due to the conflict between the two in Mevorakh’s first reign, the two earlier years are to be preferred.
126 For another case of a woman who claimed to have been tricked, see TS 12 538, ed. Weiss, “Halfon,” #48.
Jewish judge dismissed her, saying: “The scheme of this woman shall not be rewarded, we will sell and divide the money and give to each one what he claims” (r.29-30), “What is your opinion? Shall we take the property of people and give it to you?!” (right margins) and “You do not have anything and we will do as we please, we know what we are doing” (r.47). According to Jalīla’s account, the Jewish judge shouted at her and stated that he considered the Muslim creditor trustworthy (apparently without requiring him to take an oath in a Muslim court, as Jalīla had requested) while dismissing her claims out of hand (r.25-28). The Jewish judge also had no qualms about reporting to the Muslim judge that Jalīla had relinquished her claim willingly and that she herself asked that the Muslim creditor be paid first (v. 3-4).128

We also see the pressures, couched as ‘suggestions,’ exerted by the legal system upon the widow to relinquish her rights and the rights of her orphans in favor of the claims of other men: “Take these seven dinars so that you would not remain without anything and tell the Muslim judge not to make us take an oath” (v. 11-12, ll.65-66). Furthermore, even in very late stages of the conflict, the Jewish judge still places the burden of compromise (which is actually almost total surrender) fully on the woman: “You, your ketubba is sixty dinars. (If) you will take them, what shall we pay the Muslim, the Jews and the partner?” (r.48).

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127 See Blau, Dictionary, 735.
128 I focus on Jalīla’s case because it is rather detailed, but it is possible to point to other such cases. TS 10 J 11 25, for example, is another letter of a widow to Mevorakh b. Saadya. The writer relates how her daughter was married to a husband who left her without leaving maintenance. The mother provided for her sick daughter for two years, and recently news has arrived that the husband died. Now, the son-in-law’s relatives (a cousin and a brother are mentioned) came to the local communal leader demanding that the widow give them the substantial sum of eleven dinars (presumably of property that the husband left behind). The widow claims that she does not have even a single dinar for she is a lonely widow. She has maintained her sick daughter with her own money and from her daughter’s dowry. The communal head took sides with the deceased husband’s relatives and told the widow she was lying.
Jalīla surrendered to this pressure, and in order to receive at least seven dinars from the sixty she was due, she came before the court and “made the symbolic purchase (qinyan) that I received the seven dinars, that I do not require them to make an oath and that I am satisfied with what they said” (ll.68-69, ar. raḍītu bi-qawlihim). Significantly, she uses the same expression that commonly found in the legal records of cases in which women relinquish their monetary claims. This statement assures that the legal act is made with the consent of the woman and serves to protect the agreement and the parties from future claims. In the letter, the widow reveals that she was pressured and tricked into making this statement and that she was far from satisfied with the compromise.

This ‘smoking gun’ has far-reaching repercussions for our understanding of the numerous other documents in which women submit to a compromise and are recorded as declaring their satisfaction with it. How many more scenarios like Jalīla’s lurk behind the numerous dry deeds of release? Stories like hers and that of the ‘stubborn’ yevama substantially shake the accepted depiction of the courts as a welcoming and helpful space for women. Furthermore, they cast a long shadow over the contents of the court records in so far as we have witnessed that behind innocent looking confirmations and releases sometimes lies a complicated web of pressures and manipulations.

Women in court records

Having challenged the conventional benign depiction of women’s experiences with the Jewish courts in the Geniza by looking at petitions and responsa, we can now

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129 Such documents will be studied closely in Chapter Three. Meanwhile, see TS NS J 51, v. 7 (ed. Bareket, “Books of Records,” 21-22, lower half of verso, line 7); TS 8 K 20 1 recto l.11 (ed. Bareket, “Books of Records,” 44-45); ULC Add 3339 (b), r. 30; and JNUL 577 7 3, r. 15 (here the woman gives her approval not to an agreement reached in court but rather to being represented by her brother in her suit against her husband).

130 This question is picked up again in Chapter Three, which presents many further examples of women who relinquished their monetary rights due to physical and emotional pressures from their husbands.
turn to examine these experiences as they appear in the court records themselves. The insights gained from examining documents other than court records will help us analyze court records and detect in them signs of some of the same gendered ‘pressures’ manifested in the petitions and responsa. Reading court records with literary sensitivity, we examine how they craft their narratives and identify whose viewpoint they adopt. This new way of reading Geniza court records will reveal new aspects of the gendered experiences of women in Geniza courts.\footnote{While the narrative elements of Geniza legal records are only slowly being discovered (see Frenkel, \textit{Alexandria}, 5, and ibid, “Genizah Documents as Literary Products” \textit{From a Sacred Source: Genizah Studies in Honour of Professor Stefan C. Reif} (Leiden: 2011, 139-155) this was the basis of the explosion of scholarly writings on the Ottoman court records in the 1990s. My own attempts to re-think Geniza legal records owe a great debt to the work of Iris Agmon, Bagaç Ergene, Leslie Peirce and Dror Ze’ev. See Agmon, “Women’s History and Ottoman Shari‘a Court records: Shifting perspectives in Social History” \textit{Hawwa} 2 (2004) 172-209; ibid, \textit{Family & Court: Legal Culture and Modernity in Late Ottoman Palestine} (Syracuse: 2006), 6-7 and 40-46; ibid and Ido Shahar, “Theme issue: Shifting Perspectives in the Study of Shari‘a Courts: Methodologies and Paradigms: Introduction” \textit{Islamic Law and Society} 15 (2008), 1-19; Ergene, \textit{Local Court}; Peirce, \textit{Morality Tales}, 1-9; and Dror Ze’ev, “The Use of Ottoman Shari‘a Court records as a Source for Middle Eastern Social History: A reappraisal” \textit{Islamic Law and Society} 5 (1998), 35-56. Outside the world of Islamicate scholarship, I am indebted to the huge literature of Law and Society, the anthropology of law, and Law and Literature (more specifically, the branch of ‘Law as Literature’). See, for example, James Boyd White, \textit{Justice as a Translation: An Essay in Cultural and Legal Criticism} (Chicago: 1990); Peter Brooks and Paul Gewirtz, eds. \textit{Law’s Stories: Narrative and Rhetoric in the Law} (New Heaven: 1996); Kitty Calavita, \textit{Invitation to Law & Society: An Introduction to the Study of Real Law} (Chicago: 2010); Lawrence Rosen, \textit{Law as Culture: An Invitation} (Princeton: 2006); Clifford Geertz, \textit{“Local Knowledge: Fact and Law in Comparative Perspective” Local Knowledge} (Basic Books: 1983), 167-234. In Hebrew, see Shulamit Almog, \textit{Law and Literature} (Heb.) (Jerusalem: 2000); \textit{Bar Ilan Law Studies} 18:1-2 (2002), and Menachem Mautner, \textit{Law and Culture} (Heb.) (Ramat Gan: 2008).}

The usefulness of literary readings of court records can be demonstrated by examining an oft-discussed marital dispute settlement. When Abū al-Ḥasan Solomon ha-Kohen b. Menasse ha-Kohen was married to Sitt al-Nasab bt. Abū al-Munā Isaac, Solomon made a legally binding commitment that if she disliked living with his sisters and his mother, he would move her and set her up in a separate dwelling by herself. After several months, “words passed between her and his sisters. She therefore requested relocation and separation from them, according to what he had obligated himself to [do
for] her.” Solomon moved her to a new apartment but after a short while wanted his wife to return to live with his family. The wife’s uncle negotiated a compromise with him.132

While the dynamic negotiations and their implications will be discussed in Chapter Four, it is important for the purpose of the present discussion to notice how the legal record narrates Solomon’s dissatisfaction: “Necessity compelled him to move her into a place by herself. He remained of a divided heart and the rent and difficulties were too great for him” (ll.8-10). Despite the fact that he had in the first place committed to move her to a separate dwelling, the deed presents the narrative as necessity compelling him to act against his will. We also see how the matter is described from Solomon’s point of view when it is said that “the rent and difficulties were too great for him” (who gets to decide that?). But most significant is the expression “he remained of divided heart”133 a subjective assessment presented as objective legal fact. It is possible that Solomon stated in court that he was of divided heart and then the scribe transformed his words into legal facts by recording them in the case description. The court’s narration of events from the husband’s perspective reflects its sympathy for his predicament - being separated from

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133 *munqasim al-qalb*. See similar expressions in TS 13 J 21 28, r. 27; TS 10 J 6 4, r. 8; and TS 13 J 20 22, r. 15. See also “whole heart” in Friedman, *Jewish Marriage in Palestine*, 1:143 and Lieberman’s remark in 2:516 and “one heart” in ENA 4010 28 r.3, ed. Friedman, *Polygyny*, 276. See also TS As 146 4, r.8. The expression appears in Arabic works, for example, in an anecdote told by Isma’il b. Aḥmad: “I was in Samarqand and one day I sat (as a judge) in the mazālim court. My brother Ishāq sat next to me when Abū ‘Abd Allah Muḥammad b. Naṣr came in. I rose out of respect for his learning. When he left, my brother Ishāq rebuked me: ‘You are the governor of Khurāsān and you rise for a common man? This is relinquishing authority’ (ḥādhā dhahāb al-siyāsā). I went to bed that night with a divided heart (munqasim al-qalb). I saw the prophet p.b.u.h (in a dream – as some versions kindly clarify), he held my arm and said: ‘Your reign and the reign of your children has been strengthened by your respect for Muḥammad b. Naṣr,’ See al-Dhahabī, *Taʾrīkh al-Islām* (Beirut: 1993), 22:299. This anecdote is also narrated with several variants by Subkī and Abū al-Fidā‘.
his mother and sisters and incurring new financial burdens. From this ‘understanding’ position toward the husband, the wife is urged to compromise the right promised in the legal deed. We see here how careful attention to the language of the legal record can detect an easily missed nuance that reveals much about whose point of view that the court adopted.

A more extreme example of how the language of a court record reveals the attitude of the court to a woman who appeared before it can be found in the following inheritance dispute. Following the death of Halfon, the olive oil seller, his daughter, Bārra (‘Innocent’), fought with her brother, Ghālib Abū Maṣūr the cantor, regarding their father’s inheritance. When the matter was brought before the court in Fustat, she presented two deeds. The first was a Jewish deed in the hand of the Nasī David b. Yeḥizqīyahū stating that her father had gifted her a small upper apartment. The second was a deed from a Muslim court stating that her father had given her as her dowry the entire house. The Jewish court accepted the Jewish deed but followed her brother’s lead in claiming that the latter document was a forgery (though, no proof for this claim is mentioned). Refusing to give up her claim, Bārra appealed to a Muslim court. The Jewish court set out to proclaim the ban against her, but before doing so a prominent member of the community was sent to convince her to relinquish her claim. The legal record portrays in some detail the actions and words by which the court tried to persuade Bārra. Once again we see a woman without male support (her father had recently died and her brother, who also happened to be a communal official, was the one opposing her in court) being urged by representatives of the court to relinquish a monetary claim. Furthermore, we see the types of language used by the court to describe a woman disliked by the court:
Mr. Ghālib … quarreled with his sister from his father and mother, Bārra (‘innocent’) … regarding a house that this Bārra alleged134 that her father designated as inheritance to the exclusion of her brother, this Mr. Ghālib. However, no claim has been proved by her regarding the house over which they quarreled except the upper floor of //the small// house when she presented earlier before the court //a deed/ in the hand of our Lord David, the great Nasī … indicating that Mr. Halfon, her father, gave her the upper floor of the small house. She (also) presented to the court a deed written in gentile courts indicating that her father gave her as a dowry the entire aforementioned house, but (the document) was not confirmed on that day.135 Her brother said: “This deed is forged, and no right is confirmed to her by this deed neither according to Jewish law nor gentile law.” Disputes and speeches took place and the matter between them reached the point that she summoned him before a gentile court. She was deemed deserving of the ban by the (Jewish) court for her transgression by bringing her brother to gentile courts and turning aside from the living laws of God. When she was on the verge of being banned, Sheikh Abū ʿAlī Mr. Yefet … was nominated from among peace-loving righteous elders (to reach a compromise between them). He asked the court to grant her a delay (from the ban) until he could reconcile her with her brother in his home and mediate between them. Therefore, we, the undersigned entered the house of the aforementioned Sheikh Abū ʿAlī. Mr. Ghālib and his sister were present. The aforementioned sheikh spoke to them [at length] and reproached this Bārra saying:136 “Only the upper floor is confirmed for you by the Hebrew deed, and the gentile [deed] does not confirm for you anything.” She responded deceptively:137 “No! My father gave me this house and it is mine.” The aforementioned Sheikh Abū ʿAlī told her: “And the other house, the large one, which is adjacent to this house, do you claim that your father gave that to you?” She said: “No, I do not have any right over the other house at all.” We tried to convince her gently to take what God has given her lawfully and abstain from

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134 zaʿamat can mean simply “asserted” or “claimed” but has an clear negative connotation, see Lane, 1232. This is clearly seen in the Quran, where it is associated with polytheists and unbelievers; see Quran 6:137 and 64:7. In Geniza legal records, this root is not common and when used, reflects a distinctive negative evaluation; see its three appearances in a single fragment in ENA 2855 16, r.3,8 and 14, ed. Goitein-Friedman, Lebdi, I-27, 181 and 199. We see here how suspicion is cast on the woman’s claim from the very beginning.

135 It is possible to understand this phrase as meaning that the deed was not confirmed by the Muslim court on the same day it was produced. However, it is more likely that this Jewish deed is reporting that at that previous session when she presented the deed, the Jewish court did not confirm the content of the deed produced by the Muslim court.

136 I read: [ונחר] מוסאכוסמא אוליפיס אולימבר אארדאר אארדאר דראיד אארדיד דראיד קאניק קיניק. Even more than zaʿamat, tughālit carries a heavy negative connotation, further demonstrating the deep antagonism toward this woman embedded in the deed’s wording.
demanding what is not hers by right but she refused and did not accept this... According to Jewish law, a daughter does not inherit if she has a brother. However, many Geniza fathers gave their daughters property that would otherwise have gone to their brothers (as Bārra claimed her father had done). In Islamic law, a sister inherits half the share given to her brother (i.e. a third of the inheritance if they are the only two heirs). Therefore, Jewish women stood to gain from appealing to Muslim courts in matters of inheritance, and many references to such actions made by women appear in the Geniza.

It is important to emphasize that we do not know the truth of the matter. While Goitein seems to have adopted the court’s perspective, we do not know if Bārra falsified the Arabic script document or whether her father did indeed bequeath to the whole house, but we do know that the Jewish court was swayed by her brother (himself a communal official) to treat the Muslim deed as a fake. We know of other cases in which a father gave property to his daughter in gentile courts, so Bārra’s claim was not far-fetched. Moreover, Bārra’s insistence that her father gave her one house and her denial

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140 See TS 13 J 3 3, r. 7-8, ed. Goitein, “Wills and Deathbed Declarations from the Cairo Geniza” (Heb.) Sefunot 8 (1964), 122-125, translated in Med. Soc. 5:152-153, and see also Rivlin, Inheritance, #51. Another example is Yevr.-Arab. I 1700 13r.
that he gave her another apartment arguably lends some credibility to her claim.\textsuperscript{143} As with Jalila’s letter, here too we must accustom ourselves to not knowing what actually happened and make do with examining the ways in which the story we are given is narrated.

What is striking in the text of the deed is the fact that Bārra and her legal position are portrayed in clearly negative terms from the very beginning of the deed. The deed adopts a rhetoric that casts the blame on her even while it describes the court’s attempt to seek a comprise through its emissaries. At the very outset of the deed her claim is already referred to as an allegation, and later she is labeled outright as deceptive. We also witness the full weight of the court’s authority being imposed on Bārra, as clearly indicated in the statement: “The aforementioned sheikh spoke to them [at length] and reproached this Bārra.” With both sides quarreling, it is only Bārra who is reproached and only she who is recorded as the target of the court’s appeals for compromise. The brother’s position was accepted wholesale (indeed, he was not even asked to take an oath) whereas she was scolded, lectured, and urged to abandon her claim.\textsuperscript{144} As we find in other documents, a woman is asked to give up her claim through a religious appeal: “We tried to convince her gently to take what God has given her lawfully and abstain from demanding what is not hers by right.” By recording the court’s appeal to Bārra for compromise and her

\textsuperscript{143} It is also important to note that the court does not oppose the use of deeds from gentile courts \textit{per se}, but claims that this specific legal deed is false. Finally, Bārra appealed to a gentile court only after realizing that the local Jewish court was going to rule in her brother’s favor. Thus, “her turning aside from the living laws of God” was a reaction to her disappointment in the Jewish court.

\textsuperscript{144} Of course, one can argue that it is because she appealed to a Muslim court and demanded her brother’s inheritance that she was treated in this way. However, this already takes for granted the version told by the court. Indeed, notice that her appeal to the gentile court came as a response to the treatment she received from the Jewish court. Furthermore, she did not claim that she should inherit from her father, but that her father had bequeathed property to her. Thus, the antagonistic posture of the court cannot be attributed solely to Bārra’s actions or claims. The fact that this attitude recurs in a number of different documents suggests that it is a gendered trend rather than a response by the court to an individual rebellious women. In a future study, I hope to show how the communal attitude to Jews who made use of gentile courts was significantly gendered.
refusal to submit to these appeals, the court portrayed itself and its emissaries as the paragons of conciliation and peace and Bārra as deceitful, stubborn, and uncompromising.  

Our final example comes from a fascinating 11th century document. One side of the document contains a letter in Hebrew from the communal head of Ṣahrajt, a small Delta town, reporting on the local community’s handling of a particularly problematic case of marital strife. A man married the sister of his deceased wife, but the marriage was not a success, and, as the letter narrates the events, the wife appealed to a Muslim court to divorce her from her husband. The wife is depicted in extremely strong language:

She took him to a gentile court and divorced him according to her will. (The Muslim judge) awarded her maintenance for three months through a command of the gentile (court). She resided in an apartment that belonged to him that he inherited from her sister, who was his wife before her... When (the couple) fought, she (i.e. the sister who married the man after the first sister died) took the deeds of the apartment and lied saying “I did not see them!” In the days of our brother, Mr. Isaac, (may) G(od) p(rotect him), we brought her forth and addressed her as the law requires. We spoke to her thus: “Let go of all that is past. It is between you and your creator. Go back to your husband as you were of yore in love and fondness” [...] ...” She refused to listen and she twisted the congregation with unseemingly speech. Afterward, we sent her several messengers, but she did not listen to them but rather remained maliciously insolent. We had to act with her in a reprimanding manner because she said bad things about her husband and because she went with her ketubba to gentile courts and divorced her husband through them and

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145 For further discussion of women’s voices and images in Geniza court records, see Chapter Two.
146 The head of the Jewish community in a small town would sit in judgment when the need arose. Only in relatively larger towns (like al-Mahalla) would the communal head be an actual judge, and addressed as such. On this town, see Med. Soc. 2:50-51, Norman Golb, “The Topography of the Jews of Medieval Egypt,” Journal of Near Eastern Studies 33 (1974), 138 and Friedman, Polygyny, 247-248. It is interesting to think of such communal letters as similar to the Islamic kitāb al-qāḍī, see Masud-Peters-Powers, “Qadis and their Courts,” 27-28.
147 This refers to Mishna, Yevamot, 14:1 – “While a woman may be divorced according to her will as well as against it, a man can give divorce according to his will alone.”
148 This is Isaac b. Samuel mentioned in the verso, see below.
149 I read כשהויתם בראשונא באהבה ובחיבה
150 I read ותעקש where the editor read >?< והמקשי. Another possibility is to translate “she was stubborn in front of the congregation regarding unworthy matters.”
151 I read אחרין where the editor read אחרון.
because of her refusal to accept the laws of Israel and her being rebellious. (Therefore,) we cast her out as she deserves and banned her and ostracized her and exposed her shame in public as is proper with the daughter of evil who does not turn back to goodness except through reprimand.\textsuperscript{152}

By now, in light of the previous examples, much of what we read in this document seems familiar. The religious admonition expressed by the court when appealing to a woman to give up her claims and to compromise (with no such pressure directed at the husband) turns into vitriolic accusations when she refuses.

Remarkably, on the other side of the same fragment a legal record of the same case offers us an alternative vantage point against which we may evaluate the narrative imposed on this woman’s actions in the communal leader’s letter. Apparently, the wife (we now learn that her name was Saʿīda bt. David) was discontent with the handling of her case in her home town and travelled to the capital seeking justice. The legal record reveals how two official accounts of the same case could differ from one another:

Saʿīda bt. David, mentioned in this letter, appeared before the permanent court in Fustat, appointed by the high court (of the Palestinian yeshiva) complaining (Ar. mūstaghītha) and claiming that everything said about her in this letter has no truth. It is her husband who took her to gentile courts and it is she who was wronged in what was done to her. The honored, holy Isaac b. Samuel was present and was asked regarding what he knows about what transpired between this woman and her husband. He said: “What I know from a group of the people of Ṣahrajt is that their going to gentile courts was by their joint agreement.” Then he returned and said “The man and the woman admitted to me that they went to gentile courts by joint agreement.” The wife mentioned she has another witness to testify to what will clear her from (the accusations found) in this letter. The court withheld the proceedings until (the matter) could be resolved…\textsuperscript{153}

\textsuperscript{152} Mosseri VII 27, ed. Bareket, Jews of Egypt, 106-109. It is hard to capture the venomous tone of the Hebrew: ולא שמעה בחל בחלו בחב עתידה ובדינהי ואכזו הכל Büyük הובאancel הבב הכתוב בלחם דבריים עותי אל. ולא שמעה בחל בחלו בחב עתידה ובדינהי ואכזו הכל Büyük הובאancel הבב הכתוב בלחם דבריים עותי אל.שמדתא רומ פלאק יונש או א养老服务 שאן תורני פלוס אל על די אימרור

\textsuperscript{153} Mosseri VII 27 verso, ed. Bareket, Jews of Egypt, 106-109. Another regretfully fragmentary document in which a woman claims that her husband’s accusations against her are false and his documents are forged is BL Or 10588 2. In TS 8 J 11 15, a husband declares that his father-in-law’s accusations are false (fa-anakara jamiʿ ḏhālika wa-qāla lo hayu [ha-dvarim] me-ʿolam), even though the father-in-law presented the courts with two valid legal deeds as proof.
A completely different story emerges, contradicting the narrative provided by the leader of the local community in his letter. With the new information from the court record, the seemingly pious admonition “Let go of all that is past. It is between you and your creator. Go back to your husband as you were of yore in love and fondness” is revealed to be a manipulation on the part of the local elders in Ṣahrajt (it is not clear if they were functioning formally as a legal court) not unlike the message conveyed by the court elders to the *yevama* (deceased brother’s wife) in the case described earlier that marrying her levir was a religious duty cast upon her by God. Similarly, the accusation that she lied and the statement that “She did not listen to them, (and remained) resolute with insolence and malice. We had to act with her in a reprimanding manner because she spoke bad things of her husband” seems to reveal less about the actions of the woman than about the habit of local Jewish courts in the Geniza to accept the husband’s story more readily and to put the onus, as a default, on the woman. In the event that a woman refused to compromise and to do “the duty that God cast upon her,” she ran the risk of being portrayed as stubborn and rebellious.\(^{154}\) Such documents suggest that the courts interwove the Halakha with masculine and communal power and control.\(^{155}\)

**Conclusion**

Women appeared frequently before Geniza courts. In most legal records, they appear in a manner similar to the way men appear. They acknowledge a debt or release someone from it while preforming the symbolic purchase (*qinyan*), essentially as men do

\(^{154}\) More on the image of women in Jewish courts in Chapter Two.

\(^{155}\) Thus I cannot agree with Bareket who titles the document ‘A letter and a deed regarding an insolent woman.’ I consider the Fustat court record to be more reliable than the letter from the province because (1) it is later and intends to revise the testimony of the previous document, and (2) reports actual evidence in the form of a witness who is not one of the litigants.
in other legal documents (barring several technical differences mentioned above). However, it would be wrong to deduce from this that gender did not play a significant role in the workings of the court, that the courts were a welcoming space for women or that the sages consistently assisted them in their legal endeavors. By looking at women’s experiences in courts as reflected in a range of documents, legal records, petitions, letters and responsa, this chapter provides a corrective to the conventional view that equates the frequent presence of women in court with a high status of women. Petitions and responsa show that women’s experiences in Geniza courts were often unsatisfactory and that many woman encountered great difficulties when they tried to seek justice in communal courts. Drawing insights from the field of Law and Literature and inspired by recent advances in the study of Ottoman court records, this chapter examined how Geniza courts chose to present the details of cases in the court record and how they addressed the women who came before them. A common pattern was detected whereby the court and the elders tended to show a greater degree of understanding for men’s predicaments and to adopt men’s perspectives on the events that had led to litigation. As a result, the courts often put more pressure on women in their attempts to reach a compromise. The pressures exerted by the courts often took the form of religious admonitions (‘God cast this duty upon you,’ ‘The divine law requires you to do so’), whereas men were rarely addressed in this way. The fact that these religious admonitions were often not required by Jewish law reveals that they reflected social rather than legal expectations. Thus, they tell us more about the way courts approached and dealt with women than about the legality of the women’s actions. Women’s experiences in Geniza courts were profoundly gendered.
This chapter examined a series of exceptional documents while leaving aside dozens of ordinary court records in which women’s appearances are indistinguishable from men’s. Thus, it could be argued that the cases examined here are mere exceptions that prove the rule and that Geniza courts were generally a welcoming space for women, despite several examples to the contrary. This criticism can be answered by two arguments. First, the correspondence we find between documents of different genres reveals that the gendered pressures inflicted upon women by the courts were a pervasive reality in Geniza society, detectable in a range of sources. Second, exceptional cases often shed light on ordinary cases. The cases of Saʿīda and Jalīla show us the large gap between the events that took place in court and how they were presented in the legal records or communal missives. These cases underscore the realization that legal records craft narratives and that it is only in rare cases that we are afforded a second record – as in the case of Jalīla and of Saʿīda – against which to challenge this narrative. How many women did not succeed, as Saʿīda did, to leave their local community, travel to the capital and submit their cases to the central court with supportive witnesses? How many of the numerous court records (studied in Chapter Three), in which a woman appears and releases her husband or her former husband of some or all of his monetary obligations, hide a story like Jalīla’s? In other words, these exceptional cases suggest that the many ordinary court records in our hands may be the products of stories similar to those found in the exceptional cases here examined. These exceptional cases shed light on the constructed nature of Geniza court records and allow us to see the gendered fictions in the archives.156 In its attention to the way in which Geniza legal records narrate, and

indeed construct, reality this chapter offers a new way of reading Geniza legal documents.

Even in this rather short foray into the Geniza courtroom, we encountered time and again the centrality of the combined factors of gender and status for legal success. Even though the absolute gap between the very poor and the very rich may have been relatively small in Geniza society, the Jewish community was deeply concerned with social hierarchy and legal status. The small elite, using the mid-level communal functionaries so prevalent in Geniza documents (scribes, cantors, charity officials), constantly performed hierarchical distinctions that reasserted the social order. The status of the litigants influenced whether a dispute would go to court, whether the court would come to the litigant’s home, the size and quality of the legal document, how one’s name would be recorded, how the voices and actions of people would be presented and how much pressure and understanding would be exhibited by the court toward litigants. Reviewing the examples explored in the chapter, we find that it was predominantly women of weak status (widows, orphans, yevamot, etc.) without male backing who were subjected to the courts’ pressures and religious intimidations. These women experienced a different legal and communal system from that experienced by the prominent merchants that form the typical subjects of Geniza studies. In Geniza society justice was blind neither to gender nor to status.

157 See Tillier, “La société Abbasside,” and see the important contribution of Ergene, 74.
158 Power and distinction, as Foucault and Bourdieu have taught us, are never simply statically given, but are constantly performed and reaffirmed by repetition. Moreover, power is not simply repressive but productive. In our case, the power relations in court produce and perform hierarchical distinctions. Some of these issues in Geniza society have begun to be explored in Frenkel, Alexandria, 207-232.
159 These issues are considered further in the next chapters. It can be argued that the arguments of this chapter apply only to women of low social status who are without male backing and that Goitein’s description still holds true for the majority of women. However, this can be answered by stressing the highly precarious nature women’s status in a patriarchal society. Since a woman’s status was dependent on
The conventional benign paradigm, however, should not be replaced with a lachrymose one. While it is imperative to recognize that gender and status played a major role in the workings of Geniza courts, it is also important to notice a counter-trend reflected in the documents studied in this chapter. Despite the pressures and admonitions imposed on them, Jalīla, Saʿīda and the other women whose cases were discussed in this chapter did manage to have their stories heard and occasionally even obtained justice. The numerous legal records found in the Cairo Geniza testify that many women made frequent use of the courts, but they also reveal how women’s experiences of the court were a gendered uphill struggle. Despite the odds stacked against them, such battles could be won. Because of the limited coercive powers of the court and their predilection for brokered compromises, litigation tended to be long and tortuous. This tended to favor the stronger party, which was not dependent on the outcome of the litigation for daily sustenance (recall how Jalīla had to accept a humiliating compromise because she had to feed her orphans). Success for such weaker parties depended on their ability to lobby the reluctant authorities to take action. Justice was not beyond the reach of Geniza women, but they had to strive harder than men to achieve it.  

The conclusions of this chapter form the starting point of the next two chapters. Chapter Two continues the investigation of women’s presence in courts by examining the voices and images attributed to women in court records. These voices and images are shown to reflect the concerns of the legal system, but they also suggest the options her relationships with men, she could never be secure. The death of a brother or father sufficed to deal a devastating blow to her social status. Thus, even women of good social standing were strongly affected by the dynamics explored in this chapter, as a single twist of fate could put them in a weak position before the court. Indeed, it seems that Jalīla and Bārra were comfortably within the Geniza middle class before Jalīla was widowed and Bārra was orphaned and quarreled with her brother. The plight of women with no male backing had deep repercussions for all women. See more in the Conclusion.  

See Peirce, *Morality Tales*, 2: “Women had to fight harder to claim their rights. But challenges produced strategies.” I explore two strategies used by women in Geniza courts in the next chapter.
available to women when appearing before the courts. Knowing that they will be pressured to compromise, women could attempt to appear before the court as pleading and beseeching or they could adopt an adamantly uncompromising posture (like Ṣāliḥ’s former wife whose story is described at the beginning of this chapter). Chapter Three expands on the results of this chapter and looks at a wide range of circumstances in which we find women relinquishing their monetary claims. It shows how, beyond the pressures of the courts examined in the present chapter, women were also pressured by their husbands, their husbands’ families, and by communal authorities – through pleading, religious admonition and even violence – to forgo their monetary claims. Such pressures were grounded in entrenched gendered cultural norms and constituted a pervasive element of women’s conjugal lives.\(^\text{161}\)

\(^\text{161}\) I have presented a short version of this chapter in The World Congress of Judaic Studies (WCJS) in Jerusalem on July 2013.
Chapter Two

Between Crying and Cursing: Emotions, Performance and Scripts in Court

Sometime around the end of the 11th century, a relieved and grateful father in the Delta town of Malīj sent a letter to a parnas in Fustat thanking him for his help in resolving his daughter’s marital dispute:

I inform you, my lord and master, that the woman returned from you and you dispatched with her a letter. The cantor, the judge Menasse, (may the) R(ock) p(rotect him), my Lord the elder Ibn Maḥbūb Abū al-Faraj, and the cantor from Ascalon took it. There was a group of people assembled in the synagogue reading the letter, examining what was in it and doing exactly what it said. They instructed the boy, who is the husband of my daughter, that she shall not have a double without being paid her meʿūḥar. The boy submitted (inkasara, lit. broke down) and kissed my head and the head of her mother. They made amends between us and we all submitted (inkasarnā). I hereby inform my master, the parnas (may the) R(ock) p(rotect him), of what happened, may I not be deprived of your favor and may I be your ransom.

This marital dispute shares certain features with the cases we examined in the previous chapter. The husband wished to marry a second wife against the will of his first wife, and it seems that the local community was either unwilling or powerless to stand in his way. The wife (or her mother) therefore travelled to the capital, where her father’s connections helped her secure a favorable ruling: if the husband wished to marry a second wife, he

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1 The letter has simply “the woman” and it is difficult to decide whether the writer’s wife or his daughter is intended. Since the writer’s wife appears later in the court deed, Goitein thought it was she. However, the case of Saʿīda bt. David (see the previous chapter) suggests that the daughter too could have made the trip. Furthermore, the numerous women’s petitions suggest that it might have been expected that the appealing would be done by the daughter rather than her mother. Of course the recipient knew to whom he gave the letter, so no specification was needed. Above I have presented the story as if it was the daughter who obtained the ruling, but my argument stands even if it was her mother.

2 I.e. four people took the letter: the cantor, Judge Menasse, Ibn Maḥbūb Abū al-Faraj and the cantor from Ashkelon.

3 The meaning of this sentence hangs on our understanding of mathnawiyya in the sentence wa-istaqarrū al-ṣabīḥa alladhi huwa zawj bintī bi-an lā yakūn lahā mathnawiyya illā wa-yazīn muwakkhharahā (on the meaning of istaqarrū here, see the edition). mathnawiyya means ‘exception,’ so it is possible to translate: “They instructed the boy who is the husband of my daughter that there shall be no exception except that he should pay her meʿūḥar.” However, in the edition, I explain my decision to understand it as a second wife; however, even if we follow the ordinary meaning of the word, my argument is unaffected.

4 TS 10 J 10 13, r.8-15, edited in full in Appendix Two as Doc. #9.
would have to pay his first wife her delayed marriage gift. With this ruling in hand, the wife triumphantly returned to Malij, where it was read publically in the synagogue. As in the case of Sa’ïda bt. David explored in the last chapter, we witness here a woman’s uphill struggle, which includes an appeal to the higher authorities in the capital after an unsatisfying handling of the case by her local community.

But the letter also offers us something more, namely: a glimpse of the emotive drama that unfolded in the synagogue. The instructions from the capital did not merely ensure the wife’s monetary rights but also brought about a dramatic and emotional reconciliation between husband and wife. The mid-size town of Malij did not have a permanent court and it is clear that the local synagogue served as the central space for worship, communal needs and justice. The letter vividly describes the public reading of the letter from the capital to the assembled congregation. And although Goitein, in his short description of the document, says of the reconciled husband that he “cooled off” (while noting the literal meaning as ‘broke down’), it is evident that the husband’s submission was nothing like a ‘cooling off.’ In fact, his yielding was a dramatic moment followed by a public gesture of kissing the head of his wife’s parents. In the writer’s description that “they made amends between us and we all submitted (lit. broke down)” we can see the community coming together after conflict and reaffirming its communitas. This fascinating letter thus demonstrates the importance of public drama to

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5 On the different rulings regarding polygyny in Jewish law, see Friedman, Polygyny, 7-23.
6 I explore how her father obtained the favorable responsum from the center in Chapter Four.
7 The document calls the missive from the capital a kitāb. Since the other party was not present in the capital, it was not a court ruling but rather a responsum or a decree.
8 Communitas is a term used by Victor Turner to refer to the spirit of togetherness felt by a community during or after a ritual, see the third and fourth chapters in Turner, The Ritual Process. Here the community comes together after the conflict has been resolved; however, the feeling of togetherness is not based on a sense of equality, but by a public display of proper respect to one’s in-laws and to the authority of the capital.
our understanding of what took place in the legal arena and suggests ways in which parties made use of such drama to further their goals.

This chapter explores some of the dramatic aspects of Geniza court proceedings. Since much of the drama in legal records is created through the speech of those who appeared before the court, I begin by problematizing the relationship between the speech as presented in the legal records and women’s voices. I then turn to explore two types of dramatic female appearances found in legal records, which I will call ‘the crying and beseeching woman’ and ‘the cursing and confrontational woman.’ I argue that these performances are gendered and must be understood in the context of the experiences of women in court as elaborated in the previous chapter. Furthermore, they draw their meaning from broader cultural notions surrounding women and justice, and thus can be understood as performative ‘scripts’ available to both women and the court and carrying various advantages and disadvantages. A comparison of several extreme cases of negative depiction of women with cases in which a woman transgressed the law but did not earn the antagonism of the court sheds light on the values and concerns of the court and the community. Courts were not simply institutions in which Jewish law was implemented and disputes were resolved, but also sites in which social drama was performed, bringing to the surface some of the fundamental tension in the social fabric of Geniza society.

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9 About the alluring effect of reading litigants’ voices as reported in legal records and how they are used to assert the legitimacy of the legal institutions by presenting properly conducted process, see Ergene, 133 and Peirce, Morality Tales, 8.

10 For my use of ‘scripts’ see n. 67 below.

The question of women’s speech in court records was raised by David Marmer in an important article. Examining two settlements following marital disputes, Marmer noted that the women were not granted a voice in the legal record and speculated that this silence was attributable to “the scribe’s inclination to quote men and not women. Simply stated, the speech of women was valued less than that of men.” Marmer also pointed out the influence of social class not only on the negotiating power of the parties to the marital dispute but also on the work of the scribe, who was, in Marmer’s words, “much more precise in recording [a case involving higher class families] and… showed greater respect for the difficulties and actual speech of the social elite.” While some of Marmer’s conclusions will be revised in the following pages, his inquisitive exploration of the relationship between gender, status and the speech accorded to litigants in court records opened up a wealth of possibilities.

In focusing on women’s speech, Marmer followed in the steps of feminist scholarship that attempts to recover women’s voices in periods and places in which they are difficult to come by. In the field of Geniza studies, the ability to recover non-elite

12 Marmer, “Patrilocal Residence.”
13 Marmer, 74 and 77. This contrasts with Goitein’s depiction of women in court, see Med. Soc. 3:332-336.
14 Marmer, 79. Marmer’s argument can be strengthened by noting that litigants had to pay a fee for deeds (see TS 13 J 20 17 and the reference in TS Ar 49 166 2, v.15, ed. Gil, Palestine, #388, 2:711). It is safe to assume that the larger the deed, the higher the fee charged. The way the court could obtain profit from such activity is seen in MT, Sanhedrin, 23:3: “Every judge who sits and augments his honor in order to increase the payments to his cantors and scribes falls under those who incline to greed”. For court fees in Ottoman records, see Ergene, 76-98.
15 The concern with women’s voices can easily be seen in titles of books such as, for medieval studies, Christiane Klapisch-Zuber, ed. Silences of the Middle Ages (2nd volume of Georges Duby and Michelle Perrot, eds. A History of Women in the West) (Cambridge, Mass: 1992-4); and for Middle Eastern Studies, Elizabeth Warnock Fernea and Basima Qattan Bezirgan, eds. Middle Eastern Muslim Women Speak (Austin: 1990).
voices from documents, once optimistically taken for granted,\textsuperscript{16} has recently been questioned in the debate between Cohen and Frenkel.\textsuperscript{17} The fact that the process of writing was usually mediated, with documents written by scribes rather than the authors themselves, and because of the formulaic nature of many documents, we cannot assume that the speech recorded in documents reflects authentic non-elite voices. This is explicitly expressed in a legal document when a woman was asked whether she knew who wrote a certain petition to the communal authorities. She answered that “she knows who wrote it, and she was behind its writing, but the person who wrote it did not write what he heard from her exactly, but added and subtracted.”\textsuperscript{18} As I show below, in the majority of legal documents the speech attributed to the parties in court, whether men or women, is usually a function of the structure and objective of the legal document.

While Marmer’s groundbreaking article casts women’s direct speech as a problematic absence, many court records involving women actually feature the woman’s direct speech prominently. Thus, to give one example out of many, a draft of a deed from Fustat 1241, recording the sale of an eighth of a house by Sitt al-Ikhwa (‘Mistress over the brothers’) to her brother, reads as follows:

Sitt al-Ikhwa, the mature\textsuperscript{19} woman bt. Futūḥ, known as Ibn Zabqala\textsuperscript{20} (may his) E(nd be) G(ood) came before us in the presence of someone who knew her\textsuperscript{21} and said: “bear witness for me and make the symbolic


\textsuperscript{17} Cohen, Poverty, 19-20, and ibid, The Voice of the Poor; Miriam Frenkel, “Review of Poverty and Charity in the Jewish Community of Medieval Egypt and The Voice of the Poor in the Middle Ages” (Heb.) Zion 75 (2010), 228. For a similar concern in Ottoman court records see Semerdjian, 65-66; and for Papyri, see Bagnall and Cribiore, Women’s Letters from Ancient Egypt 200 BC-AD 800 (Ann Arbor: 2006), 6-8 and 59-65.

\textsuperscript{18} Yevr.-Arab. I 1701, v.5-8: fa-dhakarat […anna]hā ta’lam man katabahā wa-annahā tasabhabat fī kitābatihā [wa-]jalladīh katabahā lam yaktub mā sami ‘ahu minhā ka-hay atīhi bal zāda [wa-]anqaṣa.

\textsuperscript{19} I.e. of legal age, over twelve and a half and a day.

\textsuperscript{20} A strange family name that appears in several late 12\textsuperscript{th} century and 13\textsuperscript{th} century documents, see edition.

\textsuperscript{21} This is the recognition clause, see previous chapter.
purchase from me, as of now, that I sold to my brother, Ephraim, the eighth of the house that is mine and is in the port city Alexandria, three parts from twenty-four parts, shared – not divided.\textsuperscript{22} The house is in the district of the prisons, held in partnership with Abū Saʿd, the Cantor, (may his E(nd be) G(ood). (I sold the house) for nine Egyptian dinars, Egyptian coin, and I received from him the sum.” We made the symbolic purchase from the aforementioned Ephraim Ibn al-Futūḥ that he bought inspected the property and made a true purchase. We made the symbolic sale from Joseph, the dyer, b. Mr. ‘Ulla, the elder, m(ay he rest in) E(den), that he permitted his wife, the aforementioned Sitt al-Ikhwa, the sale of the eighth.\textsuperscript{23} We made the symbolic purchase from them regarding everything we heard from them in this deed. We signed it and gave it to the aforementioned Ephraim so it will be in his hand as a proof.\textsuperscript{24}

As discussed in the previous chapter, we do not generally know the background to deeds of sale; for example, in the present case, why ‘the mistress over the brothers’ sold her brother this piece of real estate. But whatever the context of the sale, the speech attributed to Sitt al-Ikhwa appears plainly in the deed that records it, while her brother’s does not. The reason is that this deed was to be kept in the possession of the buyer, and thus records in great detail the direct speech of the seller – in this case, a woman.

Numerous Geniza legal records similarly present the direct speech of women at great length. This is especially true of deeds of release whereby a wife releases her husband from a debt or an obligation during their marriage or at the time of their divorce (see more in Chapter Three). Even though these are often deeds of mutual release, the mutuality is not reflected in the structure of the deed, with the wife’s release of her husband taking up much more space than the husband’s release of his wife. Goitein points to one such document in which the wife’s release of her husband takes up nineteen

\textsuperscript{22} Geniza deeds, like their Arabic papyri equivalent, divide real estate into twenty four parts (qirāṭs). “Shared – not divided” is the common phrase that indicates that the division reflects only units of account, not a physical division. In other words, Sitt al-ʾIkhwa is selling an eighth of the house, but this eighth is not physically demarcated or divided from the rest of the house, see Goitein Med. Soc. 4:82.

\textsuperscript{23} The husband’s approval is required since he is held responsible for his wife’s “iron sheep” property.

\textsuperscript{24} TS 8 J 6 14v, r. 4-13, edited as Doc. #7 in Appendix Two.
broad lines while her husband’s occupies only two lines and explains the imbalance as reflecting the fact that “the main purpose of the action was to protect the husband.”25 In other words, the declaration of the party regarded as more prone to contest or try to appeal the agreement in the future is given the lion’s share of the legal document in order to protect the other side from such future contestations. Thus, it cannot be claimed that “the speech of women was valued less than that of men,” as Marmer postulated.

At the same time, it is equally plain that the recorded speech of Sitt al-Ikhwa is extremely formulaic and cannot be considered a faithful reflection of Sitt al-Ikhwa’s voice or wishes. Indeed, we do not know if Sitt al-Ikhwa even uttered these words in court, and if she did, she may well have been parroting the legal formula word-for-word before the witnesses as instructed by the court. The majority of Geniza legal records that present women’s speech at length are similarly filled with legal formulas and cannot be taken to record ‘the voice of Geniza women’.26 In the first half of the 11th century and in the 13th century we often find legal deeds in Hebrew, so that almost no woman could have uttered the words attributed to her in the deed nor even understood the deed even if it had been read out to her.

Two provisional conclusions are in order. First, given scribal mediation and the formulaic nature of legal documents, we cannot automatically take women’s reported speech in legal documents to reflect the actual voices of women. Second, the mere existence of ‘women’s speech’ should not always be considered advantageous to women. In most legal deeds, the person whose speech is given the most space is actually the party that is either selling something or relinquishing a right or a sum of money. Since wives

25 TS 13 J 2 17, see Med. Soc. 3:334.
26 Just to be clear, this is a result of the formulaic nature of legal deeds, not of gender. Men’s releases and deeds of sale are equally not indicative of men’s voices.
often found themselves in this position vis-à-vis their husbands, occasionally because of the husband’s physical violence or refusal to grant a divorce (see Chapter Three), we find many deeds in which women’s speech dominates. Thus, as Bilsky notes in a different context, “It would be a mistake to interpret every ‘giving of voice’ to women as empowerment and every female silence as weakness.”

In the majority of legal documents involving women, their speech is not absent, but it does not indicative of women’s actual voices.

However, there are several types of legal documents that present women’s direct speech extensively and in a less formulaic manner. In these deeds, the presentation of a woman’s direct speech is usually connected to a distinctive, culturally recognized,


28 On rare occasions, one encounters in formulaic legal documents hints for women’s actual voices. Usually, such hints are just that: clues that the historian cannot interpret with certainty. For example, we saw in the last chapter a woman reported as saying “I have released, I mean released, my husband” (mahaltu anī sāmaḥtu), which might indicate actual speech in court or an unconscious slip of the pen by the scribe (18 J 1 20, r.5, ed. as Doc. #14 in Appendix Two). On first examination, TS 28 3 also appears to containing such a hint as throughout this carefully executed deed of sale, a later scribe inserted the wife of one of the parties to the deed. However, since the wife is on the selling side, it is most probable that it is the buyer who insisted that he name be inserted to protect himself from future claims from her. Again, we see how occupying space in a legal deed cannot be considered as necessarily beneficial. We are on much safer ground when we encounter unique statements, especially of discontent, on the part of the wife. This is not the place for a full examination, but here are some examples: ENA NS 7 24 v.5 and 10: “the matter was settled between them … and she was not satisfied with this” (wa-lā radiyat bi-dhālika) – we can safely assume that we are witnessing the wife’s real position, which was, remarkably, recorded by the scribe. In ENA 4020 47, a complex draft discussed in Chapter Three, we read of a woman who, facing the awesome moment of taking an oath, backs away, saying: “I cannot.” The scribe later struck out her words, and it is only because the Geniza has preserved the draft that we are able to hear this woman’s real voice. Another example is found in TS 13 J 7 20 where a husband wanted to travel to his mother and relatives, and his wife took him to court for it. Apparently, he had said that he would “go and come back,” and his wife is reported to have said: “I did not believe his words” (lo heʾemanti li-devarav). Even though her words were probably translated into Hebrew, this uncommon expression and its negative stance makes it probable that it reflects her voice, albeit in translation. Another example, too complex to delve into here is found in TS 10 J 9 32 where an addition at the top of the page appear to be a result of the wife’s attempt to tell her version of events without changing the legal situation. These examples suggest that it is occasionally possible to catch a glimpse of women’s voices in legal records, particularly when a woman expresses her discontent with her husband or with the final court resolution.
dramatic script. In the remainder of this chapter I will explore the two most common scripts of women that of ‘the complaining and beseeching woman’ and that of the ‘cursing and threatening woman’ – and argue that they hark back to gendered cultural ideas about gender, emotions and justice. I will also explore the advantages and disadvantages of each script and what these scripts tell us about Geniza society.

The crying and beseeching woman

We, the undersigned court: Thus were the proceedings in the congregation of the crescent assembly, the circle of our court: PLYṬY bt. (left blank) called QPNU came before us screaming, yelling, beating, shouting, shrieking, crying, whining, complaining and saying thus: “Listen to me, my lords and masters, hear my words and Place (i.e. God) will listen to you, for (I am a) woman [...]”

This is all that survived of a deed on vellum, probably from the court of the yeshiva in 10th century Jerusalem. It is hard to ignore the sense of drama generated by the long series of adjectives describing PLYṬY. The sense of frustration one feels at the abrupt ending of the fragment is an indication of the power that such a description holds. Indeed, it is probable that the reason this particular fragment was preserved is that some court scribe found this description so appealing that he cut it out to serve as a model for future use.

Many legal documents and formal petitions in the Geniza describe women as complaining or beseeching for help (Heb. qovelet, Ar. tastaghīth), screaming (Heb. ṣoʿeqet) and shrieking (Heb. ṣovakhat) before the court. This raises the question of whether the court applied a ‘typecast’ of the complaining, screaming and yelling woman.

29 The pronunciation of these names is unclear.
30 TS AS 149 5, edited as Doc. #17 in Appendix Two.
31 istigḥātha usually means in Arabic to beseech someone for help. However, in Judeo-Arabic it is commonly used interchangeably with the Hebrew qovel, “to complain” (see TS 28 6, v.3). Therefore I used “to beseech help”/“to complain” according to context, see more in Appendix One.
It is important to note that there are also many examples of men described as screaming and complaining in court. Indeed, studies of the phenomenon of ‘interrupting prayer,’ a practice usually described in similar terms, note that both men and women are recorded as engaging in it. Thus, it would be rash to jump to simple conclusions about the existence of such a model or a ‘typecast’ applied specifically to women.

Appendix One contains the results of a search for keywords such as complaining, screaming and shrieking in a representative corpus of Geniza documents. It is important to note that since there are so many more documents involving men, even an equal amount of results for men and women actually means that the term is much more frequent in records involving women than those involving men. The conclusions of this survey yield a complex picture: (1) Women are more commonly associated with the stronger verbs such as ‘shriek’ and ‘scream’ (8 documents for women versus 5 for men), while men are described with greater frequency by the more moderate verbs

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32 Indeed, in medieval Hebrew literary sources, soʻeq is commonly used to denote coming to complain before a court, whether by a man or a woman. See Bet ha-Midrasch, ed. Adolph Jellinek (Jerusalem 1938), 4:145-151. This usage, of course, harks to the common biblical usage of this word; see, for example, Exodus 22:22.

33 ‘Interrupting prayer,’ was a tactic of a person to direct the community’s attention to injustice and to secure at least a procedural solution. It is commonly associated with istīghātha in Arabic and qovel in Hebrew. See Avraham Grossman, “The Origins and Essence of the Custom of ‘stopping-the-Service’” (Heb.) Milet 1 1983, 199-220; Menahem Ben Sasson, “Appeal to the Congregation in Islamic Countries in the Early Middle Ages” (Heb.) Knesset Ezra: Literature and Life in the Synagogue Presented to Ezra Fleischer (Jerusalem 1994), 327-350 and Robert Bonfil, “The Right to Cry Aloud: A Note on the Medieval Custom of ‘Interrupting the Prayer’ (Heb.) in From Sages to Savants: Studies Presented to Avraham Grossman (Jerusalem: 2010), 145-156. See also Goitein, Med. Soc. 2:169-170 and 323-325, Moshe Gil, History of Palestine, 634-1099 (Cambridge: 1992), 689, n. 141 and Libson, Jewish and Islamic Law, 263, n. 48. Ben Sasson notices the frequent appearance of women using this practice and comments that “due to the heavy workload of the court, the matters [of lone low class women] were delayed more than any other group in the Jewish society” (p. 339). I contend that the issue goes deeper than the supposed “heavy workload” of the courts and has much to do with gender. An interesting case of what seems to be interrupting the prayer in a church in Byzantine Egypt in the context of a legal dispute is mentioned in Minnan-Gagos, 39; and see Bonfil, 149-152 for the argument of a Byzantine origin. See the reference in Gil’s and Libson’s publications for Islamic parallels.

34 Since examining the Geniza in its entirety is impossible, the appendix looks at a number of keywords and measures their relative frequency within a closed corpus.
‘complaining’ or ‘beseeching’ (12 for women versus 32 for men).\(^{35}\) (2) The difference, however, is merely one of degree, so that it is not only women who are described as shrieking or screaming, and thus are not solely associated with them.\(^{36}\) (3) More important than the frequency of complaining women versus complaining men is the difference exhibited in the genre and subject of complaints, with women usually ‘screaming’ and ‘complaining’ about the actions of men, primarily their husbands and their husbands’ family members.\(^{37}\) Women almost always complain about being left agunot, about not receiving maintenance for themselves and their children, or about being disinherited – in other words, mostly about domestic concerns. Men, on the other hand, though they also ‘scream’ and ‘complain’ about matters of inheritance, protest mostly (over three quarters of the cases) about commercial and communal issues. Men almost always complain about other men: only one document in the selection mentions a man complaining about his wife.\(^{38}\) Finally, whereas men appear to use all genres in a rather even distribution, women seem to prefer petitions, whether to a single would be benefactor, or to a leader or leaders in the community, over public exposure of their

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\(^{35}\) This also has to do with the Talmudic linguistic inheritance in which women are also described as shrieking and screaming, see Valler, *Women in Jewish Society*, 106-7, 136 and 146 and esp. 203 n. 5.

\(^{36}\) Although one finds male screaming feminized when istighātha is used next to the biblical quote “I am gripped by pangs like a woman in travail, too anguished to hear, too frightened to see” (Isaiah 21:3). See, for example, TS 10 14 11, r.27, ed. Frenkel, *Alexandria*, #51: A man in extreme pain over his wisdom tooth, and TS 8 J 15 3, r.2: a petition of a cantor, son of a judge, who is sick and poor, to a certain Naṣi. One petitioning man, wanting to emphasize his miserable state, says that he is confined to his home (due to fear of creditors) like the women, see TS 8 J 17 27, ed. Cohen, *Voice of the Poor*, #39, and Cohen, *Poverty*, 133. A possible hint at a gendered division of way of complaints might be found in TS 13 J 19 13, r. 16-18 (ed. Goitein-Friedman, Halfon, VIII, 78) where “boys” (ṣibyān) seek the assistance of their Muslim neighbours against a creditor who demands payment while they are sick, while their mother “goes out to beseech the help of the Muslim authorities” (umorūnā takhrūj tastağhīth ilā al-sulān – written בהלכתה). Later, however, “they” (the boys with their mother?) beseeched the help (ghawwathū) of the nagid. See also Appendix One.

\(^{37}\) An exception is ENA 2348 1, ed. Gil, *Palestine*, #217: Two orphaned sisters complain against their two older married sisters who seized their house and kicked them out, see *Med. Soc.* 2:169-170.

\(^{38}\) TS 12 242, ed. Friedman, *Polygyny*, VI-1, 153-5: A man complaining that he has been married for two years but cannot consummate the marriage because his wife cannot bear sexual relations. A similar case that was not included in the selection is TS Ar 47 244, ed. Ashur, “Engagement and Betrothal,” A-28. Another document outside the corpus is Bodl MS Heb f 27 22 – discussed below.
plight in court.\textsuperscript{39} This suggests that while there does not appear to be a simple stereotype of the complaining woman, still, ‘screaming’ and ‘complaining,’ were gendered in subject, tone and genre.\textsuperscript{40}

To get a sense of how complaining and beseeching by women is presented in the legal records it is useful to focus on a subset of such documents: deeds appointing a man as a woman’s legal representative.\textsuperscript{41} These deeds of appointment are usually straightforward and the women’s words appear just as the male voices are presented in similar documents.\textsuperscript{42} However, when we examine deeds in which a woman appoints a man to sue an absent or runaway husband for her due maintenance, to receive her \textit{get} or her \textit{ketubba}, her reported speech is often very expressive. For example, on 14 June 1024, Mudallala (‘Pampered’) bt. Wahabān appeared before witnesses in Fustat and declared (the document is in Hebrew): “Know, my lords, that Ṣedaqa, my husband … abandoned me over a year ago and went to the holy land and left me hungry, naked, lacking everything and requiring public help. He sat there (i.e. in Palestine) and begged.”\textsuperscript{43} Throughout the rest of the surviving nineteen lines, Mudalalla’s voice dominates as she performs the symbolic purchase, with all the required legal terminology, and nominates

\textsuperscript{39} The search for אסאטג את found 2 deeds and 8 formal petitions for women, but 6 deeds, 6 formal petitions and 8 private letters for men; see Cohen, \textit{Poverty}, 194; and Goitein, \textit{Med. Soc.} 3:325.
\textsuperscript{40} Geniza documents reveal a reality, found in many other historical societies, in which women appear more commonly before the court as claimants (i.e. as complaining against a perceived injustice) rather than the object of such complaints, see Tillier, “Women,” 281-284; Beaucamp, 141.
\textsuperscript{41} Goitein claims that the many deeds concerning the nominating of representatives by women should not be taken as a negative indication of women’s status since “men did the same,” see Med. Soc. 3:335. However, it is clear that women nominated representatives with greater frequency than did men. Furthermore, women nominated men as representatives for several uniquely gendered actions – like the receiving of a \textit{get}, suing one’s husband, collecting one’s ketubba and so forth; see Beaufchamp, 131-133 and 143.
\textsuperscript{42} See, for example, the deed of nomination embedded in TS 28 6, ed. Frenkel, \textit{Alexandria}, #41(this document is related to TS 20 187). Another example is TS 8 J 5 4 1.
\textsuperscript{43} TS 13 J 1 6, r.4-6, ed. Gil, \textit{Palestine}, #318, pp. 581-2. In \textit{Jewish Marriage in Palestine}, 2:279, Friedman suggests a possible identification of Ṣedaqa in a late tenth century ketubba from Damascus (TS NS J 283).
Joseph b. Mansūr to sue her husband for a year’s maintenance, for the 20 dinars of her ketubba, and to receive her get.

Mudallala’s deed is not unique in combining a heart-rending description of the woman’s predicament with the technical requirements of appointing a representative. In a fragmented and only partially readable deed of appointment, Sittūna bt. Ḥayyīm b. Solomon, known as Ben al-Raḥbī, declares in Hebrew before witnesses: “Know, my lords, that several years ago my husband R. Faraḥ … walked out and abandoned me naked, bare and without maintenance. I was left a forlorn aguna, a widow of the living. I have nothing in my hands after he sold some of my dowry and pawned the rest. Years have already past […]”.44 Another woman, Mubāraka bt. Maḥfūẓ, already separated for over four years from her husband, Yefet b. Ḥalfōn, who had “escaped the court” and later passed away, appointed Aaron b. Ḥalfōn to sue her brother-in-law, Moses b. Ḥalfōn al-Ziʿādī, for her husband’s burial expenses (for which she was forced to take a loan), for her maintenance, and her release from levirate duty (ḥaliṣa).45 Like the women in the previous two documents, she is presented as addressing the court in Hebrew: “I could not dwell there, and returned to Egypt, four years ago today […] hungry, naked, lacking everything. And now, my lords, receive [greetings] of peace, perform for me an act of kindness, have mercy upon me and help me.” 46 At three later points in the document she asks to be “saved.”

44 ULC Or 1080 4 15, fgs. 1-4, edited as Doc. #18 in Appendix Two.
45 While the document is hard to understand, it seems like Mubarak is also willing that her brother-in-law come to where she is and marry her. She is even willing to pay his travel expenses for this purpose, see v. 7-10.
46 ENA 3616 14, v.2-4, ed. Bareket, Jews of Egypt, #99, pp. 183-185. This is a draft in the difficult hand of Ephraim b. Shemarya. Several different readings can be suggested for Bareket’s edition, the most certain of which are: at the end of line 2: [אכטיו רד כלות the scribe intended to write in the blank. v.5 instead of read אכטיו רד כות read אכטיו רד כות. v.5 has [ אכטיו רד כות read אכטיו רד כות. v.6 instead of read אכטיו רד כות read אכטיו רד כות. v.7 instead of read אכטיו רד כות read אכטיו רד כות. v.8 instead of read אכטיו רד כות read אכטיו רד כות.
In another document, Sitt al-Kull bt. Elijah, the wife of Yakhīn b. Shabbat, is described as coming before the court and presenting her ketubba. The court affirms that her ketubba contains the sum of 75 dinars – 25 dinars “certain” (i.e., her delayed marriage gift) and 50 dinars in a dowry “according to the custom of the city,” evaluated as being worth a third of the sum, i.e., 16⅔ dinars. The ketubba also confirms Sitt al-Kull to have been declared “trustworthy” by her husband. Then, Sitt al-Kull addresses the court in Arabic:

“Know, O court, that my husband has tarried in Fustat and abandoned me more or less [six or read: seven] years ago. He travelled without depositing maintenance with me, nor what I or his daughter may be sustained with. I am still waiting patiently; [perhaps] he will return or send me and his daughter [what] we may be sustained with. Now, the matter has become very difficult for me and I have nothing to be succored with. I do not know what to do. Therefore, I ask to appoint Ibrahīm b. Abū al-Khayr as my proxy to go to my husband, the aforementioned Thābit47 b. Shabbat to sue him for the maintenance I am owed by him, from the time he left until today.48

Not all appointments of a representative to sue a husband for divorce and/or maintenance exhibit the use of such rhetoric.49 Yet these four documents show that at least on occasion, appointment deeds did employ strongly-worded rhetoric in direct speech. The procedure involved in suing an absent husband for divorce and for maintenance did not resemble that of nominating a merchant to sue a defaulting debtor. As was shown in the previous chapter, for agunot and widows, the wheels of justice turned slowly and hesitantly. The strong rhetoric of these deeds went beyond the technical aspects involved
in appointing a male representative to express a forceful moral case that would, the women hoped, help secure their legal success. The representative was given the deed and would then present it at his destination. Thus, such appeal was aimed not only at the court presently issuing the deed, but primarily at the far-away court and community that would be asked to intervene on the woman’s behalf.

These court records exhibit elements well known in another genre: the petitions of the poor. The passages quoted above could easily have been found in petitions of poor women, which often, as Mark Cohen has shown, employ such topoi as nakedness, hunger and being “cut off” from support networks.50 Moreover, the legal records above employ several expressions that seem to be taken directly from the genre of petitions rather than that of legal records – ‘greetings of peace,’ ‘act of kindness,’ ‘have mercy upon me,’ and ‘I do not know what to do’ – suggesting a migration of petition conventions into court records. Petitions naturally devote more space to presenting the alleged words of the appealing woman, so that when court records wish to present the voice of the woman appointing the representative they end up falling back on this tried and tested literary convention.51 These acts of appointment, then, are hybrid deeds/petitions designed both to perform the legal act of symbolic purchase and to appeal to the hearts of distant courts.

But the question remains: can we discern in such reported speech the ‘authentic’ voices of these women? In and of themselves, the documents reflect the women’s unhappiness with their predicament and their desire to change their lot by initiating

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50 Cohen, Poverty, 139-155 and ibid, Voice of the Poor, 83-94. Especially interesting is Doc. #45 (pp. 87-88) where “the wife of Ma’anî who has fled” appeals to “my masters, the ‘courts’ (may their R(ock) p(rotect them), and the community.” If the four documents above show how the conventions of petitions entered the legal records, here we have a petition of a woman directed at “the courts” (she means the members of the court).
51 Here I have benefited from an idea suggested to me by Marina Rustow in a personal communication. Elsewhere I drew attention to a document (TS 8 J 14 2) where elements of a petition and responsum are combined, see Zinger, “Long Distance Marriages,” 32.
divorce procedures, demanding ḥalīṣa from a brother-in-law and/or payment of maintenance. Yet this does not necessarily bring us closer to the women’s voices. If we are to move forward in the Cohen-Frenkel debate, one path proceeds via a close textual examination. Placing the aforementioned legal deeds side by side and conducting a simple structural analysis sheds important light on the question of whether we can find authentic voices in semi-formulaic texts.

A structural analysis of women addressing the court.

Legend: Address to court (underline)  
Husband leaving (italic)  
State of the woman (bold)

Know, my lords, that Ṣedaqa, my husband, //known as al-Nahāwandi// b. Eli known as al-Dimashqi, abandoned me over a year ago and went to the holy land and left me hungry, naked, lacking everything and requiring public help. He sat there and begged.52

“Know, my lords, that several years ago my husband R. Farah ... walked out and abandoned me naked, bare and without maintenance. I was left a forlorn aguna, a widow of the living. I have nothing in my hands after he sold some of my dowry and pawned the rest.53

“I could not dwell there and returned to Egypt, four years ago today [...] hungry, naked, lacking everything. And now, my lords, receive [greetings] of peace, perform for me an act of kindness, have mercy upon me and help me with your words.”54

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52 TS 13 J 16, ed. Gil, Palestine, #318. Where I read אלנאונדי he editor read אלנארדי.
53 ULC Or 1080 4 15 edited as Doc. #18 in Appendix Two.
54 ENA 3616 14v, ed. Bareket, Jews of Egypt, #99.
patiently; [perhaps] he will return or send me and his daughter [what] we may be sustained with. And now, the matter has become very difficult for me and I have nothing to be succored with. I do not know what to do.\[55\

My masters the “courts,” (may their) R(ock) p(rotect them), and the community, may they be blessed, are aware of the current situation and how difficult it has been for those with means, all the more so the weak and poor. I am a woman with poor sight. I cannot [dis]tinguish night from day and cannot find my way since my husband left me and fled to Alexandria and left me a “widow during (his) lifetime.” In my charge is an infant girl three years old. We are starving, naked and lacking strength. (Cohen’s translation).\[56\

Generally speaking, there is substantial repetition in themes and even specific wording (‘know my lords,’ ‘hungry,’ ‘naked,’ ‘lacking everything,’ etc.).\[57\] Moreover, it is even possible to discern a recurring structure: Address to the court → report on husband leaving → description of the woman’s state. These formulaic tendencies – the common choice of words, recurring themes and consistent structure – could be taken to support an argument that such passages do not reflect real voices of women in court. On the other hand, there is also undeniable variation between the passages: one wife states that she still awaits her husband’s return; another recounts selling some of her property and pawning the rest; and a third deems it relevant to mention that her husband lives off begging. Indeed, against the backdrop of common motifs and a common structure, such

\[55\] TS Ar 52 177, edited as Doc. #16 in Appendix Two.

\[56\] TS 13 J 18 18, ed. Cohen, Voice, #45.

\[57\] It must be remembered that most of our documents are fragments and some certainly contained more such elements in the missing parts (for example ENA 3616 14v).
idiosyncratic details stand out all the more, and invite us to reconsider whether it is in fact the case that “the personal and unique voice of the poor is actually a mass production of rather uniform petitions.”

58 Furthermore, the recurring structure is arguably not a rigid template so much as a natural way of ordering a common narrative: address → cause → result, and as such, need not erase all authenticity.

59 It is also worth considering that in a society more homogeneous than our own, people in a similar predicament might be expected to narrate their tales in similar terms. Finally, it can be argued more generally that common structure and similar motifs do not, in and of themselves, stand in the way of ‘authentic’ voices, and indeed characterize many of the narratives we regularly tell others and ourselves.

60 Thus, textual comparison suggests that within a common framework, individual voices can be found.

But how was such crying and beseeching perceived, and how could it be used? In a society with an ethos of accepting the divine ordering of the world without complaint as well an ideal of remaining ‘covered’ rather than ‘exposed’ and not in need of public support, we might expect such behaviors and expressions to be met with deep social disapproval.

61 Yet we see that many men and women are recorded as disregarding these social norms: Geniza documents overflow with complaints. This tension may be partially

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59 A counter argument may be that variation should not be equated with authenticity. In other words, while documents differ from one another, this does not mean they reflect the authentic voices of women more closely. Scribes could have produced this variability to make their clients’ petitions stand out. On the other hand, it seems problematic to postulate that a scribe would write that the wife eagerly awaits her neglectful husband’s return (a statement with legal ramifications) only for the sake of making the petition distinguishable from other petitions.
60 In my sojourns in the United States I have often come across Americans who described their parents’ life story as ‘the American dream.’ Similarly in Israel, many oriental Jews tell a similar tale of harsh beginnings followed by later success (or also frequently continuous discrimination). Such common myths (that hold much truth) serve to cast individual experiences into a larger framework and in this way infuse them with meaning. Psychologists call such templates ‘schemes’ (or ‘schemata’), see n. 67 below.
61 This ethos was repeatedly described by Goitein, see Med. Soc. 3:16, 5:45-73 and ibid, “Religion,” 11. On cover and exposure, see Cohen, Poverty, 41-44 and Friedman, “Two Studies,” 189-196.
resolved by noting, first, that whereas lamenting one’s fate or poor luck (i.e., misfortunes due to God) was considered ‘bad form,’ protesting against the actions of men and women was the norm; and second, that whereas refraining from complaint might have been part of the ethos of ‘respectable men,’ most people in the Geniza did not belong to the elite.

More importantly, appearing before the court crying and beseeching resonated deeply with the shared Jewish-Christian-Muslim motif of the wronged and oppressed individual who, by screaming and throwing himself or herself at the feet of a higher authority, momentarily transcends the barriers of status, apathy and injustice and earns a redress of his or her grievances. Geniza courts saw themselves as the protectors of the weak and as “the father of orphans and the judge (in support) of widows.” Individuals could tap into such deep rooted cultural notions by expressing their suffering and abject condition. By depicting themselves as helpless and wronged, they obligated the court, the communal official or his patron to perform their role in the social hierarchy. As one Geniza man put it: “I complain, as a man of Israel must complain to the judges of Israel and to the communities of Israel in order that the oppressor desists from his oppression.” By performing the role of the wronged individual appealing for justice,

62 See Bonfil, 149. In the Islamic tradition this motif was developed especially surrounding the institution of the mażālim courts, see Goitein, Muslim Law, 37-38.
63 See the important discussion of this notion in Cohen, Poverty, 142-143.
64 Geniza society and the surrounding Islamicate society were petitioning societies – where one of the major channels between the masses and elites was the performance, on both sides, of a ritual of petitioning and its redress, see Marina Rustow, “Formal and Informal Patronage,” Qantara 29 (2008), 341-382. This culture of public petitioning is still alive in the Middle East, especially in Iran and Saudi Arabia.
65 Bodl MS Heb a 3 26, r.9-11, ed. Gil, Ishmael, #632. We also see such performances take place outside the court, in the market place. Indeed, a Sicilian merchant who was forced to immigrate to Tyre describes such a performance as a calculated and socially recognized performance on his part. The merchant claimed that a flax merchant in Palermo with whom he had business took merchandise from him by bringing a locksmith who opened a lock without his permission: “When I learned of this, I went (around the market), crying hot tears, describing what had happened to me. People told me: ‘Beat his chest with your hand and beseech God and the authorities, perhaps he will return the lock.’ I met him in the Simeto (apparently a street in Palermo named after the Simeto river) and I did as I was told, crying. People surrounded him and told him: ‘Go return the merchandise!’” TS 13 J 13 27, ed. Gil, Ishmael, #238; Ben Sasson, Sicily, #6, and
petitioners enabled the court to assume the reciprocal role of alleviating the suffering and righting injustice, thereby reaffirming the court’s justice and authority. Thus, crying and beseeching can be seen as culturally loaded and socially recognized ’scripts’ in a constitutive drama that re-asserted the values of hierarchy and justice while redressing social wrongs in an individual fashion.

We find women performing the script of the crying and beseeching woman not only in legal records and petitions but also in contemporary literary sources. A yet unidentified maqāma-like Geniza fragment contains the tale of a woman who “came to the house of the judge and said to him: ‘O judge! Listen, I have come to your doorstep today broken and with tears in my eyes. I ask you, by the Lord who separates and brings...
together, grant me a divorce and take my right from this man!” We similarly find this script in Mishley Sindbar and in the 13th maqāma of Maḥberot Itiʾel, al-Ḥarīzī’s translation of al-Ḥarīrī’s famous work. It is possible also to point to earlier examples of this image. The fact that in both Mishley Sindbar and Maḥberot Itiʾel beseeching and a show of despair are a cynical pretense further demonstrates its use as a literary topos and a culturally recognized script.

However, this script also carried with it certain disadvantages. Appearing as crying or beseeching in public brought about the shame associated with public exposure – and the higher one’s social status, the heftier the toll on one’s ‘respectability’. Furthermore, by approaching the court from such a manifest position of weakness, petitioners might obligate the court to intervene on their behalf but they also placed themselves at the court’s mercy. As was demonstrated in the previous chapter, in their pursuit of compromise Geniza courts put disproportionate pressure on women. Therefore, appearing before the court as crying and beseeching placed women in a vulnerable position if any negotiation was to take place. Finally, by displaying their desperate state publically before the court, women may well have communicated to the court that they would be content with any level of support offered them, rather than insisting on full redress. In other words, coming before the court crying and beseeching placed the

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68 TS NS 224 163, v. 1-5: atamashshat (for the prosthetic alīf in the fifth form, see Blau, Grammar, 77) li-dār al-qāḍī qālat lahu yā qāḍī isma’ qad ji tuka li-bābika al-yawm maksūra wa-aynay tadmā sa’aaltuka bi-rabb al-arbāb alladhī yashitt wa-yajma’ taliqlnī wa-qūm khudh ḥaqqī min hādhihi (!) al-raḥul.
69 Mishley Sindbad, ed. A.M.Haberman (Tel Aviv: 1946), 5 and 12; and Maḥberot Itiʾel ed. Isaac Peres (Tel Aviv: 1951), 109-110.
71 Of course, this differs on a case-by-case basis. When one’s husband was far away, the danger of complaining about neglect was minimal. However, when one’s husband was in town, coming to court with a complaint about his violence might result in much less favorable terms.
emphasis on the women’s emotional state and thereby contributed to casting the matter at hand as one of mercy rather than right.  

Some of the benefits and costs of crying and beseeching before the court are demonstrated by a legal deed from the Fayyūm, dated to either 998 or 1008. When Salma bt. Nathan quarreled with her husband she tore up her ketubba and later regretted it. The deed describes how she “came before us and said: ‘I have sinned, make peace between us.’ She wept, she and her son, before the community (lit. Bene Yisraʾel). Everyone exhorted her husband Abraham, saying: ‘Why do you not take her back?’” Despite its brevity, the description succeeds in conveying the dramatic effect of Salma’s appearance. Through her humility (“I have sinned” – a rare statement in legal records), beseeching (“make peace between us”) and display of crying, Salma sought to earn the sympathy of the community. For the same purpose, she wisely brought her son along to participate in the public crying. This emotional pressure, rather than any legal argument

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72 A modern anthropological perspective on modern Muslim courts in Morocco and Iran is illuminating: “The reasons given by men and women in their petitions are a window to the nature of the tensions that lead to the breakdown of marriage. There is a sharp contrast between men’s and women’s accounts. Men do not volunteer details of the marital conflict and when they do mention them it is to refute a claim made by the wife. They are vague, brief and non-descriptive, which reflects both their rights in law and the cultural norms: it is both immaterial and inappropriate for men to discuss their marital problems in public. By contrast, women are expressive and provide graphic details of the events that led to their seeking a court divorce. After all they need to make a case to convince the court of the hardship that they suffer;” see Mir Hosseini, *Marriage on Trial*, 116-117 and also Ergene, 133-136. Important insight on the dynamics of court can be derived from Mir Hosseini’s documentary: *Divorce Iranian Style*, 1997; I would like to thank Lawrence Rosen for recommending this documentary to me.

73 The date of the deed is not fully preserved. The editor of the deed narrowed the dating to either 978, 998 or 1008. It seems that we can read “Thursday” on the first line, i.e. ָּיָּו[2]בּ (the editor read ָּו[3]ב allowing also a Tuesday). This eliminates 978 as a possible date and the deed can be dated to 15 May 998 or 29 April 1008.

74 According to Goitein, this was “of course a very foolish thing to do.”

75 See TS 20 37, r.33 and 37 and especially TS 10 J 16 8, r.13-22, both ed. in Goitein, *Yemenites*, 57-61 and 67-72 respectively and in Goitein-Friedman, *Halfon*, VIII, 8 and 7 (v. 25-35) respectively. See also Friedman, *Halfon*, 122-123.

76 The present writer’s mother, hardly a criminal mastermind, confesses that the only time she ever found herself in a police station she nudged her eldest son in order that his crying would earn her the sympathies of those present. It worked.
or procedure, seems to have been effective, as those present turned to pressure her husband to take her back.

The dynamic changed, however, when her husband defended himself: “He said: ‘she treats me with contempt, me and my family, my brother, my sister, and their sons, and all my relatives.’ We investigated this statement and found that it was true.” The resulting compromise was that the couple would remain married but Salma was required to accept conditions. She was to

Stand up in his presence whenever he enters or leaves a room. She will serve and honor him, and whenever she is pure she will not abstain from any household chore. When she sees him sorrowful, she will not talk back to him. If she has need for cover and clothing, she will ask him only for those he can afford. She will not scorn him with contemptuous and derisive words, even if only to his relatives. When mentioning him or his relatives, she will do so according to their honor. She will not improperly disobey him, in word or deed, and will leave the house only with his permission. She will not demand that they move to Fustat or any other place, unless he himself wishes to do so…”

If she were to break any of these conditions he would be absolved of all obligations toward her and she would be divorced without any delay on the part of the courts.

It appears that Abraham had sought to divorce his wife, and judging from his claims and their acceptance by the court, it seems that in that case he would also have been spared from paying her meʾuḥar. By crying dramatically before the court, Salma succeeded in preventing this outcome – but at a cost: after appearing penitent before the court and placing herself at its mercy, she was in no position to negotiate either with the court or with Abraham about the terms under which the marriage would proceed.

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78 Goitein describes this document in quite different terms: “It is a real story from the countryside, one of a haughty girl from the capital who treated her rustic in-laws with condescension, or outright contempt, and
It is likely that women were aware of the advantages and risks of ‘crying and beseeching,’ which is why we almost always find this practice applied when its disadvantages are minimal (for example, when the husband is absent). When difficult negotiations in court loomed ahead, crying and beseeching posed a greater risk for women. In such cases, the approach of the ‘cursing and confrontational woman’ offered itself as a possible alternative.

**The cursing and confrontational woman**

Alongside the script of the crying and beseeching woman, we find in Geniza legal records an opposite script. In the previous chapter we already came across examples of women described as cursing in the courtroom and challenging the court’s authority. For example, after the court forbade the former wife of Ṣāliḥ from entering his house, the record quotes her accusing the court of accepting a bribe and threatening to appeal to the Muslim authorities. She also threatened to commit “enormities” (probably converting to Islam) and “responded with threats and curses” to anyone who spoke to her. In a letter from the communal head of Ṣahrajt we heard how Saʿīda bt. David was asked to “let go of all that is past” and go back to her husband to be with him “in a good and straight way” but

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79 Bodl MS Heb d 66 131, edited as Doc. #2 in Appendix Two and see Chapter One.
She refused to listen and twisted the congregation with unseemingly speech. Afterward, we sent her several messengers, but she did not listen to them but rather remained maliciously insolent. We had to act with her in a reprimanding manner because she said bad things about her husband and because she went with her ketubba to gentile courts and divorced her husband through them and because of her refusal to accept the laws of Israel and being rebellious. (Therefore,) we cast her out as she deserves and banned her and ostracized her and exposed her shame in public as is proper with the [daughters]ters of evil who do not turn back to goodness except through reprimand. 80

In refusing the court’s overtures, adopting an offensive tone and appealing or threatening to appeal to Muslim authorities, these women enacted a different type of drama than the one engendered by crying and beseeching.

Similar to the way the script of the crying and beseeching woman taps into general cultural notions about the wronged individual throwing himself before the ruler, the script of the cursing and confrontational woman taps into broader cultural notions about women being stubborn, insolent and causing conflict. The literary manifestations of this cultural notion are well known, 81 and I will limit myself to a handful of examples from the historical Geniza. 82

80 Mosseri VII 27, ed. Bareket, Jews of Egypt, 106-109 and see Chapter One.
81 See Grossman, Pious and Rebellious, 31-43, and Dishon, Good Woman Bad Woman, 121-198. A remarkable example is found in R. Joseph b. Meir b. Zabara, Sefer Sha ’ashu ’im, ed. Israel Davidson (Berlin: 1925), 138-141, and the English translation in Joseph ben Meir Sabara, The Book of Delight, tr. Moses Hadas (New York: 1932), 156-160. The association of women with fitna and guile in the Islamic tradition is also well known, see, for example, Quran 12:28 and Bukhārī, Sahīh, #5093-6 (bāb mā yuttaqā min shu ’m al-mar ’a) or Muslim, Sahīh, #2736-2742 (bāb akthar ahl al-janna al-fuqarā’ wa-akthar ahl al-nār al-nisā’ wa-bayān al-fitna bi-l-nisā’). It should be mentioned that the Talmud already contains the stereotype of the vocal woman confronting the authority of the court; see Valler, Women in Jewish Society, 106-107, 117-118, 120-123 and 147.
82 By insisting on the link between the script of the cursing and confrontational woman, the broader negative image of woman as the cause of conflict in Geniza documents and the even more general cultural image of ‘the bad woman,’ I seek to connect general cultural attitudes with the everyday realities found in Geniza documents. However, in order to avoid misunderstandings, I should clarify that one does not usually find in Geniza documents of everyday life the very negative image of women one commonly finds in medieval Jewish literary sources (the same is true of the reciprocal image of ‘the good woman’). The examples explored below are much rarer and more toned down than the often vicious depictions of women found in literary sources. See also Chapter Five and Zinger, “What Sort of Sermon is this?” forthcoming.
In a Hebrew letter to the Karaite community, an unidentified Karaite described taking certain valuables from the house of Sheikh Abū al-Mūna and his wife without counting them in their presence because both protested that he was considered trustworthy. When he returned the valuables and counted them before the couple one by one, Abū al-Mūna and his wife protested that a certain item worth two dinars was missing. However, the writer claims that “Sheikh Abū al-Mūna did not know whether the item was lost or whether [... and did not k]now what the thing is at all. But it is his mother-in-law, she is the one who says [...] she says is the owner of the thing.”

In another document, we find another mother-in-law cast as the cause of domestic and legal trouble. A convert to Judaism from Byzantium, Rachel, was abandoned by her husband and left empty-handed, a foreigner in a strange land with two daughters in her care. To make matters worse, her husband was apparently planning to marry another woman. Whereas she herself mentions the role of her mother-in-law only briefly and enigmatically (“for his mother is one side and I am another”), one of the cover letters joined to her petition is much more explicit:

[I] throw myself before your feet, do not give a hand to lawbreakers and do not let [her husband] do his will because his wicked mother seduced him to do such things. For it was not in his heart to abandon his daughters and his wife. The snake enticed him to err against his will. Such were his words to me.

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83 Bodl MS heb c 28 9 (2876), r. 21-23, ed. Mann, Jews, 2:158. In l. 20 I read ישוב where Mann read יעקב. In l. 22 I read דע מה הוא הדבר כל עיקר, where Mann read דע מה היא דבר כל עיקר.

84 In the background, of course, is Genesis 3:13. It is rather remarkable that from the biblical story where the snake convinces Eve and she, in turn, convinces Adam, this letter has the mother-in-law in the role of the snake seducing her son against his wife.

85 TS 12 575, ed. Friedman, Polygyny, VII-1, 206-213.
We are told that it is his wicked mother, the “snake,” who caused him to abandon his family, and seek another wife.\(^8^6\) It is not impossible that Samuel b. Jacob, who wrote the cover letter, called the mother-in-law “wicked” and compared her to the biblical snake in order to excuse the husband, at least partially, leaving the road open to reconciliation.\(^8^7\)

The practice of shifting the blame in disputes onto women and portraying them in a negative way is not confined to mothers-in-law. In a very interesting letter, a father laments that his own son “does not listen to my words and does not accept what I advise him. This girl (i.e., the son’s wife) may God correct her ways! If I bring him (maybe read ‘her’?) to court, I will be bringing my own son into court. A hint (suffices for) a wise man. A most evil [woman,] I never saw her like.”\(^8^8\) Another son wrote to his father that his wife continues to threaten him and bring him to court. He suffers from her insolence, quarrelling and “talking back.” He has not eaten for three days because of her. "She is,” he writes, “the like of whom the book says, An evil woman is leprosy to her husband.”\(^8^9\)

A muqaddam known from other Geniza documents was instructed to summon Hilāl (i.e.

\(^8^6\) The snake is associated with the evil inclination (יצר הרע) of Eve and partially with Satan. See the BT Bava Batra 16a and the commentators on this passage in Genesis and The Chapters of Rabbi Eleazar. See also Ephraim E. Urbach, The Sages: Their Concepts and Beliefs (Jerusalem: 1982), 146 and Nechama Leibovitz, New Readings in Genesis (Jerusalem: 1992), 22-25 and Shulamit Laderman, “The Face of the Snake – The Face of Eve” (Heb.) in Image and Sound: Art, Music and History (Jerusalem: 2007), 87-105.

\(^8^7\) See also Joel Müller, ed. Responsen der Lehrer des Ostens und Westens (Berlin: 1895), #186: “Dina was orphaned from her father as a minor of about six years, and her mother misled her and married her to Re’uben – a forty-year-old” (translation from Krakowski, 94).

\(^8^8\) TS AS 151 2, r.11-16. My reading differs from Goitein’s, see Med. Soc. 5:122 and his provisional transcription in PGB. I read: wa-hādhihi al-ṣabiyya allah yasliḥuḥā fa-‘innī in istahkamtu ‘alayhi (perhaps read ‘alayh(ā)?) istahkamtu ‘alā waladī bi-remiza [ish]a ra’ a ‘ad mé’od .. lo ra’iti me- olam kemot.

\(^8^9\) TS NS 324 96. As far as I know this is the first mention of this very interesting letter. The writer’s handwriting is not professional and when he comes to the Hebrew quote he writes it: אלדיו קאל פיהא אלכתאב אשה ראעה (!) צאראעת (!) לבעלה. If the writer wrote the address, then he must have been more comfortable in Arabic than in Hebrew. Regarding the Hebrew quote: While “the book” in Geniza documents usually refers to the Bible, this quote does not appear in the Jewish Bible but is quoted in the Talmud as appearing in Ecclesiasticus (see BT, Yevamot 63b – it does not appear, however, in Ecclesiasticus as we know it from the Septuagint or from Geniza fragments, see Moshe Zvi Segal, The Complete Ben Sira (Heb.) (Jerusalem: 1958), 40-41 and 128). This does not mean that our writer thought that Ecclesiasticus was part of the Bible. He probably simply knew the proverb and assumed it came from the Bible. The Talmud continues after the quote: “What is his solution? Divorce her and he will be cured of his leprosy.”

99
Hillel) b. Ibrāhīm and his partner Dāʾud to court because a certain Jacob had claimed that Hilāl’s wife, Bahiyya, and her sisters performed “follies and necromancy” on his own wife, Amāʾīm.\textsuperscript{90} Another case involving a man who feared the use of magic by a woman, this time his former wife, is found in a responsum by Abraham Maimonides.\textsuperscript{91} In yet another document, it seems that two congregations quarreled regarding a scandal involving a case of polygyny. According to one congregation “[This] woman enticed the man to marry her even though he was already married.”\textsuperscript{92} In a different case, a local muqaddam, Isaac b. Moses, complained in a letter to a Nagid about the bad and evil things committed by the widow of an important cantor, a woman he calls “evil Zeresh” (the wife of the evil Haman in the Book of Esther). He claimed that she threatened publicly, in the synagogue, to appeal to the Muslim wālī and said that her husband, who died after four months of agony in which he was confined to his bed, was banned and then murdered by the muqaddam.\textsuperscript{93} The repeated use of biblical illusions in these

\textsuperscript{90} TS 8 J 32 6, see Med. Soc. 2:332 and 599. “Follies and necromancy:” al-safah wa-nabsh al-amwāt (in Med. Soc. 2:332 Goitein translated al-safah as “bone rattling,” but in his notecard on this shelfmark he has “stupid practices”). The note reads (ll.7-8) inna yaʿqūb al-madhkūr iddaʿ [ā] fī bet din anna zawjatahu bahiyya wa-ikkwatahā (i.e. Bahiyya and her brothers) but probably wa-akhwātihā (i.e. her sisters) was intended. The muqaddam is Moses b. Levi, the Beloved of the Yeshiva, on whom see Friedman, “Maimonides, Zūṭā and the Muqaddams: A Story of Three Bans” Zion 70 (2005), 514-515. On the question of his loyalty to Sar Shalom, it is important to take into consideration TS Misc 28 140 and TS 6 J 10 9 which he sent to Maimonides, see Alexander Scheiber, “Bibliographisches aus der Genisa” in Studies in Jewish Bibliography, History and Literature in Honor of I. Edward Kiev (New York: 1971), 415-420 reprinted in ibid. Geniza Studies (New York: 1981), 342-347. Friedman connects Amāʾīm with another Amāʾīm mentioned in the correspondence of our muqaddam in TS 10 J 17 16. I have enjoyed reading TS 8 J 32 6 and TS 10 J 17 16 with Moshe Yagur.

\textsuperscript{91} Bodl MS Heb e 98 58: A Cohen divorced his wife and married another. His former wife, however, had female friends whom she always visited in a house adjacent to his house. The Cohen tried to prevent his former wife’s entry to the alleyway and one of his arguments is that he is afraid of her and mentions magic (kishuf – unfortunately the manuscript is slightly torn at this point).

\textsuperscript{92} Bodl MS Heb d 76 56, r. 10, ed. Friedman, Polygyny, VIII-1, 242-245. Like it did in the case of Rachel mentioned above, the word “enticed” (hesiʾa) hints to the snake enticing Eve in Genesis.

\textsuperscript{93} TS 13 J 16 6, see Med Soc. 2:74. Another example can be seen in a somewhat obscure letter of Solomon b. Judah to a man who was involved in a legal suit in Egypt against a woman. The future Palestinian Gaon described the woman in very negative fashion and gloated over her death in childbirth, see TS 13 J 13 14, r.20-25, ed. Gil, Palestine, #53 also ed. Mann. Jews, 2:132-134, discussed in 1:118-119, see also Friedman’s corrections to Mann’s edition in JAOS 94 (1974), 274. Another case of wife-blaming is found
examples suggest that presenting the women as the source of conflict relied on ingrained cultural perceptions.

Turning to legal records, we find similar examples of casting blame on women. On the reverse side of a formulary for manumitting a slave girl, we find a notification (modaʿa) by a husband declaring that he did not wish to manumit a young slave girl, as his wife wished. The formulary indicates that the slave girl was the property of the wife and was probably part of her dowry in the ketubba (which is why the husband’s permission to manumit her was required). Manumitting slaves was a meritorious religious act and it is not far-fetched to suspect that the wife’s initiative and the husband’s refusal were linked to the sexual threat/appeal of a young female slave. But most striking in the present context is the way in which the husband explains his notification: “My wife possesses the daughter of a gentile slave girl, a minor who grew up in our house. And she wants to free her and emancipate her. But I do not want and do not desire to free her. Now when she pestered me with her words, I had to mislead her and to act according to her wishes, and to mislead the daughter of her slave girl.” Friedman, who published this important document, notes that the phrase “She pestered me with her words” refers to the biblical story of Delilah who had “pestered” Samson with her words continuously until “he was wearied to death.” Ironically, we see how the wife who wishes to emancipate her slave is likened to the pestering Delilah. Yet whereas Samson, following Delilah’s

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94 TS NS 246 28 (also TS K 27 45), ed. Friedman, “Master and Slave Girl: Two Geniza Documents” Gratz College Annual of Jewish Studies 1 (1972), 61-63. On notifications, see Chapter Three.

95 Friedman’s translation for v. 4-8 with slight modifications.
pestering, “revealed all his heart” to her, this husband secretly deposited the notification behind his wife’s back.

A negative depiction of a woman is found also in a difficult to understand draft of a legal record penned by Ephraim b. Shemarya, in which a mother is reported to have asked her son to give five dinars to her daughter from another marriage.\textsuperscript{96} While not all the details of the situation are clear, it seems that in return for these five dinars, the mother, who was apparently approaching death, released her son of any claim this daughter might have had against him. The mother declared that it would be of no avail if her daughter were to “contend with him (i.e. her half-brother) and bring him with insolence before difficult judges.”\textsuperscript{97} Of course, we do not know the facts of the case: whether the daughter, herself a widow, was known to be quarrelsome, or whether we are seeing here a mother relinquishing her daughter’s inheritance rights for a pittance, making the future suit of the daughter quite reasonable. What we do know is that a possible future legal action by the daughter was described in negative terms.

The cursing and confrontational woman in court is an extreme manifestation of this broader trend of placing the blame on women and depicting them negatively. A good example of this script is found in a formulary for the testimony of representatives of the court commissioned to appease an obstinate wife. It appears in the famous Lucena book of formularies dated to the 1020s and found in the Geniza:

\textsuperscript{96} ENA NS 18 26r, ed. Bareket, \textit{Jews of Egypt}, #87. The verso is an Arabic petition edited in Gil, \textit{Palestine}, #249. Gil dates the verso to “around 1030” and therefore Bareket dates this deed to “around 1038.” This draft is very difficult to read and certain aspects of the case seem contradictory. It seems that the document mentions two different persons named Na’amān, spelt inconsistently as Na’amān or Na’amān (or the Arabic Nu’mān). Na’amān b. Sa’īd b. Zeraḥ is mentioned in r.3,5,9,10, 24 while Na’amān b. Qāq?sh is mentioned in lines 8 and 19. The first Na’amān is the son of Layla and Sa’īd, while the second Na’amān is the husband of Layla and the father of Malika. Bareket hints at such a possibility in p. 155, n. 8.

\textsuperscript{97} ENA NS 18 26 r.16 which I read as: //ואם תערער עליו ותוציאו בחצפנות לדיינים//. 
A court mission: We, the undersigned, went as emissaries of R. so-and-so, the judge, (may the) Rock preserve him to so and so, the daughter of Mr. so-and-so, to appease her to her husband, Mr. so-and-so, who has complained and protested for an extended time that she does not perform for him any of the tasks which wives are obligated to perform for their husbands. Moreover, he claims that she would not come into the same house with him. We tried to appease her, but we could not prevail over her. She paid no attention to our words. Rather, she said, “I do not want this husband of mine, I do not want this husband of mine,” twice. She raised her voice with profanities [[about him]] and cursed in the face of her husband, while he kept silent. That which took place in our presence we have written and signed in month such-and-such.98

Like the manumission notification discussed above, this formulary probably reflects a real case. As cases that were turned into formularies, these documents should be given extra weight since they reflect not only specific cases but also broader social perceptions and expectations. Whereas the husband is described as “complaining and protesting,” and later as silent, his wife, we are told, could not be prevailed upon, was not attentive to the court representative’s attempts at conciliation, and was stubborn in her insistence that she did not want her husband. Moreover, her speech is presented emphatically and she is described as raising her voice and addressing profanities and curses at her husband. It is striking to notice how this highly negative portrayal nonetheless yields an empowering image of a resolute woman. Thus, just as giving women a voice did not necessarily bode well for them, so portraying them negatively, as stubborn and vulgar, could simultaneously capture their strength and dominance – which, for women, however, came at a price.

An exciting recent joining of two fragments reveals another dramatic case of a confrontational woman in court who is depicted very negatively:

When Ezra, the elder, b. Samuel b. Ezra, the representative of the merchants, came to us and asked us to go to his sister Mubāraka and reconcile her to return from her ways […]. We went to her and […] threatened her] that she would be severed from the congregation of Israel. This Mubāraka did not pay heed to our words and went to the (Muslim) judge of judges. The footmen seized him (i.e. her brother) and she humiliated him. He was therefore forced to flee from her. She insists on her claims and is stubborn in her insolence demanding her father’s inheritance from her brother in Muslim courts. She has about five men supporting her who do not fear God.

This deed displays many characteristics that are by now familiar. The Jewish court is asked to “reconcile” the sister, and in doing so it probably applied the same mixture of cajolery and threats witnessed in the previous chapter. In order to counter the pressures of the court, Mubāraka appealed to Muslim courts. Throughout the deed, the story is told from the perspective of the brother who first approached the court. Even though the deed states that “she insisted on her claims,” the deed says nothing of the nature of these claims.

Mubāraka’s case has several parallels with Bārra’s story explored in the previous chapter. Bārra presented the court with both Hebrew and Arabic legal documents to demonstrate that her father had bequeathed her property to her. The Jewish court accepted the Jewish deeds but followed the lead of Bārra’s brother in contending that the Arabic deeds were forged. Bārra responded by suing her brother in Muslim courts. The result was that

She was deemed deserving of the ban by the (Jewish) court for her transgression by bringing her brother to gentile courts and turning aside from the living laws of God. … she responded deceivingly: “No! My father gave me this house and it is mine.” The aforementioned Sheikh Abū ‘Alī told her: “and the other house, the large one, which is adjacent to this house, do you also have any claim that your father gave it to you?” She said: “No, I do not have any right over the other house at all.” We tried to

99 Hebrew for the Arabic Qāḍī al-Qudār. On the identity of this specific Judge of Judges, see the Appendix.
100 TS 8 J 6 8 + TS 13 J 30 3, edited as Doc. #6 in Appendix Two; see further information there.
convince her gently to take what God has given her lawfully and abstain from demanding what is not hers by right but she refused and did not accept this.¹⁰¹

Bārra’s case can be used to “fill in” the gaps in Mubāraka’s to suggest what her appearance in court might have looked like. In both cases the Jewish court denied the claims of a sister and then strongly castigated her when she turned to seek redress from the Muslim authorities.

These cases (Ṣāliḥ’s former wife, Saʿīda bt. David, the Lucena formulary, Mubāraka, and Bārra) share several recurrent features and thus allow us to distill the essential elements of the script of the cursing and confrontational woman: a man lodges a complaint in court against a woman; the woman appears in court with a counterclaim, from which the court then tries to dissuade her; the woman resists these attempts, thereby earning the court’s displeasure; she is described as stubborn and insolent. Usually, the woman’s direct speech plays a central role in the creation of her negative image and in creating the heightened drama of her confrontation with the court as she curses and speaks deceivingly or insolently. Another prominent feature is her appeal to Muslim courts or threat to do so.¹⁰² While not all documents contain all of these elements, they share most.¹⁰³

In order to explore further the triggers of the court’s antagonism, we turn to examine two cases of women who, despite acting in ways that are objectionable from the

¹⁰² The theoretically inclined might go a step further and consider this script as a progression of specific scenes.
¹⁰³ When I argue that a culturally recognized script influenced or gave meaning to an array of real cases that came before the court, I do not argue that they all conformed to a rigid template in every detail. Indeed, Turner insists that his social drama model is fraught with contradictions, indeterminacy and fluidity, see Victor Turner, “Social Dramas and Stories about Them,” Critical Inquiry 7 (1980), 157 and see also Alan M. Dershowitz, “Life is not a Dramatic Narrative” in Law’s Stories: Narrative and Rhetoric in the Law, ed. Peter Brooks and Paul Gewirtz (New Haven: 1996), 99-105.
court’s point of view, are not criticized in legal deeds. This comparison reveals that the assumption that the court depicted women negatively when they broke Jewish law is not satisfactory. Rather, the social drama enacted by the script of the cursing and confrontational woman involves deep-seated concerns of the court regarding its own authority.

**Non-negative depictions of errant actions of woman**

Wuḥsha is the most well-known woman of the Geniza.\(^{104}\) Her will totaled some 700 dinars and in it we see Wuḥsha distributing her substantial wealth to about fifteen different recipients, not including the high burial expenses.\(^{105}\) As a prominent wealthy woman who acted as a broker (*dallāla*), Wuḥsha saw her share of friction with the law. One legal deed records how she arrived at the synagogue compound after receiving word that the judge had summoned her at the request of ʿUlla ha-Levi b. Joseph. Wuḥsha’s recorded response was: “What do I owe to Mr. ʿUlla that he should make such a claim against me? All that is due him from me is five *qīrāṭs*. For five *qīrāṭs* he makes such a fuss.”\(^{106}\) More significant are the recently published documents regarding her controversial litigation against the prominent India trader Joseph Lebdī. Though the claim involves property allegedly owed by Lebdī from business transactions he had entered into with her late brother, Abū al-Naṣr, it is clearly Wuḥsha herself who was the driving force behind the litigation, despite the fact that she had a brother and sisters alive at the time. More than the suit’s particular details, it is important to note that Wuḥsha was

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\(^{106}\) ULC Add 3420 2v, translated by Goitein, “Business Woman,” 227. Recently the recto of this document was published as I, 8 of the *India Book*. For similar issues in Islamic courts, see Tillier, “Société abbaside,” 169-170.
represented throughout the litigation by a legal agent, and that its high profile led a
certain “Rayyis” who supported Wuḥsha’s position to write a short treatise criticizing the
judge’s ruling in Lebdī’s favor. The Rayyis’ treatise was answered, in turn, by a treatise
by the judge. The Geniza has preserved large sections of the rather lengthy second
response by the Rayyis, who was probably remunerated for composing these treatises.107

The self-assurance of Wuḥsha’s belittling response to ʿUlla’s claim and her ability
to keep her case against Lebdī alive even after the judge’s ruling by sponsoring polemics
between the judge and the Rayyis shed important light on our understanding of another
document, the most scandalous Geniza fragment involving this remarkable woman.

Having divorced one husband, Wuḥsha had a relationship with certain Ḥassūn from
Ashkelon who she claimed to have married in a Muslim court.108 Following Wuḥsha’s
death, the child of this relationship, Abū Saʿd, sought to receive official recognition of his
legitimacy.109 Fortunately for him, his industrious mother had already laid the legal
groundwork for this recognition, so that Abū Saʿd was able to summon to court a witness
who testified as follows:

I was with the cantor, the Diadem,110 may God accept him with favor,111
when Wuḥsha, the broker, came in and said: ‘Do you not have advice for
me? I fell in with112 Ḥassūn and conceived from him. We contracted a

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107 The whole affair is treated expertly by Friedman in his important publication of the various fragments,
see Goitein-Friedman, Lebdī, 171-218. According to a document that is especially difficult to decipher (I,
28b) it seems that the suit was finally brought before a Qāḍī who might have ruled in Wuḥsha’s favor.
108 Goitein suggests that this was done because Ḥassūn had another wife in Ashkelon and therefore could
not marry Wuḥsha in Fustat, Goitein, “Business Woman,” 238. In a later publication, Goitein suspected
that this was simply a lie on Wuḥsha’s part to make her liaison with Ḥassūn a bit more respectable, see
Med. Soc. 3:351. Goitein suggests this because if they were married, Ḥassūn stood to inherit from Wuḥsha,
but he is not mentioned in her will. However, they might have divorced by the time of Wuḥsha’s death.
109 Goitein suggests that he wanted to affirm his legitimacy so he could marry, ibid, 237-238.
110 Goitein identified him as Hillel b. Eli, the well-known Fustat scribe who also produced Wuḥsha’s earlier
marriage contract and her last will. This deed was written by Ḥalfon b. Menasse, the son in law of Hillel b.
Eli, a fact which should be kept in mind when we consider Wuḥsha’s portrayal in this deed.
111 ṭadiya allah ʿanhu – a typical Muslim blessing over a saintly person.
112 Here I slightly deviated from Goitein translation: waqaʿtu maʿa is translated by Goitein as “I had an
affair” and it appears in Blau’s dictionary as “to lie with a man, to have sexual relations” referring to
marriage before a Muslim notary, but I am afraid that he may deny being the father of my child.’ She then lived in the house of Ibn al-Sukkarī (maker or seller of sugar) on the uppermost floor. He (the cantor) said: ‘Go and gather some people, and let them surprise you with him so that your assertion might be confirmed.’ She did so, gathering two who surprised her with him, and confirmed her assertion. She was then pregnant with this Abū Saʿd, her son, whom she had conceived in her illicit relation with Hassūn. I know also that she went on the Fast of Atonement to the synagogue of the Iraqians, but when the Nāsī of blessed memory noticed her, he expelled her from the synagogue. I know all this for sure, and deposit herewith my testimony to this effect.

The document suggests a woman in full command of the situation, ensuring that she would be caught having sexual relations with Ḥassūn so that he could not later deny his paternity. In this scheme she received the advice of the court scribe (the father-in-law of the scribe who would later write this document) and the cooperation of several men of the community. Even though she was ostracized by the Nasi, the legal record reflects no judgment or negative evaluation of Wuḥsha and we see the court assisting her despite her claim to have contracted marriage in a Muslim court.

While it can be argued that after her death there was no point in depicting even a fornicator in bad terms, no such argument can be made of the next fragment written by

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Goitein’s publication (this meaning is also found in literary Arabic sources, for example, Ibn Qayyim al-Jawziyya, , Abkām ahl al-dhimma (Cairo: 2004), 1:5). Of course, Wuḥsha did not necessarily have an affair, since she claimed to have been married in Muslim courts. More to the point, it seems that the meaning should be understood along the lines of “I fell in with/I got stuck with” or as Goitein suggests in a note “I have got into a quagmire with.” For such usage see DK 232 1, r.9-14: innanī mara mungqi ʿa wa-qad waqa ṭu maʿa insān lā yaḥṭashim fī mā yatallafūz (or yutallafūz) bihi min kalām (written: חסונ) lā yajib ... wa-anā ṭaq waqa ṭu ve-emuna fī ṣara meṣqūa - “I am a desolate woman … and I fell in with a man who has no shame regarding the unbecoming words he speaks (or unbecoming things spoken about him)… and I have, by faith! fallen upon great affliction.”

113 Goitein read ʿindī and corrected to ʿind. The yod is, in fact, a hole in the manuscript.
114 Goitein thought that the Nasi “did the right thing” although it was against the religious law (even excommunicated people are welcomed at synagogue on the Day of Atonement), Med. Soc. 3:351.
115 TS 10 J 7 10v, ed. Goitein, “Business Woman.” Recto edited in Weiss, “Halfon,” #139. Later discussed with important new information in Med. Soc. 3:346-352, see notes above and the bibliography in FGB. A typo can be corrected in v.20, read דומא rather than רשב. With the new digital images in FGB, some of v.21 can be recovered, for example, מطائر rather than מטיאר, but this requires further work.
116 See also Goitein, Med. Soc. 3:351. While the loaded word zinā or zinan is used, it is used technically to refer to her actions with Ḥassūn and does not describe Wuḥsha herself.
the same well-known scribe. The story’s broad outline can be pieced together from several fragments, but many details remains unclear. Jayyida bt. Abraham, the wife of Abū al-Surūr al-ʿAṣṣār (juice merchant/presser) Peraḥya the scholar (Heb. talmīd), took a loan of 50 dinars on two-thirds of a house in the Fortress of Candles, known as ‘the house of Ibn al-Luffāḥa,’ from David al-Rumī al-Ṣabbāgh (‘the dyer’) b. Abraham, to be paid back in two years at 16% annual interest. While the actual agreement was between Abū al-Surūr and David (and David’s son), it is clear that Jayyida was the driving force behind the transaction, and it is her speech and actions that are recorded in all the surviving legal fragments. Lending at interest to Jews is of course forbidden in Jewish law, and to circumvent this restriction Geniza people resorted to a subterfuge of resale. Of the 50 dinars, 12 were given by David directly and 38 were given by his son. Part of this transaction seems to have taken place when David (and possibly also Jayyida’s husband) was absent. When David returned it emerged that the property was part of a pious

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117 In any case, one can also argue the opposite point - Wuḥsha was clearly a force to be reckoned with, after her death it might have been easier to talk about her negatively.

118 Goitein first referred to Bodl MS Heb e 94 19 and to Bodl MS Heb e 94 25 as dealing in the same matter and translated the latter in full in Med. Soc. 3:329 and 3:500, n. 69-71. Weiss edited TS 12 482 (“Halfon,” #42) and later published the document in his “Mortgage Procedures and Interest Rates as reflected in the Cairo Geniza Documents at the First Quarter of the Twelfth Century” Gratz College Annual of Jewish Studies 1 (1972), 64-79. The connection between the fragments seems to have been first made public in Gil, Pious Foundations, 298, n. 9, and in Goitein in Med. Soc. 4:280. See also Goitein-Friedman, India Book, 232, n. 6. ENA 3150 8 is a memorial list to Perahya’s family.

119 Ibn Luffāḥa, ‘son of the Mandrake’ must have been a previous owner of this house. As Goitein notes, this plant (Mandragora) is connected to all sorts of love magic, see Med. Soc. 3:500.69.

120 Simply explained: If A is in need of money, he sells B his property for a sum X. In the agreement or in a later agreement, B declares out of his free will that in the future (or in specified time) A will be allowed to buy back the property. A continues to live in the house and pays B a certain rent=interest. At the stipulated time, A buys back the property from B for the same sum X. For more detail on such practices, allowed in Jewish law, see Rivlin, “Mortgage and Resale,” 289-308, esp. 303 where this document is referred to. Rivlin’s claim on p.300 that “the sages examined the details of every such agreements and only when they were convinced of its correctness (according to the halakha – O.Z) they approved of it” is somewhat over-confident regarding the orderly nature of Geniza society. See also his “On Economics and Halakha: Mortgage and Resale” (Heb.) Studies in Jewish law: In Honor of Professor Kirschentbaum, Dinei Israel 20-21 (2008), 353-395; I. Warhaftig, “ʻShetar Hatava’ – a Chapter in the History of Jewish Deeds” (Heb.) Shenaton ha-Mishpat ha-Ivri 18-19 (1992-1994), 215-249; and Libson, Jewish and Islamic Law, 95.
endowment or was under lien and its buying and selling was forbidden.\footnote{In his edition of TS 12 482, Weiss preferred the meaning of \textit{ḥubisa}, “confiscated.” The expression in the Oxford documents \“אן אלדאר חבס לא יתموا עליה אבִי יֵלִישׁי וַילִא שִׁירֵי√√“ does not help decide between “confiscated,” “is a pious endowment” or is “under a lien” and all meanings are possible (for example: \textit{inna al-dāra ḥubs“}). The fact that this house is mentioned in a later list of pious endowments, TS NS 306 1r.15, as Goitein noted, probably decides the matter in favor of “pious endowment” (but see Rivlin, “Mortgage and Resale,” 303 using \textit{meʿuqqelet}, “under a lien”). Could it be that Jayyida (and her husband?) knew all along that they were selling a house which was not theirs or was under a lien to an unsuspecting foreigner (\textit{rūmī}).} David demanded his money back but Jayyida replied that she did not have the money. David suggested that Jayyida produce an acknowledgment of debt totaling 66 dinars (since the interest/rent was not written as such in the original deed of sale, he could demand the entire sum). While the exact events that took place next are not completely clear, at a certain point Jayyida decided to take matters into her own hands and resolve the dispute in an original way.\footnote{The issue remaining unclear is the relationship between the Oxford documents and the Cambridge document. This suggested reconstruction seems to me to be most likely: It is interesting to note that TS 12 482 contains a rather abrupt change halfway through. In lines 1-19, David claims all the 66 dinars and no mention is made of interest. Then, in line 20 an additional testimony is reported from David “ואקראר (!) מן מַדוּיד דָּנָא אָיצַע בִּינֵי יָדִינא (”I deviate here slightly from Weiss’ division of sentences). David acknowledges that the sum was only 50 dinars and that the 16 dinars are an “addition” \textit{zāʾida} to the fifty. In this, he repeats the terminology of Bodl MS Heb e 25, ll. 6-8. Back in TS 12 482, David then agrees to relinquish his claim over the 16 dinars but insists on receiving the 50 dinars (r.24). It seems to me that Jayyida’s trickery (on which see below) is the explanation behind David’s change of position. If this is true, then the Oxford documents belong “in the middle” of TS 12 482. It must be remembered that the legal documents were written several days after the court sessions — perhaps Halfon b. Menasse wrote the first half of TS 12 482, and then Jayyida preformed her trickery and he then completed TS 12 482 which meant that he had no reason to complete the Oxford documents and he could tear them apart. In any case, Jayyida’s trick worked and David decreased his demands from 66 to 50 dinars.} She asked court officials to accompany her into her house, where the record recounts the following scene:

\begin{quote}
We responded to her request and went with [her to the aforementioned house (?)] She locked us all in, brought the above-mentioned Mr. David and they both sat close to the door behind which we were, so that we could hear everything they both said and recognize who spoke what.\footnote{Here I depart slightly from Goitein’s translation: “So that we should hear word for word which each of them said” – the Arabic is \textit{bi-ḥaythu nasmaʿ jamīʿ mā yalfiẓ kull minhumā bihi wa-nahuqq kull mutakallim minhumā}.} She said to him: ‘O Dāʾud (Ar. for David), listen, no one is between us. Return to God, and do not claim something to which you have no right. I owe you only 50 dinars. How come you sue me for 66? Have we received from you
as the price of the house anything above 50 dinars so that you have made out a writ of debt in my name to the amount of 66 dinars?  

At this point the document ends, unfinished. Even with the deed not completed, it seems as though Jayyida’s scheme was successful: in another document we learn that David relinquished his claim to the additional 16 dinars. As in Wuḥsha’s case, we see here a woman in full command of events, manipulating the court’s representatives and tricking David with a scheme that seems to be taken out of a Mozart opera. Despite the fact that earlier in the document she states clearly that she “took a loan,” despite the loan involving a clear case of hidden interest, and despite her questionable trickery, she is neither rebuked by the court in the deed nor portrayed negatively. Moreover, her ploy seems to have been effective despite the fact that the legal validity of David’s testimony under such conditions is questionable.

Why were Wuḥsha and Jayyida spared a negative portrayal by the court despite their legally questionable actions, whereas the women described above received a more negative portrayal? Taken together with the rest of the documents studied in this chapter, the cases of Wuḥsha and Jayyida allow us to point out several factors that influenced both a woman’s portrayal in the court record and the likelihood of her legal success.

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124 Bodl MS Heb e 94 25, the translation is Goitein’s (Med. Soc. 3:329) with slight modifications.
125 Probably because David caved in and relinquished his claim for the additional 16 dinars.
126 It could be argued that if the resale procedure was done correctly, then there was nothing wrong with it, as such a procedure was common and approved in Jewish communities in Islamic lands, see Rivlin “Economics and Halakha.” However, from the fact that David capitulated and from the way Jayyida set out to entrap him, it is clear something was seriously wrong in the financial arrangements.
127 Goitein wonders whether her scholar of a husband was aware of Jayyida’s actions and what he thought of them, see Med. Soc. 3:329. Of course, no certainty can be had, but TS 12 482 states clearly that he performed the original sale (so he was aware of the resale stratagem). What he thought of her trick is not known, but he was probably happy to be spared paying 16 extra dinars.
128 In his book of formularies, Saadya Gaon specifically rules against such trickery, see Ben Sasson, “Saadya’s Sefer ha-Edut Ve Ha-Shetarat,” 178: Reuben yaqūl li-Shimʿon alayya li qabla al ḥakham fa-yaqūl lahu naʾam wa šuhūd an warāʾ sitāra ḥattā yaqūl li-l-shuhūd an yashhaddāʾ ʿalā Shīmʿon bi-šayʾ ʿalā Shīmʿon ishhaḏūʾ ʿalayya li-qā(ofil) al-ḥakham(im) am(ar) Rav Yehuda am(ar) Rav ve-sarikh sheyyomar attem ʿeday. See BT, Sanhedrin, 29a-b; MT, Hilkhot ʾEdut, 17:3 and Hilkhot ʾToʾen ve-Niṭʾan, 6:7-8.
The first noticeable factor is status and personal contacts. Wuḥsha’s wealth, prominent family and legal connections played an important role in her treatment by the court. The scribe who wrote the deed for her son was the son-in-law of the scribe she consulted regarding her relationship with Ḥassūn, and we have seen how she probably sponsored the Rayyis to contest the judge’s ruling against her in the suit against Lebdī. Jayyida’s husband was a scholar, and the sum of the loan they took out – 50 dinars – suggests an investment loan rather than a consumption loan, placing them squarely in the upper middle class. Still, none of the women described as cursing and confronting the court enjoyed similar status or connections in court. Mubāraka was clearly of the highest status among them, but her status was dependent on the position of her brother (a prominent member of the community and probably the representative of the merchants) – the very person she was battling in court. Bārra’s husband was a cantor, surely not a prestigious profession but still one with important connections to the communal administration. In Chapter One we saw how women of weak status, widows, orphans, divorcees and yevamot were often treated unfavorably by the court and subsequently depicted negatively in its records. Thus, personal ties and status played a major role in women’s ability to maneuver within the legal arena and in determining their chances of receiving a fair hearing.

Another factor, less obvious at first glance, concerns the fact that both Wuḥsha and Jayyida, unlike the cursing and confrontational women, approached the court at their

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129 In the deed his name appears as Ezra b. Samuel b. Ezra paqid ha-soḥarim, and it is probable that the title goes back to him. We also find Ezra in TS 13 J 8 14 r.5, ed. Ben Sasson, *Sicily*, #35 and Gil, *Palestine*, #326 where he is listed among the top leadership of the Jewish community.

130 Furthermore, even within the group of “weak” women, we can see how women who were previously of higher status, like Jalīla bt. Ibrahim, can manage to command much greater attention for their plight than a poorer orphan like the ones in TS NS J 68 or ENA 2808 15a (see Chapter Two).

131 As Mark Cohen pointed out to me: “This is in keeping with the whole texture of that society, where personal connections and influence played an important role in social relations.”
own initiative and sought its assistance. In this respect they were more like the crying and beseeching women who approached the court with their plight than the cursing and confrontational women whose case was usually brought to court by men. In one significant example, that of Saʿīda bt. David, discussed in the previous chapter, a single fragment contains, on two sides, two very different stories: the one depicting Saʿīda in the worst possible terms after she refused the court’s overtures to be reconciled with her husband, and the other told after she herself brought her case before the court in Fustat, where she is depicted in a fair and neutral way. The person who brought the case to court seems to have gained a significant advantage.

The importance of seeking out the court’s assistance leads us to a more general factor that seems to have influenced the depiction of women, namely the extent to which a woman was perceived as challenging communal authority. It seems that courts felt their own authority to be rather fragile and were therefore highly sensitive to any threats to this authority. This was due not to pressures from a Muslim government or the wider Muslim society, but rather to internal dynamics within the Jewish community. The power of the communal leadership was limited; members of the community had other legal options and could rather easily bypass, ignore, or at least challenge the courts. The cases of Jayyida and Wuḥsha suggest that more than the trespassing against the law, what earned women the antagonism of the courts was the challenge to the court’s authority. Indeed,

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132 See, for example, TS 8 J 6 8 + TS 13 J 30 3, Bodl MS Heb. f 27 22r or Bodl MS Heb. d 66 133.
134 A useful comparison can be seen in Joseph Hacker, “Jewish Autonomy in the Ottoman Empire” in Transition and Change in Modern Jewish History (Heb.) (Jerusalem:1987), 380.
135 This is not to say that if you transgressed the law, you suffered no consequences, but that insisting on justice in the face of the court was not viewed with favor and that transgressing the law, if you were backed with wealth and connections, could often be overlooked. Even in a case where one would be sanctioned by the court, one would not be negatively depicted if one avoided challenging the court directly. See examples
the concern with authority emerges as the essential element of the script of the cursing and confrontational woman identified earlier: it underlies the descriptions of her ‘stubborn’ rejection of the court’s suggestions, her ‘talking back,’ raised voice and cursing in court, and of course her threat to appeal and sometimes actual appeal to Muslim authorities.

As argued in Chapter One, Jewish courts repeatedly enacted a social drama of crisis, redress and reconciliation. The courts often placed a disproportional share of pressure on women in their attempts to arrive at a compromise and reconciliation. This had much to do with gendered social norms that saw a woman’s (and especially a wife’s) role as compromising her claims and needs (see the next chapter). Anticipating these pressures, some women chose to appear in court with a performance of resolution and steadfastness in order to resist them more effectively. However, resisting the court’s attempts to reach a compromise went against the court’s gendered expectations and frustrated its narrative of crisis and reconciliation, thus confronting women with a difficult dilemma: they could keep their good standing in the eyes of the court and Jewish authorities and compromise, or resist the pressures of the court and its messengers and risk incurring the court’s displeasure. The script of the cursing and confrontational woman is intrinsically connected both to the common narrative of Geniza court records and to the gendered experiences of women in courts.

In order to understand the practical logic of employing this script it is useful to focus on a particular case – for example, the story of Ṣāliḥ’s former wife, which opened

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in ENA 4010 43v (ed. Bareket, Jews of Egypt, #100), discussed in Chapter One, and TS 8 J 16 4 discussed below.

136 When people know they are about to enter a process of mediation they tend to publically display greater stubbornness or more extreme positions in order to arrive at the negotiation table from a better position.
Chapter One. Sāliḥ’s former wife’s earlier experiences with the court were unpleasant. She felt that the court was biased against her and deprived her of property that was rightfully hers. Powerless to act through the regular legal channels, and facing substantial economic losses if she failed to act, she staged a sit-in inside the disputed property; causing enough public commotion that word of her protest reached the court. Her husband, however, gained an important advantage by coming before the court first. As we have seen in other documents, the court adopted the husband’s position and admonished his ex-wife for entering the house of her former husband.¹³⁷ In a male-dominated space, reprimanded by the court and lacking male support, Sāliḥ’s former wife could not hold her ground by arguing her case based on Jewish law. Nor could she come before the court crying and beseeching (that is, seeking the court’s assistance), since the house was apparently taken from her by an act of the very same court. The only remaining option was to resort to curses, accusations of corruption and the typical threat to convert or appeal to a Muslim court. Public shows of anger and the performance of disturbance are often expressions of a powerlessness to maneuver in a more culturally acceptable manner.¹³⁸ In behaving thus, Sāliḥ’s former wife, like other women in similar predicaments, prolonged the stage of ‘crisis’ and prevented the courts from moving quickly to ‘reconciliation’. In a sense, she wrenched the trajectory of events from the hands of the court. By threatening to appeal to Muslim authorities she further emphasized her power to control events. And while we do not know the final outcome, the power

¹³⁷ It is worth pointing out that the court apparently heard the testimony of one litigant without the other litigant being present, contrary to BT, Sanhedrin, 7b and MT, Sanhedrin, 21:7.
¹³⁸ See an example in Friedl, Women of Deh Koh, 44-45.
shifted, at least partially, to the hands of Ṣāliḥ’s former wife.\textsuperscript{139} The ‘logic of disturbance’ thus allowed her to call attention to her case, to resist the court’s pressures and to have at least a measure of control over the dynamics of the legal proceedings.\textsuperscript{140} While this performance of disturbance empowered her, it earned her the antagonism of the court, which is reflected in the way she was described in the legal record (which could be used against her at a future date by Ṣāliḥ).

Just as crying was used to signal the drama of the beseeching woman, we find cursing used to signal the drama of the confrontational woman. Cursing is an extreme manifestation of the practical logic of performing disorder in a site that values order. It is used both by women to signal their resistance to the pressures of the court, and by the courts to stigmatize women’s behavior. Building on the deep cultural anxieties surrounding women’s voices, both crying and cursing create and signal the drama in court. While Geniza courts permitted women’s speech when it was required for the symbolic performance of purchase and welcomed it when they beseeched the court for help, displaying other voices exacted a price.

But the ultimate challenge to the court’s authority was an appeal to gentile courts. Although turning to gentile courts is strictly forbidden in prescriptive legal discourse,\textsuperscript{141} except under specific narrow conditions, recent scholarship has convincingly shown that

\textsuperscript{139} The drama might still consist of breach, crisis and reconciliation, but Ṣāliḥ’s former wife asserted her power to influence the result of this trajectory and its punctuation. It is the nature of Geniza documents that they often give us only a partial view of both performances. For example, Ṣāliḥ’s former wife’s court record only preserves the ‘crisis’ stage. Being a shimmush, we do not know how matters were concluded. In any case, the power shift is partial because it is still the court that has control of what would be written in the legal record.

\textsuperscript{140} One recalls what is perhaps the most famous example in medieval literature of a woman’s disturbance of manly actions: ‘The Wife of Bath’ ripping out three pages of the book of her tedious and lecturing husband (and then striking his cheek with her fist!).

\textsuperscript{141} See, for example, MT, Judges, Sanhedrin, 26:7: “Anyone who litigates in front of gentile judges and their courts, even if their laws are the same as of Israel, he is an evil man. It is as if he cursed, and lifted his hand against the law of Moses, for it is written ‘These are the laws you shall present to them’ to them, not to gentiles, to them – not to laymen.” See also Elon, 13-17.
it was a common occurrence in many Jewish societies.\footnote{Appealing to Muslim courts has received much scholarly attention recently. On this common occurrence in the Geniza, see Rustow, *Heresy*, 72-73; ibid, “At the Limits of Communal Autonomy” and Ben Sasson, “Appealing to the Congregation,” 345-348; Goitein *Med. Soc.* 2:398-407; and the important angle offered in Gideon Libson, “Legal Autonomy and the Recourse to Legal Proceedings by Protected Peoples, according to Muslim Sources during the Geonic Period” (Heb.) *The Intertwined Worlds of Islam: Essays in Memory of Hava Lazarus-Yafeh* (Jerusalem:2002), 334-392; see also Tillier, “Société abbasside,”166-8. This phenomenon has an important diachronic perspective, for which see Uriel Simonsohn, *A Common Justice: The Legal Allegiances of Christians and Jews under Early Islam* (Philadelphia: 2011); the groundbreaking article of Hacker, “Jewish Autonomy in the Ottoman Empire;” The several books of Amnon Cohen; Najwa al-Qattan, “Dhimmīs in the Muslim Court: Legal Autonomy and Religious Discrimination,” *International Journal of Middle East Studies* 31 (1999), 429-444; Shimon Shitober, “The Conflict between the Musta’rībs and the Maghribīs in Cairo from the Jewish Community to the Shar‘i Court 933” (Heb.) in *Studies in Arabic and Islamic Culture*, (Tel-Aviv, 2000),107-128; Jessica Marglin, “In the Courts of the Nations: Jews, Muslims, and Legal Pluralism in Nineteenth-Century Morocco” (PhD diss., Princeton University: 2013); Ron Shaham, “Jews and the Shar‘i’a Court in Modern Egypt,” *Studia Islamica* 82 (1995), 113-136. On Copts making use of Muslim courts see Frantz-Murphy, 101-103. It is important to note, however, that appealing to Muslim courts in Geniza society was different from appealing to Christian courts in Europe because Geniza courts were considered as part of the Muslim Juridical organization, see Goitein, “The Interplay of Jewish and Islamic Laws,” 61-62 and 66. See also n. 15 in Chapter One. The high frequency of women appealing to gentile courts was noted casually in Bareket, “Books of Records,” 55 and David, “Children of the Divorcee,” 18. Hirschberg also hints at it, in connection to *Takkanat Moredet* and connects it to low “communal discipline” on the part of women, see Hirschberg, *Jews of North Africa*, 1:182. The most well-known Geonic innovation, *Takkanat Moredet*, was legislated...}}

Communal leaders themselves appealed to gentile courts or government officials when it suited their personal or communal interests and they appear to have been vitriolic about this move only when they felt their authority was being undermined by other people who resorted to it. In many commercial transactions, registering the matter in a gentile court was the expected norm and, in fact, the required procedure. Thus, in the legal pluralism of medieval Islam, using gentile courts was just one more possible legal avenue in the dynamic negotiation of daily life.

The repeated references to appeals to Muslim authorities by cursing and confrontational women suggest a hitherto unrecognized gendered aspect of this phenomenon. Indeed, a surprising amount of both the rabbinical discussions and the historical documentary evidence regarding appeals to gentile courts revolves around women.\footnote{...} The gendered aspect of appeals to gentile courts is a complex topic that I wish...
to explore more fully in a future study, but for the present purpose it will serve us to investigate the more specific question of whether the script of the cursing and confrontational woman was a gendered script, as was argued in the case of the ‘crying and beseeching’ woman.

In legal records or in documents describing legal disputes we find several cases of men cursing judges, displaying insolent behavior in court and being chastised for appealing to Muslim authorities. Recall that this was also the case with the practice of crying and beseeching, though it was still possible to identify differences of degree, tone, subject and genre between men and women. When it comes to cursing and confronting the court it is harder to point to such differences because the sample size is rather small. Nonetheless, the documents concerning women cursing and confronting appear to show a greater degree of uniformity than the known cases of men doing so (i.e., they resemble one another more closely and contain the common features of the script analyzed specifically because of women resorting to the gentiles. In many of the Geonic discussions of appealing to gentile courts, women are the transgressors, see for examples, Libson, “Legal Autonomy,” 373, 377-378. See also Simonsohn, Common Justice, 175, 178-181 and 193-95 and Hacker, 366, 367, 371, 377, 382, 386. See also Gideon Libson, “Legal Status of the Jewish Woman in the Geonic Period: Muslim Influence – Overt and Covert” Developments in Austrian and Israeli Private Law (Vienna: 1999), 222-3 and 237.

Such a study will try to explain the high numbers of women appealing to gentile courts by examining both ‘push’ and ‘pull’ factors. Factors that pulled Jewish women to appeal to Muslim authorities are the well-known advantages Muslim law offered women over Jewish law in terms of initiating divorce and inheritance rights (especially under the Fatimids where Ismaʿīlī law could be sought). Aspects that may have pushed women away from Jewish courts could be the tendency in Jewish courts to inflict a disproportionate pressure on women to compromise. After all, appealing to Muslim authorities by women was almost always a reaction to their inability to find relief in the Jewish mechanism. Another factor can be found in the fact that while merchants had experience of the bench and saw the court as “people of their own kind” (as discussed in Chapter One), for women the Jewish court did not hold this advantage, and it might have been easier for them to appeal to Muslim courts. Another possible advantage is the ability to be the first to appeal to another forum after the husband/brother was the first to bring a complaint to the Jewish court. One may also suggest that it might have been easier for women to make use of the ‘wronged person beseeching for justice’ trope before Muslim courts than their dhimmi male counterparts could do (they could appeal ‘as a woman’ rather than ‘as a Jew,’ or, perhaps, as lower down the social ladder (both a woman and a Jew) they could command more moral force (recall the discussion of the power of social inferiority above).
While the courts did occasionally chastise men for appealing to Muslim authorities, there are many examples that they did not. This suggests that women cursing and confronting the court were understood through a culturally recognized script whereas men who did the same might not have been associated with any such code. It is useful to examine one such case to see how threatening to appeal to Muslim courts could play out quite differently for a man than for a woman.

When the slave woman manumitted by She’erit, the Glory, died and was buried by the community of Minyat Ghamar, she left a sum of money to several women. However, the son of her former master, Abū al-Ṭāhir, the Glory, claimed the money and threatened to appeal to gentile courts to receive it. A certain Moses, probably the muqaddam of Minyat Ghamar, wrote a letter asking Abraham Maimonides whether the money ought to remain with the women, to be spent on the needs of the community, or to be given to Abū al-Ṭāhir. Despite the fact that Jewish law does not grant the son of the manumitter any rights in the inheritance of the freed slave and despite Abū al-Ṭāhir’s

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145 In comparison to the five clear cases of cursing and confrontational women examined in this chapter, I am familiar with six documents of men cursing and confronting the court. As mentioned above, since there are so many more documents referring to men, this ratio still suggests that cursing and confronting the court is more frequently associated with women. The fact that one of the women’s documents is a formulary further strengthens this impression. There also seems to be a difference in subject: women curse and confront the court in disputes regarding inheritance and divorce, while with men most disputes revolve around business matters. See TS 20 163, ed. Gil, *Palestine*, #102; TS 12 115, ed. Bareket, *Shafrir*, #2; Bodl MS Heb. b 11 8, Gil, *Palestine*, #30; TS 13 J 16 3, ed. Frenkel, *Alexandria*, #66 and TS 20 93. I exclude a document such as ULC Or 1080 J 281, ed. Friedman, *Polygyny*, 326-330 because it does not contain enough of the characteristics of cursing and confronting the court.

146 This, of course, is a very familiar phenomenon even today. For example, when a woman displays assertiveness or competitiveness in her workplace she is often judged harshly, while a man displaying the same behavior is considered to be successful and professional. For another example, see Tova Rosen, *Hunting Gazelles: Reading Gender in Medieval Hebrew Literature* (Tel Aviv: 2006), 213.

147 The title “the Glory” is probably a relic of the title ‘The Glory of the Yeshiva’ or ‘The Glory of the Nesi’ut’ given to one of his ancestors. His son carries the same title. The actual sum left by the slave woman is not entirely clear. Ashtor read =136 dirhams. Shtober, the editor of the responsum, read =156. It seems to me that the document reads or which is, of course, strange. In any case the sum was above 108 dirhams, a sum that could suffice an average family for about a month and a half.
credible threats to appeal to Muslim courts, Moses goes out of his way to describe Abū al-Ṭāhir positively and sympathetically:

The master of the deceased, the elder Abū Ṭāhir, the Glory, is in great harm, need and destitution. He has debts to gentiles and his tax farm has collapsed. He is in distress. Since the aforementioned (freed woman) died, he hinted to me several times to examine her affairs and what she has bequeathed him and to issue a ban over it for he is her [heir] according to gentile law and the officials in charge of estates are standing and demanding, but they do not know anything (yet). The aforementioned (Abū Ṭāhir), despite his poverty and his need, is beloved by the people, most intelligent, very sociable, with great manliness, bashful among all the people and his good qualities are greatly renowned. He will find relief even in a dirham of this (sum).

Later in the letter the writer suggests that the money could be given to the congregation to pay for various needs of the city, “except that it might distress this man (i.e. Abū Ṭāhir) and three things deprive a man of his senses (idolaters, an evil spirit and oppressive

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148 It is remarkable that Abū Ṭāhir is called the “master of the deceased.” Not only was the deceased a freedwoman, but it was his father who manumitted her, see Goitein Med. Soc. 1: 146.

149 In l. 10 I read: fi darar ’azīm wa-hāja wa-fāqa (فردار عظيم وحاجا وفاقة) where the editor read fī ḍarar ʿaẓīm wa-hāja wa-fāqa and corrected to fi darar’ azīm wa-hajatuhu wāfira.

150 Wa-aṣḥāb mawārīth muwāqifīn wa-ṭālibīn ghayr ʿālimīn bi-shay - this is slightly unclear. Judeo-Arabic often mixes w-q-f with w-f-q, and thus mawāqifīn could also mean ‘agreeing’, see Blau, Dictionary, 779. Thus Abū Ṭāhir could be saying that the officials in charge of estates agree that my claim is true but yet they do not know anything about it (perhaps he asked them a hypothetical question?).

151 The editor read liʾannahu yad[ ṭāḥā be-dine goyyim (لانانا يدا في ديني غوييم)], I read liʾannahu wā[r]thahā be-dine goyyim (لا لنا وثهما في ديني غوييم). This is also how Goitein read in his provisional draft. Muslim law indeed preserves a link between a master and his manumitted slave (walā) which is passed on to agnatic heirs, see Schacht, Introduction to Islamic Law, 40 and 130, and Robert Brunschvig, “Un système peu connu de succession agnatique dans le droit musulman” Revue Historique de Droit Français et Étranger 28 (1950), 23-34. Thus, Abū Tahir could have succeeded in obtaining the money in Muslim courts if the former slave did not leave other heirs. On the other hand, if the women could prove that the freedwoman bequeathed them the money and that it was a third or less of her estate, they might have been able to keep it.

152 Wa-aṣḥāb mawārīth mawāqifīn wa-ṭālibīn ghayr ʿālimīn bi-shay - this is slightly unclear. Judeo-Arabic often mixes w-q-f with w-f-q, and thus mawāqifīn could also mean ‘agreeing’, see Blau, Dictionary, 779. Thus Abū Ṭāhir could be saying that the officials in charge of estates agree that my claim is true but yet they do not know anything about it (perhaps he asked them a hypothetical question?).

153 My reading differs from the editor’s. I read: wāfīr al-aql al-ʾishra.

154 TS 8 J 16 4, r.9-rm.2, ed. S. Shtober, “Questions Posed to R. Abraham b. Maimonides” (Hebrew) Shenaton ha-Mishpat ha-Ivri 14-15 (1988-1989), 262-268 and see also Med. Soc. 1:146. Beyond the emendations already suggested several others are possible. The most important ones are: v.6 read אַפַּצָּא instead of אפַּצָּא; v.7 read אַמְתִּיָּא instead of אַמְתִּיָּה; v.8 is not a dittography but from אִלָּאָה instead of אִלָּאָה instead of אִלָּאָה; v.m.2 read אַמְתִּיָּא rather than אַמְתִּיָּה.
poverty – clearly the last is intended to apply in this case). He is able (to act) regarding what he says (i.e. appealing to Muslim courts) and he will do so and people will forgive him.” Moses also informs Abraham Maimonides that the women do not want to keep the money for themselves. This letter shows great sympathy and understanding for Abū Ṭāhir’s demands. Abū Ṭāhir was a respectable member of the community whose threats to appeal to Muslim courts were perceived as due to his alleged poverty. In his response, Abraham Maimonides clarifies that Abū Ṭāhir has no legal claim over the money, but that since the women do not desire the money and as long as they so wish, it is best that the money be given to him. As we have seen in the second half of this chapter, no woman threatening to appeal to Muslim courts is described so positively nor are her demands and threats met with anything resembling this level of understanding.

Three reasons suggest themselves for such a gendered difference. First, men were presumed to be active in the public sphere and thus to interact with Muslims on a regular basis, whereas women were associated with the private sphere and the home, rendering their appeal to the Muslim courts a challenge to both communal and male authority. Second, as was discussed above and will be revisited in the next chapter, women were expected by men to be submissive and compliant. Literary works often refer to women’s weaker mental faculties and their subsequent need to rely on the instructions and teaching

155 BT 'Eruvin 41b: “Our Rabbis taught: Three things deprive a man of his senses and of knowledge of his creator, viz., idolaters, an evil spirit and oppressive poverty.”
156 TS 8 J 16 4 v.3-5.
157 This detail seems to me very suspicious and uncharacteristic of people in the Geniza. It is possible that the women showed a willingness to part with the money and the writer amplified this willingness. It is also possible that faced with the social status of Abū Ṭāhir, the women preferred not to keep the money.
158 Although on rare occasions a deed reports a woman’s threat to appeal to a gentile court without castigating her, see TS 18 J 3 2, ed. Bareket, Shafrir, #18 and trans. to English in Med. Soc. 3:217-8.
159 On male concerns regarding Jewish women interacting with Muslims, see ENA 2727 31, ed. Zinger, “What Sort of Sermon is This?”
of men.\(^{160}\) Such notions are after all why the court exerted greater pressures on women in the first place. A woman’s appeal to Muslim courts broke away from this image. Third, Geniza women already had an available ‘script’ for the redressing of wrongs, which involved turning to the court or sending a petition to the communal leader and ‘complaining’ or ‘beseeching for help.’ This script reasserted the authority and prominence of the courts, whereas appealing to Muslim courts undermined it, and so when women decided to forgo the former option in favor of the latter, they were treated harshly.

Finally, we must ask whether cursing and confronting the court was an option that women chose or a gendered script imposed on them by the court. This tension has been with us throughout this chapter and in most cases it is simply impossible to resolve with a definitive answer. However, two cases supply us with what may be described as ‘the boundary of the possible’ for women. Recall that after Saʿīda bt. David was described very negatively, she went to the capital claiming that “everything said about her in this letter has no truth” and brought a witness to attest to this. While we cannot know the truth about her behavior and the way in which the local community interacted with her, it is rather clear that the stereotype of the cursing and confrontational women was, to a significant degree, imposed on her in the letter penned by the local *muqaddam*.

In the case of Şāliḥ’s former wife, however, it seems that we can likely attribute the descriptions of cursing and resisting to her own actions. While a scribe might describe a woman as stubborn and insolent, it is highly doubtful that he would choose to place in her mouth an accusation that the court took a bribe. Such an accusation is damaging even

\(^{160}\) To give one example, see Bahya Ibn Paquda, *Hidāya ilā farāʾid al-qulūb*, ed. Yahuda (Leiden: 1911), 16*.
if it comes from the mouth of an uncouth woman and therefore was probably not entirely invented by the court. Similarly, her threat to convert to Islam (if this indeed is the meaning of *takallamat bi-l-ʿazāʾim*) is uncommon, and it is not likely that the scribe could simply attribute it to her with no grounds. In this case, it seems that creating a dramatic disturbance in the courtroom by cursing, resisting the court’s instructions and threatening to appeal to Muslim authorities and to convert was an active choice by the woman. She employed the script of the cursing and confrontational woman because she felt she had no other option, and losing the house was worse than losing her communal reputation and the good will of the court. These two cases suggest that scripts could be employed by both women and the court, a duality that casts significant ambiguity over the question of what really happened in court and which reminds us that there are always (at least) two performances at play: the performances that took place in court, and the textual performance that resulted in the document before us.

The cursing and confrontational woman in court was a coherent culturally recognized script that was at the same time also flexible. As such, it could be performed by women as well as imposed on them by the court, its representatives or communal leaders. For women, it was a last resort intended to deflect the gendered pressures typically exerted on them by the courts. This emerges most clearly in the consistent pattern of women threatening to appeal to Muslim courts as a reciprocal tactic to the court’s use or threat of the communal ban. While this script empowered women, it came at heavy price of stigmatization. Women of higher status and/or with male backing could usually avoid using it. For the courts and communal authorities, this script enabled the

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161 For threatening to convert, see TS 20 93 (top), TS 10 J 10 3, ed. Frenkel, *Alexandria*, #49 and TS 13 J 23 3, ed. ibid, #75.
casting of women who challenged their authority into a readily available stereotypical mold that drew on broader gendered notions about women as a cause of conflict and the disruptive nature of women’s voices. This stereotyping allowed them to make sense of the actions of women who were not willing to submit to male instruction. At the heart of this script, then, lie the anxieties of the court regarding its own authority.

Conclusion

The proceedings that took place in Geniza courts were not limited to translating reality into legal facts and matching these facts with the prescriptive sources of Jewish law. This chapter points to the importance of emotional drama in the working of the court; drama that is often conveyed by presenting the speech of the litigant as he or she complains, cries, curses or beseeches the court for help.\textsuperscript{162} Thus, women’s voices were not “valued less” than men’s voices. Indeed, given the court’s gendered concerns, women’s speech created a dramatic disturbance that was an essential component in scripting women’s appearances in court.\textsuperscript{163} As such, women’s speech was often foregrounded in the records. The chapter identified two socially recognized dramatic scripts: ‘the crying and beseeching woman’ and ‘the cursing and confrontational woman’, each with its own set of potential benefits and risks. Harking back to broader cultural

\textsuperscript{162} In emphasizing the emotional content in legal records, I am influenced by Smail, 89-95. Geniza documents offer a promising source for research on the history of emotions in medieval Islamic and Jewish society. For a useful introduction that points to the relevant literature see the recent exchange by Nicole Eustace, Eugenia Lean, Julie Livingston, Jan Plamper, William M. Reddy and Barbara H. Rosenwein, \textquotedblleft AHR Conversation: The Historical Study of Emotions\textquotedblright American Historical Association 117:5 (2012), 1487-1531.

\textsuperscript{163} \textquotedblleft The riotousness of woman is linked to that of speech,” see Howard Bloch, \textquotedblleft Medieval Misogyny\textquotedblright in Misogyny, Misandry, and Misanthropy, ed. Howard Bloch and Frances Ferguson (Berkeley: 1989), 5 (originally published in Representations 20 (1987), 1-24).
notions revolving around gender and justice, these scripts carry a social and cultural importance that exceeds their numerical occurrence.\textsuperscript{164}

This chapter argues that the two scripts were associated with women, despite the fact that we also find men engaging in courtroom beseeching and cursing. Whereas men performed these actions mostly in commercial suits involving other men, women resorted to them primarily in family matters involving another man, usually their husband. More importantly, the cases involving women appear to conform more closely to a socially recognized script. This suggests that while both men and women may have engaged in similar behavior, women were cast into a readily available stereotype when they did so, whereas men were not. At the same time, the existence of both female and male complaining/cursing litigants suggests that the gendering of these actions was a matter of degree rather than of stark division. Women were associated with cursing and screaming but did not monopolize these actions.

Much of this chapter revolved around the presentation of the speech of litigants in legal records. While some of the reported speech of women in court records does reflect women’s voices, it was also shown that in other cases this reported speech reflects a script imposed upon women by the court. In some cases it is possible to determine with some degree of certainty whether a certain script was voluntarily chosen by a woman or

\textsuperscript{164} This is one respect in which my approach differs from Valler’s approach. Valler dismisses as exceptional the cases of women whose behavior in court she describes as hysterical. She writes: “[their behavior] teaches nothing about the behavioral norms of women in the Talmudic era … [it was] an exceptional behavior stemming from extreme need, extraordinary women in regards to their extremely low moral level, or due to their high status,” see Valler, \textit{Women in Jewish Society}, 107 and 123. I consider such exceptional cases as invaluable in shedding light on the silent majority of cases. A parallel can be found in the issue of polygyny. While it is possible to define a society as polygynous if a certain percentage of polygynous marriages is reached, one might propose a cultural rather than a statistical definition. A society is polygynous when a couple that is not polygynous is affected by the possibility of polygyny. For example, if a husband’s threats to marry another wife can be taken as serious, then the society is polygynous regardless of the actual rate of polygyny. Similarly, even though most legal records present women in a neutral way, the way both “beseeching” and “confronting” were available greatly influenced the way women could negotiate the legal arena.
imposed upon her by the court, but more often the question remains open. This chapter offers no key or simple method for ‘cracking the code’ of court records. But the absence of such a method does not, as argued in the previous chapter about the true nature of reported court resolutions, imply that we must adopt an agnostic position. The variability we find in court records leads us to the recognition that the legal space was often a contested space – between the litigants and the court, as well as among litigants. Had this contestation always yielded the same outcome, both drama and justice could not have existed.165

On the face of it, the two scripts explored here are diametrically opposed. Crying is considered an expression of weakness, and cursing – of strength; beseeching and placing oneself at the mercy of the court is opposed to refusing the court’s overtures and threatening to appeal to other venues of justice. Moreover, the cultural notions that underlie each one of these scripts are also opposed: the suffering, helpless woman seeking to have her hardship alleviated, versus the woman as a source of conflict.

Yet these scripts also share central features. In both, the woman is the protagonist, who enters the essentially male legal space, where she does not belong. Even if the crying woman is accompanied by assisting male figures, the focus is still usually on her. Similarly, when the confrontational woman confronts men in court, the men are often presented as more passive and subdued than her (as with Şālih’s former wife, the wife in the Lucena formulary, and Mubāraka). Furthermore, the drama of female entry into the male legal space is created in both scripts through the disruptive effect of women’s

voices. Crying pierces the courtroom and creates a moral pressure to redress wrongs, while cursing performs the rejection of the court’s role of paternal mediation.

Indeed, on a deeper level the two scripts form complementary elements in the dialectics that defined for women the boundaries of the possible in court.\(^\text{166}\) As argued in Chapter One, courts tended to exert disproportional pressure on women to relinquish their claims, and the two scripts explored in this chapter represent the two polar extremes available to the majority of women, who neither cried nor screamed to deal with that pressure.\(^\text{167}\) The central axis in these dialectics was the heightened sensitivity of the court about its own authority.\(^\text{168}\) With its power regularly challenged by members of the community and with Muslim courts accessible to both men and women, the Jewish court had to strive continuously both to keep the members of its community within its jurisdiction and to assert its authority. This sensitivity provided both an opportunity and a complication for those traversing the legal arena. It meant that the court had incentive to remain ‘user friendly’ and to actively strive to be used by the Jewish community.\(^\text{169}\) Thus, since beseeching the court’s help reaffirmed the court’s authority and centrality, it was often effective. However, by beseeching the court for assistance and then later refusing the court’s overtures for a compromise, litigants risked squandering all the goodwill they had earned. A beseeching and complaining woman thus had to avoid the trap of ‘overplaying her hand,’ resulting in her perception as offending the court or challenging

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\(^\text{167}\) The scripts constituted the boundaries of the possible in court. Outside the court women had other options, as I discuss in Chapter Four.

\(^\text{168}\) Another important element is the centrality of status in Geniza courts, however, that has already been discussed in the previous chapter. On the anxieties of courts regarding their own authority, see Paul Gewirtz, “Narrative and Rhetoric in the Law” in *Law’s Stories: Narrative and Rhetoric in the Law*, ed. Peter Brooks and Paul Gewirtz (New Haven: 1996), 2-3.

\(^\text{169}\) See Chapter Four. For a similar phenomenon in another context, see Peirce, *Morality Tales*, 3 and 87.
its authority. Dialectically related, crying stood in danger of turning into cursing and beseeching into challenging. Similarly, being assertive in court and threatening to turn to a gentile court could pressure the court just enough to produce a favorable ruling, but it could just as easily earn litigants the ill will of the court. Maneuvering in the legal arena was therefore a careful balancing act and a performance that involved not only justice but also considerations of power and authority.¹⁷⁰

The dialectics between the two scripts born from the sensitivity of the court to its own authority provided for women a measure of agency within the male space of the court. It was a limited and structured sort of agency, delineated by the social stereotypes and obsession with female voice, but agency nonetheless. Rather than presenting a model of ‘powerful’ women in court, the scripts reveal the costs of assertiveness, on the one hand, and the advantages of submissiveness, on the other hand. Knowing the lay of the land in Geniza courts offered women a measure of agency through the possibilities available in scripted dramatic performances. Thus, beyond exploring the various cases and identifying the two scripts and the relationship between them, this chapter connects the nature of women’s agency in courts with the nature of Jewish communal authority.

The perspective offered by looking at the court room from the perspective of women sheds important light on the nature of communal authority, on the one hand, and women’s agency, on the other hand.

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¹⁷⁰ This is how I understand the cases examined in the previous chapter of women who resisted the court’s overtures but seem not to have earned the ire of the court (or the writer who wrote the document). In such cases, the voice of the woman still appears prominently and dramatically (“I shall not stay with this man even if he pours gold over my head” and “even were you to cut my flesh to pieces, I would not be persuaded by your talk, nor listen to your words,” ENA 2808 15a and Bodl MS Heb c 13 20 respectively). This suggests the importance of drama in resisting the court and in scripting this resistance. Such women managed to tread the middle ground between the two scripts successfully. See also Kelleher, *The Measure of Woman*, 68-9.
Many centrifugal currents whirled about in Geniza courts. The courtroom was an arena of confrontation and a space of compromise. It was the place where individuals went to ask the court and the community for justice, and where marginalized voices strained to be heard. The same rabbis who were concerned with social control also saw themselves as defenders of the weak and the downtrodden. Assisting some and stigmatizing others, the communal leadership exercised its authority as well as its mercy. The courts held these centrifugal currents more or less together through a rather loose procedure, and court records did the same through the use of standard legal formulas. More importantly, culturally recognized scripts that resonated with deeply ingrained cultural notions brought a coherence to this whirlwind of conflict, compromise, authority and resistance. Thus, Geniza court records are not a cacophony but rather a polyphony of voices, with gender, status, and concern for authority leading the intertwining voices.
Chapter Three

Compromising Women: Gender and Property in Married Life and in Divorce.

“I got a woman, way over town,
she’s good to me. O yeah.
She gives me money when I’m in need,
Yeah, she’s a kind of friend indeed’
(“I Got a Woman,” Ray Charles)

In an early 13th century letter, a battered wife described her marital woes to a communal leader. Her husband took household items from their home and sold them. When she tried to prevent him, he beat her:

Our [lord], may God prolong your life and the life of your children. Your slave is in great distress due to the false accusations about me and my father. Hitherto I have been silent, but it has become necessary to justify myself …. On Wednesday, he (i.e. her husband) secretly took the bench, the pillows and the supporting pillow. He was not content with them, and no sooner did he sell them, than he came demanding from me something else. When I refused to give, he beat me with something that should not be mentioned. Next day in the morning, he told me: “Get up and leave to your father’s house. Because if I come back in the evening (and find you here), I will kill you.” By the truth of the sharīʿa, it is he who told me “leave!” I sent (a letter) telling my lord about my going out of the house. My lord prevented him (i.e. her husband) from doing it. I obeyed you and stayed.¹ When they saw me staying, the quarrel between us intensified.

On Saturday, my mother came to ask about me.² He and his father said: “If I satisfy (your wish), you shall pay my poll tax every year, otherwise, save yourself (and go away) lest I kick you out (also possible: destroy you)…. He has four dinars worth of wine (nabīdh) at his possession and he has no need of me. His mother and father tell him, “Beat her until she breaks.”³

It is impossible to stay indifferent to such a vivid account of marital misery. By recounting her suffering at the hands of her husband, the wife sought to convey her desperation to the communal leader and elicit an action on his part in her favor. Several

¹ The writer emphasized that she was following the instructions she received from the recipient to stress his responsibility to help her. See also ENA NS 7 43, ed. Friedman, “Divorce upon the Wife’s Demand,” 118-120.
² It seems that the mother asked either under what condition her daughter would be given a bill of divorce or what would improve his behavior to her daughter.
³ ENA NS 31 21, r.1-17, edited as Doc. #3 in Appendix Two.
elements in her narrative particularly stand out. First, the husband forcibly took items from the house (probably items from the wife’s dowry) and sold them for his own benefit. Second, when the wife objected, she was beaten and kicked out of the house. Third, the husband conditioned his acceptance of his mother-in-law’s suggestion (the nature of which we do not know) on the payment of his poll tax every year. Finally, the family of the husband advised him to beat his wife until she broke, in other words, until she submitted to his monetary claims and forwent hers.

This anonymous wife was not alone. The present chapter explores the wide variety of occasions on which Geniza women relinquished, occasionally under physical pressure, some or all of their marital monetary rights to their husbands. The evidence presented below offers a corrective to the prevalent paradigm of strong women easily initiating and obtaining a divorce by examining the pressures imposed on wives to forgo their monetary rights and the consequences of such pressures. The chapter examines these pressures at court and at home by examining a wide variety of sources, from court notebooks and deeds, to petitions, responsa and private letters. Furthermore, it takes a broad view of married life together with divorce that allows us to re-evaluate issues that previously have been studied separately. Connecting what happened at court with what happened at home, and what took place during the marriage with what took place at divorce reveals that compromising women’s rights was a general dynamic. This dynamic was a central aspect of the lives of Geniza women.

The chapter begins with examining the ransom divorce, a procedure whereby a wife relinquishes her delayed marriage gift and in return the court forces the husband to

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4 The manuscript has kull sana (‘every year’). However, if the mother was asking for a bill of divorce it is possible that kull al-sana (‘for the whole year’) was intended. Because of the wasla and the sun letter, kull al-sana might have been written like kull sana; see Blau, Grammar, §39.
divorce her.\textsuperscript{5} I argue that cases in which husbands forcibly pressured their wives to ransom themselves ought to alter our understanding of the ransom-divorce procedure. I then expand our view to look at divorce settlements in general, exploring the wide variety of ways in which women relinquished their monetary rights at divorce. The broad view allows me to argue that the fact that a wife released her husband from his monetary obligations at divorce does not necessarily indicate that a divorce was initiated, or even desired, by her. This leads me to question the accepted view that the majority of Geniza divorces were initiated by wives.

Since it can be argued that a wife’s relinquishment of her monetary rights at divorce was merely a trade-off for her husband’s consent to divorce, the chapter then turns to examine cases in which wives compromised their monetary rights \textit{during} the marriage. These cases demonstrate that the pressures on women’s monetary rights constituted a broad and pervasive reality, both during married life and at divorce. I then examine some complex cases which shed further light on the dynamics that brought about such compromises. Finally, I offer three complementary explanations (an economic, a structural and a cultural one) for the compromising of women’s rights in the Geniza. The conclusion places this chapter in the context of Geniza scholarship and highlights some of its repercussions for our understanding of Geniza society and patriarchy.

\textit{Revisiting the Ransom Divorce}

Jewish divorce is fundamentally asymmetrical. The Mishna states that “While a woman may be divorced with her consent as well as without it, a man can give divorce

\textsuperscript{5} I.e. she ransoms herself free of the marriage by relinquishing the delayed marriage gift. See more below.
only with his full consent.”⁶ A husband may divorce his wife, “even if she has merely spoilt her food” or “even if he finds another woman more beautiful than her.”⁷ However, a wife can demand that her husband divorce her only in several rare and well-defined circumstances.⁸ Moreover, Jewish courts tend to be reluctant in pressing a husband to issue a bill of divorce (get) because restoring peace between spouses is seen as preferable to divorce and for fear of a legally invalid ‘forced get’ that would make any future marriage of the wife adulterous and her subsequent children bastards. The result of this asymmetry is that when a wife seeks a divorce from her husband, she usually needs to appease him until he consents to divorce her. This configuration opens the door to negotiations that frequently deteriorate into blatant blackmail on the part of husbands.

In light of this asymmetry, the discovery of an alternative tradition of Jewish divorce has far-reaching repercussions that go beyond the study of medieval married life. In a series of ground-breaking studies, Mordechai Akiva Friedman brought to light “a tradition which recognized the wife’s rights to initiate divorce proceedings against her husband.”⁹ In his early studies, he explored the history of a rare stipulation in marriage agreements stating that if the wife were to hate her husband and demand a divorce, the husband would have to divorce her.⁹ Friedman found this stipulation in 5th-century BCE Elephantine papyri, in the Palestinian Talmud, and in Palestinian-style marriage agreements in the Geniza.¹⁰ In later studies, he explored evidence from the Geniza and

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⁶ Mishna, Yevamot, 14:1 (BT Yevamot 112b).
⁷ Mishna, Gittin, 9:10 (BT Gittin, 90a).
⁸ See Mishna, Ketubbot, chap. 7 and see Friedman, “Divorce upon the Wife’s Demand,” 103-104.
⁹ The stipulation was mutual (If he hates.... If she hates...), however, it is the part that concerns her hatred of the husband that is more significant. See Mordechai A. Friedman, “Termination of the Marriage upon the Wife’s Request: A Palestinian Ketubba Stipulation” PAAJR 37 (1969), 29-55 and Friedman, Jewish Marriage in Palestine, 312-346.
¹⁰ A continuous tradition does not mean an unchanging one. The various manifestations of this “egalitarian” tradition all include two central characteristics. First, the wife has the ability to initiate divorce proceedings
from responsa for the practice of women initiating divorce proceedings against their husbands. In order to obtain a divorce, the wife would appear before the court and relinquish the delayed marriage gift (Heb. *meʿūhar*). Afterwards, the courts would compel the husband to write his wife a bill of divorce. As one court document states: “She ransomed herself with her delayed payment, and the court obligated him (to give) to her a bill of divorce.” While Geniza documents refer to this practice as *iftidāʿ* (Ar. for ‘ransom’), Friedman argued that the origin of this practice is not the Islamic *khulʿ* procedure, but probably the Babylonian ‘rebellious wife’ enactment, which might itself be related to the Palestinian tradition that recognizes a wife’s right to initiate divorce proceedings.

In his studies on wife-initiated divorce proceedings, Friedman’s primary concern was to demonstrate that under certain circumstances “a wife who was unhappy with her marriage was empowered by the courts to sue for and bring about the termination of her marriage.”

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12 For modern readers, the ransom divorce may still appear as oppressive, as a woman was asked to relinquish her monetary right to receive something that today we consider as her right under no-fault divorce. However, from the perspective of Jewish law, the ransom divorce is indeed symmetrical (or at least less asymmetrical). The husband possesses an exclusive right to execute the divorce, while the wife has a right for the delayed marriage gift. In the ransom divorce, the wife gives up her right, in return for the husband’s relinquishment of his right. See more below.

13 CUL Or 1080 J 141, r. 3-4, ed. Friedman, “Ransom-Divorce,” 303-306.

14 The relationship between the ransom divorce, the ketubba stipulation and the *moredet* enactment is not entirely clear. See Friedman, “Divorce upon the Wife’s Demand,” 105; ibid, *Jewish Marriage in Palestine*, 325-327; and David, “Divorce on the Wife’s Initiative,” 44-47. See also Gideon Libson, “Legal Status of the Jewish Woman in the Geonic Period: Moslem Influence—Overt and Covert” in Developments in Austrian and Israeli Private Law. Ed. H. Hausmaniger et al. (Vienna: 1999), 213-216, esp. n. 16.
For this purpose, he focused on cases in which a wife initiated divorce proceedings unilaterally and where “her suit was accepted by the court and the marriage terminated even against her husband’s protest.” However, there is much evidence that, alongside the procedure that Friedman demonstrated, Geniza husbands often forcibly pressured their wives to ransom themselves. When we turn to the dynamics of divorce in Geniza society and, especially, the monetary consequences of divorce, this “other face” of iftidā’ ought to receive due attention.

In a petition to Maşlıʾaḥ ha-Kohen, the head of the Palestinian Yeshiva now relocated (since 1127) in Egypt, the wife of Khalaf b. Hārūn (Aaron) described her marital woes:

The servant informs your illustrious station of the state of injury, hardships and harm in which I am with my husband. He keeps casting me out of the house and demands from me the iftidā’. Every time he casts your servant out he leaves me without maintenance. It has now been (like this) for eight months. I have been afraid to come and complain to you due to the great awe of your illustrious station. I am close to perishing. I seek the aid of God, the exalted, and of your loftiness to examine my state. Either he improves his behavior with me or let him provide what is incumbent upon him. For the humiliation (al-hawān) and the hunger cannot be tolerated, neither the constant evictions.

In another petition to Maşlıʾaḥ, a different woman writes:

Your servant has been married to this one for fifteen years, and has never received from him a thing, not even a piece of silver for going to the

Friedman, “Divorce upon the Wife’s Demand,” 107, and see also ibid, “Ransom Divorce,” 289.
Friedman, “Divorce upon the Wife’s Demand,” 107, n. 12.
These cases did not escape Friedman’s notice: “Cases, in which a husband pressured his wife to forgo her meʿūhar, partially or completely, are rather frequent in Geniza documents.” See Friedman’s “Two Resposa from the Cairo Geniza Concerning the Inheritance Rights of a Bigamist” (Heb.) Diné Israel 13-14 (1986-88), 255 n. 40. On other occasions he published documents showing such dynamics, for example, ENA NS 16 30, r.18-19, ed. Friedman, Polygyny, 261-263, and TS NS 169 33, r.15-v.28, ed. Friedman, Polygyny, 283-287.
For harm as a legal category, see Krakowski, 218-219.
Liʿ-azżūn (probably intending liʿ-izzam or liʿ-üzum) haybat maqāmiḥā al-sharīf. On the hayba of the head of the Jews, see Cohen, Jewish Self Government, 248-250.
Mosseri V 355 (L 31), edited as Doc. #4 in Appendix Two.
bathhouse; he has bought me no clothing, not even a cap, and I complain about vexations and beating. He keeps saying to me: “Ransom yourself! (iftadī)” - may God punish him for what he is doing to me. He must pay me my marriage gift; fifteen years I have been suffering from his bad character and his vexations. Now I throw myself upon God and upon you. I am a captive. Free me.\textsuperscript{21}

In a query to Maimonides, a similar situation is described:

A man married a woman and she stayed with him for five years. He abused her, beat her, humiliated her and caused her harm. He told her:

“Ransom yourself with your meʾūḥar (Heb. tifdī et ʿaṣmekh ba-meʾūḥar shelakh). I will release you with a get and you would be relieved from the marriage bond.”\textsuperscript{22} Later, she ransomed herself with her meʾūḥar due to the severe beatings …. He used to terrify her and beat her face with his hands. (Afterwards,) he would tell her repeatedly “I will not return to harm you again.” She vowed not to return to him again.\textsuperscript{23}

Chapter Five explores a case in which a country physician demanded from his wife:

“Forgo your delayed marriage gift.”\textsuperscript{24}

\textsuperscript{21} TS 8 J 22 27r, translated into English in Med. Soc. 3:186 (Goitein’s translation is used here with minor modifications). Also ed. David, “Divorce,” 65-66.

\textsuperscript{22} א”ל תפדי את עצמך בCrLf_recoveryCrLf of your property and I will release you with a get and you would be relieved from the marriage bond.

\textsuperscript{23} Maimonides, Responsa, #385. Blau provides a parallel version: “A man married a woman and began to abuse, curse and beat her profusely until she no longer desired to live with him. He told her: ‘If you want me to live with you in peace, forgo your meʾūḥar and I will divorce you (?)’. Due to her great fear she relinquished her meʾūḥar. Later he suggested that she (return) to live with him and he would not fight her again.”

\textsuperscript{24} TS 10 J 12 1, r.27: fa-qultu lahā inzalī ʾan muʾakhkhariki faʾ-ʾabat. For other examples, see ENA NS 16 30 (ed. Friedman, Polygyny, 262-263); TS 13 J 13 30 (see Introduction); ENA NS 31 21 (with which we opened this chapter); and Westminster College, Misc 55 r. 30-v.1 (a late document). Some of the documents that Friedman edited in his articles may also reflect a similar dynamic rather than a ransom divorce initiated by the wife. TS NS J 459 (ed. Friedman, “Ransom-Divorce,” 306-307) and ENA NS 7 43 (ed. Friedman, “Divorce upon the Wife’s Demand,” 118-120) seem to me too fragmented to allow us to know for certain who was the one desiring the ransom divorce. It is worth noting that the expression “Cut your hair and ransom yourself” appearing in ENA NS 7 43 also appears in TS NS J 453. While TS NS J 453 is also fragmented, what remains may suggest that this expression was actually used to pressure the wife into the iftadā: “The slave girl is better than you and your mother! […] her suffering and he who said […] ransom yourself and cut your hair […] without a physician and she died […] twenty days. He abandoned her” (אֵל דונא טביב וקד מאתת … עם תפתדי ותקצי שערך … ומכארא ומן קאל … א עשרין יום וכלאהא …). Regarding TS 10 J 15 9 (ed. Friedman, “Divorce upon the Wife’s Demand,” 121-122), I accept Friedman’s revision of his translation (it is her husband’s brother who tells her “Come, release my brother. Divorce him and I will provide anything you require”). However, I think there is no need to assert that her brother-in-law has incestuous inclinations. Instead, I understand the situation as follows: As in ENA NS 16 30 and ENA NS 31 21, the family of the husband made a concerted effort to make the life of the bride as unbearable as possible so that she would have no choice but to ransom herself from the marriage by relinquishing any monetary claim. As part of these pressures, the brother-in-law assured the wife that she should not worry about relinquishing her rights, because he would provide her...
The picture that emerges is one where *iftidāʾ*, i.e. an arrangement whereby a woman relinquished at least her delayed marriage gift in return for the husband’s get, was predominantly conducted not only with the husband’s agreement but often arrived at as a result of his, or his family’s, psychological and physical pressure.  

The situation in which a wife initiates divorce proceedings due to her ‘hatred’, and the court compels the husband to issue a divorce against his will, was rare. As was discussed in the previous chapters, initiating divorce for women depended on securing the cooperation of the court and was neither automatic nor easy. While the evidentiary base is limited, it seems that status was of paramount importance for a woman’s success in divorcing her husband against his will.

25 The high frequency of *khulʿ* divorce has been noticed in many Islamic societies. See Yossef Rapoport, “Divorce and the Elite Household in Late Medieval Cairo” Continuity and Change 16 (2001), 201-218 and Madeline C. Zilfi, “We Don’t Get Along’: Women and Hul Divorce in the Eighteenth Century” in *Women in the Ottoman Empire: Middle Eastern Women in the Early Modern Era*, ed. Madeline C. Zilfi, (Leiden: 1997), 271-285. In Rapoport, *Marriage Money and Divorce*, 69-72, Rapoport makes the point that the wordings of legal texts makes *khulʿ* arrangement appear as always having been initiated by the wives, however, this conceals a much more complex reality in which women were often pressured to accept these arrangements.

26 Friedman’s examples convincingly demonstrate that women could initiate divorce proceedings. However, only one legal deed and a couple of responsa suggest that the court compelled the husband to give his wife a divorce. In ULC Or 1080 J 141 (ed. Friedman, “Ransom-Divorce,” 303-306) a wife initiated divorce proceedings and the court compelled the husband to divorce her: “She ransomed herself with her delayed payment and the court obligated him (to give) to her a bill of divorce ([iftadāʾ (!) min muʿakhkharī hā wa-aujabaʿ alayhi beyt dīn get lahā. (r. 3-4)]. The fact that this is the only court record to do so leads me to have reservations regarding Goitein’s assurance that this document “reveals the ransom-divorce as a standard procedure,” *Med. Soc.* 3:489, n. 109. Examples from contemporary responsa include: Maimonides, *Responsa*, #15 and #34 ('an timrod wa-takhruj dīn muwakhkhar wa-yulzam hīna 'idhin bi-ṭalāqīha) and Abraham Maimonides, *Responsa*, #106. In the other examples, we see a recognition that women may demand and achieve a divorce, or adamantly insist on divorce or separation, but we do not know the outcome, whether a ransom divorce was intended, and whether the court would compel the husband to hand her a get. Furthermore, we see several cases in which women desired a ransom divorce and were refused or ignored by the courts. In TS NS J 68, Maimonides, *Responsa*, #385 and maybe in TS NS J 459 it appears that the wife relinquished her ketubba and still divorce was not granted (in ibid, #15 the husband ran away, after his wife ransomed herself, without divorcing her). In any case, the testimonies for a husband pressuring a woman to ransom herself are more common than for a woman initiating divorce proceedings and achieving divorce.


28 Notice that the only example of which I am aware of a wife successfully ‘divorcing’ her husband in a document (ULC Or 1080 J 141) is one in which the wife was of the top strata of Jewish society, with a
Recognizing that the ransom divorce may be the product of physical and emotional pressure on the part of husbands carries far-reaching consequences for our understanding of divorce in the Geniza. Goitein saw Geniza women as generally powerful, and when he noticed that most divorce arrangements involved a substantial monetary concession on the part of the wife, he understood this as an indication that most divorces in the Geniza were initiated and pushed for by women. In other words, if wives relinquished their rights during the divorce, it means they were the ones desiring the divorce in the first place. Thus he wrote: “One gets the impression that even the divorce settlements in which a wife makes great concessions, such as waiving the cash payments due her from her marriage contract, were initiated by the female partner” and “in many, if not most cases about which we have more detailed information, one gets the impression that the female partner was the initiator of the divorce proceedings, mostly, to be sure, by renouncing what was due her.” This conclusion has often been repeated.

29 On Goitein’s view of strong women, see his concluding remark to the section on Divorce (Med. Soc. 3:272): “Strong women—strong in character and strong through their family connections and possessions—no doubt often had the upper hand in their quest for divorce, and some of them have been presented in this subsection.” Below I analyze in depth two cases in which the paradigm of strong women may have led scholars to misunderstand a document. For the problem of labeling a woman as “strong” see also TS 24 34 (on which see Med. Soc. 3:266), and PER H 82, examined in Chapter Two.

30 Goitein Med. Soc. 3:267 and 265, respectively. Goitein follows the latter statement with “In each of the three instances mentioned in which the courts tried to make peace, it was the wife who had to be talked into it” as an indication that it was the wives who predominantly strove for divorce. However, Chapter One already shows that courts tended to pressure women more than men in their attempts to arrive at compromise. In fact, in all three cases, it is not clear that it is only the wife who desires the divorce, but only that the court spoke first with the wife. In addition it is possible to point to Mosseri V 349, a note instructing a parnas to meet up with the cantor, Hillel, and go together to the house of Abraham b. Yeshū’a
However, the cases in which a husband or his family pressured the wife to forgo her delayed marriage payment cast serious doubts on such impressions. Since the wife might have been pressured to release the husband (recall the way Jalīla was pressured to release her husband’s presumed creditors in Chapter One), we cannot deduce from a divorce in which the wife relinquished her rights that she was the one initiating the divorce. This calls into question not merely our understanding of the ransom divorce, but casts a long shadow over the women’s experiences of divorce in the Geniza in general.

Furthermore, the cases above show that iftidāʾ is usually encountered not in cases of wives’ subjective dislike of their husbands, but in the context of husbands’ abuse and neglect. Even a poor orphaned woman, married to a man who did not provide for her to examine the items of his wife’s dowry and money, check whether the holidays had passed in peace (?) and look over the matter between Abraham and his wife. This document does not present the woman as the one striving for divorce (as far as I know this is the first mention of this fragment in the literature). In Halper 342, TS NS J 120 and Maimonides, Responsa, #44 the court or its emissaries tried to bring about peace while it was the husband who desired divorce. Moreover, in at least one of the three cases Goitein cites, the wife appears to be desiring divorce since she was “under harm and hurt” (taḥta darar wa-adhiyya), so we are not discussing a woman who desires a divorce unilaterally, see TS 13 J 22 21, ed. Goitein, “Elhanan b. Shemarya,” 122-123. About TS NS J 459, see n. 24 above.

Elsewhere, Goitein writes that “many, if not most of the divorce procedures were initiated by the wife” (“The Interplay of Jewish and Islamic Laws,” 74). Without collecting and comparing all of the relevant statements by scholars, it is useful to point to the statements of two scholars. Friedman, with his characteristic caution, remarks that “The wife undoubtedly may have desired a divorce more than her husband in many cases, and this desire is frequently reflected in the financial settlements,” in “Divorce Upon the Wife’s demand,” 107, n. 12. David states: “The many paths available (for women to obtain divorce) were used, apparently in an excessive manner, for most of the divorces about which we read in the Geniza were brought about, according to Goitein, by the initiative of women,” David, “Divorce,” 4, but cf. p.142: “Almost the only way for women who wanted divorce was by relinquishing their ketubba”. See also David, “Divorce on the Wife’s Initiative,” 39.

Of course, she technically wanted the divorce, but her desire for the divorce is a result of the husband’s pressure. Not holding a Hobbesian worldview, I would not consider the cases cited above where a husband beat his wife and commanded her to ransom herself as instances of a woman initiating divorce proceedings or desiring divorce. The question of whether Jewish Law considers domestic violence or neglect as sufficient ground for divorce is complex. Regarding violence see H. Tykocinski, The Gaonic Ordinances, translated into Hebrew from German by Meir Havazelet, (Jerusalem: 1959), 131-134; Michal Wolf, “Halachic Verdicts Regarding the Enforcement of Bill of Divorcement on Battering Husbands” (Heb.) HUCA 75 (2004), 81*-113* and see further bibliography on p.82*; Ashur, “Engagement and Betrothal”, 97-104; and Krakowski, “Female Adolescence,” 204-206 and 218-219; Tehila Elizur, “Enforcing a Divorce upon a Violent Husband – The
and for the past ten years had been living off her own work, had to beg the authorities to allow her to relinquish her monetary rights in order to gain the desired divorce (even then the judges refused, but perhaps the petition helped). It is hard to see iftidāʿ as indicating women’s power.

In this context, it is also important to reiterate an argument I have made in an earlier publication that while medieval women are often portrayed as desiring divorce, in Geniza material and in responsa we usually find Geniza women going to great lengths in order to keep their marriages intact. For example, we see in the first petition to Maṣlīʿaḥ presented above that the wife is careful to leave the door open to compromise: “Either he (i.e. her husband) improves his behavior with me or let him provide what is incumbent upon him.” Even after being neglected and abused by her husband, the wife left the door open for conciliation. Many further examples can be provided. Later in the chapter, we see the far-reaching concessions that some women were willing to stomach in order to preserve their marriages. The impression (to borrow Goitein’s language) is that women

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34 See the examples in Zinger, “Long Distance Marriages” 25-26 and further examples: TS 13 J 8 19, r.18-19 (translated to English in Goitein, Med. Soc. 3:197 and see also Cohen, Poverty, 146); TS 8 J 26 19 (ed. S. D. Goitein, “A Jewish Addict to Sufism: In the Time of the Nagid David II Maimonides” JQR 44 (1953), 37-49 and also Med. Soc. 5:471-474); TS 12 681 (men. Med. Soc. 3:200); TS Ar 52 177 (ed. as Doc. #16 in Appendix Two); TS 13 J 1 2, r.17-18 (ed. Gil, Palestine, #22), ENA 3787 10 (ed. Friedman, Leshonenu 40 (1976), 297); TS 20 140v (ed. Goitein, “Shemarya b. Elḥanan” Tarbiz 32 (1963) 269; TS J 2 26v (ed. Marmorstein, MGWJ 51 (1907) 743-5 – this edition can be much corrected); and Maimonides, Responsa, #233, p.421: “for the wife wants nothing, but to stay married to her husband and not to separate from him,” li-ʾanna al-ʾimraʾa maṯṭub illā an tabqā zawja li-ʾbāʾ līḥā wa-lā tufāriqahu. When wives do ask for divorce it is often framed as resulting from the husband’s mistreatment or neglect, see the examples given above, documents like TS 8 J 16 6 and Krakowski, 218-219. Finally, in DK 238.4 (alt DK III) we find an extreme case of a divorced wife who yearns to be remarried to her abusive ex-husband, see the epilogue to Chapter Five.
preferred to be married rather than to be alone and were willing to make substantial sacrifices for this goal.

To conclude: Rather than a tool for ‘powerful women’ to seek and obtain divorce, we see mostly battered and neglected wives pressured to ransom themselves.\(^{36}\) This means that the fact that a wife relinquished monetary rights in her divorce settlement cannot be taken to indicate that she initiated or desired the divorce. Therefore, the accepted view that most divorces in the Geniza were initiated by women and that divorce was easily obtained can no longer be maintained. The next sections will examine the significance of the monetary concessions required of women at divorce and during married life.

**Looking at divorce settlements**

When we turn to look at divorce settlements and other documents dealing with divorce, we find that not only is it hard to know who really initiated or desired the divorce, it is often difficult to determine the precise financial arrangements of a given divorce. As we have seen in Chapter Two, the main purpose of divorce settlements is the mutual release of the spouses from all debts (with the wife’s release taking substantially more space). Since their purpose is the release from debts, these deeds often do not tell us whether any sum was actually paid, and if something was paid, how much.\(^{37}\) Moreover, since courts often settled different aspects of the divorce in different sessions, we often

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\(^{36}\) Cf. David, “Divorce,” 14: “In cases of eagerness on the part of women (lehīḥūṭ ṭīṣad ha-nashīm) to divorce, husbands could save themselves the payment of the ketubba by blackmailing the women to relinquish the ketubba.”

\(^{37}\) For examples of releases in which we do not know how much, if anything, was received, see TS 13 J 8 1; TS 24 28; TS NS 224 27; TS 13 J 3 22; and TS Misc 27 4 22v (ed. Ashtor, *Mamluks*, #38).
hear only about the payment of the delayed marriage gift, but not of the dowry or the maintenance for children and vice versa. A divorce settlement of 1009 from Fustat between Sibāʾ (‘Charm’) bt. Isaac, the dyer, and her husband, Ḥusayn b. Abraham, illustrates this difficulty:

Sibāʾ bt. Isaac, the dyer, said: ‘Make the symbolic purchase from me, as of now, and write, sign and witness for me that I received my bill of divorce from Ḥusayn b. Avraham, my husband. I released him from my delayed marriage gift, and any trousseau that I had in my ketubba. No dinar, no dirham, no claim whatsoever, no oath and no ban remains for me with this Ḥusayn. I have undertaken the maintenance of his child, Harūn (Aaron), his provisions and all his affairs…. We have also made a symbolic purchase from Ḥusayn … that no movable possession, no claim in the world, no oath and no ban remains for him against Sibāʾ. 39

Sibāʾ released Ḥusayn from all debts, including her delayed marriage gift and her trousseau, but we do not know whether she received anything out of these sums. She might have received both, only one of them, only a part of one of them or nothing at all. It is dangerous to conjecture what she may have received since this would be based on pre-conceived notions about divorce arrangements in the Geniza. 40

Similarly, many documents lay out a payment plan in installments or mention a sum that the husband owes his wife, but we do not know if this plan was kept and the

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38 For courts dealing with different aspects of divorce in different sessions see RNL Yevr-Arab I (Firkovich) 1700 4v: Abū Sa’d b. Khalīl, the olive oil merchant, receives the entire dowry of his sister, Fakhr, from her husband Hiba, the oculist, except items worth 21.5 dinars. The debt of 30 dinars for the meʾūḥar is also still unpaid. It is agreed that Hiba will come up with the remaining 51.5 dinars and will write the bill of divorce. Three days later (RNL Yevr-Arab I (Firkovich) 1700 19r) a court session (with different witnesses) sets the maintenance for the child and his mother at the very high rate of a dirham and a half per day. See also Ergene, 196.

39 TS 10 J 27 12, r.5-23, edited as Doc. #11 in Appendix Two.

40 At least when it comes to the dowry, the safest bet is that unless written otherwise, the wife kept whatever she could lay hands on from the remnants of her dowry. I use “remnants” echoing Goitein’s description of the widow’s plight (see Med. Soc. 3:250). For a general indication of how much could remain from the dowry of an obviously wealthy woman (poor dowries were probably depleted even more), see Halper 342.
debt paid. Even when a document states an amount paid to the wife, we usually do not know how the sum paid compares with the original sum stated in the marriage contract. However, on many occasions it is quite clear that the sum paid at the dissolution of marriage was substantially smaller than what was guaranteed in the ketubba. For example, in a 1023 divorce settlement, probably from Palestine, we see how a polygamist husband divorced his first wife once a communal head pressured him by seizing some of his property. Due to the polygamous marriage, the wife was entitled to the full ketubba payments, even though she might have been the one to initiate the divorce proceedings. The wife received four dinars and released her husband. She also released him from the maintenance of their two children (on this see below). However, it is clear that the four dinars she actually received was substantially lower than the original sum promised to her in the ketubba. We see that even where the wife was legally entitled to receive her full ketubba payment, she could end up releasing her husband from the majority of the sum due to her.

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41 See, for example, TS 8 J 11 13; Bodl MS Heb d 66 94; Yevr.-Arab. I 1700 4v; and Maimonides, Responsa, #351. In some cases it is stated that the sum in the ketubba was decreased to the amount stated, for example, in Mosseri VII 18 and TS NS J 264 (ed. Ashtor, Mamluks, #50, date needs to be corrected to 1251). In other cases, the amount owed is so small, that it is clearly lower than the original ketubba. For example, see TS 8 J 4 16v.

42 This is also the case with widows, see Rivlin, Inheritance, 77, n. 74.

43 Beyond the examples explored in this chapter, see also Freer 1908 44 E (ed. Gil, Palestine, #54); TS NS 320 28; TS 8 J 4 16v and TS NS J 455 (which should be compared with the marriage agreement found in TS 8 239 + Bodl MS Heb a 3 36).

44 Friedman suggests it was the head of the Palestinian Yeshiva, Josiah b. Aaron.

45 ENA 4010 28, ed. Friedman, Polygyny, IX-2, pp. 275-278, and Gil, Palestine, #42.

46 Friedman writes that the low payment given to the wife teaches us that the husband belonged to the poorest strata of Jewish society (ibid, 275). While this is certainly possible, it is also possible that he pressured his wife to forgo most of her ketubba and children’s maintenance and left her with a token four dinars. Indeed, the fact that the husband had two wives may suggest that he was not so poor. In the same way that relinquishing of their monetary rights by women cannot be taken as an indication of the wives initiating or desiring the divorce, the sums given at divorce or widowhood cannot be used to guess the social standing of men or women.

47 This is also the opinion of Friedman, Polygyny, 277, n. 17.
A further complication arises from an important detail, previously unmentioned, in the oft discussed cluster of documents involving the divorce of Surūr from his wife, Surūra (both names mean ‘happy’).\textsuperscript{48} In a deed of 10 February 1040, Surūra appeared before the Fustat court and claimed that Surūr owed her a gigantic meʿūḥar of two hundred dinars and that from her dowry he owed her a further hundred dinars. Surūr claimed that he had nothing to give her,\textsuperscript{49} but he owned an upper apartment in a house he had inherited from his father in Qayrawan, which he agreed to give her at the value of 295 dinars, leaving him with an unpaid debt of five dinars. This transfer was concluded and, on the face of things, it seems that Surūra had made a good deal and had received her monetary rights almost completely. However, in a deed from around November 1043 we see Surūra selling this very apartment to another Maghrebi merchant for only 45 dinars! While other explanations are possible,\textsuperscript{50} the most likely one is a combination of two factors: First, The upper apartment was never worth 295 dinars and the price stated in the first deed was a fictive sum meant to release Surūr from his obligations to his wife. Second, living in Fustat and having three children, with no male relative mentioned,\textsuperscript{48}  

\textsuperscript{48} There are four Geniza fragments associated with Surūra and Surūr’s unhappiness. The first is ULC Or 1080 J 7, ed. Bareket, Jews of Egypt, #91, which is a draft of the February 1040 proceedings. To note four small suggestions to the edition: the deed begins גז(כרון) ע(דות) ש(הייתה) ב(פנינו) אנו העדים, r.2 reads: דעו רבויי כי יש לאשתי, r.6 read: נתתיכלל ה/ע/ליה היא העליון, and r.33 read: בעולמם אלא. Bodl MS Heb c 28 41 (2876), ed. Assaf, “Ancient Deeds,” #23, pp. 21-22 and 214-5, is the November 1043 sale. Assaf’s edition, remarkable considering the difficult hand writing and its early date, can be improved in many places with ULC Or 1080 J 7. Surūra’s suit for maintenance is recorded in two deeds: TS NS J 149, ed. Bareket, Jews of Egypt, #92, which is a draft in the hands of Ephraim b. Shemarya, and TS 13 J 8 2, which is in a different hand (Bareket suggests Eli b. Amram) and is clearly the official deed. The beginning of the two fragments is similar but they later part ways. On the whole issue, see Med. Soc. 3:202-203. Goitein’s description of Surūra as “a woman of true valor” is another example of his predilection for describing women as powerful, see Friedman, Halfon and Judah ha-Levi, 83.  

\textsuperscript{49} Surūr was clearly extremely wealthy (see the sums of the ketubba). It is telling that even such a wealthy man could claim to have nothing when it came to paying his wife’s ketubba (see l.4 where a part of the lacuna in Bareket’s edition can be filled with //'ואיןידי//משגת and see also l. 28).  

\textsuperscript{50} It is possible that we are dealing with a mere scribal omission that the scribe forgot to add a ‘2’ making the sum 245. An even less likely explanation is that the real estate market of Qayrawan plummeted in these three years.
Surūra had to sell the property below its market value. While some elements in the story still remain unclear,\(^5\) it seems that Surūra's additional suit for maintenance may have resulted from her dissatisfaction with the financial yield of the original arrangements.\(^6\)

This case, therefore, constitutes an important ‘smoking gun’ which suggests that even if we have a deed stating that a woman received property worth a certain sum at divorce, the actual sum might have been substantially lower.\(^7\) We also see the great difficulties even wealthy women had when collecting their ketubba and how their monetary rights might be fulfilled with difficult-to-sell items or with bad debts.\(^8\)

Finally, we encounter a Fustat wife who, in 1244, not only released her husband from any debt connected with the dower or dowry, but went further and gave him the entire dowry:

Labwa (“Lioness”) bt. Abū Ghālib //said//: “Make the symbolic purchase from me and witness for me, as of now, that I released the obligation of my husband, Aaron b. Abū al-Riḍā, from all that women are due from men and from my ketubba, essential and additional (’iqqar ve-tosefet), and from the dowry .... Moreover, I gave to my husband, the aforementioned Aaron, all that I am due from his obligation: the essential ketubba, the addition and the dowry in a complete, clear and public gift …” This Labwa also accepted that she will maintain her older boy, Furayj … in all his needs and his poll tax for two years, not including his clothing, and she

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\(^5\) For example, was Surūra aware that the upper apartment in Qayrawan was not worth 295 dinars?

\(^6\) After all, in ULC Or 1080 J 7 Surūra releases Surūr from all other claims, which suggests that either the matter of maintenance had already been settled or that after she realized the apartment would not sell for enough money she raised the issue of maintenance. Indeed, both Goitein and Bareket consider the maintenance suit to have come later.

\(^7\) It seems that this is also how we should understand agreements like the one appearing in TS 12 681: Ṣedaqa b. Hillel was absent from home for 18 years and during this time never provided anything to his wife, Sitt al-Bayt bt. Joseph. It was agreed that she would return to live with him “as before” and a deed of debt totaling a hundred dinars would be written against him for all his years of absence. While Goitein notes that this sum approximates 6 dinars a year, i.e. half a dirham per day – the regular minimal maintenance, it seems to me that the round sum of 100 dinars basically means ‘a very large debt’ with which Sitt al-Bayt might claim any property Ṣedaqa might posses. After all, it is unlikely that a husband who was a runaway for 18 years would ever be able to provide his wife even a tenth of such a debt. On this document see Med. Soc. 3:200, n. 188. Because in 1099 Sitt al-Bayt bt. Joseph had been married to Ṣedaqa for the past 18 years, she is unlikely to be the same as the woman with the same name that makes an appearance in ENA NS 17 28, ed. Friedman, Polygyny, IV-1, see p. 114.

\(^8\) See Goitein’s comment about widows in Med. Soc. 3:254.
accepted that she will maintain the younger one, Raḍī, for ten years … She will (pay for) the older one’s studying silversmithing. Aaron will clothe the two, i.e. his children.

The wife not only released the husband from all debts, but also gave him as a gift both the dower and the dowry. In doing so, she went beyond what is required even by the ransom divorce procedure. This is important because if the ransom divorce was as easily available as had been suggested, why would a woman need to make even greater concessions to her husband? This case suggests that the ransom divorce was not easily obtained by women (as has been argued above and in Chapter One), and that women’s relinquishment of their monetary rights could go beyond the requirements of the ransom divorce. In other words (as will be further shown in the rest of the chapter), the ransom divorce is only one manifestation of a general dynamic of women forgoing and losing their monetary rights.

These examples and the examples mentioned in the notes show that many divorced women received only a fraction, if anything, of their promised delayed marriage gift at the termination of the marriage. When information is available about the dowry, which was supposed to be retained even in the case of ransom/rebellion, it seems that it also was received only in part. Partial payment of the dower and the dowry is thus

55 wa-tu’allim al-kabīr al-ṣiyāgha – lit. “She will teach him silversmithing.” Goldsmithing could also be intended.
56 TS 13 J 47, r. 10-23, edited as Doc. #12 in Appendix Two.
57 It is occasionally said that women might relinquish more than the sums required for the ransom divorce in order to hasten divorce proceedings (see, for example, David, “Divorce,” 129). However, the dowry is too significant a concession to be explained by mere desire to quicken the workings of justice. In any case, if justice needs to be quickened, then perhaps divorce was not so easily obtained after all.
58 This unique example of a woman gifting her dowry to her husband at the divorce should not be dismissed as “exceptional” since it ties in closely with the many examples (discussed below) of women reducing their husband’s debt for their dowry during the marriage. In this sense, this example forms part of the same continuum.
59 Originally, this chapter was accompanied with an appendix containing an extensive (but not exhaustive) database of documents containing information on the payment of the ketubba at divorce and releases during the marriage. However, once the number of documents passed one hundred, it became unmanageable and I decided to leave it out of the dissertation. I have mentioned most of the documents in this chapter.
systematic and forms a structural feature of Geniza divorce.\textsuperscript{60} This is important because the dower and the dowry were not some minor assets that were easy for women to dispense with. Both the dower and the dowry were meant to serve as a barrier, defending the wife from her husband’s arbitrary and almost absolute power of divorce. They served as ‘insurance’ for the future of the wife in the event of widowhood or divorce and losing them was a significant monetary loss. This significant loss took place when the woman was most vulnerable, when she had lost her main source of support and faced an uncertain economic future. Haphazard or partial receipt of her dower and dowry was a heavy economic blow.

Partial payment of the dower and dowry also prompts us to rethink the nature of such payments in Geniza society. For example, if the dower and dowry were commonly paid only partially at the termination of a marriage, knowledge of that fact surely affected how these guarantees were viewed at the start of the marriage itself.\textsuperscript{61} Husbands and their families must have known that in the event of divorce they would probably not be made to pay the full amount, and that they could therefore promise large sums with greater ease. This has to be taken into account, for example, when making assessments of the distribution of wealth in Geniza society, which is usually done by studying dower and dowry payments.\textsuperscript{62} Realizing that the dower and the dowry are often only partially paid at the termination of a marriage and that the amount of payment is usually subject to negotiation (both direct negotiation as well as one-sided impositions or threats) means that social status and gender (as will be discussed below) need to be brought into the

\textsuperscript{60} Of course, this does exclude the fact that some husbands still thought that their wives received too much, see TS 13 J 21 5 l, r.22, ed. Goitein, \textit{Yemenites}, 131-134.

\textsuperscript{61} This is the situation today, where the sums mentioned in the ketubba are usually not the basis for divorce settlements. Compare with \textit{Med. Soc.} 3:140.

\textsuperscript{62} See the Introduction.
discussion. The dower and the dowry appear not so much as rights possessed by the wife, but as declarations of intention made at the beginning of a marriage, to be seen as the starting point for negotiation upon the dissolution of the marriage. This negotiation typically goes one way (i.e. reducing the wife’s monetary rights) and the question is how far the wife will compromise.

**Paying in Installments**

Tightly connected to the partial payment of the dower or dowry at the time of divorce is the practice of paying these debts in installments. Many divorce documents contain the wife’s agreement that she would receive what was owed to her in installments, usually every week or every month. Occasionally, this was combined with a reduction of the dower. For example, in August 1217, (Sitt al-)Khawāt and her husband, Abū al-Ḥasan the perfumer, came to an agreement that Khawāt would reduce her meʾūḥar from fifteen dinars to ten. From these ten dinars, she received one dinar and agreed to the payment of the rest in installments, three dirhams every week (theoretically for two years and about three months). The first payment was to be made at the beginning of 1218.

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63 After all, since the sums of the dowry could be negotiated sums that do not reflect the value of items (see *Med. Soc.* 3:126-129), it is not surprising that dowry and the meʾūḥar can be re-negotiated at divorce.
64 The picture that emerges from this chapter should not surprise anyone familiar with divorce today in Israel and elsewhere. However, it is occasionally argued that in Geniza society the community strongly enforced the payment of the ketubba, an argument that this chapter challenges. See, for example, David, “Divorce,” 59. For the “culture of extortion in Israeli Rabbincic courts, where contested divorces are not solved by pressuring stubborn and recalcitrant husbands to give the get, but by pressuring women to give in to their husbands’ terms” see Susan M. Weiss and Netty C. Gross-Horowitz, *Marriage and Divorce in the Jewish State: Israel’s Civil War* (Brandeis: 2012), quote from p. 8 and the important information provided in [http://www.cwj.org.il/](http://www.cwj.org.il/)
65 Usually it is the meʾūḥar that is paid in installments, since the dowry consists of physical items, however, occasionally the dowry’s value (probably devalued) was paid back in cash installments.
66 Goitein notes that permission to pay the debt of the ketubba in installments “was not easily approved by the authorities,” *Med. Soc.* 3:267. However, I know of no case in which the authorities denied such an arrangement.
husband can pay his wife’s delayed marriage gift in installments. Often one gets the feeling that the husband is searching for pretexts on which he can rid himself of the financial burden of the delayed marriage gift. On other occasions, the questions appear to be simply veiled threats meant to blackmail the wife and/or the authorities. These responsa and petitions reflect the continuous pressures inflicted by divorcing husbands to obtain release from the payment of the delayed marriage gift, or at least to be allowed to pay it in installments.

In order to understand the circumstances surrounding such arrangements that allowed for the paying of the ketubba in installments, it is important to provide some of the legal background. According to the Mishna and Talmud, a husband may divorce his wife unilaterally without immediate payment of the ketubba, which would remain a debt. However, geonic custom provided that a husband could not divorce his wife without providing her with her ketubba (if, of course, she was entitled to one). In a responsum about a man who divorced his wife while declaring her meʾūḥar and some of her dowry as a debt upon him by vowing that he had nothing to pay them with, Maimonides writes:

68 See Maimonides, Responsa, #12, #200, #202 and see also #233; TS AS 147 17 and JNUL Heb 4 577 5 21 (Abraham Maimonides, Responsa, #120 and see also Friedman, “Marital Strife,” 74). In Modern Hebrew slang, such an approach is called Shīfat Masliʿah (see http://he.wikipedia.org/wiki/시장_מסליח) whereby a party acts in a way that is not legal or ethical on the gamble that the other party will not challenge it. For example, a phone company can raise the fee to its customers without notice knowing that only a few would realize. Those who complain will be refunded (without the company suffering any actual losses), but the company will profit from the majority who do not contest the bill. Here, husbands accused their wives of being rebellious, or claimed they had nothing to give, or that their wives had taken their property already. Making such claims or accusations did not cost these husbands anything, and if they succeeded they could save significant amounts of money. This is part of what Goitein termed ‘trial balloons’ in Med. Soc. 2:337-8; see more on this below.
70 See the responsum of Naṭronai (Gaon of Sura ~857/8-865/6) in Rav Naṭronai Bar Hilai Gaon, Teshuvot (Responsa), ed. Yerahmiel Brody (Jerusalem, 1994), #313 (Gates of Justice, 3:2 #25) and the important discussion by Brody in p. 467, n. 2. For the opinions of other Geonim: Rav Sherira Gaon in Gates of Justice 4:4, #44; Hayya (Hai) Gaon in Gates of Repentance, (Leipzig: 1858), #75; Harkavi, Responsen der Geonim, (Berlin: 1887), #345, pp. 172-173 (a question from R. Jacob. B. Nissim of Qayrawan) and see also #319 and #490; Geonic Responsa (Lyck: 1864), #44; Responsa of R. Isaac Ben Jacob Alfasi, #14, p. 42.
“The law of the Torah is to (grant a) divorce to someone who has nothing, and to record the ketubba (payment) as a debt incumbent upon him. However, in this land, we do not know nor do we conform to this ruling, for if this were to be done, “One would not leave our father Abraham a single daughter who can remain with her husband.” But our well-known custom throughout the land is that (the husband) brings the meʾūḥar and then he divorces.

However, the wife could agree to receive her ketubba in installments. In this case the divorce could be performed, but the wife would have to depend on the good-will of her former husband and on the cooperation of the courts in order to receive the installments.

From an economic point of view, in a non-interest-bearing transaction, as required by Jewish law among Jews, receiving any sum in installments rather than in a single lump sum is detrimental to the receiver and beneficial to the one making the payments. However, the more significant economic loss for women who agreed to receive their dues in installments becomes clear when we examine the few cases in which we can actually compare the payment plan as devised in the divorce settlement and the payments that were made in reality. Such a comparison is feasible since in some divorce settlements, the parties recorded the payments of installments on the back of the divorce settlements. In fact, in one such document the husband committed himself to “not pay her (i.e. his former wife) this debt … without recording it on the back of this deed or in the presence of two witnesses.” The comparison allows us to arrive at a better understanding of the wife’s predicament and the reason why husbands desired to pay their ketubba in installments.

71 A Talmudic expression, see BT Gittin 89a and Kettubot 72b. Notice that it reflects a conception that husbands want to be rid of their wives rather than the other way around.
72 Maimonides, Responsa, #363. See also ENA 2639 12 and see David, “Divorce,” 141.
73 See, for example, Maimonides, Responsa, #14: “the Judge (bet dīn) told him: ‘You cannot take the oath of destitution … except with the agreement of your wife’ (bi-riḍā zawjatika). On the oath of destitution see Libson, Jewish and Islamic Law, 113-156 and Mordechai A. Friedman, “Responsa of Abraham Maimonides on a Debtor’s Travails,” 83-84.
74 TS 13 J 3 14, r. 16-17. The deed continues saying that if he would claim that he has paid without it being written on the back of the deed or corroborated by two witnesses his claim would be void. A similar
One such case is found in a fragment of a court record bearing dates from December 1033 to April 1034 in which Ezra (or ʿAzarya) b. Benjamin agreed to pay his former wife, Mubāraka bt. ʿAṭiyya, three dinars in monthly payments. It is clear that this represents only a fraction of the original delayed marriage payment. In return, Mubāraka releases him from all other obligations (dowry, clothes, rent and maintenance). The back of the document records only one payment of half a dinar. Another case is found in a record of May 1107 in which the former wife of a tax collector from Caesarea, called “son of the judge,” admitted that she received two and a half dinars in monthly installments of a third of a dinar each month from the ten dinars that she was owed, probably for her delayed marriage gift. She next received half a dinar in March/April 1108. The next payment of half a dinar came around February 1109. Finally, she received a quarter of a dinar in August 1109. In summary, she received 3¼ dinars out of 10. The last case is found in a record from Cairo 1170: Surūr b. Ghālib appeared in court and declared that his wife, Sitt al-Jamīʿ bt. Shemarya, had in her ketubba 10 dinars as a meʾūḥar. He agreed to pay one dinar now and the rest in installments of a third of a dinar every month. The reverse of the deed records a payment of one dinar (probably the payment of one dinar mentioned in the recto) and three further payments, probably of a third dinar each. Out of 10 dinars, he paid only 2 or 3 dinars.

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75 See TS 16 218, mentioned in Med. Soc. 3:267.
76 Caesarea had been conquered by the crusaders only a few years earlier in May 1101, however, this man’s family could have moved to Egypt a few generations before that.
77 Notice that two and a half is not a multiple of a third.
78 TS 10 J 27 3 2r, mentioned in Med. Soc. 3:267
79 TS 13 J 3 14, mentioned in Med. Soc. 3:369, 409 and 486. Another example is found in TS 13 J 6 11, ed. Ashtor, Mamluks, #21.
In all these cases, the payment plan was not honored. The payments arrived later than agreed and the women received, at best, a third of what they were owed (which might have been, to begin with, a sum reduced from what the ketuba actually stated). It is also important to note that, contrary to what some may think, arrears in payments were not solely the domain of men from the lower classes. In the second example, we saw a tax collector who was also the son of a judge, certainly someone of at least middle class status, paying only a third of what he owed.  

Agreeing to be paid in installments appears to have been equivalent, in practice, to relinquishing two thirds or more of one’s monetary rights. For comparison, Goitein writes that in serious cases of merchant insolvency, the debt was usually reduced by about a third. It seems that gender influenced the payments of debts. The wife faced a difficult predicament: If she insisted on receiving the ketuba money in full before accepting the bill of divorce, she could remain chained (agina), especially if the husband chose to flee. She was also prey to the pressures of her husband and his family to avoid this predicament altogether and ransom herself. On the other hand, if she agreed to receive her ketuba in installments, she stood to receive, after great pains and delays, only a fraction of what she was owed. Either way she stood to lose.

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80 It is interesting to note that this example, indeed, shows the highest payment rate (37.5%) – but if a well-to-do husband only paid about a third of his debt, this only strengthens the argument made here.

81 More precisely, a third of the debt was remitted, a third paid in cash and a third in installments promised. See Med. Soc. 1:204. Significantly, we do not find the mechanism of assistance which existed for the merchants as being available to wives. For how merchants’ debts were dealt with in practice, see TS 13 J 3 21 and Friedman, "Responsa of Abraham Maimonides on a Debtor’s Travails," 83, n. 3.

82 Two opposite cases should be mentioned. In TS 13 J 3 13, ed. Weiss, “Halfon,” #155-156, a wife declares at the marriage a debt to her husband of five dinars. At the back of the deed a payment of one dinar is recorded, as well as one dinar’s worth of work that the wife preformed. An innovative ‘solution’ to the problem of paying in installments may be found in Yevr-Arab. I 1700 11/12: Faḍāʾil b. Jacob and his mother, Sitt al-Banīn bt. Abraham, admit a debt of 27 dinars to Sitt al-Ikhwa bt. Halfon, to be paid at the rate of a half dinār each month for six years (i.e., 36 dinārs in total) starting in 1156. If we read the word inserted above the third line as מֵתוֹלְקִיתָה, “his divorcée” (admittedly, an uncertain reading) then this is not so much a loan as paying the divorce settlement in installments with interest.
Children’s Maintenance

Another concession made by wives, mentioned already in several of the settlements discussed above, involves the maintenance of children. Usually we do not know the children’s ages and therefore it is impossible to determine whether an arrangement goes against the Jewish law that requires a father to maintain his sons only up to the age of six.\(^{83}\) However, in Labwa’s case cited above, she agreed to maintain their older son for two years and their younger son for ten years. Since she promises to maintain the younger son for ten years, it is clear that he was younger than six years old. In this case, Labwa relinquished her child’s right of maintenance, a right that was not hers to relinquish.

The issue of children’s custody and maintenance in divorce has been treated recently by Yehezkel David.\(^{84}\) David provides several examples of women forgoing their children’s maintenance, in some cases in clear departure from Jewish law. On one case, he comments that “the strong and understandable wish of the divorced woman to continue to keep her son corrupted the law (gilqūl ha-shūra),” and on another case, “Here as well the love of the mother for her son corrupted the divine law (gilqela ʾet shūrat ha-halakha).”\(^{85}\) However, once we examine wives’ relinquishment of their children’s maintenance in the broader context of women’s relinquishments of their monetary rights, we see these cases as part of a wider trend, rather than as a corruption of Jewish law caused by women’s tender hearts.\(^{86}\) A more accurate explanation is that fathers exploited

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83 See Maimonides, MT, Ishūt 12:14.
84 David, “Children of the Divorcée.”
85 David, “Children of the Divorcée,” 18-19 (on TS 8 J 9 5 and ENA 4010 26 respectively). In the case of TS 8 J 9 5, it is worth noting that the husband is called “son of the scribe,” which certainly raises several questions.
86 One also wonders why it is it is the love of mothers that corrupted the law, rather than the husbands’ desire to avoid making payments. After all, we hear about husbands defaulting on the sums of maintenance.
the mother’s desire to have custody in order to release themselves from their legal financial responsibilities. Modern legal scholars and sociologists have made similar observations. 87 A similar trend is known from other Islamic societies. 88 It is also important to note that these agreements were approved and confirmed by the legal system, and the members of the court could have instructed the litigants that the wife would have custody of the sons until the age of six (or until they started their education with their father) and that the father’s duty of maintaining his children is inalienable. As David concludes:

In reality, women were forced, in most cases, to accept a compromise rather than the law (le-ha adif et ha-peshara ‘al ha-din), in other words to forgo maintenance due to their small children in exchange for the husbands’ relinquishing their custody …. On occasions, women bought custody over their children with their ketubba money. Women’s compromise indicates the weakness of the courts in that period to impose the halakha over reality, and the weakness of women to push the authorities to act for the implementation of the law. 89

It is also worth pointing out that it is not just the mother’s love for her children that is in play in these relinquishments. Children are an important investment for a woman’s future. Since she does not inherit from her husband, and from her parents, only to the extent that she keeps her dowry, a woman usually had to rely upon her children once they were grown up. Thus, cementing the relationship with her offspring was the
decided upon by the court. For example, in CUL Or 1080 J 192 we hear of a wronged woman “complaining and crying” about her ex-husband who for eight months did not provide even a dirham of the maintenance incumbent upon him (a quarter a dinar a month, a very low sum) for his still suckling daughter. The writer of the document comments “this is the destruction of the world (wa-hadhah korban ‘olam) … who heard of anything like this?! (mi sham ‘ka-zot?)


88 See Rapoport, “Divorce,” 210; Rapoport, Marriage Money and Divorce, 73; Zilfi, 285-288; and Agmon, Family and Court, 185.

89 David, “Children of the Divorcee,” 30. About the courts’ weakness I would add that some courts perhaps did not see it as their duty to intervene in prior agreements.
most important investment a woman could make. Therefore, at divorce, it was of paramount importance to retain custody over the children, especially the boys (girls were in any case given over to their mother’s custody). This is not to say that mothers’ love for their children was cold and calculating, but simply that, within the amorphous concept of “love,” there were also deeply engrained economic considerations.

Although it is difficult to know the exact monetary arrangements resulting from divorce settlements, it appears that most women received their meʾūhar and their dowry in a partial and haphazard manner. Occasionally we even find women relinquishing part of the ketubba payment even when they had a full right to it (in the case of polygyny), or giving away the dowry (which is retained even in the iftidāʾ arrangement). Two other types of concessions were explored: paying the ketubba in installments and conceding the children’s maintenance by their fathers. In the first case we saw that women received, at best, about a third of what they were promised. In the second case cited, we saw that such agreements were upheld even when they contradicted Jewish law. The consistent underpayment of the ketubba at divorce was thus a pervasive and fundamental aspect of women’s experience of divorce in the Geniza. In a sense, most women in the Geniza ransomed themselves, at least partially, at divorce.

**Releases during the marriage**

It can be argued that women’s relinquishments of their monetary rights at divorce are merely the result of the husband’s monopoly over divorce. When the husband desires the divorce he must pay the ketubba and when the wife desires the divorce she must relinquish her monetary rights in return for the husband’s relinquishment of his monopoly. Since in real life it is often impossible to say that one side desires the divorce
while the other side objects, it may appear only natural that most women relinquished their monetary rights to some degree.

However, the fact that Geniza documents show us that women were often pressured into relinquishing some of their monetary rights during the marriage shows that compromising women’s monetary rights goes beyond the question of divorce. Indeed, the cases in which Geniza women were asked to reduce their ketubbas or to give their husbands a part of the dowry during the marriage require us to rethink the meaning of these same acts at divorce. When examined on its own, the ransom divorce may appear as a way for a wife to obtain divorce against her husband’s will, but when we take into consideration cases in which women made similar renuncements under duress during their married lives the ransom divorce appears as just one part of the general dynamic of compromising women’s monetary rights.

The Geniza preserved many documents in which a wife agreed to a substantial reduction of a certain monetary right during her marriage. The reasons behind such agreements could vary substantially. A wife could give the husband items from her dowry or remove her ketubba’s lien on his property in order to assist his commercial undertakings. A wife could also agree to a reduction of her delayed marriage gift in

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90 Here I am not discussing cases in which a husband made a transaction and his wife’s permission is mentioned, or cases when a wife was given control (ṭaṣarruf) over the items of her dowry and then the items are removed from the dowry, see Med. Soc. 181-182. I am also not discussing the many examples in which a wife gives her husband a certain amount of money as a gift, although I am inclined to consider such gifts as part of the same continuum discussed in this chapter. For a few examples, see Bodl MS Heb c 28 69 (Med. Soc. 3:453, n. 27); Bodl MS Heb d 65 13; Bodl MS Heb b 3 36 (ed. Gil, Palestine, #216); and TS 10 J 9 32 1r.

91 See Abraham Maimonides, Responsa, #66, and al-Fāṣī, Respansa, #87. For a wife removing her lien over her husband’s real estate for other reasons, see ENA 4011 55 (Goitein refers to this shelfmark as ENA 4011 56).
return for the husband taking upon himself especially high medical costs incurred by his wife’s illness.\footnote{For an example of medical costs, see TS 16 233, ed. Weiss, “Halfon,” #84, and men. Friedman, \textit{Jewish Marriage in Palestine}, 1:423, n. 10. It is possible to suggest that some of these reductions of the dowry might be related to the “custom of the land” to exaggerate at the marriage the size of the dowry so as to honor the wife’s family. When divorce or death was looming in the horizon, the wife might have been asked to agree to the reduction of the sums to their real values, see for example ENA 4011 67 (Fustat, 1045).}

However, in many cases such renunciations were the result of duress or a marital dispute. Usually a couple would be on the brink of divorce and then a compromise was reached whereby the wife agreed to a reduction of her dower and/or her dowry.\footnote{One wonders what it meant for a wife to “save” her marriage at the cost of monetary concessions that would only make divorce easier in the future. Indeed, the \textit{me ṭhar} is only paid at death or divorce and one wonders how husbands justified their demands to reduce it.} For example, a responsum of Maimonides reports a husband as vowing: “If you do not forgo ten dinars from the ketubba, you will not be my wife.”\footnote{Maimonides, \textit{Responsa}, #73, p. 115: \textit{annahu ḥalafa idh lam tusqiṭī min al-ketubba ʿasharat danānīr lā kuntī} (written: \textit{kuntī} li bi-zawja). See also an Arabic geonic responsum: “A healthy man (saying ‘write my wife a get’ but not asking to have it delivered to her) may intend only to intimidate her (to make concessions),” see Harkavi, \textit{Geonic Responsa} (Berlin: 1887), #220: \textit{wa-l-insān al-ṣaḥīḥ yumkin an yakān innamā qaṣada tahaddudahā.}}\footnote{Maimonides, \textit{Responsa}, #44: \textit{la aṣṭalihu maʿahā dīna an tusqiṭʿ ānnī jamīʾ al-nedānīya}. In DK 232 1, r. 15-18, it seems that a husband succeeded in lowering the sum written in the Ketubba and then the head of the Jews ruled that he would return it to the original sum. The husband then vowed that he would only write a sum of ten dinars (obviously a lower sum).} When the elders tried to bring about peace between another couple, the husband declared: “I will not reconcile with her, unless she cedes to me the entire dowry.”\footnote{TS 8 J 19 2, mentioned in Ashur, “Engagement and Betrothal,” 42, n. 144; 101, n. 40; and 360.} In another case, Sitt al-Ḥasan and her husband Aaron accused each other of many things until they reached the point of divorce. Someone intervened and brought about a compromise. Sitt al-Ḥasan deducted (\textit{tuḥiṭt} - the root ḥ-ṭ-ṭ is commonly used in this context) from her dowry the substantial sum of fifty dinars. In addition, the items of her dowry were to remain in his house (apparently she took or attempted to take some items of her own dowry). For his part he agreed to behave with her in a praiseworthy way (\textit{tarīqa ḥamīda}) and not to kick her out of the house.\footnote{TS 8 J 19 2, mentioned in Ashur, “Engagement and Betrothal,” 42, n. 144; 101, n. 40; and 360.}
Notice that the wife made a substantial monetary compromise while the husband merely vowed to behave in the way in which he should have behaved anyway.

In another fragmentary deed, it seems that a wife, Mawlat, reduced the debt of her husband, Abū al-ʿAlāʾ, for her dower and dowry, leaving a debt of only seventeen dinars. She also withdrew her previous accusations that he beat, cursed and deceived her (*darb aw shatīma aw ghabīna fī al-kalām*). It appears she agreed that a certain apartment would be sold and that seventeen dinars from the sale would be deposited with the court.\(^97\) In Chapter Two, we saw how the daughter of Abraham, the beloved of the Yeshiva, released her husband, Sar Shalom b. Yeshūʿa, from fifty dinars out of the seventy-five dinars he owed her in the delayed marriage gift entered in her ketubba (she also released him from the “trustworthy” clause in her ketubba).\(^98\) The fact that we even find a formulary for a wife agreeing to a reduction of her dower suggests that such releases were a regular event.\(^99\)

Reducing the dower or giving the husband the items comprising the dowry could have grave repercussions for the wives and for the children. A fragment of what is probably a petition written by a man who was abandoned by his father while he was in “the darkness of the bowels” (an Arabic expression for ‘before being born’) goes on to

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\(^{97}\) Westminster Misc 23 + Westminster Arabica II 33.

\(^{98}\) TS 18 J 1 20, edited as Doc. #14 in Appendix Two. It is important to notice that Abraham’s daughter came from a wealthy family, suggesting that such compromises should not be associated only with poor families.

\(^{99}\) TS 8 J 9 17 2v, a formulary for a wife’s reduction - *inḥīt(āt)* – of items from her dowry in return to an increase of ten dinars in her *muʿakhkhar*. While the items are not listed and we do not know how their value compared to ten dinars (and in any case this is a formulary meant for different situations) the basic exchange of dowry for dower was detrimental to a woman’s property rights (from possessions to a promised future payment – a promise that we have seen that was rarely kept in full). This formulary is found next to another example of dowry reduction in the same court notebook, TS 8 J 9 17 1v (see in Appendix Two). For other examples of such formularies, see Gulak, *Otzar ha-Shtarot*, 62-65 (at p. 59 it is stated that such formularies are very common) and Assaf, *Gaonica* (Jerusalem: 1933), 210-211. A related phenomenon is when divorce took place and later the husband would agree to take back the wife with a lower dowry or dower. See TS Misc 25 140 (ed. Weiss, “Halfon,” #137).
report that not only did his father disappear, but the writer’s mother “also gave him (his father) possession of precious objects from those that she had brought into the marriage in the ketubba, both gold and silver.” In a case concerning which we have several documents, a husband gave items from his wife’s dowry as a lien to a creditor. When the couple divorced, retrieving the items proved to be a difficult and protracted affair. In another case, a widow who was pressured to allow her husband to mortgage her melōg property lost it when her husband died.

Furthermore, the distinction between freely willed releases and ones made under duress could be blurred even to the people involved. Chapter One mentioned a case where a wife relinquished a part of her dowry to her husband in the first year of marriage. Her father, together with the local judge, tried to undo her actions claiming that the wife was still under her father’s custody or that she was legally incompetent (safīha), since only a fool would give up her monetary rights in the first year of the marriage. In this case, the wife might have acted out of a desire to assist her husband in his commercial ventures, but her father either did not wish to see his property pass so quickly into the hands of another man or was concerned about the future of his daughter in case she became widowed or was divorced.

As we did for payment by installments, it is useful to provide some of the legal context of such relinquishment during the marriage. The context highlights the options available to Geniza women (especially the options not taken). Because Jewish law

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101 See TS 13 j 5 1 2v, TS 8 J 4 3 2v and TS 8 K 20 1 1r and 1v, ed. Bareket, “Books of Records,” 36, 41-46. See another case in al-Fāsī, Responsa, #87.
102 See ENA 2728 5v and the references in n. 108 below.
103 Maimonides, Responsa, #11, mentioned in Chapter One, n. 114.
stipulates that a wife may not remain without a ketubba “even for a single hour,” the wife could not forgo it entirely and the husband could only pressure his wife to reduce her meʾūḥar, or he could rewrite the ketubba with a reduction. He could also pressure her to concede to him the dowry or part of it. If your husband exerted undue pressure on you to agree to the reduction of your meʾūḥar or dowry, probably the most straightforward counter-measure was to issue beforehand a modaʿa (Heb. ‘notification’) which declares that the action will be done under duress and will therefore be invalid.\footnote{On notification see Shmuel Shilo, “Ones” in The Principles of Jewish Law, ed. Menachem Elon (Jerusalem: 1975), 179: “If the person under duress discloses in advance that the transaction he is about to acquiesce to will be effected against his will … the subsequent transaction is void through lack of intent. Such a declaration to witnesses is termed mesirat modaʿah (‘making a notification’).” See also Libson, Jewish and Islamic Law, 97.} If the wife was asked to relinquish iron sheep property (dowry items recorded in the ketubba) that was not lost or stolen, she could also argue in retrospect that she consented only “in order to satisfy my husband,” in other words, so as to avoid a quarrel with my husband (i.e. even without a modaʿa). It is important to note that with this statement (and in the many halakhic discussions that follow it), Jewish law shows an awareness of the dynamics explored in this chapter and, at least partially, tried to protect wives from them.\footnote{The key texts are: BT, Ketubbot 95a, Bava Batra 50a, Gitṭin 55b and Maimonides, MT, ishūṭ, 17:11 and 22:16-19 (notice that regarding iron sheep property that has been stolen or lost, Maimonides qualifies the ruling by “thus it seems to me”), Mekhīra 30:3-6. An accessible summary of the issue can be found in Baruch Kahana,”Waiver in Jewish Law” (unpublished dissertation, Hebrew University: 2006), 174-186 and 190-191. See also Moshe Amar, “The Wife’s Waiver in the Takkanot of Fez” (Heb.) Sefunot 19 (1989), 23-26.} A wife could also try to cancel her relinquishment, if she could prove coercion on the part of the husband in court.\footnote{For the claim of duress, Jewish law makes a distinction between a sale and a gift. Since in a sale the seller still receives something from the transaction, both evidence of duress and a modaʿa are required. In a gift, the giver does not receive anything in return and either a modaʿa or evidence of duress suffices. It appears that claiming that a relinquishment of monetary rights during divorce was done under duress was seen by Maimonides to be like a sale (for the get is a sort of compensation) and to require a modaʿa, see Maimonides, Responsa, #385, p.664. Indeed, a compromise (peshara) is considered by Maimonides to be like a sale, see Kahana, 176. Releases during the marriage should be considered like gifts that do not require a modaʿa, for examples see Kahana, 185 - citing responsa of R. Solomon ben Aderet (Spain 1235-}
Despite the widespread incidence of surrender of monetary rights by wives, and despite the quite frequent mention of spousal violence in this connection, we do not see these legal options employed by wives. While domestic violence was common, we do not find wives claiming coercion when attempting to cancel compromises. It is probable that Geniza women were unfamiliar with the modaʿa, as I know of only one case in which a woman issued a modaʿa. Similarly, the claim “I only intended to satisfy my husband” is only very rarely encountered in the classical Geniza period, and then in responsa, not in legal records, petitions or letters. The fact that legal venues were theoretically available but almost never used reveals the extent to which Geniza society saw the pressures husbands inflicted on their wives to relinquish their monetary obligations as part of the natural order.

107 TS Ar 39 476, left hand case from Elul 1130, signed by [Nathan ha-Cohen] b. Solomon ha-Cohen, see Med. Soc. 2:602. The details are hard to make out due to the state of the fragment. A woman is making payments for four months to a Samaritan, apparently, “against her will and not to her benefit.” Significantly, we do have a notification of a husband who claims to have been unduly pressured by his wife to sell a female slave, see TS NS 246 28, ed. Friedman, “Master and Slave Girl,” 61-63. For how notification functioned in a commercial case, see Bodl MS Heb c 28 68, ed. Weiss, “Halfon,” #5, discussed in Med. Soc. 2:342 and Goldberg, Trade and Institutions, 163.

108 Most of the mentions are late (some belonging to the 16\textsuperscript{th} century) and are actually formulas saying “The wife will have no right to claim ‘I only sought to satisfy my husband,’” see TS 8 J 8 11v (Cairo 1565); Bodl MS Heb d 66 55 (late but undated). Mosseri VIII 449 is another late responsum mentioning the phrase. TS G 1 67 is a collection of responsa, identified in the Friedberg Project by Samuel Glick as belonging to Asher b. Yehiel (1250-1327). The only two references I know to “I only sought to satisfy my husband” from the classical Geniza period are in TS G 1 29, a collection of responsa whose script looks like it might belong to the classical Geniza period and ENA 2728 5v, a responsum to a query presented to Menahem b. Isaac b. Sasson, a judge in Cairo in the first half of the 13\textsuperscript{th} century; on this document see Goitein, Med. Soc. 3:255, and on the respondent see Med. Soc. 2:514, #26 (where the reference to ENA 2728 9 is a mistake for “our document,” ENA 2728 5v, as appears correctly in Med. Soc. 3:483, n. 34). As was confirmed to me in personal communication from Mordechai Friedman, this responsum belongs to the cluster of responsa published in Friedman, “The Inheritance,” 245-262. Friedman will publish these responsa in a forthcoming publication. In Maimonides, Responsa, #73, the phrase is mentioned by Maimonides in the answer.
Beyond the reduction of the dower or dowry, we occasionally find wives pressured into making monetary concessions regarding rent or even the poll tax. Rent was considered part of the maintenance obligation of the husband. Many Geniza women, however, brought real estate into the marriage in their dowries. When the couple lived in the wife’s property, the husband was not supposed to pay rent to the wife, since he was entitled to the fruits of her property. However, the couple might live in an apartment belonging to the family of the wife and then the question of rent arose. Usually the marriage agreement stipulated clearly that the husband would not be asked to pay rent to his wife’s family. However, one marriage agreement stipulates that the husband will live with her two parents and pay the agreed upon sum of six dinars for rent without any delay or argument. In another, the mother of the bride gave as a gift to the couple half of a house on the condition that she would receive the rent for the first year.

This is the context for a fascinating letter a wife wrote to her husband in an attempt to appease him and bring about his return to the house:

My Lord, may God establish your happiness and spare you from what you fear, in this world and the next. I ask from your kindness, may God prolong your favors, that you inform me what have we done wrong such that your honor left the house …. If you wish, the rent will be returned to you together with the profit made, I will not press your honor with

\footnote{\footnotesize{Although occasionally this was still clarified, see, for example, Bodl MS Heb a 3 42 (ed. Olszowy-Schlanger, \textit{Karaite Marriage Documents}, #56), Fustat 1117.}}\footnote{\footnotesize{See TS 13 J 2 3 (ed. Friedman, “Match Making and Betrothal,” 165-169), Fustat 1093. In this document, Moses b. Halfon was betrothed to Turfa bt. Yeshū’a ha-Cohen. The couple would live in the upper apartment in the house belonging to the father of the bride. The husband would not be asked to pay rent, and if they did not live in this house, then the wife would receive any rent obtained from it. ENA 2727 14b (ed. Ashur, “Engagement and Betrothal,” A-6), from the 1330s, states that as long as the couple live in her house in the delta town of al-Maḥalla, the husband would not pay her rent. If they did not live in al-Maḥalla then she would have possession of any rent received. See also \textit{Med. Soc.} 151.}}\footnote{\footnotesize{TS NS J 378 (ed. Ashur, “Engagement and Betrothal,” A-19 and partial English translation in Goitein, \textit{Med. Soc.} 3:144). The wife’s name was Sitt al-Dalāl. The fact that delay and argument are mentioned suggests they were expected.}}\footnote{\footnotesize{TS 12 558 (ed. Ashur, “Engagement and Betrothal,” H-10), although it is possible that the couple was not to live in this apartment and that it might have served as an ‘investment apartment.’ On the husbands paying rent to their wives in Islamic society, see Rapoport, \textit{Marriage Money and Divorce}, 62.}}
anything else. The Creator knows that my staying in the house is not out of desire for the house or to save rent but out of desire to see your noble face, may God lengthen your life. When it was clear to me that you do not prefer our living together, I swore that I would not eat during the day, otherwise I will move away.113 Were it not for the oath of advice, I would have moved without the writing of this letter…114

Elsewhere I have discussed the fascinating dynamics of the martial dispute reflected in this letter. For our purpose here, it is important to see how a husband could effectively renegotiate the monetary arrangements that were probably decided at the time of the marriage. Of course, it is beside the point whether we consider it ‘just’ or not that the husband was asked to pay the rent. What is interesting here is how by absenting himself from the house, the husband inflicted pressure on his wife and her family to the point where the wife convinced her family to forgo the previous monetary arrangements for one more favorable to the husband. In this sense, this case fits the general dynamics examined throughout this chapter of women pressured to agree to a reduction of their monetary rights.

On rare occasions, we even find women pressed to pay the poll tax instead of their husbands. We have seen above the divorce agreement in which “the Lioness” agreed to

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113 In his response to my edition of this document, Friedman suggests understanding intaqala as ‘to die’ and states that “everything mentioned about the wife’s movement to another apartment should be erased.” He translates: “I swore that I would not desist from my day-time fast until I die, and were it not for the oath of council [?], I would have died without the writing of this letter.” While intaqala may mean ‘to die’ (a derivative meaning from ‘to move,’ i.e. to move from this world), there are numerous examples in the Geniza that show that the commonplace meaning of intaqala is to move apartments or to a new place. See TS 16 35 (ed. Marmer, “Patrilocal Residence”), r. 8-10: תָּאָהוֹרָה אֵלָרִיָה בָּא אֶת-נָהְלָה בָּא פָּמָא וּמָהוָה; TS 13 J 27 21.12: תָּאָהוֹרָה אֵלָרִיָה בָּא אֶת-נָהְלָה בָּא פָּמָא וּמָהוָה; or TS 10 J 9 13, l. 9: תָּאָהוֹרָה אֵלָרִיָה בָּא פָּמָא וּמָהוָה; and see also ENS NS 7 24, v.5: תָּאָהוֹרָה אֵלָרִיָה בָּא פָּמָא וּמָהוָה (ed. Bareket, “court records,” 23). Many more cases can be found in the Princeton Geniza Browser (PGB). Furthermore, the earlier statement in the letter “My staying in the house is not out of desire for the house or to save rent” suggests that the wife’s staying in the house or moving away was at stake. I would thus maintain that intaqala is used here in its ordinary meaning, and that there is no need to “erase” the discussion of the wife’s moving. Rather than understanding aw (‘or’) as ‘until,’ I now understand it to mean wa-ʾillā (see Blau, Grammar, 257), as is reflected in the translation above.

114 Westminster College Arabica II 51, ed. Zinger, “Long Distance Marriages,” 58-59 and see discussion in 38-42. For some important corrections, see Friedman, “Marital Strife,” 89-90. In l. 6, I originally read מָא יְפִילְו וְאָלַמְשָדָיָא קַוְיָא. I now think that it is possible to make out some of the lacuna: מָא רָע לְעִּי מַן וְאָלַמְשָדָיָא קַוְיָא.
pay her child’s poll tax for two years. In a famous responsum of Maimonides, we hear of a husband who abandoned his wife and child for three years. When he returned, he was captured by the poll tax official and he did not have even half a dirham with which to pay. His brother (or father) paid it for him. Later the burden of his poll tax fell upon the wife and his mother. When his children grew up, he also did not pay their poll tax, and apparently the husband’s mother and later his wife provided their poll tax. Finally, we already saw in the petition which opened this chapter how a husband demanded that his poll tax be paid for him.

Thus far we have seen four patterns. First we have the continuous pressures exerted on women during their married life to relinquish some of their monetary rights. Second, the fact that these relinquishments took place during the marriage suggests that similar concessions encountered at the time of divorce cannot be explained merely as resulting from the dynamics of the dissolution of marriage; instead, it seems that we are encountering a general dynamic of compromising women’s monetary rights that

115 TS 13 J 4 7, see above.
116 Maimonides, Responsa, #34, and see p. 49, n. 3 for the uncertainty regarding the brother or the father. A more ambiguous case is TS 8 J 10 17 (trans. Med. Soc. 3:191-192): An agreement from Fustat 1133, probably before the husband travelled away, whereby the husband promised to provide his wife with 20 dirhams and two waybas of wheat every month. From this the wife would pay the rent, his poll tax and the maintenance of the house. The wife was also allowed to keep the profits from her handiwork (which means in this context that she was supposed to use them for the maintenance of the house). It is not easy to assess this arrangement, but it seems that these sums were lower than average (as Goitein himself suggests) and reflect the expectation (discussed below) that the family live modestly. Six waybas (i.e. an irdabb) usually were worth one dinar (although the prices fluctuated) therefore, this wife received the equivalent of about 33 dirhams a month. If the yearly poll tax of the husband was at least a dinar and a half (though probably more since her husband might have been a merchant), then she was left with less than 27 dirhams a month. If we take off about 7 dirhams a month for rent (but of course one cannot live on bread alone) we end up with 20 dirhams a month. Since rent probably took at least half of this amount (the reasonable rent for a middle class family was half a dinar (~20 dirhams), it is clear that this sum fell significantly short of what the wife would need; for these calculations see Ashur, “Engagement and Betrothal,” 83; Ashtor, Histoire des Prix, 124-127; Goitein, Med. Soc. 2:387 (for the poll tax), 4:238-244 (for wheat) and 4:93-96 (for rent). 117 ENA NS 31 21, see above. Another case is TS 8 J 21 30, men. Goitein, Med. Soc. 5:89-90, an incomplete petition to the Nagid David b. Abraham Maimonides of a husband who for the first payment for the poll tax for the year 650AH had to sell even the malhafa (a type of cloak) of his wife, see also Vaza-Molad, 177.
manifests itself both during marriage and at divorce. Third, since we almost never hear of women trying to cancel or protest against these compromises, this shows that they were taken for granted. Finally, from the willingness of women to compromise their dowry or *meʿūhar* in order to avoid divorce we see the great lengths to which many Geniza women were willing to go in order to stay married.

**The Dynamics of Compromise**

While so far we have looked at documents that revealed the final outcome of divorce or marital disputes, it is useful to examine a few documents that shed light on the processes that may have led women to surrender their monetary rights. Looking at these cases shows that the dynamics of marital disputes in general and the dynamics of divorce settlements, in particular, played an important role in such compromises. In other words, the compromises are not merely the result of husbands pressuring their wives. The dynamics of disputes, especially in courts, played a significant role in bringing about such concessions.

A rather simple case of compromise ought to be presented in some detail for the interesting information it offers concerning the working of the courts. On October 1130, Sitt al-Kull bt. Berakhot ha-Levi, known as Naṭīra, b. Samuel ha-Levi\(^\text{118}\), released her

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\(^{118}\) There is some confusion regarding his name. In Bodl MS Heb b 11 3 (ed. Friedman, *Polygyny*, I-10) we find in line 2: //ברכות סדרא ב֗ delimited by //ברכות הזקן סדרא//, and in lines 10-11: ברכות הזקן דידיע סדרא //meʿūhar//. In his edition, Friedman decided for ב֗ as “son of” (not necessarily meaning direct progeny, but as a family name) while noting the possibility that the dot indicates a deletion. The second alternative is to be preferred on the account of ENA NS 21 9 and TS 8 J 33 11 (two fragments of different deeds also belonging to this case, previously unmentioned in the literature) where his name appears as Berakhot ha-Levi b. Samuel, the Elder. Incidentally, TS 8 J 33 11 also suggests that there was some business partnership between Berakhot and Šedaqa. In TS 8 131 his name also appears as Berakhot ha-Levi. It seems that he was called Naṭīra and he was the son of Samuel. The dropping of the Levi is not unheard of in Geniza deeds, compare Samuel’s name in ENA NS 21 9 and TS 8 J 33 11.
husband, Ṣedaqa, the singer, b. Ṣemaḥ, a man of some prominence, from responsibility for her dowry in exchange for a free disposition with the items of her dowry (*tašarruf*). This agreement did not save the marriage. On Monday, 25 April 1132, Ṣedaqa expelled Sitt al-Kull and their still suckling son from the house. For several months (at least until July 1132) she did not return to live with him because he desired to divorce her. In a court record recently identified as belonging to Sitt al-Kull and Ṣedaqa’s divorce proceedings, we find Ṣedaqa presenting the court with a list of his claims. His father-in-law agreed to pay whatever Ṣedaqa would take an oath upon. However, Ṣedaqa retorted: “This I will not accept! Our lord (i.e. Mašli’aḥ ha-Cohen) said that she would take the oath. Go read the list of claims to her.” A delegation was sent to Ṣedaqa’s wife who gave her account for the various items on Ṣedaqa’s list. However the matter was not completely resolved and the issue of maintenance still had to be settled, so the court record was sent to Mašli’aḥ who wrote on the back of the record a terse

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119 *ha-meshōrer;* on this title see *Med. Soc.* 2:224. The name Ṣedaqa b. Ṣemaḥ appears in many documents. However, in some of them the title *ha-meshōrer* does not appear and it is possible that this was a different person with the same name. Other occurrences of Ṣedaqa b. Ṣemaḥ are noted by Friedman: TS 8 125, DK 230 2, Bodl MS Heb d 66 96. To these it is now possible to add: ENA NS 21 9, TS 8 J 33 11 and TS 28 17 (ed. Ackerman-Liberman, “Partnership Culture,” #56) where we find Ṣedaqa b. Ṣemaḥ b. Dāʿūd al-Raqqī and, perhaps, TS 13 J 17 8 which is addressed to אביו אלכיר צדקה בן צמוח בן ששון – it is possible that this is the same person addressed in DK 230 2. I learned about most of these documents from Goitein’s notecards. Further documents are mentioned below.

120 From TS 18 J 1 21 (ed. Rivlin, *Inheritance*, #34) and TS NS J 94 (ed. Rivlin, *Inheritance*, #35 and Weiss, “Halfon,” #209) we learn that Ṣedaqa owed Abū al-Maʿālī, the Jeweler, Solomon b. Yakhîn, now on his deathbed, a sum of no more than 90-91 dinars for a business partnership they had. Of course, only a man of the middle class could be involved in such business transactions. A high social standing is hinted at also in ULC Or 1080 J 27 where he is addressed as צדקה השר הנכבד הנבון המשורר.

121 Bodl MS Heb b 11 3, ed. Friedman, *Polygyny*, I-10; see Friedman’s meticulous edition for further information.

122 Correcting TS 8 131 as Friedman suggests (*Polygyny*, 79.3) *li-kawnih muṭāmil[s] al-infiṣāl minhā.* The other option that Friedman offers, that she desires to be divorced from him, can be ruled out for two reasons: (1) Line 6 has: *iltamasa taḥaqahā,* (2) The whole purpose of the sentence (and the deed in general) is to claim that it was Ṣedaqa who expelled his wife from his house and that she could not come back to the house because of *his* desire to divorce her and for this reason he owed maintenance (compare ENA NS 31 21 with which we began this chapter).

123 This is TS 10 J 6 11, ed. Weiss, “Halfon,” #138. As far as I know this is the first time that the connection between this fragment and the Ṣedaqa cluster has been made.
response to the judge: “Come to us tomorrow or today to hear the answer to what you wrote in this document.”

In the next court session we learn that Mašli’ah ordered the convening of the elders to fix the amount of maintenance due to Sitt al-Kull and her still suckling son. It is in this gathering that we get a glimpse of the dynamics of compromise.

The legal deed reports how eight elders, together with a large number of onlookers, gathered in the Palestinian synagogue. All present agreed that the sum could not be less than a dirham and a half per day for “food, oil, [...] bath, rent and everything else she will need.” When the sum was agreed upon, the representatives of Mašli’ah (i.e. the members of the court) agreed to the sum assessed by elders. However, when the time came to confirm it in writing, “there was someone present who mediated the agreement and continued moderating the agreement until one dinar a month was decided and nothing less. (This was decided) despite the fact that the woman and her son

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124 I give here only a general overview of TS 10 J 6 11, because it is examined at greater length in the next chapter.

125 Curiously, neither Sitt al-Kull or Berakhot are mentioned by name. However, we know it was not some other wife thanks to TS 8 131. The convening recorded in Bodl MS d 66 7 was held on Tuesday eve and TS 8 131 took place on the following Thursday. The interesting interplay between the Nagid’s orders and the court’s actions can also be seen in ULC Or 1080 J 49, trans. Med. Soc. 4:325-8.

126 Bodl MS Heb d 66 7, r.4-5, (ed. Weiss, “Halfon,” #8): wa-hadārā ma’anā jamā’a kabīra. See Weiss’ comment: “It was not really a court but a council of eight people, consisting of judges and common laymen,” ibid, 1:97. Weiss counts eight people from the eight signatures, but it is possible that the “many people” included more than the eight that were asked to sign the deed (ll. 14-15 talk about “those present with us” but perhaps do not mean all those present). Notice that the role of the elders and the community here is to set the sum of maintenance (tagrīr al-fard), not to decide the case. On this use of fard, see Friedman, “Ransom Divorce,” 305, n. 65, and ibid, Polygyny, 79, n. 2.

127 fa-lammā [ittafaqt?] al-kalima al-dhālīka askāmānah nahlū al-nawwāb an hadrat adōnenū ha-Gaon yeḥīna ḫālī askāmānah wa-man khatama min dhālīka askāmānah is the Hebrew hiskīm, conjugated according to Arabic. We find askāmānah in this meaning also in TS 10 J 7 17, v. 17, (the verso is actually the first page): fa-ḥīna ʾidān askāmānah nahlū wa-man khatamā (the scribe began writing ḥabata and then corrected himself) khitāmahu (also corrected) maʿanā min al-shuyūkh (again, notice the separation between the “court”, i.e. the judges, and the “elders”) ʾī ḥādhā al-kitāb ʾalā iqāmat M. pel(ōnī) ben pel(ōnī) danan wakīn ḫī-yatōm. This confirms Friedman’s suggestion regarding TS G 2 60, p. 4, l. 11, ed. Goitein-Friedman, Lembă, I, 28a, p. 212, n. 167.

128 tawassṣāṭa al-hāl (see TS 16 203, r.6, ed. Ackermann-Lieberman, “A Partnership Culture,” #52) wa-lam yazal yuraqqiq al-hāl.
would need to live under constricted living circumstances.”¹²⁹ We do not know who intervened on behalf of Ṣedaqa and what that person’s motives were. Even the reduced sum is substantially above the minimum rate of maintenance (which is both the minimum and the standard rate). However, maintenance should be set according to social standing and, as was already stated, Ṣedaqa clearly belonged to the upper middle strata of Geniza society.¹³⁰ In this fascinating document, we get a glimpse of how the dynamics in court could result in a lowering of the sums due to women.

A more detrimental compromise is found in an oft-mentioned legal deed from 10 November 1091. This document is interesting both for its own sake, as well as for the way it was understood and presented by Goitein, who described it in a long paragraph:

Jekuthiel b. Moses, the representative of merchants usually referred to as “the Doctor,” was a hard bargainer, as we know from numerous documents,¹³¹ but he found his match in his tough-minded wife Muna. Court sessions preceding the divorce had been unable to settle the matter. She claimed that he still owed her money due from her marriage contract as well as some silver jewelry, and he asserted that she kept some of his belongings. Muna produced some clothing and household goods in court and declared that that was all she had. “The Doctor,” not satisfied, demanded that she swear the obligatory oath of the divorcée. The judge warned and intimidated her, as was usual in such cases; the bier and the trumpets (actually: ram horns) were brought in to remind her of death and the Last Judgment, but Muna remained adamant: “I swear.” Finally, worthy elders intervened, to avert the ominous event of a false oath. “The Doctor” agreed to pay 75 dinars and both parties renounced their claims.¹³²

¹²⁹ ʿalā anna al-imraʾa wa-waladahā yakūnā be-ṣimṣūm fī dhālika. On the expectation that women live in ṣimṣum, see also Bodl MS Heb c 50 23 discussed below.

¹³⁰ At first glance the reduction does not seem so significant. The first rate yields 45 dirhams a month and the final rate is usually estimated at 40 dirhams a month. However, when we look at the exchange rate in the 1140s (see Med. Soc. 1:380-381) we find the exchange rate was 35 dirhams per dinar, making the reduction of Sitt al-Kull’s and her son’s maintenance significantly larger, 22% of the original sum.

¹³¹ See also Goitein’s assertion in Goitein-Friedman, Lebdī, 41.

¹³² Med. Soc. 3:266
Before tackling the central document directly, it is important to look at the “court sessions preceding the divorce” which Goitein mentions. The documents cited by Goitein are two fragments of two copies made of the same legal procedure. However, upon close examination, this legal procedure does not seem to be part of the divorce negotiations, but an acknowledgement by Jekuthiel of his responsibility for property worth 75 dinars that his wife brought into the marriage. The relevant passage reads:

I, Jekuthiel b. Mr. Moses, the Physician, M(ay he rest in) E(den), take upon myself responsibility, [as of now (?)], for my wife, Muna, for property, slave girl [and cash, in total] 75 dinars, of which 70 dinars of the ketubba “in doubling,” the price of a slave girl [twenty dinars (?)] and 20 dinars, a fund without doubling, that she now brought forth.

Jekuthiel undertook a responsibility estimated at 75 dinars: 70 dinars of items “in doubling” (i.e. 35 dinars), a slave girl probably worth 20 dinars and 20 dinars in cash. Rather than being part of the couple’s divorce proceedings, these deeds seem to have been drawn up at an earlier date, either at the marriage, or more probably, during married life.

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133 Goitein cites TS 8 184 and ENA Misc Add 1. The latter shelfmark was a temporary one, before the document was catalogued. It seems as though the document was later untraceable and Goitein stopped referring to it in his later publications. It was Friedman who re-identified this document as ENA NS 30 8, see his Polygyny, p. 279, n. 1.

134 The procedure of writing two deeds (whether copies or slightly different versions) of the same legal procedure is well known and discussed in Phillip Ackerman-Lieberman, “Legal Writing in Medieval Cairo: ‘Copy’ or ‘Likeness’ in Jewish Documentary Formulae” in From a Sacred Source: Genizah Studies in Honour of Professor Stefan C. Reif, ed. Ben Outhwaite and Siam Bhayro (Leiden: 2011), 1-24.

135 On the meaning of this key word, darak, see Blau, Dictionary, 212; Maimonides, Responsa, 1:171, 1:3; and Geoffrey Khan, “The Pre-Islamic Background of Muslim Legal Formularies” Aram 6 (1994), 214-223.

136 ENA NS 30 8 (completed with TS 8 184): Wa-qad qabiltu anā Yeqūtīʾel bar Mor(enū) [ve-R(abenū) Mosḥ(e ha-Rofe Nūḥ(hō) ‘E(den)’ alā nas[f[a me’akhshav (?) li-zawjaṭi (?)]] Mūnā dā darak mā aḥḍaratha al-ān min raḥl wa-jāriya [wa-geren(?) jumla (?) kha]msa wa-sab ‘in din(ār) minḥā sab ‘in dinār be-qiyyam al-ketubbot be-kefila wa-thaman jāriy[a ‘ishrin dinār] [(wa-sh)] wa-‘ishrin dinār qeren be-lō kefila hasab mā huwa mashrūh le-ēlā.

137 On doubling the value of the dowry, see Med. Soc. 3:126-7 and Libson, Jewish and Islamic Law, 243, n. 218.

138 This is the average price of a slave in the Geniza, see Med. Soc. 1:139.

139 Occasionally, such deeds were made at marriage separately from the ketubba “for the fear of the times,” see ENA 3755 6, ed. Ashur, “Engagement and Betrothal,” H-25, and see pp. 88-89 and Med. Soc. 3:126. However, in this case, it is perhaps more probable that the deed was made during the marriage. For
Now that we can turn to the draft of the divorce settlement and see whether Jekuthiel indeed “found his match in his tough-minded wife Muna:”

We were present in the great court … after (previous sessions in which) Muna bt. Mr. Samuel … sued her divorcée //her husband// Mr. Jekuthiel b. Moses, … and it was settled and demanded from him for what was confirmed upon him in court (as a debt) regarding the rest of her ketubba and for silver items … in her ketubba … It was settled that she would swear … and receive from him all of what she deserved and he will write her a bill of divorce …. We came to the synagogue with (the members of) the court to impose the oath upon her according to what was stated previously. She brought forth cloths, bottles, and household goods and said: “This is all that remains of his property with me” and said that she would swear to it. The court (i.e. the judge) … warned her against taking the oath and intimidated her and spoke to her as the likes of her are spoken to, but she said: “I will swear upon it.” The bier and the shofars (ram horns) were brought forth, … she said “I am not able to swear”. The elders of the congregation, may they be heavenly blessed, interceded and mediated between them a compromise without an oath: the aforementioned Muna would let go of all her claims and what she is owed from the rest of her ketubba, and he will write her a bill of divorce immediately and she would be released from him and he would be released from her.

The draft goes on to describe the process of divorce and concludes with Jekuthiel receiving the deed of the ketubba and tearing it thoroughly. Comparing the draft with Goitein’s example, when a wife wanted to make her melog property into iron sheep property, when she received an inheritance, when the times were bad and she preferred to safeguard the money by leaving it with her husband, or when the husband simply wanted a loan. The fact that 20 dinars in cash are mentioned suggests that this was not the dowry at marriage, since ketubbahs did not tend to include cash; see Med. Soc. 231-232. In Goitein-Friedman, Lebdī, 40-41, Goitein wrote: “TS 8 184 that was preserved in a very fragmented way obligates Jekuthiel to pay his wife 75 dinars from her ketubba.” I believe that if Goitein had before him ENA NS 30 8, which is more fully preserved, he would have agreed that Jekuthiel is declaring his responsibility for the property his wife brought forth (darak mā aḥḍaruḥu al-ʾān). See also TS 16 220 (especially r. 12-13) which serves a similar function and see Med. Soc. 3:182, n. 115.

The reference to “the rest of her ketubba” implies that she did receive something of her dowry or dower (although it may merely be a reference to the receiving of the essential ketubba at the marriage). This might be what led Goitein to suggest that the 75 dinars mentioned in TS 8 184 and ENA NS 30 8 are what Muna received. However, it was shown that this is not likely. It is probable that Muna took from her house whatever she could get her hands on from the items of her dowry and now demanded the rest from Jekuthiel.

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141 I agree with David that this should be understood as “I will swear” rather than Goitein’s “I swear.”

142 Written: חצרהא standing for ḥaṭarahā/ḥadharahā, see Blau, Dictionary, 115 and 133.

143 For what this oath entailed see the sources in Tykocinski, Geonic Ordinances, 58-68 and Libson, “Gezerta.”

144 ENA 4020 47 ll.4-16, partially ed. David, “Divorce,” 101-104. wa-tabīn minhu wa-yabīn minhā; on bāna min in this sense see Blau, Dictionary, 59.
description of the case illuminates how he sought to dramatize the dry legal deed and recreate the lively legal proceedings. In this way, he conjectured Jekuthiel’s assertions and demands in court, although they are missing from the deed as we have it. He also inserted the supposed agreement of Jekuthiel to pay 75 dinars into the midst of the proceedings although, as one can see, they are not mentioned.

More importantly, however, we see how the dynamics of Muna’s concessions are blurred. Muna does not appear here as “tough minded” or a “hard bargainer,” as Goitein contends. His claim that “court sessions preceding the divorce had been unable to settle the matter” is misleading. The previous court session had determined that, pending her taking the oath, Muna would receive what she claimed from her husband. However, in the final outcome Muna was talked into releasing her husband from all her claims.

It is difficult to tell what happened at the moment Muna was supposed to take the oath. It appears that she was resolute about it, but at the last moment the court’s intimidation overcame her and she was unable to follow through. We are lucky to be able to witness how the draft of the court record erased her refusal and moved on to present the final resolution as a compromise reached by righteous elders. However, it is important to notice that this compromise was, in fact, a total surrender on the part of Muna, as she released Jekuthiel from all of her claims. If, indeed, Muna was unwilling to take the oath, we can understand why she lost her claim. However, the point here is not to assess the work of the court or the elders, but to understand the dynamics which contributed to the reduction of women’s monetary rights. The requirement to take the oath...

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145 While a court has the right even to force a compromise in order to avoid the taking of the oath, usually such a compromise leads only to a partial reduction of the monetary claims (in modern Israel, usually a third is deducted). The mention of the silver items and the cloths, bottles and household items all suggest that what was at stake was the dowry (which indeed requires an oath). Receiving the meʾūḥar, apparently, was out of the question.
fearful oath and the intervention of elders were a significant element in this dynamic. In her endeavors to claim her monetary rights, a wife was subject not only to constant pressures from her husband and his family to forgo her monetary claims, but also to the intimidation and pressure of the courts. Finally, we saw how Goitein’s assumption about ‘powerful women’ misled him into presenting Muna, despite her loss of monetary claims, as a ‘tough bargainer’ and ‘tough minded’ wife in whom her husband had met his match. In two other cases, we see women willing to take the oath and the court pressuring them to accept a compromise.

Since, as we have seen above, demanding that the wife take an oath was such a good way of prolonging the legal proceedings and carried the prospect of the husband being released from at least a part of his debt, it is not surprising to encounter, especially in responsa, men accusing their wives on various grounds and demanding that they take

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146 While men usually had experience with the legal system and oath-taking from their commercial involvement (or from being witnesses or bystanders to other people taking the oath), a woman would not have experience of formal oath-taking. Even standing in the male section of the synagogue close to the ark, or even holding the Torah scroll, that she previously had only seen from a distance might be an unnerving experience. This might suggest that women were more vulnerable to the court’s intimidation and pressures and that formal oaths might have been more intimidating for them. See more below.

147 Regretfully, these examples are found in incomplete fragments leaving many questions open, and complete understanding of these cases is impossible. ULC Add 3339b is the top part of a legal deed from Bilbeis. Originally, Nu’m (or maybe Ni’am) bt. Futuh, the wife of Barakāt ha-Levi b. Solomon, had a delayed marriage gift of sixty dinars. However, she agreed to reduce this sum by half as long as she would be released from taking the required oath at divorce or widowhood. When Barakāt was on his deathbed in January 1217, he announced that Nu’m should have a delayed marriage gift of forty dinars if she would stay in her widowhood until their two daughters married or died, otherwise she would receive the aforementioned thirty dinars. Two years later, on December 1218, Nu’m declared her intention to marry, before the daughters were married. The court told her she would be required to take an oath. She admitted to several items and was required to pay the orphans three and a quarter dinars (why she needed to pay the orphans when she was owed thirty dinars is not clear). However, when she began to take the oath, righteous elders intervened and mediated a compromise that she would pay the orphans four dinars. The reasoning for their intervention was “because the deceased Barakāt released her from the oath in the will because her delayed marriage gift was sixty dinars and she compromised with him on thirty dinars without her taking an oath.” Regretfully around this point the fragment ends. In another document, TS NS 321 91, we witness a rather long discussion between a woman and the court about taking an oath in a legal dispute she had with a man (the document mentions that she “lived with him for several years” so he might have been a husband or a relative). The document is fragmentary and very hard to decipher, but it seems that the court kept asking her whether she was willing to take the oath. Her answers seem to be that she is willing and even wants him to be present. When asked again, she said “I prefer nothing but that the Torah scroll be brought forth” (i.e. for her to take the oath). It seems that in this court session the oath was not administered.
an oath. It seems that often such acts were mere pretexts for their attempts to be rid of their financial responsibilities.\(^{148}\)

In one case, a man divorced his wife, and when the *meʾūḥar* and the rest of the dowry incumbent upon him were demanded from him (notice that the *meʾūḥar* was not collected prior to the act of divorce!), he claimed to possess nothing with which to pay these sums.\(^{149}\) His wife obligated him to swear the oath of destitution (*yamīn al-ʿadam*).\(^{150}\) While his financial affairs were being examined (in order to assess his ability to pay his debt), the husband claimed that when they were married his wife only pretended to perform the ritual immersion following her menstrual period and that now it was clear to him that she had had sex with him while being impure, not having immersed at all. He made an inquiry into the matter and “it was not verified to him that she immersed.” He then demanded from his former wife: “Swear that you did not deceive me regarding the immersion and that since I have married you, you never had sex with me in a state of *niddah*, and then I will pay you what I owe you.”\(^{151}\) When it came to writing down the items of the dowry as a debt, he demanded that his wife swear that she had not taken them or hidden them. To this the judge retorted: “Should your wife swear and receive nothing?” The husband answered: “Should a debt be written upon me without an oath?”

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148 See the explanation of trial balloons and *Shīṭat Maṣlīʿah* in n. 68 above.
149 Maimonides, *Responsa*, #12 and see also 3:119.
150 On the oath of destitution see Libson, *Jewish and Islamic Law*, 113-156.
151 The context for this husband’s claim is Maimonides’ famous *taqqana* regarding women’s immersion which basically stated that a woman who did not immerse properly (as opposed to the custom prevalent in Egypt at the time) would lose her *meʾūḥar*, see Maimonides, *Responsa*, #242. Maimonides probably did not intend it but, as this responsum shows, this *taqqana* opened another way for husbands to try to wiggle themselves out of their monetary responsibilities. After all, most women would probably hesitate to formally take an oath on any matter, and especially that they had always immersed properly and never had sex with their husbands when they should not have. See more in the cultural explanation presented below.
A more ingenious tactic is found in a case of a man who quarreled with the relatives of his upper class Alexandrian wife and vowed that his wife should not be his wife unless she would forgo thirty dinars of her meʿūhar.\footnote{Maimonides, \textit{Responsa}, #365. Notice that such tactics were not the domain only of the lower classes.} The questioner discloses that “He only did so in order to defeat the relatives of his wife.” The court informed him that he could not force her to forgo her meʿūhar. However, “Someone taught him to request her to go with him to Palestine to live there. Since she would not agree to leave the people of her homeland, she would decrease her meʾūhar and act according to his wishes.”\footnote{This stratagem is based on Mishna, \textit{Ketubbot}, 13:10-11 and see MT, \textit{Ishut}, 13:19-20. See also TS 10 J 11 30, ed. Gil, \textit{Palestine}, #104, and discussed in Zinger, “Long Distance Marriages,” 34-37, and Chapter Four below.} When he followed this advice, the court declared that unless there was danger on the road, or something that hindered her traveling, the wife was obligated to follow him to Palestine, or else she was to be divorced without a meʾūhar. This ruling caused outrage in Alexandria, and people claimed “From now on, anyone who hates his wife and wants to divorce her without giving her the ketubba will falsely accuse his wife in this way!” Maimonides’ answer and the public uproar probably prevented this scheme from working. However, we see in these examples the reality of continuous assaults on women’s monetary rights and the many tactics available to husbands, both outside and inside the court, in order to try to avoid payment. We do not find equivalent tactics available to women.\footnote{For example, the wife’s demand that her husband swear the oath of destitution did not hold the promise of bringing about an increase in her husband’s debt to her. As far as I know, there is no evidence in the historical Geniza for the Talmudic procedure of the rebellious husband (where the ketubba is regularly increased).}

\textit{Why compromise?}

This chapter places the wide-ranging pressures on women to compromise their monetary rights, and the resulting compromises, as a central feature of Geniza women’s
married lives. While strands of this reality have been mentioned previously in passing, its importance and prevalence is revealed by adopting a broad perspective that brings the strands together and interprets them in a new way. The cases in which a husband pushes his wife to ransom herself affect our understanding of the ransom divorce. The fact that women often released their husbands from their obligations at divorce changes our assessment of similar releases regarding children’s maintenance. The way women relinquished their monetary rights during the marriage must be viewed in connection with similar releases at divorce (especially since the releases during the marriage were often carried out under the threat of divorce). Bringing these issues together reveals that they are a part of a general continuum.

In fact, one can expand this connectivity into other realms which have not been discussed so far, either because they have already received scholarly treatment or due to space limitations. The difficulties widows faced when they tried to collect their meʾūḥar or their dowry have been discussed in detail by Goitein. He explored the numerous hurdles a widow had to overcome before she could secure (often partially, if at all) her monetary rights. Examining the cases presented by Goitein with those presented in this chapter shows the connection between the plight of married wives, divorced women and widows. Another topic that ought to be connected to those mentioned in this chapter

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155 For example, Friedman’s “The Inheritance,” 255 n. 40; David, “Divorce,” 59, 129, 142 and 169.
156 See Med. Soc. 3:250-260, and Rivlin, Inheritance, 76-77 and 82.
157 See, for example, ENA 4011 6 (Goitein has it as ENA 4011 5) where a widow is owed 30 dinars for her meʾūḥar and 20 dinars for the rest of her dowry. In order to collect, the court asks her to take the oath, to which she agrees. Then her elder son (the younger son is still a minor) declares that he will lift the obligation of the oath and give her the sum they agreed on (mā qad taṣālaḥnā ʿalayhi anā wa-hiya). Basically she would accept the 30 dinars of the meʾūḥar and relinquish her claim to the remaining 20 dinars of the dowry, see Goitein, Med. Soc. 3:257. The similarities to the documents discussed in this chapter are obvious. See also Cohen, Poverty, 140-141, where he also makes the connection between the plights of divorced women and that of the widow: “Divorcées … were not much better off than widows. Both had claim to the “delayed” marriage payment promised by their husbands in the marriage contract and to the
but could not be explored in detail due to limitations of space is the maintenance due to families of absent husbands.\(^{158}\)Absent husbands often maintained their wives only partially at best, and attestations abound concerning the great need of families whose providers were away.\(^{159}\)Naturally, these topics are substantially different from those examined in this chapter, both legally and in terms of social practice. However, they share with them the common factor of women receiving their monetary rights only partially, or not at all, and the severe consequences that this entailed.

The purpose of this chapter has been to arrive at a better understanding of Geniza wives’ predicaments and experiences of married life and divorce. The continuous and multifaceted erosion of women’s monetary rights is an essential feature of women’s

\(^{158}\)I have collected many documents concerning the maintenance received by wives of absent husbands. Originally this was supposed to be a subsection within this chapter, then the material grew to deserve a chapter of its own and finally I realized that it cannot be done justice in the present dissertation (see Goitein’s comment about the absent husbands in general: “The material on this topic is vast, sufficient to fill a volume”). The question is not merely whether wives received their due maintenance or not, but how the care for such maintenance was arranged: Was the wife given support directly or was a male appointed to manage the maintenance? Was this appointee a relative of the husband, of the wife, or a business partner of the husband? Was maintenance given in cash or kind? How much was the giving of maintenance formalized in legal deeds and arrangements before the husband left? Can we see change in the arrangements from the 11th to the 13th century? I hope to attempt to answer these questions in a future study.

\(^{159}\)See Med. Soc. 3:193-194.
married life that has not received proper attention. The previous pages have, I believe, sufficiently proven the existence and prevalence of these types of compromises and their connectivity. The remaining pages point to three underlying causes of such dynamics: poverty, the general legal framework of Jewish marriages, and cultural assumptions about women. Since each explanation would require a complete study to do it justice, they are offered here in a form of ‘chapter headings’, i.e. in broad strokes that await further research for completion.

**Poverty**

As emphasized in the introduction of this study, Geniza society was predominantly poor. The most obvious reason wives did not receive their full monetary rights or were asked to relinquish some of them was that husbands simply could not live up to their commitments. Indeed, we find repeated references to poverty in husbands’ requests to take the oath of destitution or to pay the ketubba in installments. This does not mean that such claims were always true, but they must at least have been plausible.

Furthermore, Geniza society was a debt-ridden society. Numerous mercantile documents show us how most transactions were executed on credit and the difficulties merchants had when it came to collecting debts owed to them. In other words, partial payment of debts and payments in installments were the norm in Geniza society. That

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160 It is important not to conflate the cultural explanation with a gender explanation, since considerations of gender abound also in the ‘poverty’ and the ‘structural’ explanation.

161 For taking the oath of destitution or claiming they have nothing see Maimonides, *Responsa*, #14, #200-#202, #363 and #376; TS G 1 75 (ed. Friedman, *Polygyny*, VII-5); and ULC Or 1080 J 7, (ll. 3-4: “I was forced to leave and seek livelihood and I cannot achieve it” – והוצרכתי לעזא ולבקש מחיה אין ידי//משגת// and also l. 28), see n. 49 above. For the dowry, or part of it, being used up to buy food or essentials see TS 8 j 4 4: a marital dispute settlement from Fustat, 1057. The wife of Shim'on b. Levi made various claims against him. He admitted to taking from her eight dinars to do business with and four dinars with which he bought wheat. He promised to rent her a house among Jews and give her back the items of her dowry that were in his possession. For a man selling his wife’s dowry to pay for a debt (not always with her permission), see TS 13 J 20 5 r.13-14, ed. Khan, *Documents*, #79; ENA 2728 5; TS 8 J 21 30, men. *Med. Soc.* 5:89-90 (regarding the poll tax); Maimonides, *Responsa*, #60; al-Fāsī, *Responsa*, #87. For the consideration of poverty in context of maintaining an orphan girl, see Maimonides, *Responsa*, #33.
being said, we have seen above that at least when we have the data to compare, women’s ability to collect their debts was significantly lower than that of merchants. In other words, women may have suffered more acutely from this widespread social evil. Furthermore, many of the documents discussed above involve middle and upper class couples where presumably the husband did have the means to pay. Thus, poverty is an important contributing explanation, yet an insufficient one.

In this context of poverty and “the perennial scarcity of specie,”162 the lure of using the items of the wife’s dowry must have been irresistible.163 The dowry constituted the main property possessed by the young couple and, in Geniza society, consisted mostly of jewelry, items of clothing (which often served as a means of payment or could be mortgaged), household vessels and real estate. It seems reasonable to suppose that the availability of the dowry and the growing impoverishment of husbands played a central role in the numerous cases in which husbands simply used their wives’ property without their permission,164 or seized property and travelled away.165 Several documents reflect

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162 See Med. Soc. 3:121.
163 “Large quantities of precious metals were thus taken out of circulation and hoarded in the form of jewelry representing savings made for the protection of the so-called weaker sex. Since textiles served widely as types of payment, this consideration to a certain degree also applied to them.” Goitein follows this statement by noting that items of the dowry were used by husbands as collateral for debts or for their commercial undertakings, see Med. Soc. 3:140. See also Rapoport, “Divorce,” 209.
164 For husbands taking over the dowry without permission see TS 8 J 4 4; Bodl MS Heb. b 12 24 (the famous Persian law report – see n. 9 in Chapter One); ENA NS 31 21 (with which we opened this chapter); TS AS 151 24, ed. Ashur, “Engagement and Betrothal,” H-17; CUL Or 1080 J 192; Maimonides, Responsa, #371 (“The husband sold most of her dowry … and spent it on his needs”); JTS Marshall Case, ed. Friedman, R. Moses b. Maimon in Legal Documents from the Genizah” (Heb.) Shenaton ha-Misphat ha-Itivri 14-15 (1988-1989), 183-185, and see Friedman’s comment in p. 184: “Husbands’ exploitation of their wives’ property comes up in our sources frequently.” In Bodl MS Heb a 3 40v, ed. in the Appendix, it is clear that the agreement (in which the wife is shown to be the victor) followed the husband’s attempts to use the items of the dowry. In the negotiations he unsuccessfullly tried to have the meʾāhar decreased. In TS NS J 118, the husband tried to take items that the wife had inherited from her father, see Med. Soc. 3:187. In TS 12 377 a husband is half asking and half demanding that the family of his wife send him items from her dowry while evading her mother’s attempt at mediation (this is the first mention of this delightful letter). See also Mosseri III 234, ed. Glick, Seride Teshuvot, 53-57.
165 See, for example, Maimonides, Responsa, #14; ULC or 1080 J 105, ed. Gil, Palestine, #81; TS 8 J 5 8; ULC Or 1080 4 15, edited as Doc. #18 in Appendix Two, all mentioned in Med. Soc. 3:196-7 and 203. See
the apprehension that this might happen, thereby corroborating that this was a general phenomenon.\textsuperscript{166} To prevent such events, the dowry could be deposited with a trusted person appointed by the court.\textsuperscript{167} However, the husband could seize property even from such a person.\textsuperscript{168} While we also hear of women seizing property unilaterally during a martial dispute, usually they would take dowry items (i.e. what was their own property) and hide them with their family out of fear that the husband would take these items and disappear or that they be kicked out of the house.\textsuperscript{169} Finally, the growing impoverishment of Jewish society in the twelfth and thirteenth centuries and onwards meant that women’s earnings played a greater role in the household budget and caused some husbands to aggressively push their wives to go out and work.\textsuperscript{170}

Indeed, this is another example of how a broader perspective allows us to put a phenomenon we see in one set of Geniza documents into a wider context. The cases of

\textsuperscript{166} TS 10 J 7 8, ed. Bareket, Jews of Egypt, #102; TS 13 J 29 7, margins, ed. Gil, Ishmael, #407; and TS Ar 7 9, tr. Med. Soc. 5:15. There are numerous examples of husbands who left without leaving maintenance; for a few examples, see TS 13 J 1 2, ed. Gil, Palestine, #22; TS 13 J 1 6, ed. ibid, #318; TS 12 505, partially ed. David, “Divorce,” 170-171.


\textsuperscript{168} TS 8 J 4 15 1r.

\textsuperscript{169} See TS 10 J 12 1, edited as Doc. #10 in Appendix Two and discussed in Chapter Five; TS 10 J 26 11, ed. Weiss, “Halfon,” #145; TS 13 J 1 12, ed. Bareket, Jews of Egypt, #103; and Maimonides, Responsa, #81. On other occasions, a woman would seize her husband’s property as collateral to ensure that he, or his heirs, give her the dowry and/or the delayed marriage gift; see TS 12 357. In Mosseri VII 7 1, a (Karaite?) wife seized her husband’s books until a divorce settlement was reached. It was agreed that he owed 14 dinars. He gave one dinar in cash and another one and a half in items. The rest he promised to pay in installments of half a dinar a month. The seizing of the husband’s books to ensure payment has an interesting parallel in a famous responsum of R. Asher b. Yeḥiel, on which see most recently Elizur, “Enforcing a Divorce upon a violent Husband” (see n. 33 above).

\textsuperscript{170} See TS NS J 287 (men. Med. Soc. 3:133 and 146) and TS NS J 68). Of course, a husband is entitled to his wife’s earnings and should even insist that she work, however, these are cases of husbands who failed to perform their spousal duties. On some occasions we simply hear that a wife’s work or property provided the basic needs of the household; see TS 13 J 20 12 and Philadelphia E 16516, r. 13-14, ed. Gil, Palestine, #552. In order to complete the range of occasions on which wives’s property rights were violated, it is important to point out some cases where the threat came from the wife’s own family: TS 8 110 (Sittūna bt. Joseph releases her husband in a Hebrew deed because her father seized her dowry); ENA NS 22 20; TS 8 121, ed. Ashur, “Engagement and Betrothal,” M-3, and Med. Soc. 3:178-9. See also Rapoport, Marriage, Money and Divorce, 17-18.
husbands seizing items of the dowry without permission and taking off with them puts into perspective the cases we saw above, in which wives would give property to their husbands or allow them to mortgage it. Fear of the former surely influenced the latter. Economic scarcity meant a constant threat to women’s monetary rights. It could lead husbands to pressure their wives to allow them to mortgage property from the dowry, to relinquish it to them altogether or, in other cases, to simply seize their wives’ property and take off with it. Again we see the connection between the different ways of compromising women’s monetary rights.

The structural framework of Jewish marriages

The beginning of this chapter already mentioned the asymmetrical nature of divorce in Jewish law and how it brings about dynamics in which a husband may ‘squeeze’ concessions from his wife in return for granting a divorce. Moreover, we have seen throughout the chapter that Geniza husbands made such demands not only in cases where the wife asked for a divorce, but also in cases where the husband desired the divorce and

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171 This is expressed explicitly in a query threatening a communal leader that if he did not allow the payment of the ketubba in installments the husband would flee and the wife would be left an ʿaguna, see TS 8 J 14 2, n. 69 above. Here I am answering a question posed to me several years ago by Olga Litvak: “Fine, many husbands were absent from their homes for long periods of time, but surely the majority did not travel, so how did the reality of long distance marriages effect those that stayed behind?” One aspect of the answer is that, like polygyny, a husband’s travel constituted a viable threat to a wife even if her husband stayed put (or did not currently have a second wife). The option of travel (or polygyny), strengthened the negotiating position of men in general.

172 It is possible to suggest that the many cases in which husbands seized or appropriated items from the dowry may indicate that the complex Jewish marital financial arrangements might have been only partially understood by lay people in Geniza society. Situated between coverture in Common Law and the strict economic separation between spouses in Islam, Jewish law distinguishes between two types of the wife’s property: melog and iron sheep property (see the “Jewish Marriage 101” section). It is possible that many husbands did not understand the legal intricacies involved and may have considered the dowry as their own property. Furthermore, difficult economic circumstances certainly helped people to justify to themselves the appropriating of property which was not exactly theirs. This may be what Goitein alludes to in Med. Soc. 3:179: “I feel that many actual or alleged encroachments on the rights of the other spouse had their roots not only in outright greed or dire circumstances, but also in misunderstanding of the legal situation. A full elaboration of this point is, however, beyond the scope of this book.” I do not find ‘misunderstanding ’ (or ‘ignorance’) a useful approach to such popular conceptions. Misunderstanding the legal situation is, of course, a pre-condition, but such conceptions of property ought to be studied for what they are, not for what they are not.
tormented the wife physically or emotionally to compromise her monetary rights. While the framework of Jewish marriage is not the topic of this chapter, it is important to point briefly to a few of its features that contribute to the compromising of women’s monetary rights.

Despite popular (and often also academic) perception, a Jewish husband does not own his wife. A wife owns property and may conduct business, with certain limitations. A more fitting, though crude, model for the economic aspects of the marital relationship is that of ‘rent’: a husband pays a certain down payment, promises a larger sum in the event of the dissolution of the contract and commits to maintaining his wife throughout the marriage period. In return, he gains exclusive sexual access to his wife and a variety of other services (household care and fruits of her wealth and labor).\textsuperscript{173} Even in this simplistic formulation, one notices that during married life and at the time of divorce, money mostly flows from the husband to the wife.\textsuperscript{174} Because money streams mostly in one direction, it is not surprising that any compromise will involve a reduction of women’s monetary rights. In other words, since women are, monetarily speaking, almost always on the receiving end, it is their monetary rights that are repeatedly compromised.

Furthermore, women’s negotiating position \textit{vis-à-vis} their husbands is weakened by several further factors. The husband’s prerogative of divorce is not only exclusive, as already discussed, but also ‘binary’, while the wife’s monetary rights are flexible because they involve sums of money that can be negotiated. In other words, a husband either grants a divorce or he does not, while a wife may be pressured to concede some, most, or

\textsuperscript{173} Notice that when a wife refuses to have sex with her husband, the husband’s obligation of maintenance ceases. This model of “rent” breaks down when we consider, for example, that the husband inherits the wife’s possessions.

\textsuperscript{174} With the notable exception of the husband’s right to the fruits of the wife’s labor.
all of her monetary rights. Negotiation between a binary position and a position involving
a continuous spectrum easily tilts in the favor of the binary position.

Moreover, as we have seen above, husbands could make a range of accusations
against their wives at divorce (she already took some of the items of the dowry, she did
not properly immerse, she refused him sex, she failed to perform her duties). Even if
these accusations were not true, they were useful bargaining chips in the divorce
negotiations.\footnote{175} The wife would have been required to take an oath, something people
were clearly reluctant to do, or the courts might even compel the wife to decrease her
compensation in return for forgoing the oath.\footnote{176}

Furthermore, such accusations could delay proceedings for months on end.
Litigation in court was slow and the proceedings could be complex and excruciating for
women, especially if they did not have male support.\footnote{177) In the meantime, a woman might
not have any other means of support\footnote{178} and would remain “chained” to her husband -
problems that affected men to a much smaller degree. In other words, the element of time
worked against women’s negotiating position while men had a variety of ways with
which to prolong proceedings or delay payment.\footnote{179} Finally, men also had more extra-
legal options (marrying a second wife, taking a concubine, running away temporarily or
for good, expelling the wife from the house, beating her). Wives did not have these

\footnote{175} Again, see n. 68 on the practical logic of such maneuvering. See also Smail, 209.
\footnote{176} On the reluctance of the scholars and courts to impose oaths, see n. 49 in Chapter One.
\footnote{177} There are several Geniza documents which show just how slow and painful it must have been for a wife
to take the oath and collect her dowry. We have dealt with some aspects of this above (recalled ENA 4020
47) and see also Halper 342. When the wife had male backing, her bargaining position improved
substantially, see ULC Or 1080 J 49, trans Med. Soc. 4:325-328; TS 8 J 5 16; or Halper 402: Abū Faraj, the
husband of the sister of Naḥman, admits to several of the claims of Naḥman and in the facing deed the
husband (here called Yeshu’ā) bring forth the listed items, see Med. Soc. 4:123 n. 106 and Vaza-Molad,
301. See Chapter One and Chapter Four for further discussion.
\footnote{178} Recall the letter of Jalila bt. Abraham examined in Chapter One.
\footnote{179} TS 18 J 3 2, ll.12-15: “Two years ago he promised me to pay me half a dirham per day; but he keeps
saying: ‘Wait a month or two until God will help and I shall pay you.’ But the two months have become
options and the legal options available to them would not translate into augmentation of their divorce settlement.\textsuperscript{180} Thus, even putting aside the asymmetrical nature of Jewish divorce, the basic structural framework of Jewish marriages tilted the divorce negotiations regarding women’s monetary rights in the men’s favor and pushed women to compromise.\textsuperscript{181}

\textit{Cultural expectations}

The widespread infringement of women’s monetary rights had an important cultural dimension as well. As explained in Chapter One, most Geniza marital disputes that came to the court resulted in a mediated compromise. Mediation is often lauded as a superior alternative to legal adjudication because it emphasizes cooperation rather than conflict, has a greater chance of being adhered to because both parties agree to it, and has a penchant for creative rethinking of disputes, moving away from zero-sum games into ‘enlarging the pie’.\textsuperscript{182} Feminist scholars, however, have long argued that mediation tends to compromise women’s position in conflicts, especially in divorce disputes. They argue that mediation is often detrimental to women because it may reflect the already existing social power imbalance and gendered prejudices; because it shows a preference for a

\textsuperscript{180} A wife could run away from home, but probably only if she had a supportive brother or father. Furthermore, while a husband could run away completely, a wife’s escape horizons were curtailed in comparison, see discussion in Chapter Four. A wife may accuse the husband of being impotent, or claim that he did not maintain her – but such accusations will not bring about an increase of her monetary rights. We do not find the Talmudic procedure of increasing the ketubba of a wife of a rebellious husband, see n. 154 above.

\textsuperscript{181} It is important to note that this chapter focuses on monetary rights because they are the ones most visible to historians. It is conceivable that if we had different documentation, we might have been able to balance the picture with cases in which women did not fulfill their obligations to their husbands in terms of sex or household duties. There are a few documents which portray such a reality, but they cannot be compared to the cases of monetary concessions in terms of numbers, see the saga of Shelomo b. Elijah and Sitt al-Ghazal, most recently analyzed in Krakowski, “Adolescence”, 227-243; Maimonides, \textit{Responsa}, #45; TS Ar 47 244, ed. Ashur, “Engagement and Betrothal,” A-28; and TS 12 242, see \textit{Med. Soc.} 3:77. However, complaining about sexual neglect is also the domain of women, see \textit{Med. Soc.} 3:169 (TS 10 J 4 11 and TS K 25 205).

\textsuperscript{182} The literature on Alternative Dispute Resolution (ADR) is vast. I have used Michal Alberstein, \textit{Jurisprudence of Mediation} (Heb.) (Jerusalem: 2007) as a gateway into the literature.
consensual solution and hostility toward blaming and displaying emotions, and because it often refuses to consider the past in its attempt to think about the future.\textsuperscript{183} It seems that the feminist critique of mediation rings true in the Geniza context, as we have seen how the dynamics of compromise in court led to the reduction of women’s monetary rights. Indeed, Chapters One and Two have already shown how Geniza courts tended to place a greater share of their pressure on women in their pursuit of mediated compromises.

In an important study, Carol M. Rose offers a more comprehensive model using game theory that shows how if we start from the assumption that women have, are perceived to have, or even ought to have, a greater “taste for cooperation” than men, the result is that in general women would “do systematically worse than men with respect to property.”\textsuperscript{184} Without going into the nuts and bolts of her argument, she shows how the assumption that a woman would prefer to cooperate, or the idea that she ought to do so, works against her in any bargaining situation vis-à-vis males. This model does not mean that every woman would lose out in every monetary negotiation, but that overall women would lose ground. Moreover, once ‘the wheel starts rolling’, the expectation that women will compromise is apparently affirmed and the assumption reasserted.

\textsuperscript{183} Again, a large amount of literature is available. I found most useful: Alberstein, \textit{Mediation}, 107-143, and especially 134-140; Grillo, “Mediation Alternative;” Janet Rifkin, “Mediation in the Justice System: A Paradox for Women” \textit{Women and Criminal Justice} 1 (1989), 48-49; Penelope E. Bryan, “Killing Us Softly: Divorce Mediation and the Politics of Power” \textit{Buffalo Law Review} 40 (1992), 441-460; Amira Galin, “Under the wings of Mediations” (Heb.) \textit{Sefer Menahem Goldberg} (Tel Aviv: 2001), 240. An important difference between the feminist critique of ADR and the situation in Geniza society is that the feminist critique seeks to protect the great advances made in the 60s and 70s which they see ADR as threatening. Such context, naturally, is missing for the Geniza.

\textsuperscript{184} Rose, 234 (see n. 87 above). Rose naturally refers to the work of the influential feminist writer, Carol Gilligan, who made this argument in her \textit{In a Different Voice: Psychological Theory and Women’s Development} (Cambridge: 1982). According to Gilligan women tend to think of themselves in terms of relationships, attachment and who they care for, while men tend to think of themselves in terms of independence and separation. For our purpose here, it does not matter if such difference is due to women’s nature or to how women are socialized (as Gillian’s critic have argued). Of course, if women are expected to be more relational than men (i.e. to define themselves by their relationships and care for others), they are also expected to be more cooperative (as Rose has it).
While it is beyond the scope of this study to survey all medieval Jewish sources to confirm Rose’s initial assumption, it is clear that women were assumed to be, or that it was thought that they ought to be, more ‘relational’ than men. In what follows, I provide three examples of the idealization of the ‘self-sacrificing wife’ who earns her religious merit by denying her own self for her husband’s sake.

The most influential formulation of this ideal is found in what is probably the most well-known of Talmudic tales: the tale of R. Akiva and his wife. In this tale, whose details and various versions cannot be elaborated on here, the wife of R. Akiva is deprived of her family’s wealth due to her decision, indeed her taking the initiative, to marry the poor and uneducated shepherd Akiva. She sends him to study while consenting to live the life of a ‘widow of the living’ in abject poverty. Some sources also make it explicit that she supported him financially during his study. She gets her reward when he returns twenty-four years later with twenty-four thousand students. With

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185 After all, was not Eve created to be Adam’s “fitting helper”? See also BT Berakhot 17a: “Rab said to R. Hiyya: Whereby do women earn merit? By making their children go to the synagogue to learn scripture and their husbands to the Beth ha-Midrash to learn Mishnah, and waiting for their husbands till they return from Beth ha-Midrash.”

186 One could easily point out similar notions in Islamic literature, see Abū Hāmid al-Ghazālī, Iḥyāʾ ʿulūm al-dīn (Beirut: 1994), 2:119. A comparison between such notions in Islam and Judaism would be most welcome.

187 The two major versions of the story are BT Ketubbot, 62b and BT Nedarim 50a. There is a large literature on this famous tale; a useful list is found in Avigdor Shinan, “The Three Wives of Rabbi Akivah,” (Heb.) Massekhet 2 (2004), 11-12, n. 1. By far the most meticulous study of this tale appears in Tal Ilan, Mine and Yours are Hers: Retrieving Women’s History from Rabbinic Literature (Leiden:1997), 345 (index). While this legend pre-dates the classical Geniza period, it was probably a well-known tale at the time, and it appears in contemporary Judeo-Arabic works such as R. Nissim ben Jacob Ibn Shāhīn’s An Elegant Composition Concerning Relief after Adversity (on which see below) as well as in Samuel b. Ḥofni Gaon’s Introduction to the Talmud and Mishna, (see TS Ar 48 60).

188 JT Shabbat 6:1 7d and Sotah 9:16 24c, where it is related that his wife sold her hair and gave him the proceeds so he could study, see Ilan, 156-157 and 234-235. It is worth mentioning that the Ketubbot version also relates that R. Akiva’s daughter ‘did the same for her husband’, i.e. allowed him to go off and study and consented to a life of spousal neglect (although presumably she was not poor like her mother). Furthermore the Tosefta relates that R. Akiva’s son added a stipulation to his marriage contract that his wife would maintain him, support him and teach him Torah, see Tosefta, Ketubbot 4:7 and Ilan, 168.
her poor clothes, she goes out to meet him. When his students try to push her away, R. Akiva tells them to leave her alone for “mine and yours are hers.” This tale portrays the wife actively choosing a life of neglect and destitution in order to enable her husband to achieve that pinnacle of human life: Torah study. Analyzing this tale, Boyarin writes that it creates “a system of enormous sociocultural pressure (upon women) to ‘voluntarily’ renounce their rights.” The story of Akiva’s wife (for indeed, it is her story) is an exemplum idealizing the sacrifice of her material conditions.

This ethos is also reflected in the much-discussed tale of the “Radiant Robe” in R. Nissim ben Jacob Ibn Shāhīn’s An Elegant Composition Concerning Relief after Adversity written around the first half of the 11th century in Qayrawan. The tale begins

In other versions, since all women love jewelry, she also receives golden ornaments which she does not fail to parade publically, to the embarrassment of her husband’s pupils.

Daniel Boyarin, “Internal Opposition in Talmudic Literature: The Case of the Married Monk” Representations 36 (1991), 96-97 and see also 98-99. Boyarin’s interpretation was severely criticized by Shulamit Valler who argued that “the sages were very much aware of the wife’s needs, especially the emotional ones, and the (Talmudic) editor tried to convey the idea that the permission to leave the home for an extended period of time to study depends (morally, at least) completely upon the emotions and desire of the wife” and “the collection of stories comes to prove that in no case is study to be preferred to family life, if this causes misery to the wife,” see Shulamit Valler, Women and Womanhood in the Stories of the Babylonian Talmud (Heb.) (Tel Aviv: 1993), 56, 78 and see also 80. It seems to me that despite their opposition, Boyarin’s and Valler’s analyses can, to some extent, be harmonized. Some of the stories in the Ketubbot collection certainly suggest that the sages and the editor were concerned with the suffering of the wives left behind and it seems they arranged the stories to convey the idea that scholarly travel should only take place with the consent of the wife. However, one should not lose sight of the great normative pressure that Akiva’s story places upon women to consent to their husbands’ travel and rejoice at it.

This tale is used even today to stress the relational nature of women’s religious merit and to idealize women’s self-sacrifice, See Tamar Rapoport, “The Pedagogical Construction of Traditional Woman in Modernity: An Ethnographic Study of Holiness Class” (Heb.) Megamot: Behavioral Sciences Quarterly 39 (1999) 500-504 and see p. 506: “The teacher presents her strength as ‘a wondrous gift’ the Almighty placed on her shoulders, stressing that she, like Rachel (the traditional name given to R. Akiva’s wife), earns credit from the fact that her husband fulfills the obligation to study…The wife’s readiness to sacrifice, and to invest in her husband … is the source of her power and her joy is the fruit of her sacrifice.”

with R. Eliʿezer and R. Joshua encountering an angel holding a radiant robe that lacks a collar. The angel informs them that the robe is intended for a gardener in Ashkelon called Joseph. When they seek this gardener out, he tells them that he spends half of his earnings on his family and the other half he gives to charity. They inform him of the radiant robe lacking a collar that awaits him and suggest that God has divulged this information so that he may increase his good deeds and complete his robe. After they leave, Joseph’s wife suggests a way to complete his robe: he should sell her into slavery and give the proceeds to charity. Joseph responds that he fears to sell her lest her master rapes her and he would lose the robe entirely.¹⁹⁴ His wife takes a stringent vow that she will not be seduced, even if it means her death. He consents, sells her into slavery and gives the proceeds to the poor. Despite suggestions and pressures from various masters, she remains true to her husband and when they reunite a voice is heard: “Rejoice O Man!¹⁹⁵ Your robe is hereby complete and your wife’s robe is grander than yours for she was the cause for its completion.”

This tale exemplifies the relational nature of women: the wife (unnamed) gains her religious reward by helping her husband complete his robe and perform charity. We can also see the idealization of the self-sacrificing woman: the wife willingly suggests

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¹⁹⁴ As some scholars have noted, Joseph seems to be more concerned about his robe than about his wife. However, the story does not pick up on this as a criticism of Joseph, as noted in Shoshany, 247, n. 41 (though, of course, modern scholars are entitled to criticize Joseph even if the story does not do so).

¹⁹⁵ I guess the voice (ṣawt) had ultra-orthodox ideas about addressing only men.
that she be sold into slavery for the benefit of her husband’s religious ‘balance sheet’.

As in the tale of R. Akiva, it is through wifely self-sacrifice that the husband attains religious heights.

We started with a Talmudic tale and continued to a literary work contemporaneous with the Geniza. One can also point to this ethos in an interesting Geniza fragment. TS Ar 16 4 contains a list of ten qualities, arranged in pairs, which a mother recommends that her daughter treasure in her married life. Some investigation reveals that this is a Judeo-Arabic reworking of an Arabic literary anecdote usually told about the advice Umm al-Ḥārith gave to her daughter when the latter was about to be married to al-Ḥārith al-Mālik, the king of Kinda. This anecdote is first mentioned in the Kitāb al-Waṣāyā of Abū Ḥātim al-Sijistānī (Baṣra, d. ~864) and al-Fākhir of al-Mufaḍḍal Ibn Salama (Kūfa, d. ~904), but is better known in the version found in The Unique Necklace (al-ʿIqd al-Farīd) of Ibn ʿAbd Rabbihi (Spain, 860-940). As Yehudit Dishon has shown, this anecdote appeared in a Hebrew version in Mishley he-ʿArav (Spain or Provence, around the beginning of the 13th century) and in later moralistic works.

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197 There are many other contemporary, or near contemporary Jewish tales that propagate this ethos of wifely self-sacrifice. See, for example, the stories of Good Women in Dishon, Good Woman Bad Woman, 63-118 and 201-209. See especially Dishon’s statement in p. 63: “These tales were told or written by men and from their perspective, it is no wonder, therefore, that the good woman is the one who cares for her husband, toils for his benefit, more than once at the expense of her own needs, and even at the price of her life.”.


199 See Yehudit Dishon, “The Description of the Ideal Wife in Medieval Secular Hebrew Literature” (Heb.) Yeda Am: Journal of the Israel Folklore Society 23 (1986), 3-15 and ibid, Good Woman Bad Woman, 203-205. Mishley he-ʾArav is one of the most neglected medieval Hebrew works, mostly because it was published by R. Yeḥiʾel b. R. Judah Leib (RYBL) in serial form in 1865-1869 in the journal ha-Levanon and has not been republished. The most recent discussion of its author (a certain Isaac or Ishāq) and its date is Ezra Fleischer’s supplement to Jefim Schirman, The History of Hebrew Poetry in Christian Spain and Southern France, edited, supplemented and annotated by Ezra Fleischer (Jerusalem: 1997), 216-221. Today
Recently, I was able to trace this anecdote still further to Hebrew works in Provence, North Africa and Constantinople, two Yiddish works published in the 17th century and even 14th-century Christian works in Italian and Catalan. The great spread of the anecdote attests to the appeal of its normative message. Here is the anecdote as it appears in the Geniza fragment:

[The first and the second]: accepting advice and acquiescing for they are hearing and obeying. **The third and the fourth:** taking care of the house is good management and safeguarding the servants is good judgment. **The fifth and the sixth:** taking care of his nose and where his eyes fall. Do not let his eye fall on anything unseemly in you and let him not smell from you anything but good fragrance. **The seventh and the eighth:** do not disobey his command and do not (reveal) his secret. For if you disobey his command, you would arouse his anger and if you reveal his secret, you would not be safe from his unfaithfulness. **The ninth and the tenth:** the more you exalt him, the more he will honor you.

Know dear daughter that you will not attain all of these (qualities) until you prefer his desire over your desire and his pleasure over your anger regarding what you like or dislike. May God improve His favor to you.

it is possible to view the journal online at: http://jnul.huji.ac.il/dl/newspapers/halevanon/html/halevanon.htm. David Torollo is currently working on a critical edition of this work.

I plan to publish a separate study about the peregrinations of this anecdote from 9th-century Iraq to 17th-century Prague. I have presented my preliminary findings in a talk at the Society for Judeo Arabic Studies (SJAS) conference in Jerusalem on June 2013. The two Christian versions are **Dodici avvertimenti che deve dare la madre alla figliuola quando la manda a marito,** ed. Pietro Gori (Firenze: 1847) (Gori dates the piece to around 1300) and “Consell de Bones Doctrines” in Alfons el Vell, Lletra a sa filla Joana de còstig e de bons nodriments, ed. Rosanna Cantavella (Gandia: 2012), 81-91 (I would like to thank Rena Lauer and Elizabeth Mellyn for helping me locate a copy of the Dodici avvertimenti). The marriage of the daughter of Alfons el Vell took place in 1391. The two works are discussed in Alice A. Hentsch, De la littérature didactique du Moyen Âge s’adressant spécialement aux femmes (Genéve: 1975, originally 1903), 119-120 and 189-191 and see also Diane Bornstein, The Lady in the Tower: Medieval Courtesy Literature for Women (Hamden: 1983), 63. The Christian versions are derived from the Hebrew Mishley he-’Arav version, rather than from the Arabic original. The Geniza fragment and the Mishley he-’Arav are derived from the Arabic Iraqi versions (rather than from the Spanish al-’Iqd al-’Farūd which is also, of course, based on an eastern source). For the Yiddish works, see Noga Rubin, Conqueror of Hearts: Sefer Lev Tov by Isaac Ben Eliakum of Posen, Prague 1620 – A Central Ethical Book in Yiddish (Tel Aviv: 2013), 247 and 337-338. I would like to thank Noga Rubin for discussing this anecdote with me.

The beginning of the fragment is missing. Thus it is impossible to know whether the anecdote contained any of the cover stories found in the Arabic versions.

Al-hizf al-’alā al-hasham husn al-taqdīr.

Notice that this is hardly two separate qualities.

TS Ar 16 4, edited as Doc. #15 in Appendix Two. Significantly, men are not told that they should efface themselves for their wives but that it is their duty to mold their women (the younger the better), see the very interesting but yet unidentified Judeo Arabic literary fragment in TS Ar 47 76 1r (righthand side)
The young bride is advised to accept her husband’s advice, to obey him and not to disobey him. The Hebrew version of this anecdote clarifies that being content means that she should not make financial demands on him. Indeed, she is to be completely relational to him: what he wants should come before what she wants and even if what he desires might anger her, she should put his desire before her anger. Finally, she is to mold even her physical existence for him: he must never see anything of her that might displease him nor smell anything that might upset him. Nadia Maria el-Cheikh writes on the Arabic anecdote:

These *khīṣāl* (characteristics) place a heavy burden on the wife and reflect the demanding role that the wives were ideally expected to play. All these *khīṣāl* are related to aspects of serving the husbands, making his life more comfortable, insuring his honor, his money and place in society. Not only does she have to care for his well-being both practically and emotionally; in the process she is asked to internalize, even efface, her own needs as well as her own feelings of sadness and unhappiness.

Dealing more generally with the discourse on ‘the ideal wife’ she states:

Our texts do not postulate that both members of the couple have to share equally in the efforts leading towards a successful marriage. Women are the targets of complex prescriptions for proper behavior. The core behavioral requirements focus on women. It is women who must adapt and accept what is demanded by their husbands.

These three examples affirm the ‘weaker assumption’ with which Rose starts her model: women are expected to be more cooperative (or more relational) than men. The cultural ideal expected wives (Muslim and Jewish) to sacrifice their well-being for their husbands’ and family’s sake and conceived of them first and foremost in a relational way.

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205 See the eighth advice in *Mishley he-ʿArav*: “Do not ask him for what will be difficult for him to give. For if he will provide it for you he will hold it against you that you have burdened him with your requests,” CUL Add 507 1 (not Geniza).

206 “Men do not want solely the obedience of women, they want their sentiments. All men, except the most brutish, desire to have, in the woman most nearly connected with them, not a forced slave but a willing one, not a slave merely, but a favorite,” John Stuart Mill, *The Subjection of Women* (London: 1869), 26.

207 Nadia Maria el-Cheikh, “In Search for the Ideal Spouse” *JESHO* 45 (2002), 186-187

208 Ibid, 194.
These examples clearly show that women were expected to compromise their well-being for that of their husbands during marriage and thus may partially explain the wives’ forfeiting their monetary rights during marriage. It can, however, be argued that they cannot be used as an explanation for why women’s monetary rights are compromised at divorce. While this argument has some merit (and see a suggestion below), the expectation that women prefer to cooperate also erodes a woman’s bargaining position at divorce. Indeed, we find the logic Rose described in the preferment of a creditor’s claim over a divorced woman’s claim in Jewish law:

If a husband has only land that does not suffice for the claim of both, and the wife’s claim is not earlier, the land is given to the creditor, and if something remains for the wife, she takes it. But if not, she is repelled by (the right of) the creditor. For the creditor lost and spent of his wealth and the wife lacks nothing. For a woman wants to marry more than a man wants to marry.

Two explanations are given. The logic of the second explanation (“a woman wants to marry more than a man wants to marry”) becomes clear when one looks at the origin of the phrase. Basically, the claim of the creditor is given precedence because of the fear that if creditors would not be able to collect their debts, they would not be willing to lend money (‘they would lock their doors before debtors’). Such fear does not apply to women, because women desire to marry so much that even if their claim to the ketubba

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209 For example, let us say a husband desires a divorce but the wife insists on receiving full compensation. The dispute arrives in court and elders approach her in the hopes of restoring peace. Their expectation that women ought to be cooperative and that women’s nature is to be relational surely works against her, especially when she knows that if she appears too adamant in rejecting their overtures, she risks appearing spiteful (as shown in Chapter Two). It also seems that it is hard to set hard and fast boundaries to cultural assumptions. A husband who successfully pressured his wife to reduce her meʾūḥar during the marriage might expect a similar concession when it came to divorce. See also Rose, 241.

210 Maimonides, MT Ishūt, 17:4.

211 Tosefta, Ketubbot, 12:3; BT, Ketubbot, 86a and BT, Giṭṭin, 49b.
were weakened, they would still want to be married.\textsuperscript{212} We see here in action the logic Rose discusses in cases where the relationship or the cooperation ends.

It is also worthwhile to look at the first explanation, that even though the ketubba is a debt of the husband, the claim of the creditor is stronger because he has actually lost money while the wife has not lost anything. This explanation seems to reflect a male perspective that reduces the importance of the ketubba payment.\textsuperscript{213} It devalues just how much a woman might have lost in terms of her age, beauty and the continuous labor she performed during the marriage. It also looks away from how much a divorced woman or a widow might need the ketubba money as her insurance policy after the marriage. The ketubba is part of the marriage deal in which the husband gains exclusive sexual access and the labor of the wife (both domestic labor and earning labor) in return for maintenance and the ketubba. Claiming that the ‘wife lost nothing’ goes against the deal. The importance of the debt of the ketubba was valued differently by male scholars and by women.

We see hints of this attitude on other occasions. Maimonides’ \textit{taqqa\textacuted{n}} (“enactment”) regarding women’s immersion (which deprived the wife of her ketubba money if she did not swear that she was always ritually clean when her husband had sex with her) states: “Let his mercy be on the Torah of the Lord of all prophets, rather than on the ketubbot of women.”\textsuperscript{214} In other words, the \textit{taqqa\textacuted{n}} is aware of the severe repercussions it may have for divorced women and widows but chooses to favor the

\textsuperscript{212} See also the “women’s saying” of Resh Laqish: \textit{ṭav lemethav ṣan dū mi-l-methav aremlū} (“It is better to be a couple than to be a widow”) and how it is used in BT, \textit{Qiddishin}, 7a.
\textsuperscript{213} Goitein (\textit{Med. Soc.} 3:254) comments that while marriage contracts included a stipulation countering it, the mindset behind the rule that a woman collects from the worst choice of land (Mishna, \textit{Gittin}, 5:1) persisted.
\textsuperscript{214} Maimonides, \textit{Responsa}, #242.
concern for the correct procedure for women’s immersion over the ketubba’s importance (through the hyperbole of ‘the Torah of the Lord of all prophets’). Such cultural attitudes, and others like them, may have contributed to the reality of women being deprived of their monetary rights explored above.

I have suggested three factors involved in the dynamics of compromising women’s monetary rights. It remains to ask whether these are competing or complementary explanations. First, there is no reason to think that in every case when a wife’s monetary rights were compromised the same set of reasons applied. The relationship between the different explanations could change and shift depending upon the circumstances of each case. However, overall it is probable that the economic factor was found in the background while the structural factor had the most to do with the actual dynamics through which women’s monetary rights were compromised. The cultural factor, in all probability, was not something that was spoken or even thought of directly but rather served as a justification in the minds of men (and maybe women) for the reality

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215 Moreover, the legislation shows a concern that an improper court might disregard the legislation and might, heaven forbid, give a widow her ketubba without demanding that she take the oath. However, the legislation is not concerned, for example, that husbands or heirs might trump up accusations that the wife did not immerse properly in order to bring about a reduction of her payment (as we saw above this did in fact happen) and it claims that this neglect mostly stems from women (other responsa show that occasionally it was the husband who disregarded the proper immersion, see #234, #321, #368, #369 and #370). Thus, the entire burden of the new legislation is placed on women and it is they who pay the price with their ketubbot.

216 We also encounter a cultural attitude that expects women to live in straitened economic conditions. We have seen it above in the story of Sitt al-Kull and Sedaqa the singer. We also encounter it in Bodl MS c 50 23: a certain Dâ’ûd informs Elijah the Judge about the case of the widow of Faraḥ (Goitein has “divorcée” but the reference to orphans rules against that). Apparently it was decided that she would receive 15 dirhams and three waybas of wheat a month. However, once she weaned 'the little one,' the brother (maybe father) of Faraḥ and his mother said that they would provide her only with the 15 dirhams a month but not the wheat, despite the protests of the writer. The letter explains that “they want to maintain her meagerly so that she will give them (i.e. the orphans) to their grandmother” (wa-hum bi-yuridū yuqattirū ʿalayhā hattā tarmīhim li-sittihim); see Med. Soc. 3:233-4, n. 68. This attitude is also reflected in advice to wives to be frugal, not spend the wealth of their husbands and not ask them for things, see Chap. 47 in Mishlei he-Arov.

217 It is important to stress that the cultural explanation should not be identified as a gender explanation, since gender is in fact found in all three explanations: Women are disproportionally poorer than men in most human societies. Similarly, the structural explanation offered above is concerned with the gendered structure of Jewish marriages.
that caused so much hardship and suffering to women. Another likely possibility is that the ‘structural’ explanation was more dominant in divorce settlements while the ‘cultural’ explanation was more dominant in compromises during married life.

**Conclusion**

As Goitein observed, “The financial arrangements at a divorce were of the widest possible variety.”\(^{218}\) However, a wide variety does not exclude the existence of patterns. This chapter has explored a dominant pattern within both divorce and married life whereby women were expected or pressured to make various types of monetary concessions.\(^{219}\) The central claim of this chapter is one of connectivity: the distinct types of monetary compromises are related and form a general dynamic of compromise that constitutes a central aspect of the lives of Geniza women. In other words, there is a connection between the cases in which a wife was pressured to ransom herself and the cases where a wife was asked during the marriage to reduce her *meʾūḥar* or give up the items of her dowry. This connectivity places separate phenomena in a wider context and necessitates their re-evaluation. This broad view is made possible by our ability to examine the processes that led women to compromise both at court and at home, thus providing us with a fuller view of marital strife. These dynamics of gendered

\(^{218}\) *Med. Soc.* 3:267 and see also Zilfi, 295.

\(^{219}\) This is, of course, not unique to Geniza society. A similar dynamic is known from other Jewish societies. On 14th-century Toledo and 17th-century Fez, see Amar, 28 and 37. On the Islamic side, for pressures on sisters to relinquish the inheritance allotted to them by *ʿilm al-farāʾid*, see David S. Powers, “Law and Custom in the Maghrib, 1475-1500: On the Disinheritance of Women” in *Law, Custom and Statute in the Muslim World: Studies in Honor of Ahron Layish*, ed. Ron Shaham (Brill: 2007), 21-22 (and see Bibliography there) and 39. See also Rapoport, *Marriage, Money and Divorce*, 20, n. 51. Many examples in Rapoport’s important study portray a very similar dynamics and details to the cases explored in this chapter, see his *Marriage, Money and Divorce*, 54-55, 67 and 69-72. In this chapter I have concentrated on the evidence from Geniza society, but a comparative study of the actual fate of women’s property rights in Jewish and Islamic societies would be welcome. For example, my findings in this chapter contrast with Rapoport’s findings for Islamic Mamlūk society in which “the vast majority of disputes over dowries were inter-generational rather than conjugal,” see p. 18.
compromises can be explained by a combination of economic, structural and cultural factors.

However, as was also stated in the conclusion of Chapter One, we ought not to adopt a too strong lachrymose conception of the fate of women’s moentary rights. A few cases show that, despite the pressures and dynamics explored above, some women succeeded in collecting their full monetary rights. When one husband planned to marry a second wife, his first wife insisted that she would receive her full delayed marriage gift and that if she would like to divorce she would be able to do so.\footnote{Interestingly, the legal record states that her mother was present in court. See TS 16 214, ed. Friedman, \textit{Polygyny}, II-1. The phrase granting her the right to obtain divorce has an interesting parallel to the Islamic divorce procedure known as \textit{tamlık}. I have found several Geniza documents attesting to similar usage and I plan to dedicate to this phenomenon a future study.} In another case, after a husband beat his wife and tried to pressure her to decrease her delayed marriage gift, she demanded, and received, full control over almost her entire dowry. Moreover, she stressed that her receiving of the dowry in no way diminished her right to the promised delayed marriage gift.\footnote{Bodl MS Heb a 3 40v, edited as Doc. #1 in Appendix Two.} Such examples show that some women were able to withstand the pressures to compromise their monetary rights.

It is important to highlight how this chapter relates to previous studies on the Geniza. The agreement with Goitein’s and Cohen’s discussion of the plight of widows has already been mentioned above. As Cohen hints, there are many commonalities to the predicament of widows and divorced women in the Geniza, and this chapter has attempted to draw connections to the predicament of wives in general. Another point of contact is found with Amir Ashur’s important study of pre-nuptial agreements in the Geniza. Ashur argues that the majority of the new conditions that appeared in such agreements during the 12\textsuperscript{th} century were
intended to strengthen the position of the wife in the family cell … This was the main reason why such conditions were written into a deed before the marriage and not afterwards: as long as the wife is not bound by marriage to her intended husband, her bargaining power, or her family’s, is greater and so is her influence. After her entry into marriage her ability to impose certain conditions would be limited and therefore it is preferable to agree upon these conditions now, when the both of them have equal status.\footnote{222}{Ashur, “Engagement and Betrothal,” 93 (my translation from Hebrew).}

Ashur’s argument that pre-nuptial agreements in Geniza society (in contrast to their role today) were executed before the marriage in order to exploit the stronger bargaining position on the wife’s side before the marriage fits well with this chapter’s depiction of the difficulties faced by a wife in her negotiations with her husband during marriage and at divorce. In fact, one can say that this chapter portrays the reality of married life from which pre-nuptial agreements sought to protect women. We saw in this chapter how the reduced bargaining power of wives brought about reductions in their monetary rights.

It is equally important to highlight the several respects in which this chapter differs from previous scholarship. In the majority of cases preserved, the ransom divorce was not a procedure that allowed women to initiate divorce proceedings against their husbands’ wills, but was a way for husbands to pressure their wives to relinquish their monetary rights at divorce.\footnote{223}{One could argue that the term ‘ransom procedure’ applies only when the ransom is initiated by the wife, and that cases where a husband demanded that the wife ransom herself should not be called ‘ransom divorce.’ However, Geniza society itself used the same term for both cases.} Indeed, it seems that the ransom divorce played a different function for women with status versus weak women: while for a wealthy women it allowed a costly escape from marriage, for neglected and battered women it encouraged spousal exploitation. More importantly, this realization changes the conventional understanding that most divorces in the Geniza were initiated by women. The fact that a woman compromised her monetary rights cannot be taken as evidence that she desired
the divorce. Indeed, Geniza evidence usually portrays women as hanging on to marriage and willing to go a long way in order to preserve it, even if that means making far-reaching monetary concessions.

Another respect in which this chapter diverges from previous literature has to do with the common portrayal of Geniza women as ‘powerful’. The documents studied in this chapter do not convey an image of ‘powerful women’. Moreover, it has been shown how the image of ‘powerful women’ may lead scholars to misinterpret documents. We saw in this chapter the various ways in which women’s monetary rights were repeatedly compromised in the Geniza. However, we have also seen several examples of how women actively contested and protested such acts. Alongside the many documents relating to women who came to court to relinquish what was due to them, one is impressed by women who petitioned communal leaders or submitted questions to scholars in an attempt to resist the reduction of their monetary rights. It is necessity, rather than ‘powerfulness’ that pushes them to expose themselves in public or in writing. Perhaps it is more precise to describe such Geniza women as reactive (i.e. when oppressed they actively react) rather than ‘powerful’.

This chapter also challenges the claim, ascribed to Goitein, that the 12th century saw a steady and continuous rise in the status of Jewish women. Beyond the general

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224 The difference between ‘powerful’ and ‘active,’ I think, is an important one which is often blurred. Consider for example a statement like: “We have found women suing, standing collateral, taking initiative, expressing resistance, and occasionally raising barriers in the path of the husband to obtain divorce until they receive their full claims,” in Bareket, “Books of Records,” 54-55 (Hebrew section). The findings of this chapter are that women almost never received “their full claims.”

225 Of course, there were some powerful women in the Geniza, but they were those of high social status and their power should be understood as stemming from that.

226 It seems that portrayal of women as ‘powerful’ and as ‘seeking divorce’ has much to do with the priorities of 1970s feminism and the desire to correct misconceptions and popular stereotypes about medieval women. Tal Ilan famously described Goitein as a proto-feminist in Tal Ilan, “Jewish Women’s Studies,” in The Oxford Handbook of Jewish Studies, eds. Martin Goodman, Jeremy Cohen and David Sorkin (Oxford: 2003), 786.
problems with the construct of the “status of women” (see Introduction), there are several specific problems with its supposed improvement in the 12th century. First, what Goitein wrote is that “the fact that the economic importance of wife’s earnings increased steadily from the twelfth century on seems to point to the mounting impoverishment of the Jewish community or the population in general, perhaps also to a slight change in the attitude towards women.” Second, the majority of the examples of violence, exploitation and compromise discussed in this chapter come from the 12th century, and this seems at least to raise suspicions about the supposed 12th-century improvement in women’s status. Third, internal perspective may see the growing reliance on women’s earning as a tilting of the patriarchal bargain in a way that is detrimental to women: if a woman is promised that she will be maintained and clothed in return for sexual access, obedience, household duties and the fruits of her labor, the growing reliance on her earning basically means that she is asked for more and receives less. Fourth, if we take seriously Goitein’s argument that the prevalence of measures to limit a social phenomenon is an indication of the phenomenon’s prevalence, then the appearance of protective conditions in the 12th-century in marriage documents would imply growing threats to women due to the increasing impoverishment of Jewish society, rather than a rise in their status.

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227 Med. Soc. 3:141 and see also 3:132-135 and especially p. 135. Notice that it is the economic importance of the earning that is rising, not the status of the wife. See Ashur, “Engagement and Betrothal,” 4, and ibid, “Protecting,” 2. About the “change in attitude,” see Med. Soc. 3:161.

228 As is always the case in Geniza studies, it is difficult to determine whether this is the result of historical change or the fact that we have more documents from the 12th century. On this problem see Ashur, “Engagement and Betrothal,” 173 and the sources he cites. For a masterful treatment of such problems see the recent study of Roger Bagnall, Everyday Writing in the Graeco-Roman East (Berkley: 2012). Regretfully, Geniza studies do not yet have the statistical database that papyrology enjoys.

229 Indeed, the connection drawn between the appearance of the new conditions and the India trade also implies that the conditions are responses to threats rather than a result of increased status, see Ashur, “Engagement and Betrothal,” 184-186. On the problem of connecting changes in women’s work to supposed changes in women’s status, see Joan W. Scott and Louise A. Tilly, “Women’s Work and the Family in Nineteenth-Century Europe” in The Family in History, ed. Charles E. Rosenberg (Philadelphia: 1975), 145-178.
Finally, this chapter prompts us to rethink the limits of Deniz Kandiyoti’s influential framework regarding ‘the patriarchal bargain,’ as a way of thinking about medieval marriage under Islam and Judaism.\(^{230}\) Jewish marriage can certainly be seen as a bargain in which a husband gains full sexual access (with the resulting progeny), obedience, household service and the fruits of labor from the wife in return for maintenance, a sum of money at the dissolution of the marriage and occasional sex. However, as with many social contract theories, it is important to appreciate the limits of the ‘bargain’ model. First, women and men (and modern citizens) do not really strike the bargain, they are presented with the already established order and they have no real way not to participate in it. Second, we saw in this chapter how the patriarchal bargain was often violated and women frequently could not claim the rights promised to them in the marriage contract. For example, if a husband did not pay maintenance or stayed away from the home, “activating the bargain” – i.e. punishing him or getting a divorce – was a difficult path which often involved further relinquishing of one’s rights. In other words, the patriarchal bargain was real, but it was full of holes through which many women fell.

The married lives of medieval Jewish women, as they are glimpsed in the Geniza, were a path strewn with compromises. The sums and conditions promised in the marriage agreement were more like starting points of negotiation than securely held rights.\(^{231}\) Rather than ‘divorce seeking,’ Geniza women appear to have usually desired to remain married even if it meant compromising their monetary rights. Some compromises took

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\(^{231}\) See the next chapter.
place during the marriage: in these cases women reduced their delayed marriage gift, removed the lien over their dowries or simply gave their husbands items of their dowry. Other compromises took place at the termination of marriage, when the chances of divorced women or widows receiving their dowry and the promised meʾūḥar were slim indeed. Economic conditions, the structural framework of Jewish marriages and cultural expectations led to compromising women.
Chapter Four

Between Legal and Non-Legal:

Negotiating Marital Disputes Within and Without the Legal Arena

Malīḥa bt. Abū al-Faḍl wanted a divorce. She claimed that her husband suffered from many illnesses and that his children from a previous marriage were irreligious. Malīḥa feared for the well-being of her children were she to die. We have a resolute petition written on her behalf to the head of the Jews, Mašliaḥ ha-Kohen, informing him of the following:

I am the wife of Adam, the money changer. For the past eight months, I have asked repeatedly for divorce, but could not obtain it. I had thought that with the arrival of your most venerable presence, you would not postpone giving a ruling to me or to another (on my behalf) a single hour. He is a man afflicted with many illnesses and sicknesses. He has children far removed from religion and others. The servant fears lest what is sealed upon people (i.e. death) overtake him, or me. There is no assurance what will happen with him and with my children.1 By the divine law that you possess! Examine my state and quickly issue a verdict, whatever it may be.2

The servant appointed a representative, but from all that was done to the man; he said that he would not return to mediate between us. The servant is bashful, I do not have a tongue to speak with. By your parents! Examine my state and please liberate me.3 .... All that I want is the liberation of the servant, by any means necessary. And what the divine law obligates.4

We hear of Malīḥa’s ultimate success in her bid for divorce in another document.

A four-line entry in a page from a court notebook records that on 28 June 1127, Malīḥa appointed Nathan ha-Levi b. Abraham as her representative to sue her husband. This

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1 fa-lā amna mā yajrī ʿalayhi wa-ʿalā awlādī. David translated “I am not sure what will happen to me and my children.” It seems that David corrected שָׁאַל to שֵׁאָל. Although the writer declares that she was worried that fate would overtake either her husband or herself, it is clear that she is more concerned for the latter possibility, in which case it can be understood why she is uncertain regarding what will happen to her children with him. This understanding is confirmed by r. 16-17.
2 This writer uses קַלָּא followed by the perfect for requests (see also in r. 15). I could not find such a usage in Blau, Grammar. A similar use of קַלָּא is found in Halper 400, r. 9.
3 khalāṣ, “liberation,” in Judeo-Arabic can mean both “deliverance” as well as “divorce.”
4 Bodl MS Heb d 66 16, ed. almost completely in David, “Divorce,” 60-61 (my readings often differ from David’s).
short entry is followed by another entry recording an unrelated appointment of a representative. The next entry in the court notebook, however, records that on the very same day, a cantor who was one of the witnesses of the first appointment came to the court with two parnasim from the community. The three men declared to the court that they had made the symbolic purchase from Malīḥa confirming that she relinquished the entirety of her meʿuḥar and was willing to take an oath over her claims regarding the dowry. Her husband also made the symbolic purchase confirming that he had no claim over her. It appears that Malīḥa got her divorce.\(^5\)

Malīḥa’s story raises a host of intriguing questions regarding the nature of the legal arena and the dynamics of marital disputes. First, what are we to make of the fact that Malīḥa chose to petition the head of the Jews for a ruling rather than bring her case before the court? Second, how is Malīḥa’s later appearance in court related to the probably earlier petition to the head of the Jews? In other words, where was the decision located, and was there a stable and clear definition of protocol, jurisdiction and procedure between the court and the head of the Jews? Finally, and most importantly, what occurred between the first court session in which Malīḥa nominated Nathan ha-Levi b. Abraham, and the second session, in which one of the witnesses and two parnasim brokered a compromise? It seems that the appointment of a representative in court launched a process that took place outside the court and seemingly did not involve the representative at all, but which culminated in the compromise recorded in court later that very day. Malīḥa’s divorce was not obtained by a ruling of the head of the Jews nor from litigation in court: it was achieved outside of court. However, in order to bring it about, Malīḥa had to appoint a representative in court and the compromise had to be recorded in court.

Malīḥa’s case thus aptly demonstrates the complex nature of the negotiations in marital disputes, which took place both within and without the legal arena.

This chapter proposes a framework for understanding the negotiation of disputes in the legal arena that takes account of the two central issues raised by Malīḥa’s bid for divorce: the complex nature of the legal arena and the interplay between what took place inside and outside of it. The two topics converge in the recognition of the high level of fluidity and flexibility that characterized the negotiations of marital disputes in Geniza society. Rather than looking at legal institutions from the perspective of communal leadership as mechanisms for social supervision, this chapter adopts the perspective of the consumers of legal services, who viewed the institutions as available resources for their negotiations.6 It argues that the legal arena comprised an array of overlapping forums whose jurisdictions were never fully defined.7 Building on recent work that examined the appeals by Jews to gentile courts through the model of ‘legal pluralism,’ I contend that pluralism existed both within the Jewish court and in the wider legal arena. Furthermore, beyond the plurality of venues, the fact that these venues were accessible, that their jurisdictions were not clear-cut, and that consumers were able to manipulate them to their benefit engendered a flexible form of protracted marital negotiations that tended to employ various legal forums as well as tactics outside the legal arena. The resulting picture is one that highlights the dynamic and fluid nature of marital disputes and therefore the precariousness and unpredictability of married life in medieval Islamic

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6 This move is inspired by Smail, The Consumption of Justice and Peirce, Morality Tales, 4. See also El-Leithy, “Living Documents,” 394; and Marglin, “In the Courts of the Nations,” 2 and 18.

7 Here I am extending an important characterization by Uriel Simonsohn of Abbasid legal culture as “a culture in which personalism and a multiplicity of overlapping institutions continued to dominate the judicial setting;” see Simonsohn, A Common Justice, 88. While Simonsohn’s work focuses on the literary production of the communal leaders, this chapter looks at the social dynamics resulting from his perceptive observation.
society. Thus, rather than dwell on the question of whether communal institutions were weak or powerful, I will attempt to describe what was arguably their most fundamental characteristic from the point of view of consumers, namely the sense in which their power was variable and inconsistent. This variability implied that couples had to find ways of coping with the inherent unpredictability of the legal arena and, as a result, marriage disputes were negotiated in light of a broad spectrum of legal and non-legal considerations. So, for example, such non-legal considerations as patronage were decisive in settling legal matters while informal negotiations were often informed and shaped by legal considerations. This framework is not meant to replace the separate examination of each legal and communal institution, but rather to examine the consequences of the relationship between the institutions.

Investigating the nature of the legal arena is part and parcel of a wider debate regarding formalism versus informalism in Geniza society in particular and in medieval Islamic civilization in general. Goitein and Udovitch have famously stressed the importance of informal mechanisms (termed either “formal friendship” or “informal cooperation”) for the long-distance trade of the medieval Mediterranean and tied these mechanisms to the general aversion to formal institutions, the lack of corporations, and the importance of personal contacts in medieval Islamic society. Avner Greif developed their ideas into an immensely influential economic model that draws its examples from

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history but is applicable to problems of modern development. In recent years, however, the pendulum has been swinging in the other direction with several persuasive studies challenging both the principle and various details of the “informal” approach. Such studies explore the formal aspects of trade, reveal the extent of economic litigation in Geniza society, and seek to re-introduce the state as a central player in medieval Islamic economy. Cohen and Rustow took another direction by emphasizing the mixture of formal and informal elements in the workings of patronage and interactions with the state bureaucracy. In a recent conference devoted to law and economy as reflected in the Geniza, it has been suggested that the formal-informal dichotomy had outlived its usefulness and that scholars should now turn to address particular problems (such as the intervention of the state in the economy, the extent to which trade was conducted in legally defined partnerships, etc.) rather than attempt to generalize about such ill-defined and wide-ranging concepts as formalism and informalism.

In a previous study, I utilized the formal-informal distinction to argue that while marriage and divorce constituted clear formal nodes and were monitored as such by the communal authorities, married life (i.e. that which takes place between marriage and

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divorce) was negotiated in a largely informal manner.\textsuperscript{13} I explored such negotiations by examining letters exchanged between spouses and demonstrated the creative, flexible and informal aspects of these negotiations. In this chapter, I build on that earlier work while correcting what I now regard as its main conceptual limitation: a dichotomous approach to the categories of the “legal” and “non-legal,” “formal” and “informal.”\textsuperscript{14} Whereas that article argued for the importance of the creative and flexible way in which spouses negotiated their married life separately from legal mechanisms, the present chapter will explore the ways in which people could make use of the messy structure of the legal arena, the personal nature of institutions, and the complex interaction between what took place within the legal arena and outside of it. In highlighting the informal elements of legal litigation and the ways in which legal considerations shaped the informal negotiations outside the legal arena, I employ the distinction between formal and informal, legal and non-legal, in order to enable a deeper exploration of the complex and flexible dialectics between the elements, rather than to argue for one side or the other.\textsuperscript{15}

As it is clearly impossible to do justice to the entire legal arena and the variety of tactics available outside of it within the scope of a single chapter, my aim here is not to cover all or even most of the aspects of the legal and non-legal venues of martial negotiation in Geniza society. Instead, the chapter proposes a framework for studying the legal arena in general terms by conducting several examinations of particular topics (obtaining responsa, the role of patronage in reaching \textit{sulh}, payment of fines, etc.)

\textsuperscript{13} Zinger, “Long Distance Marriages.”
\textsuperscript{14} I would like to thank Marina Rustow for discussing this point with me several years ago.
\textsuperscript{15} Any dichotomy between “legal” versus “non-legal” is doomed to fail when examined through the perspective shared by Judaism and Islam whereby the “law” encompass many realms (such as prayer, eating, and according to Maimonides, even beliefs) not usually constituted as “legal” in our society today. Here I use ‘legal’ in a narrower sense of pertaining to the legal process in court (even if only potentially).
through the study of detailed examples. The chapter concentrates on the most prominent legal venues – the courts (in the plural and including both Muslim and Jewish courts), petitions and responsa – while recognizing the existence of a host of minor venues, such as formal arbitration, delaying the prayer, etc. Since the previous chapters of this study focused on courts, and since much scholarly attention is currently devoted to petitions and petitioning, this chapter concentrates on the procedure of obtaining and using responsa from a ‘consumption of justice’ perspective. Rather than aiming at comprehensiveness, the analysis that follows offers certain inroads into a complex and understudied aspect of social life in the Geniza.

I begin by exploring the relationship between the different venues available in the legal arena. Attempting to expand upon the model of ‘legal pluralism,’ I stress the accessibility, blurry jurisdictions and manipulability of the venues, as portrayed through three case studies that demonstrate how litigants could make use of the loose nature of the legal arena. Next, I highlight some of the consequences of the structure of the legal arena: fluidity, unpredictability and prolonged disputes. Special attention is given to the extent to which dispute resolution was socially embedded and the ways in which patronage could prove decisive in maneuvering the legal arena. The fluidity and unpredictability of the legal arena lead to a discussion of contract enforceability and the

16 Marina Rustow is currently writing an extensive study of petitions in the Geniza. While responsa are commonly used as sources of social history, the social history of the use of responsa is a neglected subject. In other words, how responsa were obtained and how litigants used responsa to further their objectives still remains to be studied by a social historian. Perhaps the picture will change with the publication of the long awaited study on the responsa of Abraham Maimonides and his generation by Mordechai Akiva Friedman, see his 1990 article Friedman, “Responsa of R. Abraham Maimonides,” 49 and in many subsequent publications. In the meantime see Shmuel Glick, A Window to the Responsa Literature (Heb.) (New York and Jerusalem: 2012), 49-163; Menachem Elon, ed. Digest of the Responsa Literature of Spain and North Africa (Jerusalem:1981). 13-21 and Jewish Law: History, Sources, Principles, (Jerusalem: 1988), 1213-1276; and Brody, Geonim of Babylonia, 185-201. Beyond the many documents cited in the notes below, other documents relevant for a social history of responsa are: TS 8 J 7 13; TS 8 J 17 29; TS 13 J 21 16; TS 24 38; BM Or 10599 8; TS 8 J 14 14; TS 10 J 12 1; TS 13 J 7 25; TS 20 133; TS 13 J 16 8; TS 12 371; TS 10 J 15 1.
power of communal institutions. The chapter closes with a short venture beyond the legal arena to explore what sociologists call “bargaining in the shadow of the law,” i.e., the types of negotiations that take place outside the legal institutions but are influenced by those institutions. Whereas earlier sections in the chapter explore how patronage and status affected the proceedings within legal institutions, this final section explores how legal institutions and legal considerations could prove decisive in the informal negotiation of marital disputes outside of court.

**On the plural, blurry, accessible and malleable legal arena**

Geniza litigants had options. Besides the local court, they could try to obtain a favorable responsum, petition the head of the Jews or another prominent communal figure, opt for a formal process of arbitration, appeal to the congregation during prayers, or attempt to bring their case before a different Jewish court or even before a Muslim court. Options, in turn, provide flexibility, which can be both an advantage and a source of uncertainty. Legal process was often a complex negotiation in which both procedures within the courts and the dynamic in the wider legal arena were varied and malleable — that is, responsive to manipulation by the litigants. While the question of whether Jewish legal institutions followed rigid protocols remains open, it is clear that litigants traversing the legal arena had a significant degree of freedom in choosing between various institutions. The legal arena was not a straight path of legal facts awaiting a verdict but a complex labyrinth encompassing a variety of institutions (courts, jurisconsults, communal officials, the head of the Jews, Muslim courts, etc) and procedures (litigation, petitions, responsa, arbitration, etc.). This plurality constituted the legal arena.\(^1\)

\(^1\) I originally conceived of the ‘legal arena’ as an adaptation of Bourdieu’s ‘juridical field’ that stresses the competitive and performative aspects of litigation; see Pierre Bourdieu, “The Force of Law: Toward a
Oftentimes, the involvement of several of these venues represented part of the natural life course of a case. For example, when the head of the Jews received a petition meriting investigation, he would order a local court to look into the case. Similarly, a local judge faced with a difficult case might request a responsum from a prominent halakhic authority either to be assured of the correct legal ruling or to buttress the authority of his decision. Ratifying real-estate sales with both Jewish and Muslim deeds to ensure their enforceability was common practice. In all these cases, the different venues complemented one another.\(^\text{18}\)

On other occasions, the alternative paths served as checks and balances designed to guarantee justice to those who ventured into the legal arena. One aspect of this involves the use of alternative paths to affect action in communal institutions. In order to understand lay people’s experiences of the legal arena it is vital to acknowledge and recall that the courts and communal institutions in general preferred inaction to action.

Postponements and repeated attempts to broker a compromise were used by the courts to stall proceedings and avoid administering oaths or issuing verdicts.\(^\text{19}\) This was

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\(^{18}\) Sociology of the Juridical Field' "The Hastings Law Journal 38 (1987), 805-853, also available in Martha Mundy, ed. Law and Anthropology (Dartmouth: 2002), 109-157. However, upon further reflection, Bourdieu’s ‘juridical field’ is too far removed from the legal reality reflected in Geniza documents. The legal practice reflected in the Geniza does not have the degree of professionalism and specialization essential to Bourdieu’s analysis. As I argue in the conclusion of this chapter, the legal arena in the Geniza was embedded within the general texture of society, while in Bourdieu’s model the juridical field is in a constant stance of resisting and distancing itself away from social reality.

\(^{19}\) See Chapter One and Jessica Goldberg, Trade and Institutions, 159. On the administration of oaths, see examples in Chapter Three. Of course, occasionally, delay was the result of a heavy workload, as can be seen in the way the writing of a responsum has been put off time and again by a prominent physician scholar in AIU VII E 119, ed. Mark Cohen, “The Burdensome Life of a Jewish Physician and Communal Leader: A Geniza Fragment from the Alliance Israélite Universelle Collection” JSAI 16 (1993), 125-136. Many examples are described in the pages below; see also TS NS J 5 1v (ed. Bareket, “Books of Records,” 31-32 and TS 13 J 21 16.
particularly evident in marital litigation, where the ordinary preference for compromise was augmented by the courts’ dislike of divorce.\textsuperscript{20} Constant prodding of the system was required on the part of claimants (especially if they were of weak social status) in order to bring a legal case to a conclusion and receive assistance from the authorities. Litigants could spur the reluctant wheels of justice forward by approaching or threatening to approach a different court (Jewish or Muslim), composing a petition, or requesting a responsum.\textsuperscript{21}

Alternatively, and despite the fact that Jewish law does not formally recognize appeals, the multiple venues were used in order to appeal the decision or process of the local courts. Indeed, the legal arena usually sported more than one player, and just as one litigant could use alternative venues to affect action in reluctant communal institutions, another litigant might employ a different venue to counteract a hard-earned decision or settlement. In previous chapters we saw several examples of weaker parties contesting court decisions through alternative forums: Şaliḥ’s former wife threatened to turn to the

\textsuperscript{20} For an extreme cases where the husband was a Cohen and would not be able to remarry his former wife, see TS 28 5, ed. Mordechai A. Friedman, “A Kohen Divorces his Wife in Eleventh Century Egypt – A Geniza Study” (Heb.) Diné Israel 5 (1974), 205-227.

\textsuperscript{21} In the previous chapters I explored many examples of the use of petitions or employing, or threatening to employ, a different court. Here, I will limit myself to a number of examples regarding responsa. In TS NS J 7, ed. Goitein-Friedman, Halfon, 2:VIII-70, Ezekiel b. Nethanel writes to his brother, Halfon, the famous India merchant, telling him about various lawsuits that occupy him. In a lawsuit involving cheese, Ezekiel had been dragged to court, but no verdict was in sight. The head of the Jews was too busy to sit in judgment and apparently without him the other judges’ ruling would not be obeyed. In another suit, Ezekiel complains that the judges are not issuing a judgment either and are solely concerned with arriving at a compromise. In a third case, the four judges are evenly split and one of the judges suggested to Ezekiel that if he would present the court with the ruling his brother obtained from R. Migāsh, the famous authority from Spain, the matter could reach a conclusion. In TS 10 J 25 3, ed. Frenkel, Alexandria, #57, a man asks for a responsum from a rayyis because the judge is reluctant to issue a ruling; see also TS 13 J 21 25, ed. Frenkel, Alexandria, #71. In Halper 400, r.14-15, we encounter a more interesting case: A mother writes to her son that she has suspended the litigation (or the giving of judgment) until he can bring her a fatwa from the rayyis: wa-qad ᾳṭṭātu al-ḥukm ḥattā tājīb li ṣatwā min ‘ind al-rayyis bimā yan’amīl. For tājīb as tājī u bi- > tājī bi- > tājīb, see Blau, Grammar, 67 and 69. In TS NS 321 21b, which I identify as a letter written to Elijah the judge due to the personalities mentioned in the letter, the writer complains that people are “opposing me by submitting responsa to the head of the Jews,” fa-kāna al-mamlūk kh(ā)lafīahu nās bi-fatāwā ilā al-rayyis (as far as I can tell, this is the first mention of this document).
Muslim authorities; Jalīla bt. Abraham petitioned the Nagid to redress what she perceived as the wrongs committed by the local Alexandrian judge; Saʿīda bt. David travelled from her small town to the capital to complain that everything written in the letter by the local communal leader was false. Powerful players, however, could also use these alternative paths to contest unfavorable decisions or to delay a case by raising objections.  

Moreover, the alternative paths could be employed not only to contest an already-made court decision but also as a substitute for court litigation. Thus, we find responsa that make no mention of court litigation even in matters that could have presumably been brought before the court. Similarly, we see petitions asking the head of the Jews for a ruling (as in the petition that opened this chapter), and not just for procedural assistance, and in other cases we hear of orders actually issued by the head of the Jews. It appears, then, that while the different nodes in the legal arena ordinarily complemented one another, there was also an inherent potential for friction between them since they could be used to spur, contest, and even replace one another in the pluralistic legal arena.  

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22 See the actions of Wuḥsha, described in Chapter Two.

23 For example, it is remarkable that in the many years of marital strife of the couple famously described in Maimonides, Responsa, #34 and #45 no court litigation is mentioned. In cases like ENA 2348 1 (ed. Gil, Palestine, #217 and trans. in Med. Soc. 2:324) it is not clear from the petition whether the petitioners expected injustice to be resolved through court litigation or an intervention of a communal authority (in this case probably the Gaon) or by the community.

24 Beyond the document with which we started this chapter (Bodl MS Heb d 66 16) and the documents in Ṣedaqa’s cluster explored below, see also DK 232 1, a petitioning letter to Samuel the Nagid reporting that his rulings have not been implemented, see r. 14-15 and 21. In Halper 342 we see divorce proceedings in the hand of Ḥalfon b. Menasse between Shabtai the cantor b. Joseph [ha-mu]mḥe (reading of last word uncertain) and his wife Turfa bt. ʿAmram. Apparently the long argument between them was ended by the order of Maṣliḥi Gaon that they come to the synagogue (apparently where the moshav bet din ha-gadol was held) so that their case be examined (see r.1-7). As far as I know, this interesting document has not been mentioned since B. Halper, Descriptive Catalogue of Genizah Fragments in Philadelphia (Philadelphia: 1924), 181.

25 In a classic article, John Griffiths defines legal pluralism as “the presence in a social field of more than one legal order.” While one can claim that Jewish courts, responsa and petitions are part of one legal order, elsewhere he writes that “multiple legal ‘mechanisms’ are enough;” see John Griffiths, “What is Legal Pluralism” Journal of Legal Pluralism 24 (1986), 1 and 12. Indeed, the potential conflict between the mechanisms rather than their complementary nature seems to be an essential feature of what constitutes legal pluralism, see ibid, 13-14. On legal pluralism, see also Sally Engle Merry, “Legal Pluralism” Law &
The ways in which a litigant could exploit the plurality of the legal arena are on view in an interesting document that should now be added to the corpus of documents surrounding the divorce of Sitt al-Kull and Şedaqa discussed in the previous chapter. The document’s opening is missing, but it is clear that at some point Şedaqa presented the court with a list of claims against his wife. The wife’s father was asked about these claims and answered that he would pay for whatever item Şedaqa would take an oath upon. However, Şedaqa refused, responding: “I do not accept this! Our lord (i.e. Maṣliaḥ, the head of the Jews) said that she would take the oath. Go read the list of claims to her.” The court accepted Şedaqa’s report regarding the head of the Jews’ instructions and sent three representatives to question the wife regarding the various items in Şedaqa’s document. Sitt al-Kull provided answers about each item on the list, and the court then told Şedaqa that he would need to take the oath, and that for his claim which she did not acknowledge only a general ban was incumbent upon her. Şedaqa responded with the statement: “I will accept only what our lord says!” Şedaqa also resisted the attempt to set

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26 The connection proposed here between TS 10 J 6 11 (ed. Weiss, “Håføn,” #138) and Bodl MS Heb d 66 7 (ibid, #8) and the whole corpus associated with Şedaqa the singer seems strong, despite the fact that the top of TS 10 J 6 11 is torn and we do not know the full names of the litigants. Not only the husband’s name in both documents is Şedaqa, but the mention of the question of maintenance and the request for Maṣliaḥ’s opinion in TS 10 J 6 11 and the receiving of it in Bodl MS Heb d 66 7 seem to prove the connection between the two documents. Furthermore, the language of “those present” that the maintenance “should not be less than” a certain sum is also common to the two documents. While the giving of *taṣarruf* to Sitt al-Kull in Bodl MS Heb b 11 3 (ed. Friedman, *Polygyny*, I-10) goes against the connection, it is possible, for example, that in TS 10 J 6 11 Şedaqa claimed that Sitt al-Kull stole these items from him.

27 In Halper 342 (see n. 24 above) we also find a husband coming to court with a paper listing his claims.

28 These answers offer a wonderful vista into material culture in Geniza society.
a high maintenance sum. The court then submitted the proceedings to Mašliaḥ to hear his ruling on these matters. On the back of the document we find Mašliaḥ’s instructions to the presiding judge: “Come to us tomorrow or today to hear the answer to what you wrote in this document.” It is not clear what the connection was between Mašliaḥ and Şedaqa (the latter, as we saw in the previous chapter, came from the upper-middle class), but it is clear that this connection improved Şedaqa’s negotiating position in court and allowed him to resist the court’s overtures (the advantage is particularly conspicuous when we compare this case to the pressures exerted on women in court in the examples examined in Chapter One). Moreover, we see that the locus of decision in the case was not strictly determined and that Mašliaḥ could reach decisions without hearing the litigants in person and pass them on to the judge in private.

Indeed, beyond the fact of their plurality, one could go as far as to say that the relationship between the various available legal venues in Geniza society was never fully defined. While the Talmud contains references to queries and replies, responsa literature truly developed only in the geonic period, after the classical canon of Jewish law had been sealed. This meant that responsa never became a specialized topic of legal discussion. In Islam, on the other hand, since the institution of istifṭāʿ could claim a strong textual basis in the Quran and ḥadith, responsa became a recognized subject around which developed an extensive and sophisticated literature.29 Furthermore, the decline of the academies in Babylonia brought about important changes in the practice of requesting and writing responsa, and these changes are reflected in both the content and

the functions of responsa literature. Yet it seems that contemporaries did not develop a conceptual framework for these changes, and with such issues as who can write a query, who can answer it, and how responsa should be treated by the court rarely discussed or settled, litigants were left with greater room for maneuvering. A similar point can be made about the practice of petitioning. Thus, while there are extensive discussions of court procedure in the Talmud, in geonic monographs, and in Maimonides’ Code, the protocols regarding the solicitation and proper use of responsa or the issuing of verdicts by communal leaders are barely discussed and conceptually underdetermined.

Similarly, while the Palestinian Yeshiva and later the head of the Jews nominated judges and were responsible before the Muslim authorities for the supervision of personal status matters, their jurisdiction vis-à-vis the local communities was defined in general rather than precise terms. Documents appointing communal leaders state the responsibility of supervising marriage and divorce but do not go into the nuts and bolts of how this is to be done, leaving plenty of room for flexibility on the part of both the leaders and their flock. In practice, communal leadership was conducted more through persuasion than protocol, and one does not find precise definition that determines


31 For a rare reference see MT, Sanhedrin, 6:6-9. In later periods, we find dispersed remarks about who should write the queries as some respondents insisted on replying only to queries from judges. See a responsum of Meir of Rothenburg (~1215-1293) in Meir of Rothenburg, Responsa (Cremona: 1557), #192, p. 65b. R. Asher b. Yeḥiel (1250-1327) expressed the same notion in a responsum regarding the inheritance of a convert to Islam in R. Asher b. Yeḥiel, Responsa (New York: 1954), 17:10, p. 40. A famous case is found in R. Jacob Moelin (1360-1427) in a series of responses to Leah the wife of Zalman, see R. Jacob Moelin, Responsa, (Cremona: 1556), #76. See also Judah ben Eliezer Minz, Responsa, (Munkács: 1898), #6, p. 19b.

32 This is currently being examined by Marina Rustow.
whether the head of the Jews may, for example, make a ruling in a case presented through a petition. Goitein writes that “Just as there was no rigid procedure at the appointment of a *muqaddam* so did his duties and prerogatives depend largely on local conditions and on his own qualities and qualifications.” The practical opportunities offered by responsa or petitions (which people evidently exploited) were not incorporated into contemporary legal or political theory. The legal arena consisted of an array of overlapping forums whose jurisdictions were never fully defined in theory and in practice.

The friction between the overlapping venues was augmented by the remarkable accessibility that characterized communal institutions. Petitions, private letters to judges and communal leaders, responsa and appeals to the community were used by a wide range of people from the different strata of Jewish society. Thus, the costs of approaching the court, drafting a petition or requesting a responsum could not have been high. Furthermore, as explored in Chapter Two, the approachability of communal institutions was important for the construction of communal authority. Legal authorities and communal leaders needed to be petitioned or asked for their legal opinion in order for their authority to be recognized. Since various options were available to their congregations, communal institutions and leadership were careful to maintain a ‘consumer-friendly’ attitude. The accessibility of the legal arena contributed to the vibrant dynamics displayed within it.

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33 On the position of the Nagid and *muqaddams* see Goitein, *Med. Soc.*, 2:23-40 and 68-75 (quote in p. 72). See also Goitein, “The Interplay of Jewish and Islamic Laws,” 63-64. A quick review of various Geniza deeds of appointment creates a definite impression that the lower one goes down the level of appointment (from head of the Jews to beadle and slaughterer) the more detailed and precise is the document of appointment. This promises to be an interesting direction of future research.


35 General accessibility might mean formal equality, but of course it does not mean a level playing field; see more on this below. One could argue that an ethos of accessibility is contradictory to the institutional predilection for inaction mentioned above. However, in practice there is no real contradiction because
The accessibility of a plurality of venues with overlapping and blurred jurisdiction meant that in many cases, members of the community had more than one available course through which to pursue a legal matter. While it is often difficult to know why any particular individual chose to compose a petition or a query rather than approach the court, several general factors can be said to have encouraged alternatives to the court. While the literature on legal pluralism in the Middle East emphasizes the tendency of litigants to choose the legal forums that will deliver the best results based on the different laws that applied in each forum, we have seen that alternative forums were used to spur, appeal, or bypass the court even if those forums implemented the same Jewish law. In Chapter Two we saw the benefit of being the first party to approach the court with a claim, which helps explain why we find people persecuted in one forum appealing to another forum. Thus, plurality was constituted not only by the different laws applied in each forum. The existence of choice for litigants seems to have been just as important to the dynamic negotiations pursued in the legal arena as were differences in doctrine.

A further advantage of submitting petitions and seeking responsa over approaching the court was that the former were private acts that could be kept relatively hidden, unlike a public court hearing. Thus, one could try to obtain a favorable responsum or even elicit the help of a communal leader discreetly, that is, without

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36 I am focusing here on the court-petition-responsum triangle because these are the most central venues. One could easily expand the comparison to appealing to gentile courts, seeking arbitration etc.


38 See, for example, TS 12 371, ed. Gil, *Ishmael*, #775 and TS 13 J a 1 1. Discussed below.
alerting the other side to these maneuverings. Furthermore, responsa and petitions did not involve a lengthy process of investigating the facts and could yield much quicker results than court proceedings.

More importantly, actors had various ways in which they could manipulate the various venues to their own advantage. In the case of Ṣedaqa, we saw that he was able to better his position in court by declaring that the head of the Jews had guaranteed him a particular legal outcome. Similarly, responsa could prove malleable to litigants who knew how to manipulate them. First, when writing a query or a petition, the author possessed a greater degree of control over the presentation of reality than in court. Whereas the description of events in court records was usually truncated (see Chapter One) and depended on the judge’s inquisitorial stance and the clerk’s predilection, petitions and responsa often present a richer narrative, which speaks to a fundamental human capacity to identify and appreciate a good – or at least a coherent – story. In presenting their version of events in a petition or a query, litigants could fashion the narrative to their own advantage more easily than they could in court. We can see how this worked in an important study by Mordechai Akiva Friedman, who studied the various drafts of a single query to Maimonides and demonstrated how pertinent details were added and removed in

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39 Indeed, Friedman notes that “many of the queries presented to Maimonides probably were sent originally as private letters.” See M. A. Friedman, “New Fragments from Maimonides’ Responsa (With Addenda to the Published Responsa)” in Hebrew and Arabic Studies in Honour of Joshua Blau (Jerusalem: 1993), 444.
40 Of course, many petitions probably led to a direction by the head of the Jews to the court to investigate the petitioner’s claim, but some petitions asked for a ruling, not only procedural assistance. It is also probable that the courts would work more quickly on cases which were directed to them by the head of the Jews.
41 On human susceptibility to narratives there is an abundant literature in ‘Law and Literature’ scholarship; see the articles in Brooks and Gewirtz, eds. Law’s Stories (New Haven:1996).
42 As was mentioned in Chapter One, litigants had the opportunity to tell their stories in court (although court records tended to abridge these stories). However, when such narratives in court included ‘trial ballons’ (see Chapter One), they could be immediately countered by the other party while a distorted presentation in a query or petition could be countered only after the matter was made known; see the famous pair in Maimonides, Responsa, #34 and #45.
order to elicit a favorable responsum. Respondents were aware of such tendencies and often began their answers with statements such as “If this is indeed the case.” However, even with such caveats, and despite the fact that responsa were not legally binding, merely brandishing responsa and petitions could benefit one’s negotiating position.

While the usual understanding of responsa sees them as replies to questions asked by puzzled impartial judges, it is clear that some queries were written by litigants themselves or on their behalf. Consider, for example, the following short query to Maimonides:

*May his Presence instruct us:* If a man owes a sum of the dowry, but he has nothing, and he wants to divorce his wife, must the judge not divorce her from him without him bringing the delayed marriage gift? And if he has nothing, from where shall he pay the delayed marriage gift? And especially if it is proved that she is rebellious to her husband, what is the law? *May his holy Reverence instruct us and may his reward be doubled from Heaven.*

While it is possible to read such a question as authored by a particularly accommodating judge seeking to help a husband divorce his wife, a more probable reading would

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43 M. A. Friedman, “New Fragments from the Responsa of Maimonides” in *Studies in Geniza and Sephardic Heritage Presented to Shelomo Dov Goitein on the Occasion of his Eightieth Birthday*, ed. S Morag *et al* (Heb.) (Jerusalem: 1981), 115-120 esp. p. 117: “... several details were dropped and others added, until it was felt that [the query] is ready to be presented to Maimonides, both in respect to halakhic editing as well as presenting the question in such a way that it would support the interested party” (my translation). See further examples in Glick, *A Window to the Responsa Literature*, 108-116.

44 See, for example, the case with which we started Chapter Two and explored further below: The daughter or her mother travelled to the capital and there obtained a kitāb, either a responsum or a decree. This was obtained without the husband’s presence, and apparently without even his knowledge. When the kitāb was proclaimed at the synagogue, the husband “broke” and gave up his claim. Another example can be seen in the letter of the country physician studied in depth in the next chapter. The physician refers to a responsum of Maimonides which rules that the wife is rebellious and he owes her nothing. Of course, we do not know what Maimonides was actually asked or what he actually wrote, but the country physician could brandish the responsum to great effect. Glick describes pesaqim from scholars employed by private litigants and even though such “rulings” were more like legal opinions, litigants could attempt to enforce these “rulings” by presenting them as objective rulings; see Glick, *A Window to the Responsa Literature*, 71.

45 See Blau’s comment in Maimonides, *Responsa*, 3:13, n. 1.

46 Maimonides, *Responsa*, #200 2:357 translated from Judeo-Arabic and Hebrew. One is surprised to see a very similar responsum written in modern Iran: “Meanwhile, Hassan in his frustration wrote to the three eminent Islamic jurists (ayatollah uzma) of the country. In his letter, he stated his case and enquired whether it was within the court’s power to prevent him from divorcing his wife on the basis of his inability to pay her dower in full.” See Mir Hosseini, *Marriage on Trial*, 76.
attribute the question to a litigant who encountered hurdles on the way to divorce. The author poses several questions in search of a way to overcome the judge’s insistence that he pay the dowry before permitting a divorce, and these questions read more like a client consulting his lawyer about the best line of argument than a description of a difficult case requiring legal expertise. The inclusion of several questions in the same query could be presented as wishing to understand more fully the subtleties of the law, but it may equally reflect a litigant’s attempt to discover the most effective way to frame his case.

Another way to obtain a favorable responsum was to submit questions to multiple scholars. Friedman published several responsa related to a single case involving a husband who harassed his wife until he seized her property. Three questions written on one manuscript were sent to Solomon ha-talmīd b. Nathan ha-Levi (his answer is confirmed by ‘Amram b. Ḥalfon ha-Levi). Another manuscript contains three questions about the same case addressed to Abraham Maimonides and was apparently written by the same hand. Another fragment shows that a similar question was sent to Joseph Rosh

47 See also Glick, A Window to the Responsa Literature, 71 and esp. n. 246. Of course, answering such questions by jurists could ran the risk of going against the traditional understanding of the famous maxim of Yehuda b. Ṭabai in Mishna, Avot 1:8: “Do not act like the counsels”.
48 On asking several questions in a responsum see Friedman, “The Inheritance,” 245-247.
49 It is important to mention that sending the same question to different authorities is known already from the Geonic period. See Simha Assaf, “Polemics of an Early Karaite against Rabbanism” (Heb.) Tarbiz 4 (1933), 43-44 (Judeo-Arabic) and 195-196 (Hebrew Translation). S. Abramson, “One Question and Two Answers” (Heb.) Shenaton ha-Mishpat ha-Ivri 11-12 (1984-1986), 1-40 and his Studies in Geonic Literature (Heb.) (Jerusalem: 1974), 37-39 and 125-126; D. Rosenthal, “Rav Paltoi Gaon and His Place in the Halakhic Tradition” (Heb.) Shenaton ha-Mishpat ha-Ivri 11-12 (1984-1986), 617-619; Robert Brody, “Amram Bar Sheshna – Gaon of Sura?” (Heb.) Tarbiz 56 (1987), 333-338 and Brody, Geonim of Babylonia, 198-199. See also Ackerman-Lieberman, “Commercial Forms and Legal Norms,” 1032. For this phenomenon in Ashkenaz, see Simcha Emanuel, Fragments of the Tablets: Lost Books of the Tosaphists (Heb.) (Jerusalem: 2006), 190-191. See also Glick, A Window to the Responsa Literature, 77-80. I would like to thank Simcha Emanuel for pointing out to me some of these references.
50 The husband was twice married, then died, and the question revolves around the different claims to his inheritance by the children of the first wife and the widow (from whom the property was taken).
52 Halper 159, edited by Goitein in Abraham Maimonides, Responsa, #118 and see Friedman, “The Inheritance,” 246-247.
ha-Seder b. Jacob, a well-known contemporary scholar and judge.\textsuperscript{53} Two questions, probably referring to the same case, are found in another manuscript and were presented to an anonymous authority.\textsuperscript{54} I am aware of another fragment in which a question about the same case was asked of Menahem b. Isaac b. Sasson, a contemporary judge in Cairo.\textsuperscript{55} In total, the case was presented to at least five different authorities in early thirteenth-century Egypt, often through several questions to each respondent.\textsuperscript{56} Like asking multiple questions, sending different queries about the same case to different legal authorities can be interpreted as reflecting a desire to gain a fuller understanding of the legal matter at hand, but it is clear that this practice could also be used by litigants to equip themselves with supporting material for their negotiations, either in or outside the court.\textsuperscript{57} As mentioned briefly above, such practices of legal ‘shopping’ are well known from the surrounding Muslim society, and the evidence from the Geniza probably reflects a shared practical approach to maneuvering within the legal arena.\textsuperscript{58}

\textsuperscript{53} TS 8 J 14 3v, ed. Friedman, “The Inheritance,” 255-257.
\textsuperscript{54} Bodl MS Heb d 46 144, ed. Friedman, “The Inheritance,” 257-262.
\textsuperscript{55} ENA 2728 5v, see discussion in the previous chapter in n. 108. In a personal communication, Friedman confirmed that this responsum probably belongs with the responsa he published. He has also identified additional responsa or queries that relate to this case, which he intends to publish in his book on the Geniza responsa of R. Abraham Maimonides and his contemporaries (see n. 16 above).
\textsuperscript{56} The fragment containing the query addressed to Joseph Rosh ha-Seder is incomplete and does not contain his ruling (it is also, as Friedan notes, erased with two vertical lines).
\textsuperscript{57} If Friedman’s suggestion that TS 8 J 14 2 was written by Solomon ha-Melammed b. Elijah is true, then we have another case of responsa shopping; see JNUL Heb 4 577 5 21 edited in Abraham Maimonides, \textit{Responsa}, #120 and Friedman, “Marital Crisis,” 73-81. If these responsa were indeed written by Solomon, it is remarkable how the son of the Jewish judge of Cairo turns to obtain a ruling from both the head of the Jews and from a rather obscure figure.
Three examples of the dynamics in the legal arena

So far I have discussed the plurality of venues, their overlapping and blurry jurisdiction, their accessibility and malleability in general terms. In the present section I will ground this overview with concrete examples that demonstrate the actual functioning (or disfunctioning) of the legal arena and the various ways in which litigants could exploit its structural cracks. Rather than rehearse relevant examples already explored in the previous chapters, and to avoid an overabundance of examples, each neatly illustrating a particular point but requiring a lengthy exposition, I have chosen in what follows to present three complex cases that demonstrate the key aspects of the legal arena as described above. Two examples are taken from Maimonides’ responsa and the third comes from a Geniza letter and ties in well with one of the cases presented to Maimonides. Taken together, these examples offer the reader a taste of the dynamics enabled by the loose structure of the legal arena. The investigation of the three cases will set the stage for a discussion of the consequences of this structure.\(^{59}\)

The first case involves a man who married a slave woman with two daughters.\(^{60}\) He lived with her for several years, and the marriage produced one son, who later died. The man decided to recognize his wife’s two daughters as his own progeny and declare them as his heirs through Jewish and Muslim deeds.\(^{61}\) When the man passed away,\(^{62}\) he

\(\text{\footnotesize{59 Many Geniza fragments reflect the plurality offered by the legal arena but are too terse to allow for an in-depth-description. For example, see TS Ar 7 9, a rūmī stole the ketubba of his wife and took off. Her brother says “I will take him to court or to the wālī.” See another example in TS 13 J 8 1. For a wonderful example of a man weighting the different non-Jewish options available for him, see TS 16 231, ed. Frenkel, Alexandria, #29.}}\)

\(\text{\footnotesize{60 See Maimonides, Responsa, #106 and see also Moses ben Maimon, Responsa, ed. Alfred Freimann (Jerusalem:1934), #317, pp.285-286, and p. 379.}}\)

\(\text{\footnotesize{61 thumma hasuna ’indahu nisbat al-ibnatayn ilayhi wa-’iqrāruhu annahum (!) wārithāhu (!) be-dine yisra’el u-be-dine goyyim wa-kataba bi-dhālika masāfīr (!). The question never explicitly relates whether the slave woman was his slave prior to the marriage. However, the fact that his relatives claim to inherit the two daughters after his death certainly suggest that he was their master (and thus also their mother’s). The}}\)
also had a brother and nieces from another deceased brother, who were living in another town. When the brother learnt of the death, he came to inquire about the slave’s daughters and the estate. The two daughters brought forth the deeds and their mother’s ketubba, written on yellow paper and dated prior to the manumission, making them the daughters of the deceased. After much litigation, the daughters prevailed in Muslim courts and the brother declared in court that they were indeed his brother’s progeny and had a right to inherit from him. He also admitted to a debt he had owed his late brother over a piece of real estate in his hometown. When the brother returned to his questioner probably chose not to say so explicitly because of the problems surrounding releasing a slave and then marrying her (see Maimonides, *Responsa*, #211 where Maimonides permits such a case saying that “it is better that he eats gravy and not fat”). It is also probable that he was the biological father of the two daughters, but interestingly the question and the answer do not address this directly. Much in the question remains obscure, for example, if the man declared the daughters in Jewish and Muslim courts as his heirs, why did he not manumit them as well? It seems that he thought that the two daughters were free from the fact that he had presumably manumitted their mother (or by the fact that they were his own daughters). It is relevant to point out that the Islamic legal context may prove fruitful for understanding this responsum. According to Islamic law if the man had sex with his slave girl and she conceived then she becomes an *umm walad* and the child is free. However, according to Jewish law, if the daughters were born before their mother was released and married, then they remain slaves; see Maimonides, *MT*, Laws of Divorce, 10:19 and Laws of Slaves, 9:1. However, in *MT*, Laws of Estates, 4:6 Maimonides allows for a case of a learned or pious man who begot a child from a slave woman and either treated the child as his son, said that he was his son or that his mother was a freedwoman. In this case, the legal presumption should be that this child should inherit him (apparently in our case, Maimonides considered the man to be neither learned nor pious). Maimonides refers to other opinions and there are references to Geonic opinions that considered the child of a Jew and a slave woman as his free son; see the commentators to the aforementioned passages in *MT*. It seems, however, that these Geonic opinions merely result from the presumption that men prefer not to engage in fornication (*en adam ʿose beʿilatu beʿilat zenut*) that was used so effectively to clear the descendants of Bustenay. Pursuing this further would take us too far afield, see *Otzar ha-Gaonim*, Vol. VII Tractate Yevamot, ed. B. M. Lewin, (Jerusalem: 1936), #90-96, pp. 38-43 and see also R. Natronai Bar Hilai Gaon, *Responsa*, ed. Robert Brody (Jerusalem: 1994), #261, pp. 397-401. For a similar Islamic case from fourteenth-century Morocco, see Powers, *Law Society and Culture*, 23-52.

The question does not seem to mention it, but it appears that the freedwoman also passed away. In any case, she is not mentioned further in the question.

63 *Wa-ʾakhir al-hāl an taqawwaw alayhi bi-l-saltana bi-mā biʾaydīhim min al-masāṭīr (!) bi-lʿudūl an maḏā waʾl-taraʾa bi-maḏīl al-qaḏī annahāna awlād akhīhu (!) waʾannahum mustahqīqīn (!) ʾirḥīhi.* In his edition, Blau suggested that maḏīl al-qaḏī means the Jewish judge (basically because it cannot be the same as the *al-saltana* which was translated into Hebrew (both by Blau and in Hebrew manuscripts of Maimonides responsa) as ‘arkhaʾot (Gentile courts)). It seems to me that al-qaḏī here can also be a Muslim judge (as ʿudūl usually is in Maimonides’ responsum). The appearance of both *saltana* and ʿudūl can be explained through the legal plurality on the Muslim side, i.e. between the Muslim judge and the *maẓālim* courts. It would have been possible to claim that the reference to ʿudūl might be a direct reference to *maẓālim* courts as Blau notes in his *Dictionary* that ʿadl ʿudūl seems to have been a designation for *maẓālim* court (Blau, *Dictionary*, 426). However, this claim is based on a learned note by Baneth (D. Z.
hometown, the elders there informed him that they were the witnesses for the original ketubba, which was made of parchment rather than paper. Moreover, they testified that the man had married the woman when the two daughters were already alive. The brother recorded their testimony in a Jewish court and waited until the two daughters sent a representative to his hometown to claim the debt that he had earlier acknowledged in the court of the other town. After some more litigation, righteous elders intervened and brokered a compromise according to which the brother gave the daughters a partial payment and the parties released each other from any further claims. The brother also wrote a bill of manumission for one of the daughters (the other daughter having by then passed away). This daughter married a Jew and bore children. However, when the nieces came of age, they contested their uncle’s compromise and claimed half of the estate of their other uncle. They located real estate and movable items that used to belong to him and were now in the possession of other people and composed a query to Maimonides containing some six separate questions.

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Baneth, “A Letter from Yemen dated 1202” (Heb.) Trabiz 20 (1950), 212, n. 12) which was accepted by Goitein (Goitein, Letters, 218) but recently rejected by Friedman (Friedman, Maimonides, The Yemenite Messiah and Apostasy (Heb.) (Jerusalem: 2002), 176. I would like to add that Friedman’s reading is confirmed in TS 13 J 20.5, l.20, ed. Khan, Arabic Legal and Administrative Documents, #79. The reference to ʿudūl still remains a problem; perhaps al-masāṭir (!) bi-l-ʿudūl means merely “witnessed deeds.”

64 If the brother proved that the early dated ketubba was a fake then the daughters would still be slaves even if their mother had been manumitted. Therefore, as part of the resolution, the brother had to manumit them. However, as Maimonides later points out, since the brother inherited his brother only partially, his manumission is also only partial since the daughters of the third brother must also manumit them. In that case the two daughters were half-free half-slave after the brother’s manumission and the daughters of the deceased brother owned three quarters of his estate (half due to their father’s inheritance and a quarter from the fact they half own the two daughters – i.e. when the brother gave his share to the daughters, half of it (i.e. a quarter) went to his nieces).

65 This is important for the responsum because it means that declaring the daughter still half a slave has ongoing repercussions for following generations. For us, this detail is important as it shows the passing of time (in this case years) between events.

66 The question makes it clear that the question was written by the daughters (of course by males on their side): wa-qad rafaʿ ā hādhiihi al-aḥruf ilā majlisihī al-ʿāli yerumam li-yastaftū mā ḥukm ...
This example exhibits many of the characteristics described above. We see the importance of legal forums and legal documents in disputes\textsuperscript{67} the plurality of overlapping forums and the relative ease with which people moved between them. We witness the use of this plurality of venues to contest previous arrangements and the sense in which a settlement could be merely the base line for the next round of negotiations. The litigation in this particular case probably started in Jewish courts, then the two daughters prevailed before Muslim authorities, and the brother acknowledged their right in either a Jewish or a Muslim court. The brother then used his home advantage in the local court to re-negotiate a more favorable settlement (note that he did not take the elders’ supporting testimony to the Muslim court to contest his previous acknowledgement in the forum in which it was originally made, but waited for the daughters’ representative to come to his hometown).\textsuperscript{68} His nieces later challenged the new settlement by requesting a responsum from Maimonides. Although the case demonstrates a whole variety of religious infractions and ignorance or in any case breaches of halakhic conduct (sexual relations with one’s slave, forgery of a ketubba, the filing of a suit in gentile courts, marriage to a woman who was only partially manumitted), the parties involved all seem to be rather proficient in manipulating the legal arena to their advantage.

The second example involves two responsa regarding a case of double betrothal. A legally mature woman, orphaned upon the death of her father, was betrothed to Reuben in a public ceremony.\textsuperscript{69} Two months after the betrothal, a relative (clearly from her father’s side), Simon, came forth and produced a deed showing that her father had

\textsuperscript{67} In this sense, Tamer el-Leithy is totally correct to insist on the pervasive use of written documents in the medieval Islamic world; see El-Leithy, “Living Documents, Dying Archives,” 390-396.
\textsuperscript{68} Recall Sa’ida bt. David’s case in Chapter One and the disadvantage of the physician in the next chapter.
\textsuperscript{69} Reuben and Simon are generic names used in responsa literature. Maimonides, \textit{Responsa}, #196 and #364.
already betrothed her to him while she was a minor. The query, which is preserved only in a Hebrew translation and clearly emanated from the young woman’s mother’s side, notes that Simon had been in the city for two months yet had never mentioned this previous betrothal, and moreover, that while according to the testimony in the deed, the betrothal had taken place four years earlier, the mother had never heard of it from her husband and the deed itself was only ten days old. The query further claims that it is not the local custom to conduct a betrothal in the marketplace, and in particular that it was unlike the woman’s father, who had been a wealthy man, to do such a thing even to his slave, let alone to his own daughter. Finally, if all this was not enough, the query reports that one of the alleged betrothal witnesses was married to a Karaite and the other suffered at the time of the events from vision problems that had since been treated. Both witnesses are reported in the query to be neglectful of religious prohibitions and one of them is described as unable even to read the deed – the implication being that their testimonies ought to be rejected. However, the local judge accepted the deed and ruled that the only way for the woman to be released from her betrothal to Simon was through a bill of divorce. When Simon attempted to make the betrothal into a full marriage, “She refused and said ‘I do not desire this Simon in any shape or form!’ (She did this) because he hurt the girl with his words and she became angry.”

When the two aforementioned witnesses tried to convince her to accept Simon because he was her relative, she retorted: “Bear witness and make the symbolic purchase that I do not want him. I will not see him nor will I even look at him.” Maimonides ruled that the girl nonetheless required a get.

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70 wa-qālat lā raghbata lī fī Shimʿon hādha lā bi-wajh wa-lā bi-sabab li-ʿajli ʿilāmihi li-qalb al-ṣabiyya bi-l-kalām wa-ʿakhadhahā qahr.
71 Quoting the girl’s speech creates drama in the legal narrative, as was argued in Chapter Two.
Obtaining the bill of divorce, however, proved to be difficult. The woman nominated her maternal uncle, Mr. Shela, to receive the bill of divorce, but the court could not reach a ruling in their matter. Faced with the court’s indecision, the woman’s mother turned to a Muslim judge so that he would pressure the court to issue a verdict. The Muslim judge ordered that the Jewish judge be reinforced with ten respectable men of the community and make a ruling on the matter. The two sides presented their arguments and documents to the enlarged court panel, which then instructed Simon to write a get and set the woman free. Simon wrote the bill and gave it to the woman’s representative, but “after a while,” Simon claimed that he was coerced into giving the get (and therefore that the get was invalid and the marriage still held). At this point, Maimonides was asked about the matter again and ruled that the get was valid and the woman was free to marry, since Simon was coerced by a Jewish court, and a Jewish court’s coercion is no coercion.

72 Here I used some of the details and text from the second responsum which is in Arabic and is more generous with details and dialogue. Since the second responsum does not mention the first responsum the exact moment at which the first was written is not entirely clear.

73 lam yaqdur BD (=bet din) ala batt al-hukm baynahum. Regarding the name of the maternal uncle: Blau suggested correcting the manuscript’s мэршеу to מэр שלח (i.e. mursilšah) noting that this is redundant because of the word shali‘ah later on, but arguing that it is impossible that the uncle’s name would be mentioned without a patronymic. I do not consider this impossible, especially since the question is quoting the girl’s direct speech.

74 fa-maḍāt (!) wālidat al-sabiyya ilā qādī al-muslimīn li-yashudd min be(t) din fī infādh al-hukm. On yashudd, see Blau’s comment in p. 353 n. 12 (where he points to shaddada ‘alā fulâm fî – while noting the different form). See also TS 8 J 38 11 r.4 and discussed in Chapter One, n. 106.

75 fa-‘anfadha warâ’ be(t) din <wa-> ‘asharat unās min a’yān al-jamā’ a wa-‘amarahu (i.e. the Muslim judge commanded the Jewish bet din = the Jewish judge) an yaḥkum baynahum bi-‘amrihi.

76 “The get was written under the coercion of a Jewish court and the coercion of a Jewish court is not called coercion (heb. ones). It is the man who opposed the religiously correct order of the court, this man has coerced himself by his bad intention (huwa allādhî anas et ‘asmo bi-sū’i timādîhi) as we explained in the big composition (i.e. Mishne Torah).” i timād is a case of an eighth form used instead of the fifth form; see Blau, Grammar, 79 and esp. Blau’s “Grammar Survey” in Maimonides, Responsa, 3:73 §37 (pointing to a different example of i tamada instead of ta’ammada in Maimonides, Responsa, 2:316). Maimonides is referring to his famous discussion of coercion in MT Gerushin 2:20 where our huwa allādhi anas et ‘asmo bi-sū’i timādihî is parallel with hu anas et ‘asmo be-da’atto ha-ra’a. This is a neat example of Maimonides translating his own Hebrew into Arabic. For the other way around see D. Z. Baneth, “Maimonides as his own Translator: Comparison with his other Translators” (Heb.) Tarbiţ 23 (1952), 170-191. For what
Like the first example, these two responsa demonstrate the centrality of legal forums and the pervasive use of documents in the negotiation of legal disputes. More importantly, it illustrates the variety of available venues and ways of exploiting them. The dispute began in a Jewish court (alongside more informal overtures made by Simon and his witnesses), was then directed to Maimonides, back to the Jewish court, then brought before a Muslim judge, and again back to a Jewish court, then contested by the losing side, and finally sent once more to Maimonides. We also see how both sides contested the decision of the Jewish courts (the first appeal to Maimonides contested the decision of the Jewish judge, and Simon contested the coerced bill of divorce). Even though Maimonides consistently backed the decisions of the Jewish court, we have seen several examples in Chapter One that show that a responsum could be an effective way to challenge the actions of the local court. The present responsa also demonstrate the Jewish courts’ predilection for indecision, as well as the practice of appealing to a Muslim judge to elicit action from the Jewish court.

A late eleventh-century letter written in Arabic script describes a scandal that bears some parallels to the case described in the previous responsum. The letter was written by Joseph b. Menasse in Ashkelon to Abraham b. Isaac, the scholar, in Fustat. Joseph apparently had some sort of prior claim over a girl named Jawziyya, the daughter of Marwān, though the letter does not clarify the nature of this claim. In any case, Joseph

Maimonides thought of translating the beautiful Hebrew of his Mishne Torah into Arabic, see Simon Hopkins, “The Languages of Maimonides” in The Trias of Maimonides: Jewish, Arabic, and Ancient Culture of Knowledge, ed. Georges Tamer (Berlin: 2005), 98 and Maimonides, Letters (Shailat edition), 409.

77 TS 13 J a 1 1 – The letter was written before 1085. It was first edited by Moshe Gil in his Palestine, #593. Later, Gil’s student, Ṣabīṭh ‘Aodeh, re-published the letter in his dissertation: Ṣabīṭh ‘Aodeh, “Eleventh Century Arabic Letters of Jewish Merchants from the Cairo Geniza” (Hebrew) (Tel Aviv University: 1992), #61. ‘Aodeh improved some of Gil’s reading but on other occasions Gil’s readings are to be preferred (‘Aodeh’s edition also suffers from several typos). Letters in Arabic script are notoriously difficult to decipher and I have benefitted greatly from Gil’s and Aodeh’s painstaking editions.
describes how having discovered, upon his return to Ashkelon from Fustat, that a certain Ṣedaqa had married off his son to the daughter of Marwān merely eight days before his own arrival. When he arrived, he recounts,

The city was in uproar (in’akasat al-balad) and the people did nothing but talk about what happened to me. They (either “the people” or, perhaps, Ṣedaqa’s family) spread rumors that I would take her from them. They were also spreading all kinds of ugly rumors about her. God knows, I have not told Jawziyya any of this, whether good or bad, for fear of what people might say. I also did not permit myself to talk about the matter, for I was bereft of speech. Her father demanded from them a release from Ṣedaqa b. Sulaymān’s complaints to the court … (the court) ruled that he must divorce her, but he did not divorce her. They sued him two more times and then another time. He said (to me) “Swear to God that you would not marry her.” I answered “I will not swear.” The people (of Ashkelon) rose up against them because they complained to the court time after time.78

In the end, Ṣedaqa’s son (or maybe Ṣedaqa himself?) brought his case before two prominent Fatimid commanders, Sitr al-Dawla79 and Jamāl al-Mulk.80 The Muslim commanders ordered that an unprejudiced Jewish court (majlis bi-lā taḥāmul) be convened to rule in the matter. This court was apparently also inconclusive and it seems that Joseph countered by bringing the matter before the Nagid in Fustat. Here Joseph emphasized the urgency and severity of the issue by reporting that Jawziyya had said that if Ṣedaqa’s son took her by means of the Muslim authorities or by force she would throw herself into a well or kill herself.81 Joseph asked Abraham, a judge in Fustat who seems to have been related to Joseph by marriage, to secure the Nagid’s reply and keep it with one of Joseph’s Maghrebi allies (maghrībī min aṣḥābī).

78 TS 13 J a 1 1, r.15-21. I have tried to retain Goitein’s translation in Med. Soc. 3:75-76 as much as possible.
79 Gil identified him as Abū Ḥāmid Allah al-Ma’mūn Ibn Fātik al-Baṭā’iḥī, who would later succeed al-Afdal as vizier. See Gil, Palestine, 3:497.
80 Gil identifies him as Musā who was later the commander of the Fatimid army in al-Shām and was the son of Sitr al-Dawla. See Gil, Palestine 3:497.
81 Again, as discussed in Chapter Two, a woman dramatically performs her resolution.
The legal avenues employed in this case include a local court, an appeal to a Muslim authority, a local court buttressed by the Muslim authorities, and an appeal to the head of the Jews for a ruling. Furthermore, the case offers us a glimpse of the reciprocal dynamics that characterized many disputes, with an appeal by one party to a particular venue (for instance, in this case, the Muslim authorities) countered by an appeal by the other party to another venue (the head of the Jews in Fustat). We also see the repeated failure of the mechanisms of the local community to bring the case to a conclusion, and how the pursuit of one’s interest through litigation could be coupled with extra-legal maneuvers, such as a calculated smear campaign. It is especially intriguing to note that at the time the letter was written (before 1085), Joseph’s appeal for a ruling from the head of the Jews in Fustat with regard to a scandal in Ashkelon must have been quite a daring move (which might explain why he wanted to keep it covert). The status and power of the Palestinian Yeshiva had been in decline for decades, especially after it left its seat in Jerusalem for Tyre following the Seljuk occupation. This means that in approaching the head of the Jews in Fustat for a ruling, Joseph was not simply following an accepted protocol of appealing to a higher authority after the local authority proved incapable of resolving the dispute. Instead, his actions must be seen as creative maneuvering in uncertain times, which capitalized on his familial, mercantile and social networks (in his case Maghrebi) to bring about a victory in the legal arena.

Consequences: fluidity and unpredictability

How did the multiplicity of overlapping, accessible and malleable venues affect the negotiation of disputes in the legal arena? The most immediate consequence,

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82 On Ashkelon’s unresolved position between Egypt and Palestine see Yagur, “Ashkelon,” 9, 16-18, 57-74 and esp. p. 73 which mentions our letter. See also Gil, Palestine 1:$609.
83 More on exploiting one’s network of contacts in navigating the legal arena in this letter below.
demonstrated in the three examples above but observable also in the many examples explored in other chapters, is the great degree of flexibility and fluidity that characterizes disputes in the Geniza. Legal disputes in Geniza society, and especially marital disputes, were dynamic and idiosyncratic, confirming Tolstoy’s observation that every unhappy family is unhappy in its own way. Litigants could typically contest a decision of one forum in another forum, and communal institutions often “went along” with the constant maneuvering of parties in the legal arena.

The flip side of this flexibility and fluidity is unpredictability. Conflict in the legal arena did not tend to follow a linear path guided by regular protocol. Instead, we see each case tracing a unique trajectory as the different sides creatively maneuver their way through the legal arena. Even when a litigant felt assured that his opponent was cornered and had exhausted his options, he could still be surprised by a legal turn of events. A local judge learnt this the hard way when he decided to take action in response to a growing public outcry about the case of a married man who paid regular visits to a married woman. After the culprit ignored the judge’s earlier reprimand, the judge summoned him to appear before the court. The judge writes that “he answered: ‘Tomorrow I will come to court.’ When morning came we searched for him, but his wife said he had already left for Fustat where he would beseech the cantor for help.”

84 However, “happy families are all alike” seems to be a dubious observation.
85 TS 12 242, r.2-13, esp. 9-11. Friedman edited a different part of this letter in his polygyny, 153-155. This case reveals several aspects of the legal arena mentioned above. The local judge rebuked the man after ‘ugly rumors’ about him. This apparently did not satisfy popular opinion. Discontent spread to the point that on the night the husband absconded, people were already resolved to bring the man before the Muslim authorities (wa-laylat mašīrīhi ‘awwalū al-nās an yūqiʿū ū al-khaṣm fī yad al-sultān). The judge then reports that the man answered that he would swear that he had not visited the aforementioned married woman and a symbolic purchase was made to that effect on the pain of two dinars to the heqdesh. However, if this legal deposition took place on the night of his flight, why did he flee? It seems that the judge is describing an earlier occurrence (such a non-linear way of describing events is common in Geniza letters), perhaps the result of the judge’s previous rebuke. In other words, after the judge first threatened him, the man promised
that the legal arena was – and was known to be – a field of contestation in which one’s opponent typically had a variety of possible moves, settlements were reached with great difficulty and were often challenged at a later point in a different forum. Settlements were only as strong as the will to adhere to them and the power to enforce them.\(^\text{86}\) Often, settlements served merely as the starting point for new negotiations, as witnessed in the first example, when the brother used his home advantage to re-negotiate an earlier settlement. Thus we find that in the unstable marketplace of personal relations, such legal devices as documents, rulings and settlements were used frequently but their nature was malleable and negotiable rather than fixed.\(^\text{87}\) This instability played a significant role in generating many of the tales of misery explored in previous chapters.

**Time**

Another consequence of the dynamic maneuverings in the legal arena and the tendency of legal institutions to delay rulings was that the settling of disputes was oftentimes a protracted affair. Litigation in court often required several sessions, and the ability of either party to raise objections through other forums meant that the duration of

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\(^\text{86}\) “[A] ‘placitum’ held in a ‘curia’ sometimes constituted only a single stage in the often long and complex processes through which conflicts were resolved.” See Stephan D. White, “‘Pactum...Legem Vincit et Amor Judicium’ – The Settlement of Disputes by Compromise in Eleventh Century Western France” *The American Journal of Legal History* 22 (1978), 295.

\(^\text{87}\) More on this below. For two example of the negotiability of legal agreements: TS 16 35 (discussed below) and Bodl MS Heb c 28 68, ed. Weiss, *Halifon*, #5: A settlement reached in Alexandria is renegotiated in Minyat Zifta since one of the parties is reluctant to go to Fustat (probably to appear before the court there). This reluctance costs him six dinars in addition to the ten dinars he agreed to pay in Alexandria. Three corrections ought to be mentioned to Weiss’s otherwise excellent edition: l. 3 read *ba’d al-musālaha*, l.7 read *qarrarū baynahumā anna* and l.14 read *al-taslīm*. Cf. Goldberg, *Trade and Institutions*, 163, n. 189.
disputes was frequently measured in months and years. This fact is not always evident in legal records, with their tendency to ‘telescope’ time and focus on the legal matter at hand, but it emerges clearly in responsa and petitions. In the first example above, we see that while the dispute was ongoing, one of the daughters died, the other married and bore children, and the nieces came of age. In the second example it is clear that the šabiyya had to wait a long time before being declared free to marry after Simon’s conjuring of a testimony, the witnesses’ attempts to broker a compromise, the decision by the local judge, Maimonides’ response, the court’s indecision, the appeal to a Muslim judge, the action of the enlarged Jewish court, and then – “after a while” – Simon’s renewed contestation.

The continuation of disputes over months and years was at least partly a result of the structure of mechanisms for dispute resolution. However, this consequence also permitted, and indeed encouraged, the search for alternative venues (either through a compromise or by directing the dispute to a new forum), which in turn, of course, led to a further protraction of disputes. This protraction also meant that stronger parties could try to wear down a weaker opponent, who more desperately needed a fast resolution. The

88 There are some well-known examples of litigation that required many court sessions: Joseph Lebdī vs. Jeukutiʾel (Goitein-Friedman, Lebdī, I, 1-15); Lebdī vs. Wuhsha (Goitein-Friedman, Lebdī, I, 26-28); the suit regarding Abraham b. Samuel (see Bareket, “The Affair of Abraham b. Samuel ha-Sephardi” in Masʾat Moshe: Studies in Jewish and Islamic Culture Presented to Moshe Gil (Tel Aviv: 1998), 124-136 – and further literature there); the Firkovitch court notebook is dominated by a series of sessions dedicated to a complex inheritance case; see also the complex case of Sitt al-Milāḥ (Friedman, Polygyny, VII: 6-8 and see p. 226). The experience of litigants in the legal arena is well expressed in an opening of a fragmented draft of a legal settlement: “Mr. Sh[... ] known as Abū al-Sūrūr b. Nathan … said to us: I have sued Mr. Shela, Yedid ha-Nesiʿ ʿit, known as Abū al-Faḍl b. Solomon known as Ibn al-Qaṭāʾ if in courts in Fustat and Alexandria several times on many claims and business in the dīwān of mortgages and other (forums). Every time, we would write different documents regarding the acknowledgements that we would acknowledge in each and every session. A long time passed between each and every session. At this time, I summoned Mr. Shela to a great court…” (some aspects of the translation are not certain), see TS NS 320 5, r.1-5: כה הוה חצר אלמכני אבי אלסרור ביר נתן ...הזקן קאל לנא כנת קד טאלבת מاهلarrera ...הזקן אלמכני אבוי אלפאצל ביר שלמה הזקן דיתיס בpreneur פי ברי דית物流企业 לבאות תמורות פי יתו י sesión מתאמה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אגרה פי יי אグ
obvious example is a wife who needs the divorce settlement to receive maintenance support for herself and her children. The longer her husband is able to delay a resolution, the more desperate and therefore more willing to compromise she may become.\textsuperscript{89} Therefore, the prolongation of disputes is an important element in our understanding of the dynamics of power in disputes.

On a deeper level, the prolonged duration of disputes is significant for social historians interested in understanding how ordinary people lived through these affairs. So, for example, the first case described above sheds light not just on the legal/procedural processes by which slave women were manumitted and then married, and on the disputes that thereby arose with the husband’s other dependents, but also on the question of what it was like to live one’s life, marry and have children, when one’s very identity as a free person could be challenged again and again by various opponents in different forums. Stretching for months and years, disputes were not moments of crisis but an ongoing reality.\textsuperscript{90} Adapting to this reality required finding a \textit{modus vivendi} for the ebb and flow of protracted disputes. In the context of married life, this suggests that couples argued and litigated, reconciled or simply learned to live with the dispute until the next flaring up of tension.\textsuperscript{91} Thus, the structure of the legal arena affected the fluidity and flexibility of married life.

\textsuperscript{89} We have seen this in Jalīla’s case. Similarly, one could stop providing maintenance (whether for one’s children after a divorce, or for one’s wife during the marriage) and when finally a settlement would be reached, one would usually not be required to pay the entirety of the accumulated debt.

\textsuperscript{90} There is a tendency among legalists to treat a dispute, especially in court, as a crisis and a failure of regular norms. However, anthropologists have been developing for decades a view of disputes and litigation as a normal process, see Kuehn, \textit{Law Family and Women}, 19-20 and the literature cited there.

\textsuperscript{91} Examples abound: TS 10 J 12 1 (discussed in next chapter), TS 10 J 15 23 (ed. Zinger, “Long Distance Marriages” 37-38), Maimonides, \textit{Responsa}, #34 and #45.
Personalism, patronage, and social embeddedness

Another consequence of the structure of the legal arena involves the personal nature of some of its venues.\textsuperscript{92} Whereas in Islam, the institution of the court revolves around the person of the judge,\textsuperscript{93} Jewish courts emphasized institutional over personal authority by stating that the court was appointed from above, by referring to the judge as ‘the court’ rather than by his name (or ‘the judge’), by having three members constitute the court, and by striving to minimize the court’s intervention in legal deeds.\textsuperscript{94} Unlike the professed impersonal nature of the courts, however, personalism is central to responsa and petitions. A responsum is the answer offered by a particular individual, and its authority is directly tied to his authority and standing in the community. Similarly, a petition asking for legal intervention (as opposed to charitable assistance) is addressed to a particular communal leader and typically saturated with the language of patronage based on the personal relationship between patron and client.\textsuperscript{95} Thus, despite the general accessibility of legal venues and in particular their accessibility to members of different social strata, we should not regard the legal arena as a level playing field. The preeminence of personal ties of obligation over institutional jurisdiction and procedural protocol significantly impacted the ability of different members of society to maneuver the legal arena to their advantage.

In Chapter One, for instance, the personal nature of the legal process was on display in the case of Jalīla bt. Ibrāḥīm, who, as we noted, probably calculated that due to

\textsuperscript{92} Patronage was both a consequence of the nature of the legal arena and a resource available for litigants with which to better their position. In this sense, it could be considered as an advantage a certain venue held over another venue, as discussed above.

\textsuperscript{93} Wael Hallaq, “The ‘qāḍī’s diwān (sijill)’ before the Ottomans” \textit{BSOAS} 61 (1998), 418.

\textsuperscript{94} See Chapter One. Of course, there is a difference between the image propagated by the court and the workings behind the scenes in the court which were often connected to personal ties of obligation, as I show below by examining letters to and from judges.

\textsuperscript{95} Patronage in the Geniza has recently received much scholarly attention, see n. 11 above.
the ongoing personal conflict between the Nagid and the Alexandrian judge presiding over her case, her accusatory letter against the judge would receive a positive hearing. Similarly, in Chapter Two we speculated that Jayyida bt. Abraham’s was able to get away with an elaborate scheme without invoking the wrath of the court at least partly because her husband was a scholar and her opponent a foreigner. We also saw how Wuḥsha’s ties with the court clerk, Hillel b. Eli, assisted her at various points in her many public disputes and affairs. In an inheritance dispute in an upper-class family, a brother committed to give two hundred dinars to each of his two half-sisters once they came of age. This seemingly generous arrangement was achieved through the striving of the sisters’ mother, who was the daughter of an official in the Muslim government. In some seventeen lines she commits to cease harassing the brother “in gentile courts or at the hands of the government or at the hands of anyone who takes refuge in the government.” Goitein has already connected the fact that the mother was a daughter of a government official with the fact that she appealed to the Muslim government and was suspected of doing so again. In all these examples we witness the prominence of

96 See Chapter One and TS 28 19, ed. Frenkel, Alexandria, #42.
97 See Chapter Two.
98 See Chapter Two.
99 RNL Yevr.-Ar. 1700 3, r.12-v.8 (quote from r.14-15). In r.19-21 she refrains from turning to the Muslim authorities (sulṭān) or to a powerful representative of the Muslim authorities (nāʿib an sulṭān miman lahu yad qawiyya) and from appointing a representative who will go to a Muslim judge or someone else connected to the government (al-qāḍī aw li-ghayrihi min jihat al-maikhūj).
100 See Med. Soc. 3:357-8, n. 212 and most recently discussed in Krakowski, “Coming of Age,” 37-38. Goitein also points to TS NS 321 54 where “a precious lady,” the mother of an official in the Muslim government, guaranteed any responsibility that would fall on those who would look after the marriage of a certain Mubāraka (probably a freedwoman, perhaps previously of the lady) who wanted to marry a Jew. From Goitein’s provisional transcription found in PGB, he saw this document in a much better state than it is today.
personal networks and configurations in the workings of the legal arena and in its manipulation by litigants.\textsuperscript{101} 

In the case of Joseph and Jawziyya examined above it is illuminating to observe how Joseph appealed to Abraham b. Isaac, the scholar, to intervene on his behalf and secure a ruling from the head of the Jews. As previously noted, asking for a ruling from the head of the Jews in Fustat for a marriage conflict in Ashkelon during the 1070s or early 1080s represented a creative maneuver on Joseph’s part rather than an established protocol. In this move we see the prominence of the Maghrebī connections: not only were Joseph, Abraham and Mevorakh all Maghrēbīs traversing the Egypt-Palestine routes, but Joseph makes the connection explicit when he asks Abraham to secure the head of the Jews’ ruling and keep it with one of Joseph’s Maghrēbī allies (maghrībī min aṣḥābī). We find further confirmation of the deeply personal nature of Joseph’s appeal to Abraham b. Isaac (himself a prominent judge in the court of Fustat) when he says the following: “Our matter obligates you because your family and our family are one. The matter of this girl obligates the mother of Abū Naṣr, may God protect him, and her father supplicated before you. So act in this matter as your wisdom sees fit.”\textsuperscript{102} While the exact connection between Joseph and Abraham is not clear, they appear to have been in-laws. We see how the patron in the capital is obligated by the subservience of the client who supplicated before him. Obtaining Abraham’s assistance depended on exploiting ties stemming from group loyalty (the Maghrebī connection), familial ties and patron-client relations.\textsuperscript{103}

\textsuperscript{101} Of course personal networks of favors intersected with family matters in many other ways. One particularly interesting example appears in TS 8 J 10 16, edited as Doc. #8 in Appendix Two. \textsuperscript{102} TS 13 J a 1 1, see n. 78 above. \textsuperscript{103} For another example, see TS 13 J 20 27: A widow of a physician petitioning Samuel b. Ḥananya for help. Without going into all the details, she says that were she to have someone who would maintain her, she would not be interested in marrying anyone at all (it seems that the Nagid has heard of the planned marriage and expressed displeasure). She asks the Nagid either to help her with a matter of real estate or to
The detailed workings of such personal networks are on display in three further documents, all involving the brokering of a spousal reconciliation by communal officials. Like the case of Jawziyya, these cases are recorded in private letters to or from communal officials. As private letters, they afford us an invaluable glimpse behind the scenes of the operation of communal justice, or more accurately, communal dispute resolution. This perspective is particularly important because usually historians only have the end product of these processes. These examples demonstrate not only the prominence of personal ties of obligation in the settlement of disputes but also the deep embeddedness of marital disputes in the broader social fabric.

In the letter that opened Chapter Two we saw a father thanking a *parnas* in Fustat for obtaining for him a *kitāb* – a responsum or decree – that ruled in his daughter’s favor. The *kitāb* was read publically in the synagogue, creating a drama that brought about reconciliation between the father and his son-in-law. When we look at the letter’s beginning and conclusion, which frame the description of the events in the synagogue, we see how obtaining the response from the capital was achieved by employing personal networks of obligation and that the letter is saturated with the language of patron-client relations. The letter is translated below with all the greetings, repetitions and marginal postscripts to convey its full communicative effect:

*In Your name, O Merciful One,*

*Peace and peace again from the Lord of peace and from he who makes in heaven peace. The creator of all knows how much longing I have for my lord*

provide for her financially. A different hand adds at the end of her letter (v. 6-8): “The slave has a claim of family over your presence, for the father of your presence and her father share a maternal aunt (?). Your presence helps foreigners, how much more so (should you help) he who is among your servants and family,” wa-l-’abda lahā ’alā al-hadra hurmat al-ahlīyya (written: חַרְמֶה אלאהליַיָ) li-anna wālid al-hadra wa-wālidahā awlād khāla (?) wa-l-hadra taštani’ al-ghurabā’ fa-lā siyyamā man huwa min mamālīkihā wa-ahlīhā.

104 See the common lament of legal scholars at having only the legal records to work with; Ergene, 111-113, 131-2, 170-188 and David Powers, *Law Society and Culture in The Maghrib,* 232.
and master, the venerable parnas, my honorable elder and my dignity, the one who is there for me at times of calamities. I ask the creator of all to keep you alive, protect you and make your end good. May I not be deprived of your letters concerning the good that you have done for the woman. May (God) protect your son, Ibn Kathîr, and gladden you with him. I pray for you night and day. You are there for me in every calamity. I boast of (knowing) no one but you. To everyone who talks to me, I say: “My lord, the parnas, he shall obtain a ruling for me” (va’khudh hukmî).

I inform you, my lord and master that the woman returned from you…. {here follows the description of the events in the synagogue analyzed in the opening of Chapter Two}…. I send you the most favorable and most perfect greetings, and greetings to your son, and greetings to Ḥayyâsh. Thank him for me, may I not be deprived of you and may I not be deprived of him, for what he did with the woman. The writer of these words (i.e. the scribe) your servant and child, Ibn al-Jâzafînî the young, the cantor, who made the connection with you, kisses your hands and sends you the most favorable and most perfect greetings. He, I, and my uncle pray for you with the Torah scroll in the synagogue of Malîj. I ask the Creator of all to keep you alive, my master, the parnas, and may He fulfill for you the biblical quote: “The Lord is thy keeper; the Lord is thy shade upon thy right hand.” May your peace ever increase and not decrease. Amen Neşâh Sela.

Great salvation!

(p.s.) I, Ibn al-Jâzafînî, the cantor, ask my master, the parnas, to send my greetings to Manṣûr Ibn Dinûn, who is from the people of our city and lives in the neighborhood of the Palestinian synagogue, in the bakery alleyway.

(p.p.s.) I wrote (this letter) in a time of haste in the evening, but I wished to pray a lot for my lord the parnas, (may) G(od) p(rotect him) (i.e. because I prayed for you so much, it became late and I had to write the letter in haste).

(p.p.p.s.) And thank for me Ibn Maḥbûb, I pray for him, and peace.

Beyond the conventional epistolary formalities of biblical quotes, blessings and honorifics, the letter displays unmistakable features of Geniza patron-client relations. The recipient’s benefaction (obtaining the ruling in the daughter’s favor) is reciprocated by declarations of exclusive loyalty (“I boast of (knowing) no one but you”), by spreading the patron’s fame (“To everyone who talks to me, I say: ‘My lord, the parnas, he shall

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105 The meaning of al-Jâzafînî/Ghazfînî (אלגאזפיני) has so far been uncertain, despite its appearance in quite a number of Geniza documents. A long note in the edition of this document brings together all known information about this family of cantors and suggests understanding it as a nisba for a person coming from Qazvin, Iran.

106 Translation uncertain. Alladhî ṯala’ a wasli ‘indaka.

107 TS 10 J 10 13, edited as Doc. #9 in the Appendix and see also Chapter Two.
obtain a ruling for me’”), and by the assurance that the client is praying on his behalf (as declared in the letter’s opening, closing and postscript).\footnote{108} The letter is particularly illuminating insofar as it conveys to us not merely a dyadic relationship between a client and a patron but a whole network of ties connecting the periphery to the center. In Malîj we have the writer, his uncle and the cantor, Ibn Jāzafīnī, who apparently established the connection with the capital. In the capital, we have the recipient, the parnas Abū Kathîr (probably Efraim b. Eli) and his son, Ibn Kathîr. Ibn Maḥbûb is mentioned as present in the synagogue at the dramatic reconciliation and later as residing in Fustat, and apparently constitutes another link between Malîj and Fustat. Thus, obtaining the favorable ruling from Fustat was a group effort arranged through a network of ties of mutual obligation.\footnote{109}  

In the next example we see how spousal reconciliation features not only within a framework of patronage but also in the reciprocal calculus of benefactions that encompass poverty and charity in addition to marriage and divorce. The top of the letter is missing so we cannot know the identity of the actors nor where the letter was written.\footnote{110} However, the writer’s role in the couple’s reconciliation and later in his care regarding the foreign poor indicates that he was a communal leader, probably the local muqaddam. The letter’s recipient, whose daughter was married in the writer’s local area,

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\footnote{108} The obligation of the client to spread the fame of the patron is found in many letters. See, for example, TS 10 J 19 7, r.11. For the client praying for his patron, see the remarkable petition for assistance of a poor man to a lady in TS NS 99 10. See also n. 11 and Marina Rustow, “Benefaction (Ni’ ma), Gratitude (Shukr), and the Politics of Giving and Receiving in Letters from the Cairo Geniza” in Charity and Giving in Monotheistic Religions, eds. Miriam Frenkel and Yaakov Lev (Berlin: 2009), 365-390.

\footnote{109} In TS 8 J 15 27, one finds another example of how obtaining a responsum is part of a reciprocal exchange of favors. Yefet b. Ḥalfon writes to Elijah the judge asking him to present Abraham Maimonides with an attached query and after the Nagid honors it with his answer to send it back to him. This request is sandwiched in between promises to look after any need or request Elijah might have.

\footnote{110} In Med. Soc. 3:213, Goitein states that the daughter was married in Alexandria. He is more careful in the notecard of this shelfmark (“most probably in Alexandria”). I see no conclusive evidence for this claim. However, it is logical considering Alexandria was the port of Egypt for anyone coming from the west.
must have been a communal leader of some importance in the capital. The writer reports how he reconciled the recipient’s son-in-law with his wife, the recipient’s daughter, whom he had been set on divorcing. Then, he moves on to request the recipient’s help with a certain Andalusian refugee. Jewish communities would often provide wandering paupers with just enough means to reach their next destination, thus relieving the local community of the burden of providing for them.\textsuperscript{111} Even though this letter stemmed from a more equal relationship between the writer and the recipient than the previous letter (this writer was probably from a larger town than Malīj and had bestowed a much more tangible favor upon the recipient), it is nonetheless steeped in the language of patronage:

> It has been a while now that words have passed between Shabbat and the girl (al-ṣabiyya), and he was on the verge of divorce. I did not cease to ameliorate him and his brothers, may God preserve their lives, they were not remiss (in their duty).\textsuperscript{112} You must, may God watch over you, write to them and thank them for what they have done. I have reconciled the matter as it should be.\textsuperscript{113} They are in complete blessing (hum bi-kull ni‘ma), you can calm your heart in this matter, for I am here for you more than any brother and friend. For your favor is always upon us and over anyone who arrives at Fustat, may God make everlasting this quality of yours. The bearer of this letter is a cantor from the people of al-Andalus. He is poor\textsuperscript{114} and exiled from his land. He has children with him. We have provided (ašlaḥnā) something for him and he intends to go up to Fustat. He is a modest and bashful (munaṭṭi‘ al-lisān\textsuperscript{115}) person. He asked me to write on his behalf to a man with fear of heaven and industry.\textsuperscript{116} I could not think of anyone as fitting as my lord, the elder, may God watch over


\textsuperscript{112} This same usage is found in TS 13 J 21 24, r.14 (ed. Gil, Ishamel, #99): wa-mā qaṣṣarū awlād al-dayān Sh(emaro) Ş(uro) fi haqqinā. See other examples in Blau, Dictionary, 548.

\textsuperscript{113} ašlaḥtū al-‘amr kamā fi al-nafs. On kamā fi al-nafs (which I understand as something like: “as it really is” or “as it should be”) see TS 12 291, v.8, and TS 10 J 15 13, r.5-6. See also al-Dhahabi, Siyar‘ a’l-lām al-nubalā‘ (Cairo: 2006), 11:122, 439; 12:422, 472; 15: 139, 182; 16:463, 542; 20:368.

\textsuperscript{114} I understand עני as Hebrew as is found in several Judeo-Arabic letters; see for example Mark R. Cohen, “The Foreign Jewish Poor in Medieval Egypt” in Poverty and Charity in Middle Eastern Context, ed. Michael Bonner, Mine Ener and Amy Singer (Albany: 2003), 54, n. 10.

\textsuperscript{115} See Med. Soc. 5:563, n. 74, and Cohen, Poverty, 45.

\textsuperscript{116} See Med. Soc. 5:194 and 5:598, n. 17.
you.\textsuperscript{117} I ask you to act with him as is characteristic of you, as your beautiful custom has been with \textit{any passer-by}.\textsuperscript{118} For he is deserving. Whatever you can do for him would be good. Write to my lord, \textit{the distinguished haver},\textsuperscript{119} on his behalf so he can strive for him \textit{for heaven’s sake.}

Whatever needs my lord and Sheikh has, may you honor me by fulfilling it. May you never deprive me of your letters, for I rejoice in them. I send you the best greetings and to your brothers, may God protect them, the utmost greetings and upon my lord, Abū al-Faḍl the \textit{parnas}, and on his child, greetings. My uncle sends you greetings.\textsuperscript{120}

Goitein commented separately on the two sections of the letter (the spousal reconciliation and the assistance to the poor foreigner), but when the letter is read in its entirety, it is clear that these two sections are closely interconnected. The favor the writer has done by solving the recipient’s daughter’s marital friction is presented as a demonstration of the fact that “I am here for you more than any brother and friend.” The writer presents his intervention as merely befitting his own and his congregation’s relationship with the recipient given the latter’s favor to them and to “anyone who arrives at Fustat,” a statement that sets the stage for his request, in the subsequent section, for just such a favor for a foreigner headed for Fustat. The letter’s conclusion once again solidifies the ties of reciprocal obligation (“Whatever needs my lord and Sheikh has, may you honor me by fulfilling it”) and reveals, like the previous letter, a glimpse of the wider network of connections beyond the dyadic relationship between the writer and recipient that naturally dominates the medium of a letter. This letter demonstrates not only the importance of personal ties of obligation for dispute resolution (the woman in this case

\textsuperscript{117} These sentences are translated in Cohen, \textit{Poverty}, 45 and used here with a few minor modifications.

\textsuperscript{118} Heb. \textit{over va-shav} – see Cohen, “Foreign Jewish Poor,” 62 (citing this letter – Cohen translates “wayfarer”).

\textsuperscript{119} As Goitein identified, this is Eli b. ’Amram, active in the second half of the eleventh century (which provides the time frame for our document), see Goitein, \textit{Med. Soc.} 2:548, n. 58 and see Elinoar Bareket, “‘The distinguished Haver’ or ‘the distinguished traitor:’ A controversial leader, Eli b. Amram the Head of the Palestinian Congregation in Fustat” (Heb.) \textit{AJS Review} 23 (1998) 18*, n. 84.

\textsuperscript{120} TS NS J 120.
was spared a divorce by her father’s local connections), but also the extent to which marital dispute resolution was embedded within the broader calculus of benefaction and obligation.

In our final example we find Shela b. Mevasser, the same Alexandrian judge who allegedly tormented Jalīla, explaining in a rather honest and straightforward way the reasons why he had brokered peace between a quarrelling couple. The wife’s father was Abū al-Ḥasan Surūr b. Ḥaim of the Ben Sabra family and resided in Fustat.121 From other Geniza documents we know that a daughter of Surūr, probably the same daughter mentioned in our document, was married to Mevorakh b. Isaac. The couple moved from Fustat to Alexandria several years prior to the writing of “our” letter.122 All the evidence indicates that both spouses came from a middle class background. After the judge brokered the peace, Surūr wrote him a letter of thanks and the letter below is the judge’s response:

Regarding your thanks to me and my uncle regarding what I have done for the benefit (maṣāliḥ) of your daughter, may God keep her (in peace123) and preserve her with her husband; it is a duty and obligation upon me for many reasons. The first reason is her loneliness and isolation. Also, the wellbeing (maṣāliḥ) of the people of our city is incumbent upon me. Also, out of respect to a lord like my lord and master, may God guard him, whose favor is bestowed over high and low (alladhī faḍluhu ‘alā al-khāṣṣ wa-l-ʿāmm), may God, the exalted, always show you goodness. (Finally,) due to your filling in my place in the court of my lord, the Rayyis, “the fourth,” may God make lasting his honor. For you, in your favor, took my place and acted as is characteristic of you (wa-fa’ala mā huwa ahl lahu). May I not be deprived nor dispossessed of you.124

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121 The Ben Sabra family seems to have had the worst of luck when it came to marital disputes; see Med. Soc. 175-176 and the document examined in the next chapter.
122 See two letters which Mevorakh wrote to his father-in-law upon the couple’s arrival in Alexandria: ULC Or 1080 J 264, ed. Frenkel, Alexandria, #100 and TS 8 J 22 6, ed. ibid, #46. The relationship between the letter at hand and these two letters is discussed ibid, 199.
123 ṣānaʿa allāh wa-hafizahā maʿa baʿalihā (last word is Hebrew with an Arabic possessive pronoun). It seems that ṣānaʿa should be understood in light of sanaʿa shalom; see Blau, Dictionary, 376-377.
124 TS 13 J 17 5, r.6-16, ed. Frenkel, Alexandria, #67.
This passage beautifully captures the various factors involved in brokering a marital resolution, moving from the most general to the very particular as if drawing four concentric circles. First we have the general obligation toward a person in a weak position. Next, the obligation stemming from the judge’s commitment to his local flock as the communal leader, followed by the duty stemming from the prominent position of the beneficiary, Surūr, “whose favor is bestowed over high and low” and whose membership in the elite of the Jewish community in Fustat clearly motivated the local Alexandrian judge to strive harder to assist his daughter. Finally, the judge felt obligated to return a personal favor from Surūr, who had filled his place in the court of the Rayyis, “the fourth.” As in the previous examples, we see the legal and non-legal domains intertwined, with ties of personal obligation playing a crucial role in obtaining a favorable outcome from communal leadership and the resolution of marital conflicts fully integrated into the general network of reciprocal favors.

These four examples (counting also Jawziyya’s case) can also be brought to bear on the important debate between David Powers and Lawrence Rosen on the role of legal doctrine versus social embeddedness in legal conflicts in Islamic societies. The documents of the Geniza are particularly well placed to contribute to this debate, which

125 The wife is suffering from isolation (inqitā’) since her family was in Fustat and she had no male support in Alexandria if it were not for Shela b. Mevasser.
126 See Frenkel, Alexandria, 199.
127 The identity of this person is important for the dating of the letter, but it is not entirely clear. Mark Cohen suggested that this is Evyatatar ha-Kohen who is known by this title in several documents from the second half of the 1060s through 1071 (see Cohen, Jewish Self-Government, 162). Another possibility is Ṣadok, Evyatatar’s brother, who was called “the fourth” in documents in 1094, see Gil, Palestine, #554.
has been unnecessarily polarized by the differing approaches of anthropologists and textually-based legal historians. Indeed, the Geniza is unique in offering us a behind-the-scenes glimpse of the workings of judges and communal leaders in resolving disputes, either in letters to officials before and after the resolution or in letters by officials describing their actions. This perspective is usually missing in fatāwā collections either because a mufti would not enter into the official document the fact that the father of someone requiring his assistance had once took his shift in the local court, or because the editor of a collection would not have included such cases in the collection. Indeed, it is safe to assume that the kitāb whose public reading in the synagogue achieved the reconciliation between the couple did not contain in it explicit mention of the personal ties between the father and the people in the capital but rather mentioned only the legal doctrine that the husband may not take a second wife without full payment of the meʿuḥar. On the one hand, the Geniza reveals to us a picture in which communal conflict resolution is deeply embedded within the social ties of obligation. On the other hand, as demonstrated by the many examples in which responsa issued by Maimonides corrected the actions of local judges, the more prominent scholars adhered closely to legal doctrine. Moreover, marital disputes, featured in all the examples presented above, are perhaps more prone to be treated with a greater concern for social embeddedness. Rather than conceiving of legal doctrine and social embeddedness as opposite poles in a zero-sum game, the Geniza shows us that both played a prominent role and often

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130 One can point to places where Maimonides shows a greater degree of leniency in his responsa than in Mishne Torah, for examples see Hanina Ben-Menahem, “Maimonides on Equity: Reconsidering the Guide for the Perplexed III:34” Journal of Law and Religion 17 (2002) 32-46. However, no one would deny his close adherence to the halakha.

131 See Powers, “Review,” 791. However, Chapter Two discusses a very interesting responsum of Abraham Maimonides involving an inheritance case in which a ruling quite contrary to the dry letter of the law was requested and obtained because of the good social position of one of the sides.
complementary role with their relative weight shifting according to the type of available sources, the nature of the dispute and the personality and rank of the jurist involved.

**The power of communal institutions and contract enforceability**

Finally, our depiction of the legal arena stands to shed some light on the issue of the power of communal institutions which has long vexed geniza scholars. Many of the documents examined in this and previous chapters suggest the weakness of communal institutions by portraying them as either powerless or unwilling to enforce prior legal agreements reached between the parties or even their own rulings. We saw men and women contesting previous settlements, ignoring court summons, refusing to follow the orders of communal leadership – and getting away with it. These examples raise the important question of contract enforceability in geniza society, but also reflect on the much broader question of the power of communal institutions and our fundamental conception of geniza society: was it a ‘well-ordered society’ with robust institutions able to regulate social relations in a more or less predictable way, or rather an inherently unstable society whose communal institutions were weak and ineffective and whose members could therefore do as they pleased?

The difficulty of answering such broad questions should not deter us from posing them. Indeed, raising such inquiries directs us to question our assumptions regarding the nature of the society that we study, and clarify what is at stake with each answer we give.

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132 Of course this is formulating the question in extreme terms, but dichotomies are often helpful to pose questions whose answers are, of course, much more complex. Advocates of the concept of legal pluralism often portray society as the opposite of well-ordered: “[society] is rather a chaotic mess of competing, overlapping, constantly fluid groups, more or less inclusive, with entirely heterogeneous principles of membership, social functions, etc., and in a baffling variety of structural relationships to each other and the state;” see Griffiths, 27. My use of ‘well-ordered society’ draws, of course, from John Rawls, *A Theory of Justice*, (Cambridge: 1971, 1999 (revised edition)). Deciding between these contrasting depictions of society often has much to do with the scholar’s own personality, see Peter Burke, *History and Social Theory*, 27 and 122-124.
While these questions are periodically raised, and recently, certain aspects of these questions received a masterful treatment, we are still far from addressing them in a satisfactory way. However, we can make progress in answering these questions by bringing the structure of the legal arena to bear upon them and by reformulating the questions.

In a way that is utterly typical of the study of the Geniza, when one attempts to find an answer through Geniza documents to the question of contract enforceability in particular and the power of communal institutions in general, one encounters an infuriating diversity of evidence. One could easily marshal one Geniza document after another to demonstrate the strength of communal mechanisms and the importance of legal agreements to the concerned parties, only to produce a similar line-up of other documents that leave no doubt about the chaotic nature of married life in Geniza society and portray it as a place in which people regularly disregarded communal leadership and agreements were unenforceable in the absence of a substantial non-legal ‘stick.

So, for example, as merely a small sample of this diversity, we might illustrate the power of communal enforcement with the case of a man who asked a judge in Fustat to assist him in divorcing his first wife so that he could marry another, because “Were I to wait here even a hundred years the rayyis would not marry me until a bill of divorce be produced.” Another frustrated husband asked his mother to make sure that the bill of divorce he sent with a trustworthy friend would be delivered to his wife with witnesses.

133 Most recently the question has been raised in Krakowski, 208. The question of contract enforceability among merchants has recently been treated in Jessica Goldberg, “Choosing and Enforcing Business Relationships in the Eleventh-Century Mediterranean: Re-examining the ‘Maghribi Traders’,” Past & Present 215 (2012), 3-40 and see in her book Trade and Institutions 120-179. Of course, enforcing a partnership agreement is different from enforcing a marriage settlement; see more in the conclusion below.

134 ENA 2556 7, r. 7-8, and see Friedman, Polygyny, 241.
signing a testimony to the delivery, because he was prevented from remarrying. In a long letter from 1234 we hear of a man who fled from the communal ban in Fustat, Cairo and Dammūh all the way to the remote town of Qūṣ in Upper Egypt to take another wife. If a man had to travel more than six hundred kilometers just to get away from the ban, we surely can appreciate the power of communal enforcement.

On the other hand, in a query to Abraham Maimonides we hear of a man who left his wife and children in Alexandria, bought a female slave (not for the purpose of household service, as the question clarifies), brought her to the Fayyum, dressed her in fancy clothes and said: “No one sees, every man may do that which is right in his own eyes and no man takes it to heart.” His statement refers to the biblical “In those days there was no king in Israel, but every man did that which was right in his own eyes” (Judges 17:6 and 21:25), and “The righteous man perishes, and no man takes it to heart, and pious men are taken away and no one gives thought that because of evil the righteous was taken away” (Isaiah 57:1). A similar picture emerges from a cluster of documents from around the same time dealing with the woes of (Sitt al-) Milāḥ, who lived in Fustat with her seven-year-old son and whose husband, (Abū) Manṣūr, a tax farmer in Sanhūr, wished to marry another woman in Alexandria. Milāḥ demanded that he pay her meʿuḥar in full before marrying another woman. Abraham Maimonides arranged for several letters to be written to the local authorities and promised Milāḥ that no muqaddam would

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135 Halper 419, r. 21-23: wa-ʿin kānat imraʿatī ḍadārat (for the meaning of this verb here see Blau, Dictionary, 114) ilā skandariya fa-tusallimūn ilayhā al-get wa-taʾkhudūn khuṭṭūṭ al-shuhūṭ fa-ʾinnī mu tāq min al-zīja ve-shalom.
136 TS 13 J 26 6, see Friedman, Polygyny, 267-269.
137 The aerial distance between Cairo and Qūṣ is about 480km. Six hundred kilometers is the approximate distance one would have to drive on a road trip today. Of course, going up the Nile on a boat would take considerably longer.
138 TS 10 K 8 13, see Friedman, Polygyny, 319-322. Abraham Maimonides answers that such behavior is impermissible and if it is established that he had done so, a ban ought to be placed on him.
arrange the marriage of her husband before he paid her meʾuḥar. After a while, Milāḥ learnt that her husband had found someone (probably a muqaddam who was on ill-terms with Abraham Maimonides) who agreed to marry him despite the Nagid’s promise. The Nagid wrote at least two further letters to the local muqaddam, who apparently ignored the letters in blatant disregard of the Nagid.\footnote{For the complex cluster of documents regarding Milāḥ, see TS 8 J 22 22, TS 18 J 3 12 and ULC Or 1080 J 285, ed. Friedman, Polygyny, VII-6-8. Another telling example of the weakness of communal power is found in DK 232 1: A ‘cut off’ wife whose father could not support her and whose brother was a young boy with no connections had a strongly worded petition sent to the Nagid, Samuel b. Ḣananya. According to her petition, she “got stuck” with a man who was not ashamed of the bad things people had spoken about him (or maybe by the bad things he himself speaks of—see Chapter Two n. 112). The petition was written after a legal process took place in which the Nagid ordered several things to be done and now the wife writes to complain that only little has been executed. The Nagid ordered the husband to return the ketubba to its original text (apparently the husband somehow decreased the sum stated in the ketubba—see the previous chapter). However, now the husband has taken an oath that he would write nothing but ten dinars (obviously a lower sum). The Nagid also commanded that the slave girl be given to the wife and the husband give the wife tasarruf over her. However, now the husband said that he would not give his wife the slave girl’s daughter and anyway he placed the slave girl at his sister’s house. The husband apparently managed to ignore the Nagid’s commands by finding someone who supported him in his claims. The wife had been getting advice from the people of the synagogue and from the local judge but she writes that she is fed up with words and no action. The judge, for example, told her brother to leave the matter until Sunday. However, “Sunday came and nothing was done in my matter except postponement.” The wife complains that she is treated “as if it was I who has done something unpermitted” (ḥattā ka-annī qad ʿamilitu shay ḍā lā yansāgh (!)) – for the last word (=yansāgh) see Blau, Dictionary, 379). We see here how even a ruling of the Nagid was subjected to a process of negotiation at the local level until it was “watered down” to ineffectiveness. This matter is also mentioned briefly in TS 10 J 17 22. Another example of communal weakness is found in TS 13 J 16 8, where the matter might have been more complicated because the culprit was probably a Karaite.} In another case discussed above, we saw a man who promised to come to court the following day only to run away at night to present his case before a cantor in the capital.\footnote{See note 85 above. For another case of running away from court, see ENA 3616 14, ed. Bareket, Jews of Egypt, 899 discussed in Chapter Two. Fleeing from justice is discussed in Smail, 168-174 with much additional bibliography. It would be interesting to compare the way such flight was tacitly allowed in Mediterranean Europe and the situation found in Geniza documents.}

One could try to resolve the conflicting testimonies about the ability of the communal leadership to enforce its will on deviant practice by trying to distinguish between the cases in terms of period, subject matter, or the gender and status of participants, but this approach goes only so far. Notice, for instance, that the last three examples all date from the reign of Abraham Maimonides and that the Qūṣ case and
Milāḥ’s cluster both involve the same issue – marrying a second wife – but have very different outcomes. Therefore, rather than resolving the testimonies I propose a different way to approach the problem, based on my analysis of the legal arena.

Rather than arguing that communal institutions were either powerful or powerless and that legal agreements were either binding or meaningless, I would argue that the important feature observed in Geniza documents is diversity itself.\textsuperscript{141} Communal power was not so much strong or weak as it was variable. Similarly, contract enforceability could neither be taken for granted nor dismissed as unfeasible, rather it varied according to local circumstances. Insisting on variability goes beyond the unsatisfactory observation that community institutions were sometimes weak and other times strong insofar as it forces us to address the following questions: What did it mean, for ordinary people, that communal enforcement was variable? How did people operate in an environment where the combination between legal ruling and political power was inherently variable and uncertain? These questions lead us back to our discussion of the centrality of negotiation and unpredictability regarding the legal arena.

Faced with communal institutions of uncertain power and a legal arena characterized by unpredictable dynamics, parties used legal instruments to bolster their negotiating position.\textsuperscript{142} Thus, a legal agreement conferring a certain right did not

\textsuperscript{141} I believe this approach can be useful for other related issues. For example, rather that claiming that Geniza husbands usually made arrangements for their families’ maintenance before they travelled or that they usually did not (evidence for both claims is plentiful), we can say that husbands’ support varied and was unreliable. We would then turn to examine how this uncertainty affected families and how they responded.

\textsuperscript{142} Here I am making a point similar to an argument made by both Ashur and Krakowski about pre-nuptials and marital dispute settlements. They argued that such agreements did not just protect the rights of women but also strengthened women’s negotiating position both at home and in court, see Ashur, “Protecting the Wife’s Rights in Marriage as Reflected in Pre-nuptials and Marriage Contracts from the Cairo Genizah” (Heb.) Jamaʿa 19 (2011), 3-4 and Krakowski, 204, 208 and 213. Here, however, I am making a much
guarantee this right so much as it functioned as leverage in a potential future negotiation over that right. On some occasions, legal agreements recorded conditions that repeat the position of Jewish law – and therefore need not have been written into the agreement to be enforceable; they were included, however, precisely to fortify these agreements as instruments of negotiation (‘Not only this is the position of Jewish law, but you yourself committed to do this’). This reading helps us understand why the parties to legal disputes on the one hand went to great lengths to obtain and keep legal instruments and on the other hand constantly maneuvered around and manipulated the law and its various institutions. Legal agreements were thus instruments for negotiating the shifting sands of the legal arena.

This understanding of the function of documents in a negotiable world is in no way at odds with the sizable evidence suggesting that parties regularly tried to buttress the enforceability of legal agreements with strong language and that authorities often took great pains to enforce agreements when they were broken. It also helps explain why

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broader claim regarding legal agreements in general. Moreover, my emphasis on the use of legal agreements in an unstable world is different from Ashur and Krakowski’s arguments.

143 See Krakowski, 207.
144 Calavita offers an interesting case to think about regarding the use of legal mechanisms: prisoners know that the complaint forms they file against the guards and their imprisonment conditions are usually ignored. However, many prisoners still take the trouble to fill out and submit these forms for variety of reasons. Some fill out these complaint forms because that is the only thing they can do, some for the slight chance that they might be read, while for others it is a way of telling their stories or to feel that they are not powerless vis-à-vis the guards. In other words, people “do” law for a variety of reasons, even if they do not expect a hundred percent efficiency from the legal system; see Calavita, Invitation to Law and Society, 40-42.
145 For a strongly crafted legal agreement in which a husband promises to divorce his wife with full compensation on pain of excommunication if he would disrespect, anger, curse, quarrel with his wife or run away, see TS AS 146.4. In Mosseri V 336 1 + 338 1, we find Joshua the Nagid (1310–1355) informing the recipient that ʿAbd al-Karīm (who was apparently an unruly provincial cantor) came before the Nagid with his opponents. Peace was arranged and ʿAbd al-Karīm agreed that if he curses or beat his wife he would be banned. Moreover, the Nagid tells the recipient to “take what is right from him” if ʿAbd al-Karīm breaks this agreement. This is the first mention of these documents. For an example of trying to enforce a legal agreement see Mosseri V 395 1: A domestic quarrel was caused by the wife’s leaving the house without her husband’s permission. It was finally agreed that she will not leave the house without his permission and she will leave the house only with his mother. Then it was witnessed that she still left the home without his
legal agreements were often regarded as flexible, as evidenced, for example, by the many responsa in which husbands request permission to act in ways explicitly prohibited by a prior legally binding agreement. Such queries show that legal agreements were important, but also that people thought that there was at least a possibility to get out of them.  

The unstable enforceability of agreements is vividly illustrated by an element typically interpreted as proof of the strength of legal deeds, namely the fine clauses with which many legal agreements are reinforced as protection against future breach. Scholars tend to point to these clauses as evidence that legal deeds were generally enforceable, but when we look at actual examples of breaches of agreements we discover the same fluid dynamics characteristic of the legal arena as a whole. For example, in an unsigned mahdar from 19 August 1050, we learn that Musāfir b. ‘Amram sued Saʿīd b. ‘Allūn for a tiara (ʾiṣāba) that had been given to Saʿīd to transport to Tyre permission. It seems that a certain rās al-kull was asked what is to be done with such a woman. This is an example of how legal agreements were acted upon, but also how their enforcement was a constant process of negotiation. As far as I know this document has not been mentioned previously in the literature. It is telling that I am not aware of any case of simple contract breach that leads to sanctions as stipulated in the legal agreement. Another case in which an abused woman tried to activate a condition written in her ketubba as well as a document she had from the Nagid allowing her to live on the property of the Qodesh is TS NS 264 31. This is also the first time this letter has been mentioned in the literature; its description in Baker-Polliack Catalogue as a ketubba is erroneous. Incidentally, this letter may indicate that the real estate of the qodesh was occasionally used as a shelter for abused women kicked out of their homes.

See Maimonides, Responsa, #202 and #45. Other examples are TS K 27 45 (see discussion below) and ENA 2922 30a, ed. Ashur, “Engagement and Betrothal,” Responsa-5. Ashur sees such questions as proving the fears a man had of transgressing the conditions set in his wife’s ketubba, see Ashur, “Protecting,” 18. On fines in Geniza contracts see Goitein, Med. Soc. 2:110, 330-331 (here Goitein notes that while fines for breach of contract were extremely common, “we hear next to nothing about payment imposed by a court as a punishment”). Gil, Pious Foundations, §38 pp. 26-27 and Cohen, Poverty, 225. On the payment of fines in Coptic contracts, see Wilfong, 55, 64 and 122. A straightforward belief in the enforceability of legal agreements is found, for example, in Ashur, “Protection” 4 and 7. Notice that the examples given there in n. 26 (TS 6 J 2 2 and TS 8 J 19 2 – see also Ashur, “Engagement and Betrothal,” 101) contain only a condition that if in the future a certain condition would be breached, then they would be fined. It is possible that some husbands were punished and fined for transgressions and that some agreements were enforced upon breach. However, we should not take such conditions as testimonies for enforceability.

It seems that fines were more stringently collected in Muslim courts, see TS Ar 54 93, ed. Gil, Palestine, #176 which contains information on Ibn Sighmar’s scandal with a Gentile prostitute. For a case in which a fine of 40 dinars for contract breach was waved by a Gaon, see TS AS 94 65+TS NS 217 20, ed. Friedman, “Divorce upon the Wife’s Demand,” 107-115.
but was never delivered. After some discussion, Saʿīd declared, and even took several oaths to the effect that if Musāfir would present any letter from Tyre mentioning the tiara, Saʿīd would pay ten dinars to the Qodesh for the poor of Jerusalem. Musāfir then produced several letters from Tyre (presumably mentioning the tiara). Sāʿid then tried to back down, claiming that his oath pertained only to letters by his father-in-law (raising the question of whether Musāfir and Saʿīd were related by marriage). Musāfir proceeded to produce letters from his father-in-law. The document ends with Musāfir asking that the proceedings so far be written down.

For the purposes of our discussion, note how even after twice breaking his oath to pay a fine if a letter is produced, Saʿīd’s continues to believe it possible to negotiate his way out of payment.

We see more of the outcomes of negotiating such fines in the next two examples. Ḥayyim b. Harūn desired to marry a woman in Śahrajt, probably in 1036. But the town’s people claimed that he already had a wife in Fustat and refused to allow him to marry. Ḥayyim denied having a wife and said: “If it would be proven that I have a wife in Fustat, I would pay ten dinars as Qode[sh] to the God of Israel” (a reference, as the document later clarifies, to a Jewish waqf in Jerusalem). After this vow, his affairs were

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150 Below I translate qodesh as waqf, however “qodesh” did not necessarily mean a formal pious foundation. As Goitein writes: “The qodesh was an idea, not an institution.” See more in Med. Soc. 2:99-103.

151 ENA 4011 60, ed. Gil, Pious Foundations, #31. My understanding of this document is different from Gil’s. After this chapter was written, I realized that my understanding of this document agrees with Joshua Blau, “Some Textual Comments to M. Gil’s Documents of the Jewish Pious Foundations” (Heb.) Trabiz 49 (1979-1980), 209.

152 ENA NS 17 10v, ed. Friedman, “Polygyny“, 175-182 and later ibid, Polygyny, VIII – 2. Also ed. Gil, Palestine, #389. Gil and Friedman disagreed on many points of detail which are irrelevant to the present discussion. I have generally followed Friedman’s analysis.

153 Gil read קָהֲלָה לֶה אֶעַצֶּן אַלָּמִדֵי אֵלָה אַל־מֵאַדְּפִי, while Friedman read קָהֲלָה לֶה אֶעַצֶּן אַלָּמִדֵי אֵלָה אַל־מֵאַדְּפִי. Friedman thus understood these events as taking place in Fustat, see Polygyny, 246-248. However, I tend to read קָהֲלָה לֶה אֶעַצֶּן אַלָּמִדֵי אֵלָה אַל־מֵאַדְּפִי, i.e. the deed is summarizing earlier events that took place in the Śahrajt. A quick search in the PGB reveals that “ahl al-...” often refers to a geographic location and never to the people of the court. The fact that the ‘people’ then said “[verily you have] a wife in Fustat” also strengthens the likelihood that this took place outside of Fustat. While this point is important for the relationship between the capital and the periphery, it is not important for the present discussion of contract enforceability.
investigated and it was discovered that he did in fact have a wife in Fustat at the time of his oath. When news of this reached the authorities in Fustat, he was summoned to the court there and threatened and intimidated until he confessed. However, he claimed that of the ten dinars, he vowed to give only five dinars to the Jerusalemite waqf and five dinars to the local synagogue in Ṣahrajt (apparently, he either preferred to spend his wealth locally or, more likely, knew that it would be easier to extricate himself from the commitment to a local institution). A person present insisted that his original vow promised the full sum to the Jerusalemite waqf, but Ḥayyim denied this. The court seems to have sided with Ḥayyim’s division of the ten dinars, in the absence of two witnesses claiming otherwise. Typically in such situations the court would allow time for such witnesses to be found, and this is apparently what happened. After a while (during which time Ḥayyim made no payment), the court summoned Ḥayyim and demanded that he pay the ten dinars. This time Ḥayyim claimed to be suffering from “destitution, poverty, indigence and inability to pay anything.” This claim was investigated and found to be true. The court then ruled (fa-raʾā bet din wa-l-shuyūkh anna ...) that Ḥayyim repay his debt in monthly installments of one quarter of a dinar, first to the Jerusalemite waqf and then to the Ṣahrajt synagogue. Given what we know about paying in installments in Geniza society, as discussed in the previous chapter, it is probable that only a small portion of this debt was ever paid.

154 The formulation in the deed at this point is somewhat awkward: wujida anna lahu zawja bi-misr fī ʿaqd al-zīj[a fī] waqt al-neder (last word is Hebrew). It is not clear what “a wife … in a marriage contract” is meant to convey (perhaps that they were separated but still formally married?) and whether “in the time of the vow” means that he proceeded to divorce this Fustat wife quickly after he took his vow. See also ibid 252, n. 26.
155 The deed does not mention any break and connects the different sections with a simple thumma (“then”). However, a break between court sessions is very likely at this point for various reasons. As mentioned in Chapter One (and as known in Islamic legal deeds), court records have a tendency to ‘telescope’ time and condense events into one unified narrative.
Our third example follows the trajectory of what should have been a quick marriage arrangement in Cairo between a groom from Aleppo, Abū al-Fatḥ (Pethaya) b. Yeshu’a, and an orphan girl, Sitt al-Mu’azziza bt. Shela b. Obadiyah. The betrothal (qiddushin) took place in the Jewish month of Iyyar (April 11-May 9) 1187, and the consummation was set to take place after the approaching holiday of Pentecost (May 15). Apparently, the betrothal agreement stipulated a fine if the groom did not fulfill his commitment. However, by July 26, the consummation had still not taken place and the groom was brought to court. The groom claimed that he did not possess enough money for the wedding expenses and for married life (let alone for the fine). However, since he still desired to marry the orphan and did not want to abandon her, it was agreed that the wedding would take place during the holidays in Tishrey (6 September-4 October). The groom was now committed to paying the sizable sum of ten dinars if he failed (once again) to live up to his promises. After the second deadline passed with still no consummation, Sitt al-Mu’azziza declared, in another legal entry found on the back of the document and dated 22 December 1187 that she received from Abū al-Fatḥ five and a half out of the ten dinars he owed for leaving her hanging for some eight months. She released him of the remaining four and a half dinars – not surprising given that the orphan girl needed Abū Fataḥ’s cooperation in writing her a bill of divorce.

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156 This is not entirely clear but it seems to be implied both in the way the groom was approached and in his response.
157 Recall our argument from Chapter One about how legal records tend to present men’s point of view and desires. Notice that the bride’s words are not mentioned at all in the deed nor her desires taken account of by the court. Indeed, it is not even clear if she was present at the first session. She was present at the second session, however only to perform the qinyan and we cannot tell what was her view of the events.
158 TS 18 J 1 12, ed. Ashur, “Engagement and Betrothal,” A-29 and see also Med. Soc. 3:306-7. The document does not mention a bill of divorce, but both Ashur and Goitein presume that it was the cause of the bride’s partial relinquishment of the sum.
These three examples show that even the stipulation of a fine, an element typically regarded as indicating the effectiveness and seriousness of an agreement, was subject to a dynamic of negotiation when the agreement was breached. We see a similar dynamic at work in what is probably the most well-known example of negotiating a settlement after a marital dispute. As the document is discussed in Chapter One, I only summarize it briefly here. When Sitt al-Nasab married Abū al-Ḥasan, the scholar, he promised that if she hated living with his mother and sisters, he would move her and set her up in a separate dwelling. This condition seems to have acted as a self-fulfilling prophecy and several months after the wedding, Sitt al-Nasab indeed quarreled with his sisters and asked to be moved and separated from them. Though Abū al-Ḥasan did move her to a new dwelling, he remained torn and strained by financial and other difficulties, and after several days asked her to return to live with his family. Sitt al-Nasab’s uncle, a trustee of the court, negotiated a compromise with him: Sitt al-Nasab would go back to living in the inner section of the previous dwelling provided that the mother and sisters would remain in the external section of the dwelling. It was further stipulated that the sisters and mother would not bother her “even for a matchstick.” Sitt al-Nasab was also given taṣarruf in her dwelling. If she asked again to be moved, Abū al-Ḥasan would

159 See also TS K 27 45: A question to Abraham Maimonides regarding a man who married a woman with a condition that she would have the right to choose the domicile in a specific town. He set her up with his family. However, after a while, this medieval Virginia Woolf demanded a house of one’s own (bayṭ li-nafsīhā) for herself with two specifications: that the house be a complete floor and that the courtyard would be inhabited entirely by Jews. The husband was unable to find such a place and it appears that the wife left him to live with her father (Goitein read “her bother” - it is often difficult to distinguish אביהא from אכיהא. The question asked whether the wife can be required to live in the best dwelling her husband can find in a courtyard with mixed Jews and non-Jews or whether she should stay separated from her husband at her father’s. The responsum contains another point of interest as it suggests to Abraham Maimonides a legal reasoning with which to rule for the first option based on legal analogy (the word qiyās is specifically used): Her demand to live in a Jews-only courtyard should be denied because were she to ask for a dwelling whose rent he could not afford she would be denied. On this responsum see Med. Soc. 4:21, n. 100; Ashur, “Engagement and Betrothal,” 110, n. 85 and Krakowski, “Female Adolescence,” 221, n. 70.
comply, and the breach of any of the above conditions carried a fifty-dinar fine, for which Abū al-Ḥasan would be liable.\textsuperscript{160}

This document wonderfully demonstrates how a settlement could simultaneously represent an “extraordinary affirmation of a young wife’s residential rights” and a compromising of those rights through the dynamics of negotiation.\textsuperscript{161} On the one hand, the new settlement reaffirmed the domestic conditions stipulated in the original agreement, reinforced with an unrealistic fine of fifty dinars. On the other hand, when Sitt al-Nasab sought to “activate” the domestic conditions of the original agreement (guaranteeing her right to relocate), the court showed a great deal of understanding for her husband’s predicament and asked her to compromise (see Chapter One). Her ability to implement her domiciliary rights proved temporary, but it did lead to a renegotiated living arrangement in the old domicile, which was a significant improvement on the previous arrangements. As Marmer and Krakowski already noted, Sitt al-Nasab’s ability to implement her marriage agreement depended on her high status and on her uncle’s good standing in court.\textsuperscript{162} However, even with these advantages, her ability to activate the conditions in the legal agreement was limited.

Fines and previous legal agreements were subject to a constant dynamic of bargaining. This does not mean that legal agreements were not important; the examples above show that legal documents and legal forums were central to the dynamics of disputes in Geniza society. Rather than arguing that legal agreements were either


\textsuperscript{161} The quote is from Krakowski, “Female Adolescence,” 215.

\textsuperscript{162} Recently it has been suggested that Sitt al-Nasab was a niece of Ḥalfon b. Nethanel, the famous India merchant, thus making her family one of the most prominent in Geniza society. See Friedman, \textit{Ḥalfon}, 47.
meaningless or absolutely binding, it seems more beneficial to view legal agreements as framing the terms of the next round of negotiations. A legal agreement served as the starting point for future negotiations and helped define the relative strengths and weaknesses of the parties’ respective negotiating positions. However, even a disadvantaged position could be overcome by appealing to a different legal forum, obtaining the support of local communal leaders, seeking the court’s sympathy or even blatantly ignoring prior resolutions. In the context of the variable power of authorities and unpredictable individual fortunes, conflicts and their resolution in Geniza society exhibited an ongoing dialectic of formal and informal, legal and non-legal elements.

**Bargaining in the Shadow of the Law? Leaving the Domicile**

Marriage disputes did not, of course, play out only in courtrooms and the wider legal arena. Quarrelling couples and their families negotiated their married lives through a wide range of venues and tactics outside the legal arena. Some spouses used children,¹⁶³ others seized property,¹⁶⁴ and not a few husbands were violent.¹⁶⁵ Some spouses engaged in smear campaigns,¹⁶⁶ while others took vows as a way of performing their resolution and entrenching themselves in an uncompromising stance.¹⁶⁷ Such actions had legal repercussions; but they were used in ways not confined to their legal meanings. While we do occasionally hear of a marital dispute that makes no mention at all of legal action, most disputes involved legal action alongside other forms of negotiation. In the example that opened this chapter we hear that Malîha’s legal representative was harassed to the

¹⁶³ For some examples, see Zinger, “Long Distance Marriages,” 17-19.
¹⁶⁴ See TS 10 J 26 11, ed. Weiss, “Halfon,” #145; TS 13 J 19 2; TS 13 J 1 12, ed. Bareket, Jews of Egypt, #102; and Mosseri VII 7r.
¹⁶⁵ See some of the cases discussed in the previous chapter.
¹⁶⁶ See TS 13 J 8 1; TS 13 J a 1 1; ENA 4011 17; ENA NS 16 30; and BL 10588 1.

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point of renouncing his role in her case. The ways in which extra-legal strategies co-existed and interacted with those actions that took place within the legal arena constitutes an important part of the dialectics of law and practice.

Sociologists have been using the term “bargaining in the shadow of the law” for decades as a useful term to describe the type of negotiation that takes places outside the court among modern spouses headed for divorce.\textsuperscript{168} Both the courts and the spouses often prefer that the spouses arrive at an agreement amongst themselves (often in the presence and with the mediation of lawyers). These spouses know that whatever they agree upon will have to be approved by the court. Moreover, their predictions of what they might attain in court heavily influence their out-of-court negotiations. Thus, these negotiations are conducted in a grey zone, neither inside the court nor completely detached from the law; hence their description as “bargaining in the shadow of the law.”

In the final section of this study I use the perspective of “bargaining in the shadow of the law” to explore how the legal arena influenced the extra-legal negotiation of marital disputes. To render such a broad investigation manageable, I limit it to one particular tactic in marital disputes: leaving the domicile. Numerous documents point to the domicile as a central locus of marital politics. Previous studies explored the negotiation over choosing and controlling the domicile both before marriage and during the early part of married life.\textsuperscript{169} In the case of Şāliḥ’s former wife, which opened Chapter One, we saw that the jostling for possession over the domicile continued even after the


couple’s divorce. Due to its contested nature and because leaving the home carried with it a whole range of legal and social consequences, this tactic is a useful case study for exploring the questions of how and to what extent the law cast its shadow over everyday married life.

Before looking at specific cases in depth, we should place the tactic of leaving the domicile in its larger social and legal context. While we find in the Geniza examples of both husbands and wives leaving the home in the context of domestic disputes, the meanings of this action and the ways in which it played out are rather different for men and women. To begin with, the phenomenon of men leaving the home in marital disputes fit into the larger context of cosmopolitan Islamic society in which men’s travel and absence from home was ubiquitous. As mentioned in the introduction, husbands often travelled away and came back only to depart again, often leaving and staying for unknown periods.\(^{170}\) Men left home for a wide variety of reasons, including disputes with the wives, disputes with their own families,\(^{171}\) search for livelihood, wanderlust,\(^{172}\) interest in Sufism,\(^{173}\) and more, whereas women generally left home only due to family troubles. Furthermore, Islamic society, like many other human societies, held that the public space was predominantly a male space, while the woman’s place was believed to be at home. This meant that leaving the home was easier for husbands, whose travel horizons were much wider and enabled them to run away and disappear. It also meant that husbands who wished to move to a new location against the wishes of their wives


\(^{171}\) See for example ENA 1822 A 51 (a remarkable document worth being published).

\(^{172}\) I have plans for a project examining wanderlust and masculinity in the Geniza; see TS 10 J 19 7.

\(^{173}\) See Goitein, “A Jewish Addict to Sufism.”
could simply relocate themselves and then demand that the wives follow – a tactic that women generally did not employ. Similarly, we find only men threatening to leave the home and disappear. However, women who left the domicile were expected to do so locally and to move into the home of a close relative, usually a father, brother or even a son, or else risk being considered immodest. Indeed, the most successful cases of wives running away from their homes as a way of re-negotiating their married lives are those cases in which women enjoyed the support of their fathers or brothers. But not all women enjoyed such support, and even those who did, could lose it if they overstayed their relatives’ welcome or in any way antagonized them.

While the phenomenon of husbands’ absences, running away, and leaving home as a temporary tactic is relatively well explored, the female correlative and the ways in

174 See ULC Or 1080 J 23; TS 8 J 14 2; TS Ar 39 57; Philadelphia 16516; TS 12 129, ed. Friedman, Polygyny, I-3 and discussed in Med. Soc. 3:188.
175 See, for example, TS 10 J 9 13, translated in Med. Soc. 3:175-6 (a woman kicked out of her house had to live with a widow to remain respectable). Another example is found in TS 18 J 3 2, ed. Bareket, Shafrir, #18 and trans. Med. Soc. 3:217-218: A woman petitioning the congregation against her husband (also her cousin) who, among other things, does not sleep at home. She mentions (r.10-11) that an orphan girl keeps her company at home. Goitein adds that “This, I presume, was added so that the listeners should not ask themselves: where and how does she spend her nights.” The word תונסני, which puzzled Bareket, should be read tuʾannisunī/tuwannisunī, see Blau, Dictionary, 785 and Blau, Grammar, 82 for the אְנָס—תונס. For a wife staying with her son and reluctant to go back to her husband even as he was dying, see Bodl MS Heb d 76 65.
176 See TS 16 35, discussed above; Mosseri II 195, ed. Goitein, “A Maghrebi Living in Cairo Implores His Karaite Wife to Return to Him” JQR 73 (1982), 138-145. TS 6 J 3 17, ed. as Doc. #5 in Appendix Two: A letter to a husband whose wife (a FBD cousin) left home to go to her father’s place. Her father took a vow that she would stay with him at least until after the holiday. The husband is told that if he desires her, he ought to stay at home with her for two months without her mother or father entering and bothering them. If not, there is always the option of divorce. To the best of my knowledge, this is the first mention of this document.
177 Importance of having support: TS 10 J 16 14, r. 16-22: a letter reporting how the daughter (perhaps not in the literal sense) of the recipient fought with her husband “in the streets.” She left the home, however, none of the Jews refused to take her in. In TS 10 J 9 13, translated in Med. Soc. 3:175-6: a much-suffering wife asked her uncle (according to Goitein’s identification) for help because she was kicked out of the house by her mother-in-law (who was also her maternal aunt and the aforementioned uncle’s sister). In TS 10 J 12 18 the daughter of a woman originally from I’billin (in the Galilee) but currently living in Fustat informs her mother that she has arrived in al-Mahalla. Her husband constantly harasses her about moving to Aleppo (from where he apparently hailed). She asks that her mother come to help her or send a proxy to move her away. Being with him “is like being in hell” and she asks to be released “from the people of hell.” For an example of familial support running out: TS 13 J 28 19, partially edited in Friedman, Polygyny, VII-3.
which it benefitted women is less known. By relocating to her brother’s or father’s home, a wife essentially broke away from the expected submissive position vis-à-vis her husband in the domicile, and forced the husband to negotiate with her through her male relatives. For abused wives (as many women who left home were) this action also meant that they placed themselves outside the reach of their husbands’ violence, thereby removing, at least temporarily, a central instrument of male domination. Though they were still likely to be pressured to return to their husbands, the very fact that they now had to be asked empowered them, as it was the husband’s turn to offer them a “better deal.”

This dynamic is evident in the very form of a letter written by a husband to his in-laws asking to be reunited with his wife. The first page contains some eighteen lines of greetings, blessings and prayers addressed at the recipients. The verso begins anew with some sixteen lines of reprimand for the recipients’ alleged neglect of their duty of love toward the husband, followed immediately by his forgiveness towards them. Finally, the last seven lines of the verso get to letter’s real point:

I ask of your favor to be united with the mistress of the house. For due to the pain, sickness, and meager care, my character has become constrained. I was irritated and words were exchanged between me and her. My (only) intention was to train her and improve her (wa-qaṣdī riyādatuhā wa-islāhuhā), according to what I know of your favor. And peace.

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178 Husbands leaving the domicile are discussed in Goitein, Med. Soc. 3:189-212, Kraemer, “Women Speak” and Zinger, “Long Distance Marriages.”

179 See, for example, Mosseri II 195 and TS 6 J 3 17. In TS NS 321 52, an absent husband reprimanded his wife’s family for accusing him publically of neglecting her (this interesting letter deserves to be published).

180 Meager care: qillat al-ʿānā – Goitein translated “meager support,” but since I suspect the writer refers here to his wife’s neglect of household duties, I chose “care” rather than “support” which might imply financial support. “My character became constrained” - dāqat akhlāqī. This is Goitein’s translation, however, it appears that Blau inadvertently used Goitein’s translation of the next bit of the letter (“I was irritated” - qajirū) for this expression in his Dictionary; see there p. 391.

181 Bodl MS heb a 2 21, v. 17-22.
Once the wife had left the home, the husband was forced to contend with her male relatives. Since the hierarchical relationship between husband and wife was taken for granted by all sides, it was understood that the husband could and should “train and improve” his wife. However, when addressing and negotiating with his in-laws the hierarchy disappears, and whereas he allowed himself to use harsh words with her at home, with them he treads carefully, dedicating about half of the letter to greetings and blessings and excusing his earlier violence with claims of sickness and pain.

Leaving home also carried legal consequences. A wife who left home thereby ceased to perform the wide range of household chores expected of her. A husband who left home would usually stop taking care of his wife’s food and clothing (if he had provided these when at home). Most importantly, leaving the home meant defaulting on one’s conjugal obligations toward one’s spouse, which could in principle be construed legally as ‘rebellion’ on the part of either spouse; in practice, however, only wives were ever referred to as rebellious. As we saw in the last chapter, even abused wives whose husbands were violent and failed to fulfill their marital responsibilities had a hard time achieving divorce and had to relinquish their monetary rights in return for the get.

Because of the legal consequences of leaving the domicile, it was important to establish the cause behind a wife’s leaving the home. The difference between leaving the

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182 For the male duty to improve and correct one’s women (daughter, sister and wife) and how this is to be done (the younger the better) see a discussion in a yet-unidentified literary work in TS Ar 47 76.
183 See the complaint of a husband in Maimonides, Responsa, #45.
184 While Jewish law provides the infrastructure for both spouses to be declared rebellious, one only finds “rebellious women” in responsa. This is a typical example of how legal practice employs the legal infrastructure available only selectively according to cultural norms; see Calavita Invitation to Law & Society, 97-99.
185 See Malīḥa’s case with which we started the chapter. It is probably not accidental that Malīḥa claimed that her husband suffered from serious diseases since this is one of the few legal grounds on which a woman may demand to be divorced from her husband with financial compensation (notice she says she demands divorce and “what the divine law obligates”). However, in the end she relinquishes her monetary rights in exchange for his agreement to write a bill of divorce.
home as a tactical move in a dispute and being expelled by one’s husband was sometimes in the eye of the beholder, and spouses and their families often argued over whether a wife’s departure was voluntarily chosen or the result of her husband’s actions. In the petition that opened the previous chapter, the wife described how her husband threatened to kill her if he found her at home when he returned in the evening. “By the truth of the divine law, it is he who told me ‘Leave!’,” she writes.\textsuperscript{186} We also witnessed Sitt al-Kull’s father asking the court to record that his daughter left her home because her husband removed her from it, and to record the day of her departure for the purpose of calculating maintenance compensation.\textsuperscript{187} Since a wife who was driven out by her husband was entitled to maintenance and could hardly be regarded as rebellious, we find the parties in such cases “negotiating reality,” i.e., attempting to establish the narrative that carried the preferred legal outcome.\textsuperscript{188}

With some understanding of the social and legal context of leaving the domicile, we can now turn to consider three examples in greater depth. The first two demonstrate different types of bargaining in the shadow of the law – the first, in the shadow of an actual legal process, and the second in the shadow of the law as a body of rules.\textsuperscript{189} The third example combines these two types of bargaining.\textsuperscript{190}

\textsuperscript{186} ENA NS 31 21, edited as Doc. #3 in Appendix Two.
\textsuperscript{187} TS 8 131, r.6, ed. Weiss, “Halfon,” #15 (see Chapter Three). For other examples which emphasize that it was the husband who kicked out the wife from the house, see ENA NS 16 30, ed. Friedman, Polygyny, VIII-4, and Mosseri V 355, ed. as Doc. #4 in Appendix Two, and TS 10 J 9 13, trans. in Med. Soc. 3:175-6.
\textsuperscript{188} “Negotiation of reality” was first used in a Geniza context by Kraemer (“Women Speak for Themselves,” 194) who employed it from T. J. Scheff, “Negotiating Reality: Notes on Power in the Assessment of Responsibility” Social Problems 16 (1968), 3-17; see Rosen, Bargaining for Reality, 42-43. Here I am combining the concept of “the shadow of the law” from sociology with the way Thomas Kuehn describes what he calls the “law’s brooding presence,” see Kuehn, Law, Family & Women, 87 and 96.
\textsuperscript{189} Since I have examined the first two examples in a previous publication, I will present them here only in so far as bargaining in the shadow of the law is concerned.

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Sitt al-Faḍl gave birth to a girl while her husband was away. It appears that he stayed away due to an ongoing financial dispute with the wife’s family. Sitt al-Faḍl was clearly upset by her husband’s absence, which she connected to the disappointing sex of the newborn. The husband wrote a conciliatory letter to Sitt al-Faḍl congratulating her on the successful birth and recovery, while holding his ground with regard to the financial dispute:

O Sitt al-Faḍl, truly I have rejoiced in your deliverance (from childbirth) and your getting up in the house.191 Blessed is God for this great favor. I ask God … to provide for me that which I pray for you in the Lord’s house when the Torah scroll is opened, lest you think that I wish you evil. O Sitt al-Faḍl, let go of evil and seek peace. I am happy with my child! What?! Because the first that came is a girl, I should hate her? Far be it from me! I say the opposite, God has favored my lot and it is a good sign to me and you. Now, let go of your hatred towards me. Even were it a most beautiful boy instead of her, I would not have come nor would I look at him. Not out of tyranny (tajabbur) to my child, but out of respect for your anger towards me. I ask God … to remove evil from between us and to bestow goodness upon us …. Do not think that I am waiting for anything else than until I receive the news answer to the kitāb I sent to our lord, the rayyis. We will make up and return to fight all the time. This is no good. (All I ask are) these twenty dinars, not less, but the amount which will improve your life and mine.192

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191 la-qad sarartu bi-khalāṣiki wa-qiyāmiki li-manzīlīki. “Getting up in the house” seems to imply performing household chores; see how a daughter-in-law was praised for being bāzila nażīfa sāliha gavyīma bi-ashghālikum kullīhā (Goitein read bi-umūrha), “efficient, clean, solid and taking care of all your affairs,” DK 238 4 (alt XIII), r. 18, see Med. Soc. 3:166, n. 36. The use of la for “truly” see Blau, Dictionary, 620. Another example can be found in ULC Or 1080 J 30, r.8-9.

192 TS 10 J 15 23, ed. Zinger, “Long Distance Marriages”, 37-8 and 56-7 with a few corrections offered in Friedman, “Crisis in Marriage,” 85. The wife is addressed confusingly both as סת אלפצ֗ל and סת אלפצ֗לה. Recently, however, I have identified TS NS 163 86 as a copy of the first three lines of TS 10 J 15 23. This identification allows me to correct my original reading of the first line of TS 10 J 15 23 from ﴬד אהל אלם אלי סת אלפצ֗לה אלמאל to ﴬד אהל אלם אלי סת אלפצ֗לה אלי סת אלפצ֗לה. The text in TS NS 163 86 is ﴬד אהל אלם אלי סת אלפצ֗לה הפַּרָּכֶם ﴬד אהל אלם אלי סת אלפצ֗לה. The writer of both has a tendency to write ﴬ with ה (with two dots above the tav) and to distinguish the final kāf with ﴬ. Another interesting detail is that we have seen that the writer of TS 10 J 15 23 and TS NS 163 86 switched between ﴬ and ﴬ and we also see in ENA NS 49 16 r.4 that the writer wrote ﴬ in place and then added ﴬ above the line.
The husband’s letter is a form of bargaining in the shadow of his appeal to the rayyis.\(^{193}\) The husband sent a kitāb to the rayyis, whose answer was clearly critical to the outcome of the financial dispute.\(^{194}\) While waiting for the rayyis’ response, as a means of pressuring his pregnant wife and her family, the husband opened an informal front in the negotiation by tactically leaving the home. However, this move soured his relationship with his wife, so that now he might win a favorable response from the rayyis but lose his marriage. Thus, damage control was in order: his resolute actions (contacting the rayyis and leaving the home) had to be balanced by soft words. The husband composed an endearing letter in which he declared his affection for his wife while insisting on his financial demands and explaining that it was for her sake that he was insisting on the money. We see in his careful juggling act how action in a legal venue was complemented by forms of negotiations outside the legal arena.

Another type of bargaining in the shadow of the law involved the effect of law as a body of rules on marital disputes. We see this type of bargaining in a letter by Solomon Ga’on b. Judah, the head of the Palestinian Yeshiva in the years 1025-1051, to a communal leader in Egypt. In the letter, the Ga’on asks the recipient to speak to the wife of a certain Joshua and convince her to join her husband in Jerusalem, where he has settled. Elsewhere I examined the remarkable gender reversal exhibited in the biblical

\(^{193}\) ENA NS 49 16 allows us to date TS 10 J 15 23 to the first half of the 13th century, due to the mention of Elijah the judge (documents in his hands 1210-1241) and “the Melammed” (spelt אֶלֶמַדד in l. 12 but אֶלֶמַדָּד in l.13) who is probably Solomon, Elijah’s son. Thus the rayyis in our letter is probably Elijah the judge or Abraham Maimonides.

\(^{194}\) The husband talks of jawāb al-kitāb, and it is not clear whether this indicates a formal query, a petition or a question in a private letter.
allusions used in the letter; my focus here is on the ways in which the standoff between Joshua and his wife was affected by legal considerations.\textsuperscript{195}

According to Jewish law, a husband cannot force his wife to move from a rural environment to an urban one or from an urban environment to a rural one. The exception to this rule is moving to Palestine: a husband may demand that his wife follow him to the holy land and if she refuses, he can divorce her without paying her delayed marriage gift. Within Palestine, the same rule applies to Jerusalem.\textsuperscript{196} While these rules are not explicitly mentioned in the Gaʾon’s letter, it is probable that they informed the husband’s request that his wife join him.\textsuperscript{197} The letter’s portrayal of the husband as eagerly waiting to resume married life with his beloved wife also assists in casting her as “treacherous” in the event of her refusal to join him: since the husband is desirous of his wife, he should not be penalized if she refuses to follow him.

The wife’s legal position was improved by the fact that before his departure Joshua had left her a time-conditioned bill of divorce, that is, a bill that goes into effect if he does not return within a stipulated time frame. The letter uses this time-conditioned bill of divorce to highlight the husband’s affection and concern for his wife. However, the husband was probably concerned that his wife would remain in Egypt until the stipulated time had elapsed whereupon she would become effectively divorced and could remain in her native land. She then might even make a claim for the delayed marriage gift. Since the Gaʾon’s letter provides us with only a snapshot of the marital dispute, we know

\textsuperscript{195} The wife is asked to return to her “fitting helper,” to “cling to the flesh she knew in her youth” and not to worry about leaving “her country, homeland and her father’s house,” see Zinger, “Long Distance Marriages,” 34-37.
\textsuperscript{196} Maimonides, \textit{Mishne Torah, Ishut}, 13:20-25
\textsuperscript{197} We see this argument used explicitly (and then rejected) in a responsum of Maimonides; see Maimonides, \textit{Responsa}, #365 and see Chapter Three, n. 152.
nothing about how the disputed ended or about the wife’s objectives, but we see how legal considerations, such as the husband’s legal right to demand his wife’s relocation to Jerusalem or the legal implications of time-conditioned bills of divorce, underlie negotiations that take place in letters passed either between spouses or between the communal authorities involved.

Our final example combines the two aspects of bargaining in the shadow of the law. The wife of a certain Ephraim was unhappy living in the countryside and wanted to live in Fustat, where she probably had relatives. It appears that after some unsuccessful litigation in al-Maḥalla, the wife left the husband and travelled to Fustat, where she or her male relatives approached a well-known parnas, Eli ha-Kohen b. Yaḥyā, to request his intercession.198 The latter wrote a letter to a certain Isaac b. ʿImrān, who must have been a communal official in the husband’s town.199 Isaac wrote the following letter in reply:

Regarding what you mentioned in the matter of Ephraim: I sent for him and he came to me. I showed him the letter of my lord, may God guard you. I saw that he desires his wife and the reason for his neglecting her is only because she left him and went up to Fustat against his command. (This was) after she and he sought judgment in al-Maḥalla from Mr. Joseph [the Ḥave]r.200 May the R(ock) pr(eserve him). It became affirmed to him (i.e. to Joseph) that she transgressed […] When she saw that the ruling would be against her, she went up to Fustat against his (i.e. her husband’s) command …. He is a poor man. He is not able to reside in Fustat. If she comes to him, he will have nothing dearer than her. If she does not desire to live in the Delta (rīf), he will put her up [in] Damietta. If she is desirous of him, she should tell him to send to her a messenger who would bring her to him according to where she chooses that he put her up. For he cannot leave the t[ow]n [becau]se of the government’s tax collector and he cannot leave.201 If she chooses him (also possible: it) he will have nothing dearer than her. If she does not want him (also possible: it), let her

198 In the letter his name appears in Arabic script, with one word written in Hebrew: أبو الحسن علي الاحلام بن يحيى الفرناس: Abū al-Ḥasan ʿAlī ha-Kohen b. Yaḥyā al-parnās. On this active parnas (documents from his hands dating 1057-1107) see Med. Soc. 2:78 and Goitein, Palestine, 125
199 I could not find information about him.
200 This is probably Joseph ha-Levi ha-haver b. Halfon, see the edition for this identification.
201 Compare with Abraham Maimonides, Responsa, #98, p.150.
inform him so he will send her bill of divorce to her. This will be her choice and not his.202

We do not know if the couple’s marriage agreement included a domicile condition, and if so, what it stated. We also do not know for certain why the wife wished to move to Fustat, though from the husband’s offer to move to Damietta we can deduce that he understood it as motivated by a desire to move to a more urban environment. It is clear, however, that the husband had the support of his local community and that the frustrated wife travelled to the capital where she was received more sympathetically – a pattern we have seen in other documents.

This letter is remarkable for portraying how a marital dispute was negotiated both inside and outside the legal arena. The couple sought legal judgment in al-Maḥalla, but before this process was concluded, the wife left town and headed to Fustat – according to the husband, after realizing that she stood to lose the case. Her move, however, did not cause the negotiations to break down but allowed her to continue them from a more favorable position. By leaving town and securing the involvement of the important parnas, the wife recovered from the setbacks suffered at the al-Maḥalla court. It was now up to the husband to declare his devotion to her and to show that he was willing to accommodate her wishes, at least to some degree. Though the court in al-Maḥalla was an important locus of negotiation, it was merely one station along the course of this dispute.

Delving deeper into the letter, it is possible to discern another layer in which legal considerations influenced the negotiation of marital disputes. It must be remembered that the letter is not simply a missive from the husband to the wife, but is a letter exchanged between two communal officials, and while the declaration of the husband’s affection

202 ULC or 1080 J 276, edited as Doc. #19 in Appendix Two.
toward his wife and his desire to continue marital life with her is rather striking in its emphatic expression, this declaration also conveys an important legal point. Adopting a stance that is rather common in Geniza letters, the husband’s self-description employs the rhetoric of powerlessness – he is portrayed as poor, unable to afford urban life, and shackled to his locality by fear of the tax collector – while his wife is described as active – she knew where the legal proceedings were headed and therefore decided to leave town against his command. More significantly, the husband declares his desire for her and lays any decision to divorce at her feet.

This performance of passivity while portraying the wife as active and in control serves a legal goal. As we saw in the previous chapter, when divorce is initiated by the husband, he is obligated to provide his ex-wife with her delayed marriage gift. As we saw in this chapter, if the wife leaves home on her own account, he is absolved of paying her maintenance. The declaration in the letter that if the wife chooses not to return to the husband “this will be her choice and not his” serves not only to declare the husband’s affection but also to establish a legal narrative: the wife chose the divorce and therefore she deserves no monetary compensation. While the wife managed to maneuver her way around the legal proceedings in al-Maḥalla, we see how legal categories continue to inform the negotiations that take place outside of court. In the letter, the husband makes a significant concession toward his wife, but at the same time guarantees that if the negotiation fails, the blame, along with its monetary consequences, will fall on her.

These three examples provide a taste of how marital disputes were negotiated in the shadow of the law, both in the institutional sense and as a body of rules. Litigation or seeking a jurisconsult’s opinion was a central feature in many marital disputes; many
settlements, however, were reached outside the legal arena, often through the persuasion of communal officials, either in letters or through face-to-face interaction. In the example that opened this chapter, we saw that appointing a representative to sue a husband for divorce could itself create sufficient reverberations to bring about an out-of-court agreement. Even when legal institutions were not decisive, legal considerations and legal categories constantly informed the bargaining position of spouses and thus set the stage for their negotiations. In many cases, the court was then asked to approve the settlements reached, thus allowing the court to veto problematic settlements (though we saw in the previous chapter that the court rarely did so). The legal arena cast its shadow over many disputes that were negotiated outside of it.

At the same time, these examples also show us the limits of the shadow of the law. Rather than seeing legal institutions as the ultimate loci for conflict resolution, we have seen that legal venues at times competed and at other times complemented venues beyond the legal arena. The wife who predicted legal defeat in the al-Maḥalla court moved to Fustat to improve her position. The husband awaiting a responsum from the rayyis also used distance in an active way while balancing these two moves with an affectionate letter. In other examples in the Geniza we find either no mention of litigation or else legal intervention occurring only after many years during which the dispute was

203 The question of the involvement of the “righteous elders” in reaching a compromise in the courtroom is a slightly different question. I tend to look at their involvement as a semi-formal feature included within the legal proceedings as opposed to the examples explored above of persuasion of communal officials outside the court. However, future research on the righteous elders may reveal that some of the compromises reported as having been reached by them were actually reached much earlier, and that the legal documents merely compressed events into a more condensed narrative.
conducted outside the legal arena. While many disputes were negotiated in the shadow of the law, the law did not overshadow marital negotiations in geniza society.

Conclusion: Toward a social history of the legal arena

Rather than an exhaustive description and analysis of the legal arena, this chapter has attempted to offer a framework for its analysis. This framework was then explored through several forays into specific features of legal practice in Geniza society and demonstrated by a few case studies. The legal arena as we encounter it in Geniza documents and responsa was made up of several overlapping forums whose precise jurisdictions were not fully defined. The combination of the plurality of accessible institutions, blurry jurisdiction, limited means of coercion and the ability of consumers to maneuver between these institutions led to negotiations of marital disputes characterized by flexibility and unpredictability.

Law holds a privileged position in our modern society in general and in Jewish studies in particular. Since most scholars come to the historical study of Jewish societies with a thorough training in Jewish law, they tend to adopt the top-down legal-institutional approach discussed in the Introduction. But the legal arena can also be examined from the perspective of the consumers of law rather than its dispensers. Focusing on the experiences of litigants and the choices available to them in the ‘garden of forking paths’ requires bringing the law down from its pedestal and integrating it into the web of social relations and negotiations of everyday life. The examination of law and society requires one, in the words of Kitty Calavita, to “peer behind curtains and see the Wizard.

204 See, for example, Maimonides, Responsa, #34; Westminster Arabica II 51; ULC or 1080 J 23. On some occasions, a person performed a legal act only to realize that the other side did not necessarily play by the rules. For example, in Maimonides, Responsa, #15, a wife ransomed herself from her bad marriage, but then her husband ran away to the rif without divorcing her.

205 Jorge Luis Borges, El Jardín de Senderos que se Bifurcan (Buenos Aires: 1942).
of law at the controls in his slippers,” and to realize that “the announced legal principles
are majestic, but the practice is decidedly plebeian, firmly rooted in such earthly forces as
ideology, politics and economic convenience. And the majesty of the principals in turn
obscures the pedestrianism of the practice and the power inequalities it secures.”206 When
it comes to the Geniza, such an approach reveals the significance of non-legal
considerations (status, gender, patronage, drama) in the workings of legal institutions and
the influence of legal considerations on negotiations outside the legal arena. As a result,
law loses some of its awe and luster, but we gain an appreciation of how it was integrated
into social and cultural life and of the practical creativity of ordinary people in their
dealings with the law.

Recent studies of Jews in the Islamic world have proposed replacing the paradigm
of Jewish legal autonomy under Islam with a model of legal pluralism. Focusing
especially on appeals by Jews to Muslim courts, these studies show that despite the legal
autonomy offered to Jewish communities by Islam in both theory and practice, individual
Jews often chose to conduct their lives in the “Islamic legal bazaar.” This fact carries
repercussions for our understanding of the nature of the Jewish community, of the
response of its communal leadership to legal pluralism, and of the ways in which
individuals used this pluralism to their advantage.207

However, plurality was found not only in the ability to appeal to gentile courts but
also within the Jewish court (where litigants could pursue a decisive ruling, compromise,
or formal arbitration) and in the wider legal arena (courts, responsa or petitions). The

206 See Calavita, Invitation to Law & Society, 7 and 113.
207 The propensity for Jews to turn to Islamic courts is well known; see Chapter Two, n. 137. The two most
recent studies that have used this phenomenon to pierce the paradigm of Jewish are autonomy are

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present chapter illustrated the decisive role of this broader plurality in the negotiation of married life, but argued also for the importance of accessibility, the blurry and overlapping jurisdiction, and most importantly, the various means available to individuals to influence the various venues (allowing litigants, for example, to appeal a court decision through a petition or to obtaining a favorable responsum through a patron-client relationship). Finally, the importance of bargaining in the shadow of the law when negotiating marital disputes also points to the fact that legal pluralism is merely one aspect, albeit an important one, of the legal arena as perceived from the perspective of its consumers.

Considering the legal arena from the perspective of its consumers also helps resolve certain long-standing problems regarding how we view communal institutions. Rather than seeing communal institutions as either strong or weak, this chapter emphasized how legal consumers experienced the variable power of communal institutions. The focus on how people maneuvered in the legal arena, with its variability and unpredictability, underscores individual agency rather than communal weakness (or strength). As we saw, this approach also calls for a reevaluation of our understanding of the function of legal instruments. I argued that the inherent instability of the legal environment does not imply that legal documents were not worth the paper on which they were written, but rather that in a society that valued personal relationships over formal institutions, such legal instruments were themselves subject to the pervasive dynamics of negotiation.

In a recent study, Jessica Goldberg made a key contribution to the formal-informal debate by showing “how Geniza merchants used both the threat of lawsuits and
the legal process to negotiate their disputes, and the role of both Jewish and Islamic legal systems in creating a regime with sufficient power and authority to resolve mercantile cases. Due to the fact that commercial litigation was “a drawn-out and highly public affair,” which could substantially damage a merchant’s reputation (“Whether one was guilty or innocent”), merchants were anxious to settle out of court. By discussing several examples that indicate “the esteem in which the Jewish court system was held, its effects and its limits,” Goldberg depicts “a business community that relied on the legal system.” Indeed,

It was the very existence of the two systems (the Jewish and Muslim legal systems), with their similar rules but different powers, that made the legal system efficient as a venue for enforcement and redress. The weak Jewish court was a more effective venue for consensual settlement in the shadow of the more powerful Muslim one. Mediation, the preferred form of resolution in the Jewish system, tends to produce speedier results than court rulings.

If the threat of litigation did not bring about a resolution, then a legal suit, first in a Jewish court and later in the more powerful Muslim courts, was pursued.

Goldberg’s study offers us an opportunity to compare the results of this chapter, drawn from marital disputes, with the picture obtained from studying commercial disputes. This comparison reveals both the commonalities of the two types of disputes

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208 Goldberg, Trade and Institutions, 159.
209 Goldberg, Trade and Institutions, 159 and 160.
210 Goldberg, Trade and Institutions, 163 and 164.
211 Goldberg, Trade and Institutions, 162.
212 Several minor points of disagreement should be raised concerning Goldberg’s otherwise excellent analysis. First, I am not sure that consultation of legal experts was a required step in commercial litigation (p. 159). Second, I do not see evidence for responsa being a public medium (unless questioners chose to make the ruling public). In fact, a document like TS 12 371 (see p. 160, n. 169) actually shows that selective control of information, rather than broad publicity, was characteristic of litigation. Third, Goldberg presents the lengthy procedures in court as a feature of the system that was damaging to merchants. However, I suspect that in many cases for each merchant who would have liked to hasten the proceedings there was his foe engaged in stalling. The drawn out nature of litigation was as much a result of litigants’ choices as a top-down policy of the courts.
and their differences.\textsuperscript{213} Goldberg’s emphasis on the consequences of the length of litigation, and her point that merchants had several options from which to choose in pursing their disputes, agree with the central claims of this chapter. Furthermore, her examination of how the threat of lengthy litigation led merchants to reach a mediated compromise offers a particularly apt example of the interaction between legal and extra-legal considerations and fits well with the framework offered in this chapter about negotiation in the shadow of the law.

At the same time, the many examples explored in this and earlier chapters suggest that litigation in marital disputes did not have the same profoundly damaging effect on a husband’s reputation as Goldberg claims commercial litigation had on the reputation of merchants.\textsuperscript{214} Bringing domestic disputes to court was common, and it seems that the costs in social capital to litigants were minimal. This means that litigation served less as a threat meant to bring about a compromise and more as one of the paths to pursue conflict. Similarly, options available to husbands such as running away or blatantly ignoring the directives of the courts, seem to have been less available to merchants, who had to maintain their respectability. These differences highlight the importance of status in understanding the legal arena. Goldberg’s depiction of merchants as often being the leaders of the community and experts in Jewish law echoes Goitein’s assertion discussed in Chapter One that litigants saw the members of the court as “people of their own

\begin{footnotesize}
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\item An importance difference, which cannot be explored here, is that while in commercial matters we can speak of “similar rules but different powers” of the Jewish and Muslim legal systems, in family matters the difference in rules was more substantial, for example, when it came to polygyny, inheritance and forcing a divorce. This might be one of the reasons why, despite the merchants’ thorough involvement in the non-Jewish commercial world, they still brought their disputes to Jewish courts, while non-commercial cases show a great preference for availing themselves of Muslim courts; see Goldberg, \textit{Trade and Institutions}, 159 and Ackerman-Lieberman, \textit{The Business of Identity}, Chapter Two.
\item The effects of litigation on women’s social image were explored in Chapter Two.
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kind.” As Goldberg perceptively notes, “In the Jewish courts, (the merchants) were in a position of considerable power and control. The Jewish courts were eager to retain jurisdiction over this powerful segment of the community.” The cases presented by Goldberg suggest that merchants encountered a more responsive and better functioning legal system than the one encountered by litigants in marital disputes. The cases of marital strife explored in this dissertation involve people who did not hold positions of power and control in court, and as such offer a substantially different testimony to medieval Jewish communal life and institutions.

Much scholarly work remains to be done in pursuit of a fuller understanding of the legal arena in Geniza society and the ways in which conflict was pursued within it. The same close attention devoted here to the solicitation and uses of responsa in the negotiation of marital disputes can be turned to petitions, arbitration or Muslim legal institutions. Similarly, my brief venture into ‘the shadow of the law’ through the phenomenon of leaving the domicile as a tactic of negotiation can be expanded to examine a whole variety of other tactics and venues: children, wealth, and smear campaigns, to name but a few. The brief comparison of the results of this chapter with Goldberg’s study of commercial institutions shows the promise of a more extended study of the legal process in different types of cases. Offering a framework for the study of the interaction between the legal and non-legal, this chapter represents merely one step toward a social history of legal practice among Jews in the medieval Islamic world.

215 See Goitein, *Med. Soc.* 2:312. However, Goldberg rightly limits her discussion to merchants and thus avoids the pitfalls in this statement explored in Chapter One.

216 Goldberg, *Trade and Institutions*, 161. Goldberg makes this statement in the context of Jewish courts willing to hear and settle cases involving Muslim contracts and instruments; however, I think that this insight can be extended beyond this issue.
Chapter Five:

“As my Fortunes with Women Turned Upside Down:”

The Marital Woes of a Medieval Egyptian Country Physician.¹

Around the 1170s, a desperate Jewish physician wrote to his uncle a long and bitter letter in Judeo Arabic from his hiding place in the Egyptian countryside. Linking his repeated financial disasters to his sad marital life, the writer movingly mourned the death of his first wife while maligning the wife he married afterwards. His narrative begins with the death of his beloved wife due to illness and the costs of her funeral and burial. He recounts to his uncle the difficult years that followed, years of poverty and sickness in which he tried to take care of his little boy who was three years old when his mother died. Seeking a cure to a certain ailment, he consulted a prominent physician, Ibn Sabra, in the delta town of al-Maḥalla. One thing led to another, and the bankrupt physician soon landed himself into a promising marriage with a woman from the family of the important physician. However, when his new wife realized he had nothing left from his previous wealth, she started removing valuables, one at a time, from his home to her family. In the ensuing marital dispute, the physician tried to pressure his wife into forgoing her delayed marriage gift but she refused. Instead, he left the home for two years and took his son with him. The matter was brought before no less of an authority than Moses Maimonides who, according to the physician, issued a legal opinion (fatwa) in his favor. However, even a legal opinion from Maimonides was not enough to settle the matter in the local court in al-Maḥalla. As the deliberation in court lengthened, the couple decided to give married life another chance: the wife returned the property and the

¹ A version of this chapter was presented in Princeton’s ‘Women and Gender Graduate Colloquium’ and ‘Princeton Islamic Studies Colloquium’. A short version was presented in the bi-annual conference of The Society for Judeo-Arabic Studies in Cambridge 2011.
husband brought back his child. Soon, however, the marital stew boiled over again and the physician took his son and left al-Mahalla. After some discussion of the uncle’s affairs, among them an obscure mention of a Kurdish general of Saladin, and some information regarding the education of his now seven year old son, the letter ends with the mention of the death of a certain woman. Perhaps it was the passing away of his second wife that was the immediate reason that brought the tormented country physician to put reed to paper and compose this autobiographical letter.

Much about the marital dispute presented in this letter appears familiar in light of our discussion in previous chapters: the husband pressuring his wife to forgo her delayed marriage gift, the lengthening of proceedings in the local court, the husband’s seeking a fatwā from Maimonides to use in court and the little effect this responsum achieved. However, this complex and previously unpublished letter also offers us a rare example of how one individual understood and wrote about his marital woes. This chapter will leave the court and the legal arena to examine how this country physician made sense of his sad marital life through narration. In order to do so, the chapter will offer a “thick description” of the country physician’s letter, by exploring the “webs of significance” the writer spun around the events he narrated in the letter.²

² On thick description see Geertz’s classic article, “Thick Description: Toward an Interpretive Theory of Culture” in Geertz, Interpretation of Cultures, 3-30. In p. 5 Geertz writes: “Believing, with Max Weber, that man is an animal suspended in the webs of significance he himself has spun, I take culture to be those webs.” Goitein, who saw his work as “historical interpretive sociography,” was drawn to Geertz’s interpretive anthropology and one can trace the latter’s influence on the former in the last volume of Med. Soc.; see Med. Soc. 5:500. In trying to recover the “webs of significance” spun in the letter, I try to explicate the laden subtext in the letter as well as to follow the “webs” to other Geniza documents that provide context to the country physician’s account. By their very nature, such inquiries are interpretive and involve the use of ‘perhaps,’ ‘probably’ and the like. For a defense of such interpretive approach in micro-history, see Natalie Zemon Davis, “Stories and the Hunger to Know” in After History, ed. Martin Prochážka (Prague: 2006), 5-8 originally published in Litteraria Pragensia: Studies in Literature and Culture 1 (1991), 12. See also Robert Finlay, “The Refashioning of Martin Guerre” AHR 93 (1988), 553-571, and the response in Natalie Zemon Davis, “On the Lame” AHR 93 (1988), 572-603.
By deconstructing the writer’s presentation of his married life I show that the letter is not a simple report of the writer’s marital history, but an attempt to come to terms with his financial, professional and personal failures by diverting the blame towards his second wife. The writer is telling his version of events through highlighting some aspects while marginalizing others. Through a careful use of biblical quotes, the writer constructs a remarkable dichotomy contrasting his good first wife with the bad second wife. “The good wife” versus “the bad wife” is a familiar trope in medieval literature which this writer employs in the context of long distance marriages. This gendered construction helps him to put the world in order and his anxieties about the “bad hand” fate had dealt him at ease. Extolling the first wife allows him to berate the second and enables him to explain away his professional, financial marital and ultimately masculine failures while keeping his righteous self-image as manly, generous and free of blame. This chapter thus offers an example of a thick description of a Geniza letter and in the process illuminates how one husband made sense of his failed marriage.

Let us turn to the country physician’s letter:

In (Your) Name, O Merci(ful),

My letter to my father,3 dearest to me of all people. You are to me the father substituting for (my) father to the point that there is not a single time that a letter reaches me from you, without it being like I am seeing your face.4 May God unite us before our parting from this world.

As for the reason why I have not been writing to you regularly, it boils down to two reasons. The first is the onslaught of fate and its vicissitudes, (with which I do not bother you) so that your heart will not be grieved, let alone your health. (The second reason is) the hiding of my inheritance in your property.5 In short, your slave substantiates what God said to his prophet: “O, mortal, I am about to take away from you the delight of your

3 The writer is writing to his uncle but addressing him as “father” out of respect.
4 The idea of letters being a substitute for seeing the correspondent is common in Geniza letters and has roots in antiquity; see n. 15 in the edition.
5 A difficult sentence whose translation above is merely a suggestion; see n. 17 in the edition.
eyes through pestilence and the word of the Lord came to me in the morning and in the evening my wife died." (Ezekiel 24:15-18)⁶

When it was thus decreed upon me, I became perplexed because she was to me a “support from the town” (Samuel II 18:3). She left behind for me this three year old boy and I became dependent on people on his account after the humiliation and the reuniting (with him?). As soon as I left the town after 18 days, mute (from grief⁷), I and four other physicians (who came in) my honor, I was overtaken by expenses, for cloths, for shrouds, burial and reception. For she was dear to her people and the town, 12 dinars! While we were settling her property, we returned and found that everything in the house was carried away and I had to return everything myself.⁸

After I was single for one year and sick for three years I lost everything I had. God decreed that I entered al-Maḥalla and met Ibn Sabra, (who) are today my in-laws, to obtain his opinion on my illness.⁹ We spoke about the matter of this woman and agreed that the maintenance would be on me. I married her for various reasons: one of which was their respectability, dignity and knowledge of medicine. The other reason is that I wanted my child to be well brought up and that I would not be dependent on people. The other reason is that I have (already) studied from his excellence all that I could. For this learning (of medicine) is difficult for me due to (my) old age and the yoke of house and kingship.¹⁰

Her family believed that I (still) had with me a remainder (of my wealth). However, fate destroyed me and what was in my hand. Thus, remorse seized her and she started lifting from the house one item after another until she emptied the house to an amount of one hundred and fifty dinars.

When I demanded its return, I told her “renounce your delayed marriage payment” but she refused and it amounted to twenty dinars. I became angry and removed my child from them and returned him to his family. I kept away from them for two years in Minyat Ghamr, Alexandria and in the Buhayra province.¹¹ It was decreed that someone gave me a lift to Abyār. The Sheikh¹² had sent Abū al-Hayjāʾ al-Samīn¹³ towards me so send me his income.¹⁴

I had, in my own hand, a legal opinion (fatwā) from the Rayyis R. Moses that it is she who is rebellious,¹⁵ I do not owe her anything! While I was away, she gave birth to a girl of mine. The girl grew and she weaned her, while I was away. I went back to al-Maḥalla and we went to court. The telling of it all would take too long. (In the end,) she brought back all the household items while I returned the boy. Between one thing and

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⁶ This lyrical sentence is the result of careful editing of the biblical passage; see more below.
⁷ Sentence unclear; see edition.
⁸ The proper procedure was that a house of a deceased would be sealed up until his estate can be divided. Evidently, something went wrong and when the husband came back to his house, he found it empty.
⁹ The writer refers both to the Ibn Sabra family and to a specific member of the family (probably its head) who was a prominent physician.
¹⁰ See Lamentation Rabba (Buber edition) for Lamentations 3:27.
¹¹ On all the locations see Golb, “The Topography of the Jews.”
¹² The identity of this person is unclear. While the writer refers to him merely as “al-shaykh,” he seems to have been of high enough rank to give orders to one of Saladin’s most prominent generals.
¹³ This is Husām al-Dīn Abū al-Hayjāʾ al-Samīn, an important Kurdish emir under Saladin, see more below.
¹⁴ The meaning of this sentence is unclear.
¹⁵ On Annahā hiya baʿalat ha-mardūt see below.
another, in this situation, I spent out of my hand, from what money I attained, 15 dinars. They did this, easing my heart for a few days. However, they returned to taking out (of the house) item after item and selling them.

My life worsened further. She was arrogant to me through this boy of mine and the baby girl that I maintained with the poll tax that I had to pay. My livelihood in al-Mahalla dwindled. I became irritated (lit. my chest tightened) as my fortunes with women turned upside down. For I used to gaze at a wife (lit. a house) who had no equal at all, whereas this kind of wife is unfit for a friend or an enemy.

I entered the little one into a school (kuttāb) because he is seven years old today. I do not have with me a bible. Because of that reason I told you about, if you have something with you from the days of the deceased, M(ay his) M(emory be blessed), that will show his (i.e. the writer’s seven year old son) favor with you, give it as a present to Abu’l-Hasan (i.e. the writer’s son). For he is (like) your own son to the point that he asks me for you and always says to me “my lord, show me my uncle!”

I did not know anything afflicted you until Abū’l-Surūr met me and told me what happened to you with Yahya, the Elder, may he be remembered for his evil deeds by the divine law whose power we all know. It saddened me, as whenever something is revealed about one of us, and especially you! May God, the exalted, punish him and may he not shame us by his reputation more than already took place. What happened to you with him will have no effect. Moreover, you will go with him to the military commander, (let) someone else punish him!

And now, my uncle, I do not have any other pain that you (would) want to see, more than this matter. I am in a state of fear regarding these people (i.e. the Ibn Sabra family) for I want to raise him and how will God help me to be free from them? For they have made me grow old before my time! How I threw myself down like a riding animal!

I did not rush to Fustat to procure in it what I want, instead, I have taken from the countryside the things I needed like “Harvest is past etc.” (Jeremiah 8:20). I ask from your kindness that you will not inform him of my situation nor where I am; for if it reaches (him), he will attain shame among Jews. These people and I are in such a situation! So strive to remove about me the wrong opinions. I also sent a letter to inform my first in-laws that they should not inform him where I am. Send me (a letter) informing me what happens with him, whether he is in the city or outside of it. Perhaps he would encounter on the road what others encountered and we will not be picky. In short, (tell

16 Another possible meaning: livelihood.
17 Sentence unclear; see edition.
18 See notes 41-42 in the edition.
19 Boys would often be given book amulets when they began their education, see Goitein, Med. Soc. 4:218 and 222.
20 See notes 43-44 in the edition.
21 For the meaning of šāhib al-harb, see n. 47 in the edition.
22 For the meaning of kayf kawnī ruḥī mithl al-rikāb (also possible: rukkāb), see n. 51 in the edition.
23 Presumably the writer’s seven year old son.
24 A difficult sentence whose meaning is not certain. Also possible: “for if he will come to me, he would obtain shame when among Jews.”
everything that happens to him for he is my link to (what) I had in my previous life: he and his mother.  

With them (i.e. the Ibn Sabra family) are fifty dinars. They did not come to an agreement with me about what is with them at all. Nor did they acknowledge to me anything. While I carried them (on my expense) as if they were guests! The old and the young treated them with honor out of respect to me. After that she joined him, obeyed him and went behind him.  

A son of Israel buried her, may God attach her to Him.  

I am sending you greetings and to the Elder Abū’l-Munajjā send him my greetings and to the elder Abū ʿAlī and your children and their little ones. Praise to the one who decreed this situation as well as what follows for us. God, the exalted, grant what is best. Peace on to you and to all of Israel, Amen.  

This letter is one of the longer family letters found in the Geniza. It is completely preserved and takes up two full sides of a single page, with a few lines written perpendicularly in the right hand margins. It contains no address which means that both the writer and the recipient are unknown. The execution of the letter and the writer’s clear handwriting both reflect training and experience in composing letters. Adding this to the writer’s profession, sophisticated use of biblical quotes (on which see below) and his initial acceptance into the respectable Ibn Sabra family, all suggest that the writer was well educated. Despite the writer’s apparent education, the letter is riddled with many obscure passages with baffling syntax and choice of words. This can only partially be explained by the fact that the physician wrote to a close relative who was already familiar with much of the content of the letter. We may conjecture that the difficult language and the several occasions when he dropped letters are connected to his emotional state while writing such a personal letter on his sad married life.

25 The meaning of last few sentences is unclear; see the discussion below and in the edition.
26 Goitein read thirty. Twenty is another possibility.
27 This whole sentence is unclear; see n. 57 in the edition.
28 TS 10 J 12 1, edited as Doc. #10 in Appendix Two.
29 However, it is occasionally impossible to distinguish between Bet and Kaf and between Dalet and Resh. Even in comparison to other Geniza documents, notorious for their linguistic difficulties, this letter contains many obscure passages as have been admitted to me by every scholar I approach with a query on this letter. I have noted the passages whose translation is uncertain.
The difficult language of the letter and the fact that it deals almost exclusively with private matters are probably the reasons why this important letter so far has not been published and has not received the full treatment it deserves. Goitein dedicated to the letter the better part of a page in his monumental *A Mediterranean Society* and used it as an example of marital distress. Goitein identified “al-Rayyis R. Moses” as Maimonides and Ibn Sabra as As‘ad al-Dīn Ya‘qūb b. Išḥāq (Jacob b. Isaac), an important physician from al-Mahalla mentioned in Ibn Abī Uṣaybi‘a’s biographical dictionary of physicians. However, the latter identification is questionable. Goitein succinctly summarized the 

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31 see Ibn Abī Uṣaybi‘a, *‘Uyūn al-anbā’ fi tabaqāt al-āṭibḥā*, ed. August Müller (Königsberg: 1884), 188. He is also mentioned in p. 233 as having asked Ṣadaqa al-Ṣāmirī medical questions which the latter answered in a treatise.

32 Beyond the fact that he is mentioned as a prominent physician in al-Mahalla (how many prominent physicians could there be in a provincial town?), Goitein based the identification of Ibn Sabra with As‘ad al-Dīn on PER H 181, a damaged and stained list; see *Med. Soc.* 3:465 n. 120 and 5:271. In the bottom of the right hand column I read: “al-shaykh al-As‘ad Sukkarī (?) al-Makīn” . Sukkarī (‘sugar maker’ or ‘sugar seller’) is found in three other places in the same page and a comparison of the way Beth and Kaf are written elsewhere in the document further support the suggested reading. On this very common family name see Goitein, *Med. Soc.* 1:126 and 3:14. Even if one reads “al-As‘ad Sabrā,” as Goitein clearly did, it is not clear that this must be As‘ad al-Dīn Ya‘qūb b. Ishaq from Ibn Abī Uṣaybi‘a’s entry or that this Sabrā is “our” Ibn Sabra from al-Mahalla. Other documents which mention As‘ad, the physician, and may very well indicate the physician from Ibn Abī Uṣaybi‘a, do not make mention of him as belonging to the Ibn Sabra family; see ENA 2559 13, TS 13 J 3 26 (two copies, both unsigned, of an interesting Fustat deed from May 1217 mentioning *al-shaykh al-As‘ad al-mutatabbib ha-zagen ha-yaqar*, as well as TS 12 419, v.20 (where “the relative of the wife of al-As‘ad al-tābīḥ” is mentioned). A certain *As‘ad al-tābīḥ* is mentioned in other 13th century documents, for example TS AS 151 5 and TS NS J 76v. An interesting possibility is suggested by TS Ar 40 16 where Makārim b. Isaac al-Mutatabbib is asking for the remainder of the salary (Khan reads جراية. Richards read جاماكة. Both readings are uncertain but I lean towards Richards’ ) of al-As‘ad, the doctor in the hospital of Cairo. Richards, who dates the letter to 1214-1219 raises the possibility that this al-As‘ad is As‘ad al-Dīn Ya‘qūb b. Ishaq but concludes that “his dates possibly make him unlikely.” However, if al-As‘ad *al-mutatabbib* from the 1217 deeds above is indeed *as‘ad al-mahallī* from Ibn Abī Usaybi‘a, then this identification is certainly possible. The fact that both Makārim and As‘ad are sons of Ishaq may suggest that they were brothers and give the reason behind Makārim’s initiative. Moving on, Ibn Sabra is a Maghrebi family name attested in over forty documents in the Geniza. While discussing all of them will take us too far afield, it should be noted that the relationship suggested by Gil between Sabra and Šabbāgha as family names, although linguistically possible, is unlikely (See Gil, *Palestine*, 3:71; Friedman, *Polygyny*, 276 and 351). Sabra was a town close to modern day Tripoli or a neighborhood of it. The name Ibn Sabra is a name attested in Muslim sources for people in Medina as well as in Egypt (i.e. there is no reason to associate it with Šabbāgha – Ar. ‘dyer’); see Yāqūt, *Kitāb mu‘jam al-buldān*, s.v. “Sabra” and al-Sam‘ ānī, *Kitāb al-‘ansāb*, s.v. “al-Sabrī”. Even if Goitein’s identification of Ibn Sabra with As‘ad al-Dīn is no longer certain, it is clear that the Ibn Sabra family was a respectable family in al-Mahalla, which is what is pertinent to the marital dynamics in the letter.
events reported by the writer and used this letter to show how couples fought over property, parents’ concern for the upbringings of their children and the status of women in society.33 Elsewhere, this rich letter was used as a proof for the existence of Jewish physicians in Abyār34 or as a letter mentioning Maimonides.35 To summarize, while Goitein preformed an invaluable service in bringing the letter to scholars’ attention and provided an important and rather detailed reconstruction of the sequence of events, the letter is yet to receive an analysis in depth.

The letter is not dated and its dating can be established only approximately. The mention of “al-Rayyis Rabbi Moshe” as a familiar figure whose authority to issue a fatwa is recognized is the first hint. Maimonides arrived in Egypt around 1165 but did not yet merit mention in the travel account of Benjamin of Tudela who passed through Egypt in 1168.36 Maimonides might have been locally well known enough by summer 1169 to lead a public charity drive for the release of the captives of Bilbays, although this dating has been challenged.37 In any case, Maimonides served as “Head of the Jews” first in

33 See Med. Soc. 3:39, 183-4, 310, 359.
34 See Golb, “Topography,” 116; and Goitein, Med. Soc. 4:350, n. 37, and 4:401, n. 123
35 Joel Kraemer, “Four Documents from the Geniza that Mention Maimonides” in Mas’at Moshe: Studies in Jewish and Islamic Culture Presented to Moshe Gil (Heb.) (Tel Aviv: 1998), 382; Friedman, “Rayyis al-Yahūd” 433 n. 82. For other references, see edition.
Kraemer uses the 1167 dating for Maimonides’ important taqqa on menstruation. However, the 1175/6 dating found in the Geniza is to be preferred. See Kraemer, Maimonides (New York: 2008), 286-7; Maimonides, Responsa, ed. and tr. Joshua Blau (Jerusalem: 1986), #242, 2:443, n. 159 and 3:129; and see the important argument of Yizhak Shilat, ed. Letters and Essays of Maimonides, (Heb.) (Ma’aleh Adumim, 19953), 175-6.
1171-1172 and most probably a second term starting in 1196 until his death in 1204. However, the casual reference to “al-Rayyis” in an informal letter should not be taken as indication that Maimonides served as the Head of the Jews at the time of writing of the letter (or at the time of the events described in the letter). Thus, from the reference to Maimonides we can date the letter to between 1169 and 1204, with a strong preference towards an early date since most documents related to Maimonides seem to have been written around his first term in office.

A further narrowing down of the date of composition is possible due to the obscure sentence (r. 30-31): “The Sheikh (al-shaykh) had sent Abū al-Hayjāʾ al-Samīn towards me so send me his income.” There is little doubt that this is Ḥusām al-Dīn, Abū al-Hayjāʾ al-Samīn (d. 1196-7) the obese, colorful, valiant and eventually tragic Ḥakami Kurd from Irbil who was an important general under Shirkūh and Saladin. As far as the present writer can tell, this is his only known appearance in the Geniza. A close examination of the sources on this general (see note at the end of the edition in Appendix Two for a reconstruction of his life) allows us to narrow the range of date for the letter to between 1169 (the year Abū al-Hayjāʾ is first mentioned in Egypt) to 1182 (when he became governor of Nisibis). Abū al-Hayjāʾ also visited Egypt in 1191 (when he organized an Egyptian army to reinforce Saladin’s position in Palestine) and in 1195 (during the confrontation between al-Afdal and al-‘Azīz in Bilbays). However, it is more probable

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38 See notes 35-36 above as well as Goitein, “Moses Maimonides, Man of Action: a Revision of the Master’s Biography in Light of Geniza Documents” Hommage à Georges Vajda (Louvain: 1980), 155-167; and ibid., “Maimonides’ Life in the Light of New Discoveries from the Cairo Geniza” (Heb.) Perakim 4 (1966), 29-42. Kraemer claims that Maimonides was Head of the Jews for “one brief but critical period of time” (i.e. 1171-1172); Kraemer, Maimonides, 223, but cf. 227 and 446.


40 Goitein, “Man of Action,” 166.

41 I would like to thank Krisztina Szilagyi for suggesting to me this identification.
that our letter dates from the earlier years (i.e. 1169-1182). The much more interesting questions: what business our bankrupt country physician had with this important Kurdish general and who is the Shaykh who sent this general (Saladin? Al-Qādī al-Fāḍil?) must be left open. Nevertheless, it points to a previously unknown point of contact (albeit, admittedly, a very small and obscure one) between the Geniza records and the history of the crusades.

The best point of entry into the letter is to consider the question: what is this writer trying to achieve with the letter? In other words, what does the letter do? In comparison with other Geniza letters, this letter contains little by way of practical business. The writer discusses some of the uncle affairs and asks for a favor regarding his son’s education, but the bulk of the letter is dedicated to narrating his marital history. Giving so much space to recounting the ups and downs of married life in a personal letter is quite rare in Geniza letters, especially as we have a good reason to suspect that the uncle as already aware of his nephew’s marital history. The letter gives the feeling that it was the writer who felt compelled to retell his marital tale.

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42 One may conjecture that as the Kurdish general was passing through the countryside, the Jewish communities had to pay him a sort of levy. The document, however, gives information on another weighty issue. It proves that Abū al-Hayjāʾ was noted for his obesity already in the 1170s, while the earliest mention of his obesity in Islamic sources is from 1192.

43 I am thankful for Prof. Udovitch for confronting me with this question.

44 Indeed, when employing the kind of quantitative analysis used by Jessica Goldberg for commercial letters, we find out the writer dedicates about 13% of the space of the letter for greetings and formulas, 28% for discussing the affairs of his uncle and those of Abū al-Ḥasan relating to the uncle and, finally, 58% to narrating his marital history; see Jessica Goldberg, *Trade and Institutions*, 76-77. Beyond the question of quantity, however, it is clear that the letter reaches its emotive climax when the writer is discussing his two wives.

45 Notice that the child already spent time with his great uncle, and the uncle knew that his nephew was hiding. The uncle was also supposed to dispel bad opinions of his nephew, suggesting he was somewhat updated.

The physician’s letter is, first of all, a tale of woes. It starts with the first wife’s death and continues with the writer’s bankruptcy, sickness, burden of raising a child, his professional failure (r.23), the suffering from his second wife, the conflict with her family, and on and on. From all these problems, it is his continuing financial disarray and the conflict with his second wife and her family that are put on the center stage. Indeed, the writer links his financial failure with his marital woes and places the blame squarely on his second wife. He accuses his wife (twice!) of emptying his house (r.25, r.m.4 – an accusation we shall revisit below), resents her refusal to forgo her delayed marriage gift (r. 27), claims that she was arrogant to him and blames her for his bankruptcy (v.1-3). In the later part of the letter, his accusations continue unabated, but become more general as “she” becomes “those people” (i.e. her family) who threaten him and owe him money (v.16-17, 21, 27-29). The physician’s tale of marital woes stems from the anxieties caused by his financial failures and his excuse consists of blaming his second wife.

While at first the letter might seems convincing enough, one soon notices a series of gaps and tensions that allow us to interrogate the writer’s presentation of events and himself (what studies of autobiographies call self-fashioning). Putting aside chronological problems, one wonders why “everything was removed” from his house when he came back home after his first wife died. It is also worth noticing that while the writer repeatedly bemoans his financial troubles, the actual sums mentioned in the letter (12, 15, 50 and 150 dinars) are substantial sums and far greater than the mere dirhams we find in

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47 In fact, only in his second wife’s death (if it is really her), she becomes “she” once more (v.29-30).
48 The most plausible sequence of events is as follows: The doctor remarried a year after his first wife died, thus, his sickness continued for two years into the marriage. This means that his son was four when he remarried and out of the remaining three years until the writing of the letter, he spent two years away in the countryside, leaving one year to account for the time between the wedding and when he first left, the period of trying to work things out, as well as the period of separation that followed. His days of ease were few and far between indeed.
paupers’ letters.⁴⁹ These gaps in the narrative are invitations to the historian to probe into the text and ask how the writer narrates his marital history and to what purpose. Such readings of Geniza documents go beyond what the writer says, and ask how he says it and what he leaves out of his narrative.⁵⁰

We see this in the way the physician presented the process in the legal arena. When mentioning the legal aspects of the dispute, the writer intentionally does not go into details using the common expression that “it would take too long to explain” (ṭāla al-sharkh). However, even in his terse narration there are significant hints that the writer is providing for his uncle (who might have known better) a rather subjective account. For example, the writer boasts of the decisive legal opinion he received from Maimonides in his favor, but offers no detail of what took place in court or what effect, if any, Maimonides’ responsum had on the proceedings in al-Maḥalla.⁵¹ Furthermore, the writer claims that Maimonides ruled that “it is she who is rebellious, I do not owe her anything!”⁵² While throughout the letter the writer claims that his wife stole from him

⁴⁹ Compare with a similar case in Goitein, Med. Soc. 5:91, n. 230.
⁵⁰ On such literary readings of Geniza documents see Zinger “Long Distance Marriages,” 8; Frenkel, “Genizah Documents as Literary Products.” Of course, almost every Geniza letter contains gaps and omissions which are the result of a writer writing to a colleague already familiar with the context. However, the point is that in this letter the writer’s narrative does not add up and, as I show below, conceals more than it reveals.
⁵¹ It is tempting to see the legal dispute as reflecting geographical division. The husband might have come from Fustat (at least it seems the uncle was in Fustat and the writer was not from Alexandria, al-Maḥalla, Minyat ghammar or Buhayira) and as a physician, might have been personally acquainted with Maimonides. However, the Maḥalla court might have been under the heavy influence of the prominent local family of Ibn Sabra. On the other hand, around the time the letter was written al-Maḥalla and its local Judge were important supporters of Maimonides in his conflict with the infamous Zūṭa, see Mordechai A. Friedman, ”Rambam, Zuta, and the Muqaddams: A Story of Three Bans” (Heb.) Zion 70 (2005): 488-9 and 502-503.
⁵² A rebellious wife is a wife who does not perform her conjugal duties (some authorities also include household duties) since she either claims that she finds her husband intolerable or wants to remain married but rebels just to spite her husband. In the period of this letter, the court could immediately proceed to pressure the husband to grant her a divorce without compensation. Much has been written on the rebellious wife, and yet much remains unclear, see Shlomo Riskin, Women and Jewish Divorce: The Rebellious Wife, The Aguna and the Right of Women to Initiate Divorce in Jewish Law, A Halakhic Solution (Hoboken: 1989) and Grossman, Pious and Rebellious, 433-443; Robert Brody, “Were the Geonim Legislators?” (Heb.)
and owes him money, the ruling he presents from Maimonides is that he does not owe her anything. Not only this ruling fails to support his main contention, it also indicates that his wife and her family accused him of owing them money. Similarly, when the writer reports that Maimonides ruled that “it is she who is rebellious” (annahā hiya baʿalat ha-mardūt) he echoed the legal terminology “moredet ʿal baʿalah” (“rebellious over her husband”). This formulation, conscious or otherwise, gives the sense of “it is she, rather than me, who was rebellious”. It seems like the husband was answering former accusations by proclaiming “it is she who is rebellious.”

The money that the wife demanded from him was probably the delayed marriage gift which a man must pay his wife upon divorce and which the writer demanded his wife to forgo through the ransom procedure. This means that the wife probably demanded a divorce from the failed physician. The fact that in the preserved responsa of Maimonides that deal with husbands trying to get away from paying the ketubba, Maimonides never absolves the husband from paying the delayed marriage gift puts some doubt on writer’s presentation of the responsum.

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53 It should be made clear that in all probability the wife did not accuse the husband of being a rebellious husband. While the Mishna provides an infrastructure for both a “rebellious wife” and a “rebellious husband”, it is the rebellious wife that became a central concern for the Jewish legalists throughout the ages. The way that legal practice selectively employs certain features of the law according to class, race or gender is of course of central interest to the ‘Law and Society’ approach, see Calavita, Introduction to Law and Society, 98. Most probably, the wife claimed the husband failed his husband’s duties, for example that he did not maintain her when he was away, and thus should divorce her with full compensation.

54 See Chapter Three. Her family might have also demanded that he pay them the value of the dowry. This would explain the writer’s insistence that the wife has already seized the items of the dowry and sold them, making him thus not liable for them. It is also possible that they sued him for money that the wife spent while he was absent and failed to maintain her, as “it was settled that the maintenance would be fixed on me” (v. 19-20).

55 Sadly, it seems impossible to identify the Maimonides ruling from the letter, in Maimonides’ extent responsa. For similar cases see Maimonides, Responsa, 2:357 (#200), 2:638 (#363) and 2:658-9 (#376), see David, “Divorce” 125-131 especially n. 12 in p. 128.
Having raised some suspicion regarding the physician’s narrative, we can take apart the central axis around which he constructs his narrative: the connection between his financial situation and his second wife (r.25-26, rm.4, v.1-4, 27-29). The problem is not that the writer merely throws about all sorts of sums his wife supposedly owes him without explaining how they relate to one another (r.26, 28, rm. 4, v.27); the real issue is that the fundamental reason behind his repeated bankruptcies remains obscure and untold. According to his own account, he finds all his possessions carried away after his first wife died. He again loses everything due to his sickness and taking care of his son. However, after the marriage he accuses his wife of stealing from him items worth 150 dinars, an enormous sum that could support an average family for over seven years! Furthermore, after he left al-Maḥalla for the second time, the writer failed to get back on his feet and his financial situation continued to deteriorate. The husband was bankrupt before he met his wife and remained in this state long after he abandoned her. When someone goes bankrupt once he can blame someone else, but if he is a serially insolvent, such accusations become highly suspicious. Of course, it is possible that his second wife caused him some losses, but his accusations against his second wife convey the impression that she was to blame for the majority of his financial woes and serves to obscure his own financial and professional failures.

The physician somewhat forced narrative raises several questions. Exploring these question shed light both on the physician own story as well as on the realities of married life in the Geniza. One such question surrounds the physician’s accusation that his second wife lifted from the house valuables worth 150 dinars. One may ask, if the physician was
bankrupt twice before marriage and he admits that he married her due to her family’s status, how come it is she who is stealing from him?

The answer is that what she removed were the items of her dowry, i.e. the wealth she brought into the marriage. While the husband legally has custody over the dowry, in the Geniza society it was common for the dowry to be in the form of jewelry, textiles and other ‘female commodities.’ As Goitein makes clear, “It cannot be stressed enough that during the classical Geniza period the dowry did not consist of cash given to the husband, but the wife’s objects, thus emphasizing that it was her property”. The wife was not stealing from him; she was protecting her property from being liquidated by her bankrupt husband.

It is important to be clear: the husband was not lying. According to Jewish law and as stated clearly in Jewish marriage contracts, the husband is legally responsible for the items of the dowry recorded in the ketubba (the so called ‘iron sheep property’). Thus, from the husband’s point of view, the wife removed from the home items for which he could later be held accountable and she probably did so without his permission. From the wife’s point of view, as far as we can guess it from the letter, her husband’s financial problems threatened the property her family has provided her for the married life, which was legally hers. We can see in the letter how the husband told his side of the story while

56 A dowry of at least 150 dinars places the second wife in the middle class of Geniza society, see the appendices of the third volume of Med. Soc. The writer admits as much when later in the letter he refers to the items as qumāsh, a common term for the items of the dowry. Notice that when he first reports that she took the items she was “emptying the house.” Only when she returned the items, he hints that they belonged to the dowry.
58 Removing valuables from the house was a common tactic of spouses, see n. 169 in Chapter Three. The fact that in the second time around she sold the items may hint to the fact that the writer failed to maintain her while he was absent. One wonders if this was done by the wife, her family, or the local court (but the physician choose to leave this detail out of his account).
leaving crucial details that could reflect badly on him (like the causes of his repeated bankruptcy) or reveal the logic behind the wife’s actions (like why she removed the household items).

The discussion of the writer’s financial situation raises a closely related question: how did such a man, sick and bankrupt\(^59\), manage to marry into a prominent and powerful family? A part of the answer is provided by the writer when he writes that “her family believed that I still had with me a remainder (of my wealth)” (r.24). However, it seems the writer found it convenient not to dispel such beliefs and it is almost certain that the writer helped foster such ideas.\(^60\) In fact, this is another example of the way the writer presents to the uncle a selective narrative: it was her family that believed he still had some of his wealth, but his part in promoting this belief is left obscure. Similarly, the wife’s pilfering of valuables from the house is explained by her regretting the marriage due to the realization that her husband is not as wealthy as she thought. In this way she is presented as turning against her husband the moment she learns that he is not actually wealthy, without the writer explaining how is it that her family thought he still had some wealth with him.

It is important to notice that the writer says that his wife’s family believed he had a “reminder” of his former wealth. This probably means that they were aware of his financial troubles but they were not aware (or were not told) of their extent. Thus, another possible answer to how the bankrupt physician could still land himself in such a

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\(^{59}\) The two often came together, see Cohen, *Poverty*, 169.
\(^{60}\) After all, for people to go on believing that a poor and sick man actually still has property left requires at the very least some passive effort from the impoverished person. A report of a more extreme case of pretense and fraud before marriage is recorded in Westminster College Misc 55, which is a late document.
promising marriage is his profession. As mentioned above, the writer belonged to the respected medical profession which Goitein famously described as “the torchbearers of secular erudition, the professional expounders of philosophy and the sciences, disciples of the Greeks, heirs to a universal tradition, a spiritual brotherhood which transcended the barriers of religion, language and countries.” Thus even though he was a physician who regularly made rounds in the countryside, he did not belong to the host of charlatans and quacks often associated with travelling physicians who travel like flies, roam the roads and streets, prefer that homes be free of the men [when they] show up for their dastardly acts. It is necessary that authorities protect the public and the subjects from these flies and thieves. They hide themselves from the eyes of people with the appearance of their dress and the grossness of their claims.

It must be remembered that the initiation into the respectable physician class depended on a mastery of a body of texts rather than, as it is today, being a product of and belonging to a professional institution. This means that our well educated writer could still enjoy the prestige of his profession even while being destitute and out of work. While there are other references of Geniza physicians who failed to make ends meet, it is clear that physicians belonged in the social category of non-poor. This means that when suffering

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61 The two answers offered above can be seen as either complimentary or alternative explanations.
64 Cohen, Poverty, 60 n. 109 and 63-66. More generally see Goitein’s chapters on physicians and on “Druggists, Pharmacists and Perfumers” who, it is important to make clear, were respected members of the community, see Goitein, Med. Soc. 2:240-271.
financial difficulties, the writer’s cultural capital could make up for his lack of cash. In the terminology of Mark Cohen’s study of poverty in the Geniza, his poverty was conjunctural rather than structural. His profession was supposed to insure his ability to get back on his feet given the right connections in al-Maḥalla provided by his new marriage. In other words, this letter shows the longue durée of Jewish cravings to have a doctor for a son-in-law.

However, something went wrong. Unlike traditional Bollywood films that begin with conflict and end in a wedding and a happy ever-after, marriage in the Geniza was “the beginning of a relationship rather than the crowning of it”. For some reason, the husband never managed to get back on his feet financially. The problem was not so much that “poverty breeds discord,” as Goitein comments, as it was is the inability to get back in the game after suffering financial loss. Once the writer failed to get out of his conjectural poverty, it became structural poverty. It was then that “remorse seized her” (r.25) and the relationship soured.

The writer’s inability to prove himself as a provider is closely related to the uncommon configuration of the writer’s second marriage. Goitein provides what can be considered the paradigm of Geniza marriages:

Marriage was for the husband a change: together with the acquisition of a source of possible happiness, he took upon himself “a yoke,” but essentially he remained within the same male society to which he had belonged before. For the wife it was a shock: she became uprooted and

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66 Cohen, Poverty, 34. See also Alyssa M. Gray, “The Formerly Wealthy Poor: From Empathy to Ambivalence in Rabbinic Literature of Late Antiquity,” The Journal of the Association for Jewish Studies 33 (2009), 101-134, esp. p. 110; I would like to thank Miriam Frenkel for pointing this source out to me.
67 Goitein, Med. Soc. 3:165.
68 Ibid, 185.
was thrown into a strange environment with entirely new functions, physical and otherwise.\textsuperscript{69}

The letter contains almost no details on the writer’s first marriage, so it is impossible to compare it to the paradigm. The second marriage, however, shows a remarkable reversal of the paradigm. The physician, sick and poor, came to a new town and married into the wife’s family. He was a stranger, dependent on Ibn Sabra for professional connections, and was separated from his relatives.\textsuperscript{70} The wife’s situation did not change much, as she had her family and their wealth to fall back on. Indeed, throughout the letter one notices just how important it was to have the backing of one’s family in a domestic dispute. The writer’s constant reminders of his fear from “these people” show the importance of personal networks in Geniza society. Without them, it was the husband who was suffering the “shock,” while the wife was in the situation usually enjoyed by the husband. The combination of the reversal of the paradigm and the financial failures of the husband led to marital strife and loom behind the physician’s declaration that his “fortunes turned upside down.” Deviating from the paradigm, the letter affirms its validity.

Behind the reversal of the paradigm and prevalent throughout the letter was the ubiquitous presence in Geniza society of long distance marriages, i.e. situations where the

\textsuperscript{69}\textit{Ibid}, 3:121, see also 3:150. In her recent dissertation, Eve Krakowski challenges a part of Goitein’s description by arguing that a statistical study shows that patrilocal residence was not as widespread as Goitein argued, see Krakowski, 190-202. While Krawsowski’s argument that residence patterns were ‘messy’ rather than simply patrilocal is clearly correct (when is historical reality ever not messy?), I am not entirely convinced by the statistical analysis. Without going into detail, Krakowski had to disregard a great deal of data which was not entirely clear regarding the housing arrangement and, in the end, the amount of data left in comparison to the data sieved raises statistical issues. Furthermore, I would enter several more documents into the patrilocal category of corpus B, like ENA NS 31 21; Mosseri V 355 and maybe also CUL Or 1080 J 276 and TS NS J 201. Furthermore, even if residence patterns were ‘messy’ in practice, the normative ethos of society was patrilocal as can be seen in literary sources.

\textsuperscript{70} See Goitein’s comments on another letter: University Museum, Philadelphia, E 16516, tr. Goitein, “Parents and Children: A Geniza Study on the Medieval Jewish Family” \textit{Graz College Annual} 4 (1975) 54. Many travelling merchants might have been strangers in a new place. But usually they were neither poor nor sick, and they had supportive families in their port of origin.
couple lived in geographical separation for extended period of time. Unlike the great merchants who sailed to far away countries and were absent for years at a time, this country physician shows us a more local type of absence. However, even in these more provincial settings, the letter exemplifies the different types of separation: in his first marriages the writer was often absent for his medical rounds (he calls his wife a “supporter from the town,” r. 10-11 and notice that he is away when his house is emptied after his wife’s funeral). In the second marriage he absented himself from the house as a tactic of domestic politics and, finally, he ran away to hide in the countryside. The transition from these different types was fluid: the husband leaves, comes back, makes threats, makes amends and leaves again. The letter also reveals many of the anxieties raised by geographical separation. The letter repeatedly mentions that certain events took place “in my absence” and conveys the writer’s frustration at his powerlessness to control his household at a distance. For example, because he was away from home when his wife died, the funeral arrangements were made by others, something he clearly resented. Furthermore, his absence permitted his second wife to remove property from the house. To these frustrations one must add the writer’s anxiety over the separation from his son and his desire to receive news from him and his uncle. The failure of the second

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71 See Introduction.
72 While the present paper focuses on the physician’s troubled married life and puts aside the (uneasy?) relationship with his uncle and with his seven year old boy, it is important to give some attention to the problem of the boy’s whereabouts. On the one hand, the writer writes that the boy tells him all the time “show me my uncle” (v.8) and that he entered the boy into a kuttāb– i.e. the boy was with his father. On the other hand, the writer asks both the uncle and the family of his first wife not to inform the boy about his state and location and he asks them to send him news about the boy. A possible solution can be suggested: In the first round of the physician’s absence, the boy was with his uncle (“his family,” r.28). In the second round of absence, the writer took the boy with him and that is why the boy was complaining “show me my uncle”. However, now that the boy reached schooling age, the writer wanted his son to be educated (v.16). He therefore sent the boy to his uncle to attend the kuttāb regularly. Probably there was no good education to be found in the villages where the writer was hiding. Parting from the boy, the writer asks the uncle to keep him informed about “what happens with him, whether he is in the city or outside of it” (v.24). It is
marriage, the financial troubles and the anxieties raised by distance are the issues behind the writer’s presentation of reality and construction of gender.

**Representation of reality and the construction of gender**

While the physician’s letter contains important information regarding the realities of family life, its greater value lies in providing a rare glimpse on how an individual made sense of his personal tribulations through writing. It has already been demonstrated that the letter unconvincingly places the bulk of the blame for much of the writer’s suffering on the second wife while depicting her in negative light. It remains to be shown how the writer expresses his suffering through the use of biblical quotes. By tracing the “webs of significance” attached to these quotes we see how he used them to characterize his two wives.

Goitein has famously described the hegemonic ethos of Geniza society as a middle class mentality that values stoicism rather than complaining against the hand God deals to individuals. However, not unlike other Geniza letters, the writer repeatedly tells his uncle that he does not wish to trouble him with his problems and then goes on to narrate his woes in detail. While complaining about one’s fate went against the normative cultural ethos, complaining about one’s wife seemed to have been a not uncommon pastime.

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73 The most thorough exposition is in Goitein, Med. Soc. 5:45-73. For the equivalent notion in Islamic society see Rosenthal, 53-58. See also Goitein, *Studies in Islamic History and Institutions* (Leiden:1966), 217-254.

In other places in the letter, the writer uses biblical quotes as ways of accommodating these social expectations while fulfilling the need to express despair. With biblical quotes, it is often what is left unquoted which provides the necessary key to unlock the intended message. A simple example is the writer’s comment in the verso “I did not try (to go) to Fustat to procure in it what I want, instead I have taken from the countryside the things I needed like ‘Harvest is past etc’” (v.19). Jeremiah 8:20-22 reads “Harvest is past, summer is gone, but we have not been saved.” The writer uses the innocent part of the quote, “harvest is past,” to say that time has passed and he is still suffering from illness. Perhaps the ailing writer also meant to refer to the continuation of the passage: “because my people is shattered I am shattered. I am dejected, seized by desolation. Is there no Balm in Gilead? Can no Physician be found? Why has healing not yet come to my poor people?”

It is when the writer describes the death of his first wife, however, that this technique reaches its full potential. The passage in the letter reads: “O, mortal, I am about to take away from you the delight of your eyes through pestilence and the word of the Lord came to me in the morning and in the evening my wife died” (recto, ll. 8-10). The biblical passage reads (with the passages employed in the letter underlined):

“The word of the Lord came to me: O mortal, I am about to take away the delight of your eyes from you through pestilence; but you shall not lament

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or weep or let your tears flow. Moan softly; observe no mourning for the dead; put on your turban and put your sandals on your feet; do not cover over your lip, and do not eat the bread of the comforters. I spoke to the people in the morning and in the evening my wife died. In the morning I did as I have been commanded.”

One immediately notices that all the words that indicate lamentation and mourning have been removed. The effect is as if the writer did not even allow himself to write the verses which mention lamentation. Truly, he has done as he had been commanded. When compared to the biblical text, his lament over his first wife reads as a silenced cry.

At the same times it seems that the physican might have used the biblical passage from its appearances in the Talmud, rather than directly from the biblical source. Discussing various types of quick deaths, Mo‘ed Qatan 28a reads: “R. Ḥananya b. Gamliel says: This (a death in which a person gets sick and dies the very day, earlier called a mita deḥufa) is a death of a plague (mitat magefa), for it is said: ‘O mortal, I am about to take away the delight of your eyes from you through pestilence’ and it is said: ‘I spoke to the people in the morning and in the evening my wife died.’” If the writer indeed had this passage in the back of his head, then all he did was change “I spoke to the people in the morning” with “The word of the Lord came to me in the morning” as found in the letter. Another passage in the Talmud (BT Sanhedrin 22a) suggests why the writer chose this pasage to mourn his first wife:

“R. Joḥanan said: ‘Every man whose first wife died, it is as if the temple was destroyed in his lifespan, for it is said: ‘O mortal, I am about to take away the delight of your eyes from you through pestilence; but you shall not lament or weep or let your tears flow.’ And it is said: ‘ I spoke to the people in the morning and in the evening my wife died.’ And it is said: ‘I am going to desecrate my sanctuary, your pride and glory, the delight of your eyes’ (Ezekiel 24:21).’”

The fact that ‘delight of your eyes’ was used in Ezekiel both for the wife and for the Temple, makes the death of one’s first wife parallel the destruction of the (first) temple.

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78 Ezekiel 24:15-18, JPS translation with changes.
Even if our writer was not familiar with the Talmudic passage, we find the same idea expressed in an unstudied Geniza homiletic eulogy for a prominent woman (“from the house of our prince rosh ha-qehillot”) built around the same passage from Ezekiel:

You see that He named the wife of the prophet in this passage ‘the delight of the eye’ for her cherished place in the prophet’s heart due to her good qualities and religiosity and because the revered Temple is represented by her (li-ʾanna al-mumaththal bi-hā al-miqdash al-mukarram) just as He said in the middle of the passage: “I am going to desecrate My sanctuary, your pride and glory, the delight of your eyes and the desire of your hearts” etc. 

Through the biblical allusion, probably mediated by the Talmudic passages, the physician both expresses his unexpressed lament and hints at her alleviated station in his heart.

The good qualities of his first wife are made more explicit in another biblical quote. After the death of his first wife, the writer reports that he “became perplexed because she was to me like one who ‘supports us from the town’” (r.11). The context is crucial to understanding this quote. In Samuel II 18:1-4, King David is preparing to go out on a raid at the head of his army. However, his people object claiming that were he to be killed the disaster would be great and thus it would be better that he stayed behind as a support from the city. This quote portrays the wife as a precious king who must remain

79 In Hurvitz’s catalogue, she is called the wife of Rosh ha-Qehillot, see Elazar Hurvitz, Catalogue of the Cairo Geniza Fragments in the Westminster College Library, Cambridge: The Lewis-Gibson Collection (New York: 2006), 87. However, that would have been very likely had the text been only al-mutawaffāh dār sarenu rosh ha-qehillot, however, since the text has al-mutawaffāh min dār sarenu rosh ha-qehillot it could mean any female member of his family.
80 See Blau, Dictionary, 455.
81 Westminster Arabica II 158-159, the quote is taken from 159v.14-158 1r.4. I hope to publish this interesting homiletic eulogy in the near future for its interesting argument that righteous and pious women can be mourned and eulogized and for the way it mediates between the Judeo-Arabic intellectual tradition and its popular audience.
protected within the city.\textsuperscript{82} It is impossible to tell if support meant actual financial help or the psychological support of knowing that the house is left in trustworthy hands. In any case, the husband extols his first wife’s role as a “supporter from the town” while he was away on his medical rounds. It is not difficult to see here an implicit comparison between the good first wife who was supportive when he was absent, and the bad second wife who pilfered “his” property in his absence. The first wife was a support one could depend on while the second wife was seized with regret the moment she learnt that her new husband was not well off.

The comparison between the first wife and the second wife does not end here. The writer mentions the high price of the first wife’s funeral due to her being “dear to her family and the city.”\textsuperscript{83} Later in the letter he repeatedly complains about the expenses caused by his second wife and daughter, who “The old and the young treated with honor out of respect to me” (v.29). On the one hand, we have a wife respected by her family and the city and for whom the husband claims not to begrudge expenses (although one senses that he really does). On the other hand, we have a wife who steals property, spends money out of the writer’s pocket and is arrogant to him through his boy while enjoying respect accorded to her due to her husband.

Recalling Psalm 45:14, ubiquitous in medieval writing on women, commonly understood as “all the honor of the king’s daughter is inside.”\textsuperscript{83} The high costs of shrouds and burial are well known from other documents in the Geniza; see Rivlin, “Tradition and Crisis before Death” (Heb.) in Tradition and Change in Medieval Judeo-Arabic Culture of the Middle Ages (Bar Ilan: 2000), 208, and Friedman, “Developments in Jewish Marriage,” 132 and the literature cited there in n. 31-35. Twelve dinars for the funeral expenses are not exceptional; see Goitein, Med. Soc. 5:160. Goitein used the sentence “dear to her people and the town” to conclude the section on ‘The World of Women’ and his volume on ‘The Family’ claiming that “the Geniza woman was not the slave of her household. She had a life beyond her family.”\textsuperscript{ibid}, 3:359. However, it should be noted that the full sentence: “I was overtaken by expenses … for she was dear to her people and her town, (to the amount of) 12 dinars!” suggests that this ‘life beyond her family’ was evaluated by her husband in a rather stingy way. This statement of Goitein is too severely critiqued in Wandrey, “Die Kategorie gender in Briefen und Dokumenten aus der Kairoer Geniza,” 176-177. Wandrey unjustly attributes to Goitein a “disdain for female occupation” (Geringschätzung der weiblichen Berufstätigkeit) and misses Goitein’s point that women were not evaluated solely on their association with their husbands.

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The characterization of the “good wife” versus the “bad wife” reaches its climax and becomes explicit when the writer writes: “I became irritated (lit. my chest tightened) as my fortunes with women turned upside down. For I used to gaze at a wife (lit. a house) who had no equal at all, whereas this kind of wife is unfit for a friend or an enemy” (v.3-4). This sentence follows the “I once was, I now became” formula often found in Arabic literature. The writer makes sense of “onslaught of fate and its vicissitudes” by forming a dichotomy between the good years with the good wife and the bad years with the bad wife. In taxonomy of emotions, he directs his tenderness to the memory of his first wife and his venom to the second.

The construction of the “good woman” versus the “bad woman” is well known from medieval Jewish literature. Judith Dishon’s, Good Woman Bad Woman: Loyal, Wise Women and Unfaithful, Treacherous Women in Medieval Hebrew Stories is a useful anthology containing numerous examples of this topos. In Chapter Two we have presented quite a few examples of the appearance of the ‘bad woman’ in Geniza documents and discussed how the images of the good and bad women figured in the scripts for the supplicant and the disruptive women in court. This precious Geniza letter, and the ones examined in Chapter Two, allows us to see how literary and philosophical

84 See Rosenthal, Sweeter Than Hope, 1-4.
85 Eve Krawkowski drew my attention to TS 13 J 23 10 (ed. Gil, Ishmael, #676), in which 'Amram b. Joseph updates Nahary b. Nissim on his marriage tribulations: (r.20-25): “Also, I got married as well, as my lord heard, after I suffered troubles with the first that God and the people know (ata'ahhaltu (see Blau, Grammar, 77) kamā balagha mawliya ba'd anna qāsaytu min al-ṣarot ma'a al-rishona mā ya'lamuhu allah wa-l-nās). I said: 'perhap I will marry an orphan. I will obtain someone who will give me respite from fate’s tribulations (rāha min umūr al-zamān).' I said: 'I do not want anything from her, but I will do this for the sake of heaven. However, I got mired with what is even worst and more bitter. But no one can get away from the command of the Master of the two worlds, as the prophet said: ‘I know, O Lord, that man’s road is not his (to choose)’ etc. (Jeremiah 10:23). Fighting is not wise (lo ha-riv min bukhma).’ If our physician describes how he went from a good first wife to a bad second wife, 'Amram apparently thought that he went from bad to worst.
ideas were absorbed and received among the wider circles of educated and not so educated people. Most importantly, we see how the dichotomy appears *within the context of long distance marriages*: the good wife is the wife who is a supporter from the city, the evil wife is the one who absconds property while your back is turned. Having had in the past “a good wife” allows the writer to claim that his present predicament is due to “a bad wife.” This gendered dichotomy provides a textual catharsis to the anxieties over his failures and allowed him to put the world in order by pointing at the guilty party.

Finally, the construction of the dichotomy in the letter allows us to see a point too often overlooked. The “good woman” and the “bad woman” do not reflect two competing contradictory views of women, but form complimentary elements in the same dialectic. The question is not whether “the good woman” is more prevalent in the sources than the “bad woman”. 87 The idea of the good wife presupposes a bad wife and the idea of the bad wife presupposes a good wife. The good wife is thus not indicative of a positive view of women. The construction through narration of both is a masculine endeavor that attempts to define of the horizons of the possible for women through classification. 88 One suspects that it was not accidental that “the good wife” is the past wife and “the bad wife” was the later one. Truly, our country physician has both “found” and “find.” 89

In her masterful study, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth Century France*, Natalie Zemon Davis examined men’s and women’s requests

87 See Dishon, 10.
89 This is, of course, based on the pun found ubiquitously in medieval literature concerning “the good wife” (found: “He who found a wife found happiness” *Proverbs* 18:22) and “the bad wife” (find: “I find woman more bitter than death; she is all traps, her hands are fetters and her heart is snares” (*Ecclesiastes* 7:26). This contrast was not confined to Jewish writings and is found, for example, in 10th century Coptic poetry: Hermann Junker, ed. And tr. *Koptische Poesie des 10. Jahrhunderts* (Berlin:1908, reprint New York, 1977), 2:80-87.
for royal pardon for murders they committed. She demonstrates that men appealed for mercy by fashioning narratives of justifiable male anger and self defense. Women, on the other hand, often excused their deeds by claiming that they did not know what they were doing. Our country physician committed no murder, however, his letter also fashions a narrative meant to excuse his failings as a physician and as a husband. According to his story, it was his wife that caused him, time and again, to lose his wealth. It was her thieving, her arrogance, her family and her rebelliousness that perpetuated his tale of woes. By claiming that his “fortunes with women turned upside down,” the physician made sense of “the onslaught of fate and its vicissitudes.” Wealth and the ability to provide for one’s dependents stand at the heart of this country physician self evaluation. The fact that the writer measures himself according to these values, even though he failed to achieve them, shed light on the still unexplored realm of the conceptions of masculinity in Geniza society.

Epilogue

The physician’s letter presents a rare account of how one twelfth century man made sense of his married life and narrated them in a letter. It would have been beneficial if we could present side by side with it an example of such autobiographical writing by a woman from the Geniza. However, I am not aware of a comparable document written by a woman found in the Geniza. Significantly, what is perhaps the most explicit record of how a woman evaluated her previous marriage is found in an 11th century letter written by a father to his son. Interestingly, the family involved was again the Ibn Sabra family: the father was Abraham b. Isaac who wrote to his son, Mevorakh b. Abraham.90

90 The Ibn Sabra family sports another family letter of female suffering, see TS 10 J 9 13, tr. Med. Soc. 3:175-176.
Abraham’s daughter had been divorced from her husband and her son returned her home to her father’s place in Fustat. It seems that at least two children remained with the husband. The daughter was deeply depressed and longed to return to her abusive husband. Of course, it would be reckless to arrive at conclusions regarding gendered experiences of marriage and divorce based on only two examples, one from each gender. This passage is offered here as merely a glimpse into a reality which we may never be able to recover:

I wrote you a letter and I do not know if it had arrived. I had explained to you what happened to my daughter after you left, a matter whose explanation would take too long. She stayed in her bed for three months. We would enter and tell her: “until when will you act like this over someone who does not ask about you and denies knowing you like a stranger?”

Her son enters, kisses her head, acts kindly to her and says to her: “Were I to know that you would act like this due to their distance and that you would suffer over them this sorrow, I would have not brought you up (to Fustat) except with them…” By these letters!

Since you left, she have not been going to the bathhouse, except from one new moon to the next, nor has she been attending weddings or sleeping over at celebrations to the point that we tell her: “until when will this sorrow last?” She answers: “Until I die and enter the grave! I hate what he has done to me!” I tell her: “marry again!” She says: “By the truth of God! No man will ever command me after him so that he will be punished for my sins in the world to come!” I tell her: “recall his bad actions.” She says: “Were that I stayed with his bad actions!”

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91 This is a difficult sentence: אלאש תעמל דא ען manifold דא חעך בעכי איבא מינק אלמארשפא מכול ביע אלראבעה, which I suggest reading ilā ayysh taʿmalī dhā ʿan man lam yasʾal ʿanki wa-bāʿa minki al-ma rifā mithl bayʿ al-ghurabāʿ. While bāʿa min means “to sell,” it seems to mean here something like ‘to concede, alienate’ (see Dozy, 1:136), which is involved in the act of selling, or even something like ‘slander’ (see Lane, 284c and Kazimirski, 185).

92 As Goitein explains, this means ‘just as these letters are real, so is my intention,’ see Med. Soc. 3:244, n. 152.

93 min bīna kharajtum ma tadkhul al-hamām ghayr min almāʿ rosh ḥodesh ilā mithlihi wa-lā taḥḍur ‘urs wa-lā tabīt fī faraḥ.

94 DK 238 4 (old XIII), r.3-13. Goitein mentioned this letter repeatedly, most relevant mentions for this passage are Med. Soc. 3:275, n. 150 and 5:412 and 623, n. 97. As is clear from this passage, this letter deserves to be published in full.
Conclusion

From Status and Institutions to Experiences and Negotiations

The life stories of medieval Egyptian Jews reach us through the “sacred trash” of the Geniza in snippets and fleeting glimpses. We witness Ṣāliḥ’s former wife’s ruckus in court, but we do not know what came before or after it.¹ We read of the dramatic reconciliation in the synagogue at Malīj after a letter from the capital was publically proclaimed, but we know neither the names of the couple nor the cause of their dispute.² Our heart goes out to the many women who asked the Jewish authorities’ assistance against husbands who were pressuring them to ransom themselves out of the marriage bond, but we rarely hear these stories from the husbands’ point of view.³ The fragmented nature of our information is nowhere more evident than in the case of Malīḥa’s ultimately successful bid for divorce, in which the crucial moment, when her husband is finally convinced to grant her a bill of divorce, can only be reconstructed from two laconic entries in a court notebook.⁴ Even in the long letter by the country physician whose “fortunes turned upside down” on account of his wives, we hear of his married life only after it has been re-fashioned in “the laboratory of fiction.”⁵ In all these examples, the incomplete nature of the sources curtails our ability to fully recover the life stories of Geniza couples, all the while sparking our curiosity and propelling our inquiry forward. We use our imagination to offer an interpretation of the partial and often contradictory evidence in an attempt to arrive at a truth that is meaningful without reducing the inherent messiness of everyday life.

¹ See Chapter One.
² See Chapter Two.
³ See Chapter Three.
⁴ See Chapter Four.
⁵ See Chapter Five.
When a domestic dispute erupted, it was not only the spouses who confronted one another; their family members, neighbors, communal institutions and legal prescriptions were also cast into the boiling cauldron. Beyond the task of recovering life stories, this study explored marital disputes as a prism for the exploration of tensions in the social fabric of medieval Egyptian Jewish communities. Through a micro-study of marital disputes as they play out in the home, the court and the wider legal arena, it has been possible to recover a view from below of married life in Geniza society. By emphasizing individual experiences and negotiations this view complements the traditional top-down approach that focuses on legal status and institution. This perspective does not ignore the importance of Jewish law and legal institutions, but rather explores the decisive role of gender and social status in the ways in which such institutions were experienced and negotiated.

To appreciate how the previous pages offer a novel perception of the Jewish community it is instructive to consider the following description of medieval Jewish communal life and self-rule in a recent authoritative collection of articles:

Jewish self-rule served as the most important instrument to the existence of the Jewish people in its medieval diasporas. From the moment of his birth until his death, a man was tied to the institutions of the community. The community provided him with a social, cultural, economic, security frame, and to a certain degree, also served as an expression of Jewish sovereignty in difficult times and fateful moments…. The more pressures to convert the Jews mounted in Muslim and Christian society, the more the Jewish scholars labored to strengthen the foundations of the community, knowing that it serves as the main barrier against conversion and assimilation. They felt that the ability of Jews to cope with the dangers facing them depended, to a great extent, on their unity and on being bound in a strong and solid organization …. The saying of the sages, “all Israel are responsible for one another” (BT Shevu’ot 39a) was not an empty

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6 Paraphrasing Geertz’s famous statement that “The locus of study is not the object of study. Anthropologists don’t study villages … they study in villages,” we may say that we do not study marriage disputes; we study in marriage disputes. See Geertz, The Interpretation of Cultures, 22.
phrase, but a practical doctrine according to which the community built its
institutions and leadership.\(^7\)

This conception of the cohesive and autonomous Jewish community has recently been
challenged from several different directions. Uriel Simonsohn and Jessica Marglin have
pointed to the frequency with which Jews appealed to Muslim courts, from Geonic to
modern times, in order to argue for a model of legal pluralism and flexibility rather than a
model of legal autonomy and strict communal boundaries.\(^8\) Miriam Frenkel examined the
Jewish elite in Alexandria and offered a complex and nuanced treatment of the dynamics
of power and sources of authority in communal life, in place of the assumption of
‘naturalness’ with which earlier studies approached communal leadership. Rather than
approaching the rabbis as the embodiment of the collective will and the community as the
“immanent creation of Jewish history,” Frenkel places power and control back into the
political grid of the Jewish community.\(^9\)

In an influential article, Marina Rustow reviewed previous scholarship on the
Geniza and Jewish communal history and offered a “tentative model for further research
on the Jewish community.” Examining the role of courtiers, Qaraites and merchants in
communal politics as players “whose authority derived not from traditional rabbinic
means of legitimation – learning and lineage – but from their social rank,” Rustow points
the way toward a “looser network model” that accounts for multiple and simultaneous

\(^7\) Avraham Grossman and Yosef Kaplan, “Preface” in Kehal Israel: Jewish Self-Rule Through the Ages,

\(^8\) Marglin, “In the Courts of the Nations”; Simonsohn, A Common Justice; Simonsohn, “Communal
Boundaries Reconsidered: Jews and Christians Appealing to Muslim Authorities in the Medieval Near
East” Jewish Studies Quarterly 14 (2007), 328-363. See also Rustow, “At the Limits of Communal
Autonomy: Jewish Bids for Intervention from the Mamluk State” Mamluk Studies Review 13 (2009), 133-
159. All these studies build on the pioneering work of Joseph Hacker in Hacker, “Jewish Autonomy in the
Ottoman Empire.” See more in Chapter Two, nn. 142-143.

\(^9\) Frenkel, Alexandria, 153-204. On the community as an “immanent creation in Jewish history,” see Baer,
6 and Avraham Grossman and Yosef Kaplan, 7.
sources of authority, counters the autonomous and centralistic model of the community, and brings the Muslim state into the equation as a significant player.\textsuperscript{10}

The present study challenges this view of the Jewish community from another direction. By looking at the ways in which non-elite individuals experienced and negotiated communal institutions, we see that the realities of communal life were often a far cry from the picture portrayed in the glowing description quoted above. Once we leave the leaders’ point of view, we find that ‘from below,’ the mechanisms of power and control underlying the dynamics of communal life are exposed and the rhetoric of the leadership is shown to mask gendered ideology, politics, and economic convenience.\textsuperscript{11}

The depiction of the Jewish community quoted above leaves no room for individual agency and dissent, on the one hand, and power and coercion, on the other. By reducing the scale of inquiry and departing from broad generalizations to follow the realities of particular disputes I have attempted to replace this traditional picture of unity and autonomy by one that includes options and alternatives.\textsuperscript{12} This agency was shaped by the structure and shape of the legal arena and constituted an internal challenge “from below” to the authority of communal leadership independently of external pressures to convert.\textsuperscript{13}

Delving into the experiences of non-elites, especially women, also offers a corrective to the traditional focus on well-off merchant-scholars by revealing the “other

\textsuperscript{10} Rustow, “The Genizah and Jewish Communal History,” 289-317 (quotes from pp. 302 and 313). In offering a network model for the Jewish community, Rustow is building, in turn, on Frenkel, \textit{Alexandria}.

\textsuperscript{11} See Calavita, 113; and Rustow, “At the Limits of Communal Autonomy,” 136.

\textsuperscript{12} Reducing the scale of inquiry is, of course, the essence of microhistory, see Levi, 99. The other end of the question of scale has recently been discussed in an AHR conversation: Sebouh David Aslanian, Joyce E. Chaplin, Ann McGrath and Kristin Mann, “How Size Matters: The Question of Scale in History” \textit{American Historical Association} 118 (2013), 1431-1472.

\textsuperscript{13} Occasionally, as we have seen, people wielded the possibility of conversion as a threat in their negotiation with communal authorities. On other occasions, like in TS 8 J 10 16 (Doc. #8 in Appendix Two), conversion may have disrupted the “state of intimacy” of a couple. Of course, there were structural and specific pressures to convert, however, the point is that our model of medieval Jewish life cannot be limited to a view of a precarious Jewish autonomy facing constant external threats of conversion.
face” of Geniza society. This study has presented a picture of Geniza society that is much more conflicted, poor, unstable, and suffering.14 We have encountered many examples of women who received harsh treatment both at home and in the legal arena and whose life stories make for truly sad reading. However, rather than replacing a paradigm of strong women with a lachrymose one and a conception of a well-ordered society with a portrait of a chaotic one, the view from below offers us a way out of these dichotomies by highlighting the relationship between variation, unpredictability, and negotiation. As the chapters above repeatedly demonstrate, married life in Geniza society was characterized by a high degree of diversity. From the perspective of individuals, this diversity implied a great deal of unpredictability.15 However, as argued in Chapter Four, instead of determining whether institutions were weak or strong, the focus on the agency of individuals as “consumers” allows us to shift the focus of our examination from institutions to experiences. The experiences of individuals highlight the way their personal negotiations were constrained by law, communal institutions, gender and social status. Gender and status influenced one’s position in court and which script could be performed in court. They also affected one’s ability to use legal instruments like the ransom-divorce or non-legal interventions like patronage in the legal arena. Chapter Five demonstrated the importance of gender and social status not only to the practical management of disputes, but also to the way in which these disputes were understood by people and were negotiated through narration. Thus, the move away from questions of legal status and the workings of institutions toward a study of experiences and negotiations highlights how

14 This, of course, is partially due to the focus on marital disputes, but is also a result of looking at the life-experiences of non-elites, whose circumstances were more stressful and unstable.
15 While the gist of this approach was already present in Zinger, “Long Distance Marriages,” my thinking on this subject has evolved through conversations with Eve Krakowski.
gender and status affected both the “rule-governed creativity” of spouses and the ways in which communal authority was asserted and performed in Geniza society.\footnote{Peter Burke reminds us that one of the dangers of reducing the scale of inquiry is an overemphasis on agency. My solution to this danger is to examine how agency operated within the constraints of law, gender and social status; see Peter Burke, “The Microhistory Debate” in New Perspectives on Historical Writing, ed. Peter Burke (2001?), 116. On “rule-governed creativity,” see the Introduction. On moving away from a preoccupation with legal status, see Introduction (regarding the so-called “status of women”) and Simonsohn, “Communal Boundaries” (regarding the status of non-Muslims under Islam).}

Since marital disputes bring to the surface the fundamental tensions in the social fabric, the cases examined in this study are often merely the tip of the iceberg of wider trends in medieval Egyptian Jewish communities. Though I have tended to focus on cases that are exceptional in the high level of information they contain, in other respects, many of these cases are typical, exhibiting features that we find in a more muted form in other documents. In Chapter One, for example, we saw how the experiences of Jalīla and Saʻīda can be used to shed light on women’s experiences of communal courts in general. Chapter Three examined several detailed petitions of women whose husbands had pressured them physically and emotionally to relinquish their monetary rights, and I argued that these cases go a long way toward explaining the context of many other dry legal documents in which women relinquished these same rights. Throughout the study, I have tried to balance the microhistorical focus on exceptional cases by examining sources from a broad range of genres (letters, petitions, court records, responsa), social class (the cases featured very poor women as well as wealthy ones), and loci (both at court and in the home). This wide coverage revealed the connectivity between what happened in the legal and the domestic arenas as well as between different social strata, while at the same time offering meaningful insights arising from observing a single problem from different angles.
On a deeper level, the results of this study are applicable beyond the specific cases examined because of the inherent instability of married life in Geniza society. The reality of polygyny and the high rates of absentee husbands and remarriage meant that even if a woman was happily married and apparently shielded from the problems explored in the chapters above, a change of circumstance (whether in the form of a second wife, a husband’s business trip, or widowhood) could be lurking right around the corner. A woman’s social status depended almost entirely on her ties to a narrow set of men (usually her father, brothers, husband, and later, her children), unlike men, whose sources of status were more independent (education, wealth, ties to a wider set of men). This dependency easily translated into precariousness, which means that the cases explored in this study loomed on the horizon of most women in Geniza society. Though women could try to protect themselves through various legal instruments, as explored in Chapter Four, their her ability to implement these instruments itself depended on the same precarious social status. This does not mean that all women experienced gendered pressures at court and at home, or that they all experienced and negotiated the blurry edges of the malleable legal arena; but all Geniza women were affected, in one way or another, by the realities of married life explored in the chapters above.

The chapters above suggest several directions for further study. The first two chapters, through their exploration of the experiences of women in court, demonstrated the promise of a social and cultural history of Geniza courts. The thesis that emerged in

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17 Only very few women were independently wealthy or produced wealth rather than inherited it. Furthermore, while some women did enjoy the social prestige that attended the learned (see Tova Beeri, “Dirges for Unusual Female Figures” (Heb.) in Ot Letova: Essays in Honor of Professor Tova Rosen, eds. Eli Yassif, Haviva Ishay, Uriah Kfir (Or Yehuda: 2012), 98-114) or the pious (see Krakowski, “Female Adolescence,” 136-140), their status was not comparable to that of their male counterparts. See also ibid, 15.
Chapter Three about the tendency to compromise women’s monetary rights invites a similar investigation with respect to other issues, such as spousal maintenance and widowhood. Chapter Four presented a framework for the legal arena, but some of the most basic aspects involved in the processes of querying and petitioning await further research. Similarly, this chapter’s preliminary exploration of the “the shadow of the law” could fruitfully be expanded to explore other venues of negotiation such as children, relatives and use of public opinion. The way in which marital disputes were negotiated outside the legal arena remains to be studied in depth.\footnote{I discussed some of these issues in Zinger, “Long Distance Marriages.” Indeed, the marital dispute on which we are the most informed – that of Solomon ha-Melammed and Sitt al-Ghazal – is mentioned often in the notes of this study but never takes center stage because most of the information about it comes from personal letters. For a recent examination of this dispute, see Krakowski, “Female Adolescence,” 227-245.}

The chapters above suggest, in addition, two more fundamental directions for future research. The first concerns the juxtaposition of the documentary and the literary Geniza. The present study relied largely on the documentary sources of the Cairo Geniza and incorporated literary Geniza fragments only sporadically. However, examples like the way the ten pieces of marital advice helped us explain the compromising of women’s monetary rights, or the connection between the midrashic eulogy and the country physician’s lament over his wife, suggest that bringing together the literary and the documentary Geniza promises to be one of the more fruitful endeavors in Geniza research in the coming years.\footnote{By way of example we may point to TS 8 J 22 27v, which contains a fragment of a Judeo-Arabic literary work involving a jestful conversation between a Jewish man and a Christian woman containing inter-religious polemics. One possibility of bringing together the documentary and the historical Geniza is offered by several recent studies of Tova Be‘eri, Sarah Cohen and Shulamit Elizur, who edited the surviving Geniza fragments of liturgical poetry composed by several scholars associated with Egyptian Jewish courts. These studies offer a literary perspective on personalities with which we are familiar from the documentary record. For some examples, see Tova Be‘eri, “‘Eli He-Ḥaver ben ‘Amram: A Hebrew Poet in Eleventh Century Egypt’ (Heb.) Sefunot 23 (2003), 279-345; Ibid, Le-David Mizmor: The Liturgical Poems of David Ha-Nasi Son of Hezekiah the Exilarch (Heb.) (Jerusalem: 2009); ibid, “Zuhdiyya From the Cairo Geniza: The Poems of Judah Ha-Kohen Ha-Rav” (Heb.) Diné Israel 26-27} The second direction for future research involves greater
attention to historical change. Due to the uneven coverage of Geniza documents, this study examined the classical Geniza period as a whole, leaving historical changes and their effects on the realities explored here largely outside the frame of inquiry. We know, however, that the Jewish communities of Egypt underwent important economic, political and administrative changes during the 11th and 12th centuries. The effects of these changes on married life were not explored because so little work of synthesis has been done on 12th century Geniza documents. As the findings of this dissertation make clear, the ways in which individuals experienced and responded to economic changes and administrative innovations would need to form an integral part of such a work of synthesis.

Finally, despite naïve hopes at the outset of this project, the amount of time and care required to deal properly with much unpublished and unexamined Geniza documentary material has meant that integrating the results of this study into the surrounding Islamicate context must be left for the future. The importance of this context is indisputable, and its investigation will reward the scholarship of both domains. Indeed, when Mubāraka’s appeal to the Qāḍī al-Qudāt led us to contemporary Arabic biographical dictionaries, we encountered an anecdote that related in illuminating ways to the realities of Geniza society explored here. Similarly, Arabic papyri promise to facilitate genuine comparative work on the respective realities of Jewish and Muslim non-elite marriages. For example, we find in Arabic papyri many legal deeds concerning women’s monetary rights, and it remains to be studied how such documents compare


20 See the edition of TS 8 J 6 8 + TS 13 J 30 3 in the Appendix.
with the reality of compromising women’s rights discussed in Chapter Three. The many private letters published by Werner Diem have a lot in common with Geniza letters, and bringing the two medieval Egyptian epistolary corpora together promises to be very rewarding. In the words of R. Ṭarfôn in Mishna Avot: “The day is short and the work is plenty.”

Pouring over the sacred trash of the Geniza, one occasionally wonders what the people whose lives we labor to recover and interpret would have said had they known that this material would be read and analyzed a thousand years after their time. Some might simply have been outraged by the breach of privacy – a central ethos in their society, which seems to have weakened in our own. Others, like the women who commissioned petitions on their behalf, might have been gratified to know that the narratives of their plight still elicit sympathy across the divide of time and space. All would probably have been amused by our perplexity in the face of things that they regarded as self-evident. As uninvited readers of these traces of bygone lives, we sympathize with their pain, share their secrets and are complicit in their schemes.

However, we must not lose sight of the fact that what has reached us are only fleeting glimpses, as if from a shattered mirror, of complex lives. Did the couple reconcile in the end? Did the tormented wife eventually find solace after all things were said and done?


24 On reading medieval literature as an uninvited guest, see Rosen, Hunting Gazelles, 7.
The Geniza pours its dazzling light on some expanses, and leaves large swaths in the
dark, and yet, there is perhaps a measure of comfort in the thought that these stories of
everyday lives remain to us open-ended.
Appendix One

Complaining, Beseeching, Screaming and Shrieking.

The selection of documents for this dissertation was biased towards those involving women and thus cannot be used to answer the question of when and how men and women are presented as screaming, complaining and beseeching. Therefore, I chose to search the documents found in the Princeton Geniza Browser and the Friedberg Genizah Project, the two most comprehensive databases for Geniza documentary records. It should be made clear that the point here is not to locate all documents involving shrieking, screaming and complaining in court,¹ but to examine the relative occurrences and characteristics of such documents in a comprehensive corpus of documents.

The search was based on few keywords: צועק, קובל, צווח, סתגית, סתגאת.² These searches include various other keywords like: צועקת, קובלת, תסתגית, מסתגית etc., while avoiding searches which will yield impossibly large results (בכה, קבל). In general, all literary fragments were excluded from the results. No legal document was excluded. Personal letters and communal letters were also excluded, unless dealing with a specific personal conflict that involved the legal mechanisms of the community. Thus, letters describing people screaming due to an earthquake, the death of a person, or the Yeshiva complaining about dwindling of donations were excluded. However, a personal petition of a poor woman or a letter from a communal official to his superior concerning a case

¹ After all, the documents from the most important dissertation on the Geniza courts, Weiss’ dissertation on the legal documents of Halfon b. Menasse, are not found in either database. I did not include the documents published in Ackerman-Lieberman’s important dissertation as they all involve commercial matters and would also skew the results (because women are rarer in these documents). It is important to note, however, that a quick electronic search of the keywords in Ackerman-Lieberman’s dissertation did not yield results, thereby further supporting the conclusions of this survey.
² Of course, other searches are possible. One can continue this line of inquiry by searching for verbs like י룩 and יתחבר.
that took place in his community was kept. Documents too fragmented to be understood with some certainty were also excluded. The conclusions of this brief survey are presented in the chapter, while the finds are listed here below. Finally, it is important to remember that the total number of documents dealing with women is significantly smaller than the number of documents dealing with men. Therefore, even when the number of documents of screaming women might appear equal to the number of documents of screaming men, this actually denotes that screaming is more prevalent among women’s documents.3

*The findings*

‘**Shrieking**’ (צוח) was found only in association with women:

TS AS 149 5 - deed: PLYTY’s case, see in chapter.

TS 13 J 16 3, ed. Frenkel, *Alexandria*, #66 - A mother complains and shrieks against a man who encouraged her son to steal a Torah codex from her.

‘**Screaming**’ (צעק, צועק, צועקת) was searched only in PGB, not in FGP – since it resulted in more than 250 results). 6 cases regarding women were found: 3 deeds and 3 letters. 5 documents regarding men were found: 2 deeds and 3 letters.

One deed of a father and a daughter screaming together demanding the property of the daughter’s husband who has left her and gone to Egypt was put with “women.” A case of a Spanish husband screaming regarding his wife - was put with the “men.”

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3 Until there is a complete and detailed catalogue of all Geniza historical documents, precise numbers cannot be available. Thus I had to resort to using a search of a database rather than a full “count” of all relevant documents.
Women: Deeds

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<tr>
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<th>Publication:</th>
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<tbody>
<tr>
<td>TS 13 J 8 2 and TS NS J 149</td>
<td>Bareket, Jews of Egypt, #91-92.</td>
<td>Surûra bt. Solomon screaming about how her husband Surûr b. Jacob left her aguna and owes her and the children maintenance. Two almost identical deeds (written in different hands) here counted as one.</td>
</tr>
<tr>
<td>TS AS 149 5</td>
<td>Ed. as Doc. #17 in Appendix Two.</td>
<td>PLYTY’s case, see in chapter</td>
</tr>
<tr>
<td>ENA 2557 1</td>
<td>Gil, Palestine, #428</td>
<td>A father and his daughter are screaming demanding the property of the daughter’s husband who has left her and gone to Egypt</td>
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Letters

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<th>Shelfmark:</th>
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<tbody>
<tr>
<td>Mosseri Ia 4 (alt: L 1)</td>
<td>Gil, Palestine, #130</td>
<td>A letter of Solomon Gaon b. Judah to Ephraim b. Shemarya about a father complaining repeatedly for his aguna daughter who is screaming to be released from her condition: אביה היה קובל בכל עת אלי לאמר יזושיע החירה האסורה הצעקה בכל שעה</td>
</tr>
<tr>
<td>TS 8 J 16 14</td>
<td>n.p.</td>
<td>A woman “screaming week after week,” demanding a bill of divorce because she desires to re-marry (ֶל יראת אחותה لن mennא).</td>
</tr>
<tr>
<td>Mosseri IV 12 2</td>
<td>Bareket, Jews of Egypt, #73. See also Glick, Seride Teshuvot, 63-67.</td>
<td>A letter of Ephraim b. Shemarya regarding a wife who screams against her husband regarding her maintenance and her daughter’s.</td>
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In all cases, women scream due to their husbands’ behavior. An exception that proves the rule is ENA 3616 7, where a woman screams for money she had lent to a merchant, however this document is from the 16th century.

Men: Deeds

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<tbody>
<tr>
<td>TS 18 J 2 16</td>
<td>Gil, Palestine #61</td>
<td>Men come before the court screaming and demanding that the property of a minor orphan be secured (He has an older brother and sister).</td>
</tr>
<tr>
<td>Bodl MS Heb a 3 26</td>
<td>Gil, Ishmael, #326</td>
<td>A man screaming and complaining that another man robbed him in a commercial matter (see also Gil, Ishmael, #324)</td>
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</table>
**Letters**

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<tbody>
<tr>
<td>AIU VII D 108</td>
<td>Ben-Sasson, Sicily, #21</td>
<td>A letter from a judge in Palermo describing a man screaming, beseeching for help, closing synagogues and withholding prayer in a commercial matter.</td>
</tr>
</tbody>
</table>
| TS 13 J 18 28 | Gil, Palestine #413  | A Spanish man arrived in Jerusalem “screaming regarding his wife;”
| TS 16 304     | Gil, Palestine #28    | A letter to a Gaon from a man writing for the benefit of Daniel b. Sahl who received a letter from his brother who is crying and screaming because a Jew charged him in a gentile court with being his slave (Gil is undecided whether the opponent was a gentile, “probably from the Fatimid army men,” or a Jew – but the letter implies clearly that he was a Jew, according to Gil’s reading: “חס ושלום יהיה בר ישראל עבד לנכרי כמוהו עלי קד ושלום לברון לוי חס ושלום לברון.”)

While several letters mentioning men screaming were excluded from this selection because they dealt with matters of donations to the Yeshiva, condolence letters or communal politics, one might choose to include Westminster Misc 25, ed. Gil, *Palestine,* #255: a letter on behalf of the lepers of Tiberias, who are crying and screaming because their messenger for collecting donations, a leper himself, passed away. The letter asks that what he collected and what was promised to them in the pesīqa would be sent to them.

‘Complaining’ (.AddParameter metic): 2 documents mentioning complaining women, a deed and a letter, both already mentioned above:

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4 Gil published the whole document in *Palestine* #413. I read the crucial passage r.16-18: וקד יד ואל מ لهذا: אלמקוד אש ספרדי צועיק עבור אשתו ואמר כמא דברים בעדך ועשיתי לאו (!) כאראוי (!) אף ואלד וסומל (אלמקוד אש ספרדי צועיק עבור אשתו ואמר כמא דברים בעדך ועשיתי לאו (!) כאראוי (!) אף.) and not as Gil read: see the final *mem* in *Rahab:* reading as Mann did (*Jews* 2:108), and not as Gil read; see the final *mem* in *Rahab:* reading as Gil read; see the final *mem* in *Rahab:* reading as Gil read; see the final *mem* in *Rahab:* reading as Gil read. Translation: “A Spanish man arrived in Jerusalem complaining regarding his wife. He said several things to your benefit (this is a euphemism). I acted with him as such men deserve and he fell silent.” It is not clear whether צועיק should be understood as “against” or “for the benefit” or the neutral “regarding.” This expression is also used in Westminster Misc 25 r.18, ed. Gil, *Palestine,* #255 when the lepers of Tiberias are “crying and screaming” about the death of their messenger and funds collector.
12 documents mentioning complaining men: 7 deeds and 5 letters.

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<tr>
<td>TS AS 149 5</td>
<td>Ed. as Doc. #17 in Appendix Two.</td>
<td>Deed: PLYŢY’s plea, see in chapter.</td>
</tr>
<tr>
<td>TS 13 J 16 3</td>
<td>Frenkel, <em>Alexandria</em>, #66</td>
<td>A letter mentioning a female widow “complaining and screaming” against a man who encouraged her son to steal a Bible codex from her.</td>
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<tr>
<td>Bodl MS Heb. C 28 4</td>
<td>Mann, <em>Jews</em>, 2:252-3</td>
<td>A man complaining against a relative who said that he and his father are the children of slaves.</td>
</tr>
<tr>
<td>TS 10 J 4 3</td>
<td>Gil, <em>Palestine</em>, #426</td>
<td>Two brothers complaining in a matter of inheritance and commerce.</td>
</tr>
<tr>
<td>TS 16 45</td>
<td>Friedman, “Hai Gaon” <em>Te’uda</em> 3, 1983, 72</td>
<td>A man complaining against the local cantor and demanding that he would appear in court (the matter itself is not disclosed).</td>
</tr>
<tr>
<td>TS 28 6v</td>
<td>Not published</td>
<td>A man complaining (the Arabic מסתגית appears – and above it was glossed with the Hebrew קובל) against another man in a commercial matter.</td>
</tr>
<tr>
<td>Bodl MS Heb a 3 26</td>
<td>Gil, <em>Ishmael</em>, #632</td>
<td>A man complaining (כובל, צועק, אסתגת, יסתגית) against another man in a commercial matter.</td>
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Letters:

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<tbody>
<tr>
<td>TS 12 328</td>
<td>Gil, <em>Palestine</em>, #73</td>
<td>A group of men from Alexandria complaining against Yeshu’a ha-Kohen, arguing that he is not honest and is unfit for his communal position.</td>
</tr>
<tr>
<td>AIU VII D 108</td>
<td>Ben-Sasson, <em>Sicily</em>, #21</td>
<td>A man complaining, screaming, closing synagogues and preventing prayer regarding a commercial dispute with his brother.</td>
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</table>

2 further letters involving men complaining regarding the plight of *agunot*.
Complaining/Beseeching for help

*istighātha* can mean both complaining and beseeching for help. I have used either one according to what I thought the context demanded. It was clearly considered to be equivalent to the Hebrew קובל. Many documents with this common expression were excluded due to the criteria stated above, but it should be noticed that no legal document was excluded and that no excluded document goes against the conclusions drawn from the survey. In fact, the excluded documents reinforce the conclusions since they also follow the gendered division emerging from the documents presented here. After the important studies of Grossman and Ben-Sasson on the practice of delaying prayer, where this verb appears frequently there is a tendency among scholars to translate *istighātha*, and its derivatives as “delaying prayer.” However, that is only one meaning of the verb and the general meaning is ‘complaining/beseeching for help,’ as Friedman remarks in *Lebdī*, 81.

**Group complaint:**

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<tbody>
<tr>
<td>TS 10 J 6 5</td>
<td>Frenkel, <em>Alexandria</em>, #48</td>
<td>People are beseeching for help due to the court rulings and because the court is never open when it should because the <em>haver</em> is busy circumcising the children of the Copts.</td>
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**Women:** 2 deeds and 8 formal petitions:

**Deeds:**

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<tr>
<td>Bodl MS Heb a 3 5</td>
<td>Ackerman-Lieberman, “A Partnership Culture, #3</td>
<td>A legal deed mentioning a letter from a widow beseeching help from the Nagid in the matter of her children's maintenance from their inheritance.</td>
</tr>
</tbody>
</table>
Mosseri VII 27 | Bareket, *Jews of Egypt*, #67 | Sa‘īda b. David complains to the court that everything written about her on the other side of the page is false - see Chapter One.

**Formal Petitions:**

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<tr>
<td>TS 12 575</td>
<td>Friedman, <em>Polygyny</em>, VII-1, 208-213</td>
<td>Rachel, a European convert, beseeches the help of God and our lord regarding her husband who left her.</td>
</tr>
<tr>
<td>TS 16 256</td>
<td>n.p</td>
<td>A widow is asking for help from the Nagid, Mevorakh b. Saadya, for the inheritance of her orphaned children held by her late husband's partners.</td>
</tr>
<tr>
<td>ENA 2348 1</td>
<td>Gil, <em>Palestine</em>, #217</td>
<td>Two orphaned sisters beseech God and the community of Israel for help against their two older married sisters who deprived them of their inheritance.</td>
</tr>
<tr>
<td>ENA 1822a 56</td>
<td>n.p</td>
<td>Umm Abū al-Khayr asks in a hard to read petition for assistance in a matter involving her son.</td>
</tr>
<tr>
<td>TS 16 134v</td>
<td>Abramson, <em>Centers and Diasporas</em>, 116. and Goitein, “Shemarya b. Elhanan,” 124.</td>
<td>A Letter from Elhanan b. Shemarya to the community of Malig informing them about a petition of an Alexandrian divorced woman who complained against her ex-husband and demanded a minimum of three dirhems (a week?) from him to her and her child.</td>
</tr>
<tr>
<td>TS 13 J 18 3</td>
<td>Cohen, <em>Voice of the Poor</em>, #44</td>
<td>A woman writing a petition with her tears and blood, asking for a veil.</td>
</tr>
<tr>
<td>TS 10 J 16 4</td>
<td>Cohen, <em>Voice of the Poor</em>, #47</td>
<td>The widow of a cantor complains to the Nagid against her in-laws, especially her step-son who was physically abusive to her.</td>
</tr>
<tr>
<td>Mosseri V 355 (alt: L 31)</td>
<td>Ed. as Doc. #4 in Appendix Two.</td>
<td>A woman is complaining to the Gaon, Matzliah, about her husband who kicked her out of the house and wants her to ransom herself. The woman is afraid of appealing to the Nagid directly due to the Nagid's hayba.</td>
</tr>
</tbody>
</table>

**Men:** 6 deeds, 6 formal petitions or communal letters and 8 private letters. **Legal deeds:**

<table>
<thead>
<tr>
<th>Shelfmark:</th>
<th>Published:</th>
<th>Description:</th>
</tr>
</thead>
<tbody>
<tr>
<td>TS 12 582</td>
<td>Goitein, “A Document from the African port ‘Idhab” (Heb.), <em>Tarbiz</em> 21 (1950), 186-187.</td>
<td>A man complains against a slave who accused him of impregnating a female slave and abandoning her on the Sudanese coast. The slave is also mentioned as complaining against the lashes he received, despite him being “the ghulām of the head of the Yeshiva!”</td>
</tr>
<tr>
<td>Shelfmark</td>
<td>Published</td>
<td>Description</td>
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<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>TS 10 J 27 4</td>
<td><em>India Book</em>, I, 9</td>
<td>Joseph b. David al-Lebdi complains against Yequitiel b. Moses regarding a commercial dispute</td>
</tr>
<tr>
<td>Per H 160</td>
<td>Gil, <em>Palestine</em>, #331 and Goitein, <em>Palestine</em> 211-214</td>
<td>A man accused of cursing the Gaon is beseeching the help of the Jewish community (i.e. withholding prayer) to clear his name.</td>
</tr>
<tr>
<td>TS 28 6v</td>
<td>n.p.</td>
<td>A man complains against another man for bringing him before a gentile court and for hiding evidence in a commercial dispute</td>
</tr>
<tr>
<td>TS 13 J 5 1</td>
<td>Bareket, “Books of Records,” 31-32.</td>
<td>A man is mentioned as withholding prayer in synagogues during a dispute with two other men regarding an undisclosed matter. Interestingly both אסטרה and אסטרה are used in the same deed). Bareket translates both as “acts of trickery” (מעשי מרמה).</td>
</tr>
<tr>
<td>Bodl MS Heb a 3 26</td>
<td>Gil, <em>Ishmael</em>, #326</td>
<td>A man screaming and complaining that another man robbed him in a commercial matter (see also Gil, <em>Ishmael</em>, #324).</td>
</tr>
</tbody>
</table>

**Formal petitions or communal letters:**

<table>
<thead>
<tr>
<th>Shelfmark</th>
<th>Published</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>TS 12 242</td>
<td>Friedman, <em>Polygyny</em> VI-1, 153-5.</td>
<td>A man complaining that he has been married for two years but cannot consummate the marriage because his wife cannot bear sexual relations.</td>
</tr>
<tr>
<td>TS 8 J 14 6</td>
<td>n.p.</td>
<td>Three Jewish converts in Malij complain against a man who refuses to pay a certain fine, tax or debt and claims that he has helped them (and thus he has done his part for the common good?).</td>
</tr>
<tr>
<td>Bodl MS heb d 66 29</td>
<td>n.p.</td>
<td>The ḥaver of Damīra is writing to Abraham b. Nathan letting him know of the bad actions of the cantor in Damīra and informing him of two men complaining against the cantor's behavior.</td>
</tr>
<tr>
<td>TS 8 J 15 3</td>
<td>n.p.</td>
<td>A man asking for help from God and from a Nasi for his sickness.</td>
</tr>
<tr>
<td>TS 16 24</td>
<td>Frenkel, <em>Alexandria</em>, #27</td>
<td>The judge of Alexandria (Shela b. Mevasser) writes to the Rā’ is al-Yahūd (Mevorakh b. Saadya) mentioning people complaining against him, though he had done no wrong.</td>
</tr>
</tbody>
</table>
Private letters:

<table>
<thead>
<tr>
<th>Shelfmark:</th>
<th>Published:</th>
<th>Description:</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENA NS 21 14</td>
<td>Frenkel, Alexandria, #17</td>
<td>A letter describing a weaver who screamed and complained (אסתגאת וצאח) during a dispute about selling scarves. It should be noted that it seems as though the matter never reached the court.</td>
</tr>
<tr>
<td>TS 16 149</td>
<td>Frenkel, Alexandria, #28</td>
<td>A letter reports a communal conflict in Alexandria between a popular visiting preacher and the local judge.</td>
</tr>
<tr>
<td>TS 20 177</td>
<td>Frenkel, Alexandria, #37</td>
<td>A letter mentioning a man complaining to the Muslim governor of the city, regarding Europeans who had not paid the rent for warehouses.</td>
</tr>
<tr>
<td>TS NS J 24</td>
<td>Frenkel, Alexandria, #88</td>
<td>After a public brawl, people are asking for help (there is no reason to translate 'delay the prayer' here).</td>
</tr>
<tr>
<td>ULC Or 1080 J 258</td>
<td>Frenkel, Alexandria, #99</td>
<td>A letter describing how Ibn al-Baṣrī complained about Yehuda ha-Levi to the head of the secret police.</td>
</tr>
<tr>
<td>ENA 3765 10 + TS 18 J 4 10v</td>
<td>Gil, Palestine, #192</td>
<td>A letter regarding the conflict with Nathan b. Abraham. The writer of the letter says that were it not for Nathan's connections with the Islamic government, they would have already complained about him.</td>
</tr>
<tr>
<td>TS 8 253</td>
<td>Gil, Palestine #502</td>
<td>A letter describing how residents &quot;screamed and complained&quot; fearing structural insecurity in the building in which they lived.</td>
</tr>
<tr>
<td>TS 10 J 5 6 + TS 20 113</td>
<td>Gil, Palestine #577</td>
<td>A letter describing rescue operations for Karaites after the Crusader capture of Palestine. “The miserable, poor, captive refugees have a right to complain”…..</td>
</tr>
</tbody>
</table>

Other documents that did not come up in the search of the PGB or the FGP and thus not included in this survey

These are relevant documents I came across in my work – that did not come up in the search of the databases – and thus cannot form part of the statistics. These documents, excluded from the statistics above, strengthen my argument.

Women

- TS 12 617, ed. Bareket, Shafrir, #17 - a woman is screaming against her divorced husband’s intentions to leave Egypt, and demands maintenance for her daughter.
- TS 16 57, ed. Weiss, Halfon, #74 and Weiss, “Financial Arrangements for a Widow” in Gratz College Anniversary Volume 275-283 - a widow complaining (ishtakat) about her situation (she is burdened with a still suckling baby girl) and she asks the court to support her for a loan for her daughter.
- ENA NS 7 43, ed. Friedman, “Divorce upon the Wife’s Demand,” 117-120 - a woman had to resort to beseeching the help of her gentile neighbors because her husband moved her and her daughter to live among the gentiles and then abandoned them without providing food or drink.
- TS NS J 401 no. 6, ed. Weiss, Halfon, #240 - a wife asking for taqrīr al-mezonot.
- TS NS 184 54, ed. Friedman, Polygyny, VIII-5 - A woman’s crying is reported in a case involving polygyny.
- TS NS J 73, unpublished - a woman is mustaghītha mutażallima musta‘diya in court against a man for 4 dinars – her husband is her wakīl but she is clearly the one talking and acting.
- T 18 J 3 2, ed. Bareket, Shafrir, #18 and tr. Med. Soc. 3:217-8 - a woman complains to the community about her husband (who is also her cousin) who does not provide for her, takes money from her and does not stay at home. If they will not help her, she threatens to turn to gentile courts.
- TS 13 J 18 18, tr. Cohen, Voice of the Poor, #45 - an almost blind woman complains that her husband abandoned her and her 3-year-old daughter and escaped to Alexandria.
- TS NS J 133v, 2nd section, - a woman beseeches the help of the Jewish community (אסומא אלי יהוד) against her former husband regarding the maintenance of their daughter.
- TS 16 100, ed. Yosef Yahalom, “The Muño Letters: The Work of a Village Scribe From Northern Spain” Sefunot 22 (1999), 29 - A public petition describing how the Spanish widow convert from Muño was left “crying and screaming regarding her severe impoverishment and great poverty (“והשתיה הרעה והזנחה בחל המחזה פל ריב וריב ... הדיארה ורפ[ע] אתיה.”)
- ULC Or 1080 J 192 – a letter of a communal official describing how a wronged woman (משהכית מחזה) about her ex-husband who seized her clothes (they were later recovered) and for eight months did not provide even a dirham of the maintenance incumbent upon him (a quarter a dinar a month, a very low sum) for his still suckling daughter. This is described as “destruction of the world, חורבן עולם.”
- Geneva 36, ed. David Rosenthal, "Documents, Letters and other compositions" The Cairo Geniza Collection in Geneva: Catalogue and Studies (Jerusalem: 2010), 119-120. While the editor identified this fragment as a letter to Mevorakh and Moses b. Saadya in Egypt, the fragment is clearly a legal deed or, at least a formal letter written by court members nominated by Mevorakh and Moses.
(compare with ENA 4010 17 or Bodl MS Heb. a 3 2). Due to the incompleteness of the fragment some of the details are uncertain. However, it seems that the matter at hand was a conflict between a widow and her husband’s children. Apparently, they came to court and contested her possession and use of a house that belonged to their father. She argued that her late husband gave her the house against the debt of the ketubba and she had been using the house for many years. She used to have a deed from the court of Nahary b. Nissim, but it was now lost. The document contains a copy of an earlier legal deed which started something like ["the widow of] Jacob known as Ben Jamīʿ (or maybe Ben Jumay’), M(ay he rest in) P(eace), and beseeched our help several times" (wa-istighāthat īlaynā ‘adda[…]).

- TS 12 232, ed. Friedman, Polygyny, X-13 – Two Christian sisters plead and cry heavily (הטבב עלינו финанс בכי גדול) to be allowed to join the Jewish faith.

**Men complaining**

- TS 13 J 13 27, ed. Gil, Ishmael, #238 and Ben-Sasson, Sicily, #6 – a man whose money was stolen went around crying “in hot tears.” He was told to go and beseech the help of the Muslim ruler. See n. 65 in Chapter Two.
- Bodl MS Heb f 27 22, ed. Friedman, “Divorce upon the Wife’s Demand,”124-126 and Rivlin, Lucena - a man complains and protests (אובד טחארה) for a long time that his wife does not perform one of the tasks that women must perform for their husbands (i.e. sex) and she even does not come into the same house with him.”
- TS Ar 47 244, ed. Ashur, Engagement and Betrothal, A-28 – a man complaining that his wife, an orphan under eleven years old, refused to have sex with him.

**A mixed example added in the last minute**

- TS 13 J 19 13, ed. Goitein-Friedman, Ḥalfon, VIII, 78. In a letter of Yeḥezkel b. Nethanel to his brother Ḥalfon, Yeḥezkel describes a commercial dispute he had with some “boys” (ṣibyān). The young men sought the assistance of their Muslim neighbours against Yeḥezkel who demanded the payment of a debt while they are sick, while their mother went out “to beseech the help of the Muslim authorities” (tastaghīth ilā al-sultān). Later, “they” (the boys with their mother?) beseeched the help (ghawwathū) of the nagid.
Appendix Two

Editions of Geniza Documents

Document 1: Bodl MS Heb a 3 40v .................................................................329
Document 2: Bodl MS Heb d 66 133r ..............................................................333
Document 3: ENA NS 31 21 .................................................................................336
Document 4: Mosseri V 355 (L 31) .................................................................340
Document 5: TS 6 J 3 17 .....................................................................................343
Document 6: TS 8 J 6 8 + TS 13 J 30 3 ..............................................................346
Document 7: TS 8 J 6 14v ..................................................................................352
Document 8: TS 8 J 10 16 ..................................................................................355
Document 9: TS 10 J 10 13 .................................................................................359
Document 10: TS 10 J 12 1 ...............................................................................367
Document 11: TS 10 J 27 12 .................................................................................381
Document 12: TS 13 J 4 7 ....................................................................................384
Document 13: TS 13 J 13 30 .................................................................................388
Document 14: TS 18 J 1 20 ...............................................................................391
Document 15: TS Ar 16 4 ....................................................................................394
Document 16: TS Ar 52 177 .................................................................................398
Document 17: TS AS 149 5 ...............................................................................401
Document 18: ULC Or 1080 4 15 (1-4) ..............................................................402
Document 19: ULC Or 1080 J 276 ....................................................................405

328
Document 1: Bodl MS Heb a 3 40v

One side of this document contains the beautiful ketubba of ʿAmāʾim (short for Sitt al-ʿAmāʾim, i.e. “Mistress over the Turbans”) bt. Berakhot and Solomon ha-Kohen b. ʿObadya ha-Kohen, dated to 28 May 1128 (27 Sivan 1439AG). Three and a half years later, a legal settlement after a marital dispute was recorded on the back of the Ketubba. At their marriage, both spouses were orphans and ʿAmāʾim was a virgin. The muqdam was set as five dinars and the meʾuḥar at twenty five dinars. The value of the dowry was forty-six dinars. In the settlement, ʿAmāʾim was given full disposition (taṣarruf) over her dowry (except three items) and, in turn, she released her husband from any responsibility for it. The agreement makes clear that her receiving taṣarruf in no way affects her right for the delayed marriage gift. The way this statement is phrased (twice – in her statement and in his statement), and the fact that his violence towards her is mentioned, suggest that Solomon tried (violently?) to pressure ʿAmāʾim to agree to a decrease in her delayed marriage gift. It also probable that the dispute resulted from Solomon’s attempts to lay his hands on the dowry (which is why ʿAmāʾim was given taṣarruf over it). ʿAmāʾim certainly appears to have been the victor in this dispute.

Fustat, January 1132.

Previous Literature:
Mentioned: Samuel Poznanski, Babylonische Geonim im nachgaonäischen Zeitalter (Berlin: 1914), 102, n. 1; Mann, Jews, 2:223; Goitein, Med. Soc. 3:105, n. 36; 112, n. 64;

1 Vellum.
2 On the beauty of this ketubba, Goitein waxes eloquently, in a way that reveals much about Goitein’s own values and understanding of Geniza society: “[Halfon b. Menasse’s] is also the only illuminated ketubba preserved in its entirety known to me: that of the working woman ʿAmāʾim. It is an excellent example of what a couple in modest circumstances could expect in this matter. The good wishes are arranged in seven lines containing alternately four or three groups, each group crowned by a fleur-de-lis and divided from one another by a design of two fleurs-de-lis. Lively vowel signs soften the austerity of the perfectly drawn monumental letters. The text, written in beautiful, smallish cursive, is deftly adapted to the shape of the parchment, which narrows gradually from top to bottom. The slight curve of the right margin thus created (l. 1 of text is 24 cm, last line, l. 26, is 20 cm) is extremely graceful. This ketubba is the product of a jejune, but harmonious and self-assured, culture, and therefore, to my taste, also aesthetically more satisfactory than many of the fancy Italian, Greek, or Iranian ketubbas with their inadequate figures, garish colors, and unsatisfactory scripts. To be sure, Halfon was, in his way, a master of his art;” Med. Soc. 3:112.
3 Writing settlement after dispute or divorce agreements on the back of the marriage contract is also found in Arabic Papyri; see, for example, Mouton-Sourdel, Mariage et Sépartition, #6a-b, #7a-b.
4 This is a partial list. For more references, see FGP. Most of these references refer to the ketubba and not to the settlement after dispute.
Transcription:

. 1. שהדותא דהות באנפנא אנן חתמי מטה כן הוה חצרת אלינא עמאים בת מַּבְרֵכֵה

. 2. הזקן נַעַ אלמדכורה פָּי באטן הדה אלכתובה ואשהדתנא עלי נפסהא מן גיר קהר ולא

. 3. נבר וּל אוכראה אננה דַּק כֶּבֶּשׁה וּסְפָּרֲא יֵאָדוּטוּיָא וּפָלְפָּחלְתַּבַּהְוָה לַדְּיַעְלָי

. 4. וגַונְּהֲהָה גַּלְפְּשָה הַכְּחַרְבְּדִיָּהְוָה עַל וּפֶּהֶוֶּה אָלָכְּלְבָּוְּתַּהְוָה מָאָלָלְוָה הַטְּלָאֲבָוָה

. 5. לַא יְגַוְּהֲהָה אֶלְּאַנְּבַּהְוָה וּאָלָלְבַּהְוָה מָפֶּלְבַּהְוָה מָסְגַּנְּנְדָרָיָא וּגַאֲהָה דַּק מְכַרְבַּהְוָה

. 6. מְטֻבְּשָה פָּי וּוּבְּהַהוֹתְוָה בְּבַעֲדָה מַנְּעַלְוָה נְוָן כָּל טְבַלְוָה מְנַךְ פָּרֲא יֵאָדוּטוּיָא

. 7. עַלְוָה פָּי דְּלָרְוָה נְוָן חֲלַדְוָה נְוָן שָׁי מַנְּעַלְוָה מְנַךְ אֲרָאָיָא וּאָפֶּלְיוֹלָרָה חָרָם

. 8. סָסֶּם בָּרָאָה בָּאָמָלָה הֵאוֹפֵּאָי וּלַּיְקַבְּלָוְּלָי פָּי מָגְּהָה פָּמַר תַּוָּרָיוֹת בִּאָבָן הָוָי

. 9. אֲלָכְּלוּתָה מָנְוָא לְאָלָלְבוּתְוָה איַלְדִי דַּכְּלָכְלָה בָּאָיָי מָאָלָלְוָה הַטְּלָאֲבָוָה אָיְוָי

. 10. פָּאסְמָאָלָיָא לַאָיָי פָּי מְגַזְוָה מְנַנְוָא מְפֲרַדוּתְוָה בָּיֲוָי בְּלָיִי נִזְזַוְּיָא יוֹסֶּמַּה

. 11. בָּשָׁשָּתָה וּרְפַּאָה איַלְדִי כָּאָיָי קָבָּרָאָי לְלַלְּפָּאמָשְוָה וּאֲלָלְבָּוְּתַּה מַנְּעַלְוָה עַלְוָי דְלָר

. 12. בָּעְנָה הַזָּאְלְפָּרְפָּרָה לַאָיָי הַזָּאְפָּרְפָּרָה בַּהָא בָּקָנָי מְגַזְוָה מְפָרֲדַוְּלָי הַכֶּבֶּשׁ הַלָּקְנָבָה וּפָּמֶּשׁוּת

. 13. בָּכָרָה פִּי לְדוּרְיָס חַטָּהָיָי קָטָןֲאָיָא כָּאָיָי לְפָּאָלִיָּי לְדוּרְיָס אָבָי סְפָדָא

. 14. יֵשׁ פָּי בּוּלָי כְּיִיָּה הַזָּה בַּהַיְוַוָא אָיָיָא מַנְּעַלְוָה מְשַׁלְמַת הַכָּחָרָה דְּנַפָּרֲק

. 15. נְמָרְוָא הָכְּלָלָיָי הַכֶּבֶּשׁ הַלָּקְנָבָה בּ פָּמֶּשׁוּת בּוּרָטָלוּי לְדוּרְיָס חַטָּהָיָא אָיָי

. 16. אָיָי נְקַצָּמַּה שָׁי מְפָרֲדַוְּלוּיָא וּאָיָי מְגַזְוָה לַאָיָי פָּי מְגַזְוָה הַזָּאְלָפָה מַנְּעַלְוָה

. 17. תַּהְוָה אֲלָלָפָּא לְאָלְפָּרְפָּרָה לְעַלְוָי וּבָּרֲעַאָיָא כָּאָיָי קָבָּרָאָי לְלַלְּפָּאָשָׁיָא איַלְדִי

. 18. אָבָרָאָיָא מַנְּעַלְוָה לְעַלְוָיָא לְלַלְּפָּאָשָׁיָא פָּי דְלָרְוָה בָּהָא בָּקְנָי לַאָיָי הַזָּאְלָפָה

. 19. פָּי מְגַזְוָה הָאָיָי לְאָתְרָאָיָא לַאָיָי הַזָּאְלָפָה בָּאָיָי בּוּרָטָלוּי בְּשָׁרְיָאָיָא

. 20. מְשָׁמָה וּשְׁוָהוּתְוָה דָּאָיָא מְגַזָּמַּה הַזָּאְלָפָה הַלָּקְנָבְוָי לַאָיָי וּלְרָאָיָא הַטָּמְבָּאָיָא

5 Halfon accidentally wrote חַטֶּת.
Translation:

(1) The testimony which took place before us, we, the undersigned, thus: ‘ʿAmāʾim bt. Mr. Berakhot, (2) the elder, m(ay he rest in) E(den), mentioned in this ketubba, came before us and called upon us to witness concerning her with neither duress, nor (3) force nor compulsion, that she has received and accepted all of the dowry ascribed to her as owed by (4) her husband, Mr. Solomon ha-Kohen b. ʿObadya ha-Kohen, m(ay he rest in) E(den), in this ketubba except for three items (5) and no more. These items are: the copper lamp, the bucket, and the embroidered Iranian pillow.  

She released him, (6) as of now, as long as he lives and his heirs after him, from any attachment, demand and responsibility she is (7) owed by him in this matter, and from any demand over belayot or over any item, and from all oaths and even a general (8) ban, a complete and total release. Nothing of the dowry which she brought into the marriage contained in this (9) ketubba remains as his debt to her, except these three items, nothing more. (10) They remain as his debt to her with the rest of her delayed marriage gift, since she did not relinquish any of it, because it was (11) with his desire and will that he gave her the aforementioned dowry items. We made the symbolic purchase about this, (12) after affirming her identity, with a complete and rigorous purchase with an instrument fitting for purchase, as of now, (13) cancelling any notifications and conditions. The one who verified her identity to us was Faḍāʾil son of Abū Saʿīd, (14) may (the Rock) pre(serve

This might have been corrected from יר.  

mikhadda sūsanjird – see Med. Soc. 4:306. These items are indeed mentioned in the dowry list in the ketubba, r. 16-18: ... א"a pair of embroidered Iranian pillows and a pair of Tabari pillows worth three gold dinars … A copper wax candle lamp, a round Damascus bucket, a bowl and a basin worth six golden dinars.
him), b. Yakhîn, the cantor, m(ay he rest in) E(den).

Then, we also made the symbolic purchase from her husband, the aforementioned Mr. Solomon ha-Kohen, with a (complete and rigorous purchase with an instrument fitting for purchase, as of now, cancelling any notifications and conditions) that he will not (deprive her of any of her delayed marriage gift. All of it remains as his debt to her with the (three items mentioned above. He gave her the dowry items willingly, from which she has now released him. She has full disposition (tasarruf) with it (i.e. the dowry items) as she chooses. No attachment to it (i.e. to the dowry items) nor objection remains for him against her. He will not beat her and will keep good companionship (with her. We wrote and signed this testimony so it will be for both of them a proof and evidence. We have also registered (the symbolic purchase from both of them in a deed given to the aforementioned Mr. Solomon ha-Kohen. (All this took place in the last ten days of the month of Ṭevet, 1443AG (=1132CE), (according to the dating of deeds, in Fustat-Mitzrayim situated upon the River Nile under the authority of our lord Mašliaḥ ha-Kohen, head of the Academy of the Pride (Gaon) of Jacob, may he live forever. True, clear and established.  


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8 See Med. Soc. 3:497, n. 4.
9 On such conditions, see Ashur, “Engagement and Betrothal,” 97-104.
10 The ketubba was kept by Amāʾim. Therefore, another copy of this settlement was made and given to Solomon, her husband.
11 On him, see Med. Soc. 2:513, #17. The tiny letters around his name note the month and the year.
12 Nathan ha-Kohen b. Solomom used to surround his signature with tiny letters indicating the date of the deed, see Friedman, “Signature Embellishments and a Unique Method for Noting a Date,” 162-3. In this case, תִּמְגָּא חַטְשָׂא שְׁנַתָּא תַּמְגָּא כָּוַיְאִימָא חוֹדֵשׁ תַּמְגָּא אֶלֶּא שָׁטְנָא חַתְשָׂא חָשׁוּבָא חָרָב (תִּמְגָּא אֶלֶּא שָׁטְנָא חָשׁוּבָא חָרָב).
13 This man signed several documents: TS 16 144, ed. Weis, “Halfon,” #77, (1109-1118); TS NS 320 59, ed. Weis, “Halfon,” #203 (a 1119 bill of divorce); TS 13 J 8 15, ed. Ackerman-Lieberman, “A Partnership Culture,” #85; Bodl MS Heb d 66 7, ed. Weis, “Halfon,” #8 (1132); Bodl MS Heb d 65 25, ed. Weiss, “Halfon,” #6 (1126-7); TS NS J 401r (n. 20), ed. Weis, “Halfon,” #249. TS 13 J 13 23 is a short letter written by Meshullam. Meshullam was the head of family of judges. His son, Sasson, was a judge in Cairo, see Med. Soc. 2:514, #24. Sasson had a son called Isaac who was also a judge in Cairo, see Med. Soc. 2:514, #25. Issac’s son was called Menaḥem (this was Meshullam’s great grandchild) and was also a judge in Cairo, see Med. Soc. 2:514, #26.
14 On him, see Med. Soc. 2:513, #18.
A record in a Fustat court notebook, as can be seen by the several records found on the verso. The court had received an anonymous tip that the former wife of a certain Ṣāliḥ had been entering his house. Ṣāliḥ came before the court and complained that she had been entering his house, attacking him and refusing to leave. The court sent for her, and when she appeared, the court forbade her from entering her former husband’s house. She declared that she would not leave the house, for it was her house. She also accused the court of taking a bribe and threatened to appeal to the Muslim ruler.

Written by Abraham b. Isaac (the talmīd), who is the first signatory.

Fustat, 9 April 1085.

**Previous literature:**

**Previous edition:** Partially edited in David, “Divorce,” 199-200.


**Transcription:**

1. בַּחֲמָשָׁה בָּעַשְׁבָּה דְּהוֹא שָׁיְתָה יוֹם בִּירָּחָה נִיסַן דְּשָׁנָה אֵלָּפָּא
2. וְהָלְחָת מָאָה וְשׁעִינָה וּשׁיָּתָה סְנִי לְעַנִּינָא דְּרַגְּיִינָא בֵּיה
3. בְּפַסְתְּאָן מְצַרוֹיָם דּוֹלְּ נְיָלְסָ נְהָרָא מְתוֹבָה תַּחְתּ מְנַק
4. דָּכְרָ נְאָ אֶפֶּא 1 מַלְעַלְקָה צֶאלָּחָה צֶאלָּחָה יַלְּהָה דְּרִיבְּתָהוּ צֶאלָּחָה
5. אֲלָדִי קָאָ נַחְטִי וַעֲשָׁתְּבָּר מַמְאָה אוּבָּגָהוּ מַמְאָה דְּלַּיָּה וַעֲשָׁתְּבָּר אָלִי
6. מַנְעִנָה צָעֶקְוָל אַנִי לָא אַבָּרָה הָא אַבָּרָה מַמְאָה חָדָה וַעֲשָׁתְבָּר פֹּה
7. בְּיָחָר לַמְעִילְיָהוּ צָעֶקְוָלָה הָאָלָדָה נְאָאָה וַעֲשָׁתְבָּרָהוּ וַאָמִיןָהוּ אָמִיןָהוּ אָמִיןָהוּ אָמִיןָהוּ אָמִיןָהוּ אָמִיןָהוּ אָמִיןָהוּ אָמִיןָהוּ אָמִיןָהוּ אָמִיןָהוּ אָמִיןָהוּ

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1 Reading uncertain. The scribe probably intended to write אשת or אמה. David’s reading of אשה is also possible.
Translation:

(1-3) On Thursday, 6 Nissan 1396AG (9 April 1085) according to the dating to which we are accustomed in Fustat Mitzrayim, which is situated upon the river Nile, (4) someone came (before the court) and mentioned that the wife of Ṣāliḥ has been entering his house. Ṣāliḥ, (5) who used to be her husband, came forth and complained that she attacks him and enters (6) his dwellings, saying “I will not leave nor go out of this house for (7) it is my house and my dwelling.” We sent for her and summoned her and forbade her (8) from entering the dwelling of her divorcée. She then said: “I do not accept this. You (9) took a bribe to divorce me (from him). The house is my house and I will not (10) leave it. Otherwise, I will bring this to the […] Muslim authorities.”

(11) She spoke of (committing) enormities. To anyone who addressed9 her, she responded with (12) threats and curses. On his part, her divorcée, Ṣāliḥ, (continued) complaining,

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2 David reads ואנה.  
3 David reads תכלת.  
4 David reads שמה.  
5 Missing in David.  
6 David reads מנה.  
7 Goitein seemingly read אלסלטאן אל and comments that this line could mean that “she intended to apply directly to the viceroy Badr al-Jamālī in one of his public audiences when he was accessible even to persons of low rank,” Med. Soc. 2:400. On sultān meaning, simply, “Muslim authorities,” see S. D. Goitein, “The Attitude towards Authority in Judaism and Islam” (Heb.) Tarbiz 19 (1948), 153 and see also Goldberg, Trade and Institutions, 2 and 165.  
8 Takallamat bi-l-ʿażāʾim - probably threatening to convert or turn to gentile courts. Goitein has “saying other highly improper things,” see Med. Soc. 2:318.  
9 See Blau, Dictionary, 691.
(13) saying: “Relieve me of the burden of her entering my house”.\(^{10}\) (14) We wrote down what took place before us and signed it so it will be evidence and testimony.

(Signed:) Abraham b. Isaac, m(ay he rest in) E(den)\(^{11}\)
Joshua b. Abraham, m(ay he rest in) p(eace)\(^{12}\)
Abraham b. Eli, witness.\(^{13}\)
Mevasser b. Halfon m(ay he rest in) p(eace)\(^{14}\)

\(^{10}\) See Blau, *Dictionary*, 186. David translated: “ואומר שמרו עלי מכניסתה אליי.”


\(^{12}\) This is a rather common name and identification is not possible at this moment.

\(^{13}\) Currently unidentified. Written in the same hand as the signature above. A man with such a name signed TS 8 J 36 10v which is written on the back of a letter from Shelomo Gaon b. Judah, which is probably too early for our court record.

\(^{14}\) This man, unknown otherwise, also signed the verso of this document.
A draft of a battered wife’s letter a communal official. The writer describes her sufferings at the hand of her husband and his family and asks the help of the recipient.

Since the letter contains no names, it can be only generally dated by the script to around 1150-1250. It seems that the writing in the verso was smeared and the scribe repeated the lines below. The language of the letter is rather difficult and contains many features of colloquial Arabic (was the scribe dictating the woman’s speech verbatim?), thus making the translation uncertain in several places.

**Previous Literature:**


**Transcription:**

Recto:

1. [סער] דInstantiationException יזולープ טברן רפער אולאדהיים אן ממלוכתך.
2. פי שדה עטימה מי אלאברוקפ פדך ויפק אן אולאדייב לכהה.
3. אסכהבח צד אחראַת אַנאָבִע ניבע נס זֶעי רַל אַשְׂחת[?]
4. אַנָאָבָהּוּו מילוּור אַאָלָכַטְהוּ מֵךוּל אַךְ דיַלְעַדְתוּ.
5. אַוְלִי אַלְרְאָבְהוּוּ מֵכְּלָל הָעַל אַכַּדְוּ לי שֶennent אַוְלֵי אַלְרְאָבְהוּוּ.
6. כפי עני אַלוּלִיִּיכְוּו וַאֲלִימָּכְדוּו וַאֲלוֹמָכְדוּ לוּ אִלְמָכְדוּוּ.
7. וַאֲלִימָכְדוּ וַאֲלִימָכְדוּו וַאֲלִימָכְדוּו וַאֲלִימָכְדוּ.
8. [עַפְּעַתָּה אוֹלְאַדְוַוְו] וְלֲאָלִיָּכְוּו וִי קַאָל אֲלוֹמָכְדוּו וַאֲלִימָכְדוּו וַאֲלִימָכְדוּו וַאֲלִימָכְדוּו.
9. קְאַל לְכוֹל אַכְרְלִיָּכְוּו בִּית אַבְּךְ. הָלָּכְוּ אוֹלְאַדְוַוְו.
10. אַכְרְלֵיכְו. וְקָכְלַיָּשְׁעָּהְו וַאֲלִיָּכְוּ קָאַל לְכָרְלִי נַפְּרָה.
11. קָוֲלַת לָמוֹלָאָוּ עִלְּיַכְוּ וַאֲכָרְלָאָוּ מִלְּאָוּ עִלְּיַכְוּ וְקָוֲלַת.
12. מַכְּהוֹ רוֹעָהָוְו מַלְאָמִיָּוְו רָאנְוָהָוְו קַעְדְוָה. קַרַע אִלְשָׁר בְּנָאָו.
13. [עַפְּעַתָּה אוֹלְאַדְוַוְו] וְלֲאָלִיָּכְוּו וִי קַאָל אֲלוֹמָכְדוּו וַאֲלִימָכְדוּו וַאֲלִימָכְדוּו וַאֲלִימָכְדוּו.

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1. Paper, 6.3X8.5cm.
2. Goitein dates the letter to the 12th century and has the letter as written to “the Head of the Jewish community of Egypt.” Goitein also refers to the husband as a drunkard, probably because the reference to nabidh on r.16.
3. Beginning in the 12th century, Geniza documents occasionally marked the final כ with a dot underneath. This phenomenon has recently been discussed in Facebook by Craig Perry, Ben Outhwaite, Amir Ashur, Marina Rustow, Esther-Miriam Wagner and Jose Martinez Delgado. For examples, see ENA NS 48 6, LG 2 51 (Westminster Arabica II 51), TS 10 J 15 23; Bodl MS Heb b 11 15 and Blau, Grammar, 47.
Translation:

(1) Our [lord], may God prolong your life and the life of your children. Your slave is (2) in great distress due to the false accusations about me and my father. Hitherto I have been (3) silent, but it has become necessary to justify myself and my trustee (i.e. her father). I do not want to (4) answer them. I have today. I have been arguing with them from the day I married into (their family) (5) until now so that they will not take anything from me. 

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4 This is a rare example of a $ג$ (though it could be a mere scribal error), see Blau, Grammar, 288 (addition to page 39).
5 This looks more like מוחגאג, but this writer writes ג and כ in a rather similar manner.
6 It seems that the woman began this sentence and then chose to formulate it differently. She might have wanted to say something like “It has been such and such many years that I have been arguing with them.” See also the next note.
7 The last three sentences are difficult and the translation uncertain.
On Wednesday, he secretly took (6) his bench (martaba), the pillows and the supporting pillow. He was not content with them, (7) and no sooner did he sell them, than he came demanding from me something else. When I refused (8) to give, he beat me with something that should not be mentioned. Next day in the morning, (9) he told me: “Get up and leave to your father’s house. Because if I come back in the evening (and find you here), (10) I will kill you.” By the truth of the sharī‘a, it is he who told me “leave!” I sent (a letter) (11) telling my lord about my going out of the house. My lord prevented him from doing it. I obeyed (12) you and stayed (at my husband’s house). When they saw me staying, the quarrel between us intensified.

On Saturday, my mother came to ask about me. He and his father said, “If I satisfy (your wish), (14) you shall pay my poll tax every year, otherwise, save yourself (and go away) lest I kick you out (also possible: destroy you). (15) All your life you come up with justifications for yourself. He has no (financial) need of me. (16) He has four dinars worth of wine (nabīdh) at his possession and he has no need of me. His mother (17) and father tell him, “Beat her until she breaks.” Whenever (18) I mentioned to them the divine law (al-shar‘), they cursed the divine law.

When (19) I saw them the evil increased from them. They tell me: “Leave!” (Verso:) I left on Sunday eve as they told me “leave and save yourself.” The more we speak (to you, the more) he speaks of denouncing to the government in regards to my lord.

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8 These items often appear in dowry lists and it is very likely that these items belonged to the woman.
9 This may means that he beat her with a shoe, see Med. Soc. 4:162.
10 See Blau, Dictionary, 156.
11 See Blau, Dictionary, 595.
12 It seems that the mother asked either under what condition will he give her daughter a get or what would improve his behavior to her daughter.
13 in u’ajhibi – See Dozy, 2:95
14 irbahi rihaki. irbahi means “make profit” from r-b-h closely associated with commercial interest. For the meaning of “save,” see TS NS J 68, r. 11-12: wa-istadaytu kullahu urabbiḥ ‘irdi, translated in Med. Soc. as: “I offered to buy myself free with everything due me from him to save my honor.”
15 Translation uncertain. tu allili fi rihiki til ‘umriki. Another possibility is that he accused his mother-in-law for being a busybody: “You occupy yourself (with other people’s affairs?) all your life.” In the fifth form, this root has the meaning of “harass,” see TS 16 293 (ed. Goitein, “Ḥannanel” Tarbiz 50 (1980-1981), 389-390): “The Diwān in these hard times is harassing (yata allal) and acting arbitrarily,” and maybe also ULC Add 3338 4: “they began harassing us” (sārū yata allulā fīnā). In the eighth form, this root has the meaning of “to justify, provide excuses,” see TS NS J 285, r.2, (ed. Goitein-Friedman, Madmūn, II, 29): “Do not offer justifications of any sort” (fa-lā ya‘tall bi-‘illa min al-‘ilal).
will not give him anything because he has no need of me. Your slave has nothing but the aid of God and our lord. *May your peace increase and never decrease.*

Further examples can be found in TS 8 J 17 33, r. 11; TS 10 J 29 14, r.14; TS 16 296, r. 19, ed. Ashtor, *Mamluks*, #49.
A petition to Mašliaḥ ha-Kohen Gaon from the daughter of Abraham, the cantor, the wife of Khalaf b. Hārūn (written: Harūn), known as tāj al-maʿālī. The wife describes how her husband mistreated her and asks the Gaon to look into her plight.

Written in the hand of Ḥalfon b. Menasse.

This petition has many parallels with another petition written by Ḥalfon b. Menasse, TS 13 J 18 14, trans. Cohen, Voice of the Poor, #1. A comparison between the two might yield important insights on the degree of uniqueness and uniformity in petition-writing in the Geniza.

Fustat, 1127-1138.

**Previous literature:**

**Mentioned:** Ashur, “Engagement and Betrothal,” 104, n. 53; Catalogue of the Jack Mosseri Collection (Jerusalem: 1990), 159.

**Transcription:**

1. אלמלוכה אבנה אברהם אלחזן נע
2. זוג כלף בן הרון אלמערוף בתאג אל
3. מטאלי
4. נשפך רחפ
5. אשרי משכילי אלא של בונה יצילה יי
6. אלבכיר על התנא ימסציב [פ] חרת אדון אוור עינו ושרד לרשינו
7. בין ובו תAGMENT התאונת יاهل הכהן והארש ישיב בהא יד שמו
8. לועל בר היקר יולע צאלת אלדתו וציל אומתא ביאמה ביאמה ביאמה
9. יביד שאימ [ד] יחל ממענה אלו יפגמה על המכרות רכון פי עונה
10. ויזידהまとめ שאלסאמ אדסאדה מא רזקה איכלה מיכלה על כל שדיה ויהי

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1 Paper, 12.5X19cm.
2 This document has the literary form of a petition, a style that the Jews adopted from the Muslims Arabic petition, see Geoffrey Khan, “The Historical Development of the Structure of Medieval Arabic Petitions” Bulletin of the School of Oriental and African Studies 53 (1990), 8–30; and Cohen, “Four Judaeo-Arabic Petitions.” See also the edition of TS 13 J 13 30 below.
3 I have benefitted from Mark Cohen’s provisional transcription found in the PGB. Differences with his readings are not noted.
4 Reading and translation not certain. I read it as yubīd shāʾ (ʾi)naha, though I have not come across such an expression before. Another option is to complete the lacuna [עהא יביד שאא], however, the lacuna appears to be too small for this.
The servant, the daughter of Abraham the cantor, may he rest in Eden, the wife of Khalaf b. Hārūn known as tāj al-maʿālī (the Crown of the Lofty).

In Your name, O Merciful,

Happy is he who is thoughtful of the wretched; in bad times may the Lord keep him from harm” (Psalm 41:2)

May the creator, may His praise be great, answer the pious prayers for your excellency, our lord, the light of our eyes, the crown over our heads, the turban of our magnificence, our Gaon Maṣliʾaḥ ha-Kohen, head of the Academy of the Pride (Gaon) of Jacob, may your name be ever “like the moon, established forever” (Psalms 89:38). May He bring about the days of the savior in your lifetime.

5 For lan used to negate the present, see Blau, Grammar, 316-317.
6 Compare with ENA NS 2 21, r. 10 and TS 8 J 22 30, r.17.
7 On this expression see Friedman, Jewish Marriage in Palestine, 2:270-1.
anything disgearful to you] and destroy those who hate you. May He not expose you to any evil and may He be in your aid (10) and increase the shares of happiness which he bestows upon you. May He save you from any calamity (11) and may He keep alive the venerable lords, nobles, the youths (i.e. Mašliaḥ’s children), the trunks of the holy Yeshiva, and place them in (12) your station in your lifetime while granting you a long life span. So it shall be done for the holiness of His name.

(13) The servant informs your illustrious station of the state of injury, (14) hardships and harm in which I am with my husband.⁸ He keeps casting me out of the house (15) and demands from me the iftidā’:⁹ You know the matter of my father,¹⁰ (may he) R(est in) P(eace), and that my mother (16) remained after him a widow with not an hour’s maintenance. She has no money to herself and only with difficulties (17) and by renting out (her labor) does she provide for others. Every time he casts your servant out he leaves me without (18) maintenance. It has now been (like this) for eight months. I have been afraid to come (19) and complain to you due to the great awe of your illustrious station.¹¹ I am close to perishing. (20) I seek the aid of God, the exalted, and of your loftiness to examine my state. Either (21) he improves his behavior with me or let him provide what is incumbent upon him. For the humiliation (al-hawān) and the hunger (22) cannot be tolerated, neither the constant evictions. At the time I was (23) still at home, I suffered his parents, one of them a cripple, you know (24) of his situation. Her mother¹² was the one preventing her.¹³ The servant does not have from whom to seek protection (25) except from God and your loftiness for I am alone and an orphan. Act (26) with me in a manner that will bring you close to God, may He be praised, and earn you a reward (for helping) me. Do not (27) enable (him) to wrong her and (their) leaguing together against her.¹⁴ And [peace].

May the welfare of your excellency increase forever. Great Salvation!¹⁵

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⁸ mā hiya bi-sadadihi – see Blau, Dictionary, 364.
⁹ On the iftidā’, see Chapter Three.
¹⁰ Lit. the state of her father is not hidden from him.
¹¹ Li-ʿażīm (probably intending ʿi-ʿīzam or ʿi-ʿezm) haybat maqāmihā al-sharīf. On the hayba of the head of the Jews, see Cohen, Jewish Self Government, 248-250.
¹² Maybe “his mother” was intended?
¹³ Meaning not certain.
¹⁴ Translation not certain. As I understand it, it refers to the husband and his parents leaguing together against her.
¹⁵ TS 13 J 18 14 is concluded in the exact same way.
This small piece of paper contains a short letter to a husband who fought with his wife, who was also his cousin (FBD). Apparently, the wife left the home for her father’s house, and the husband is told that if he desires his wife, he ought to go to her father and accept what he has to say. Then the couple should give the marriage another chance for two months, without the wife’s father or mother entering into their house. If this does not work, he ought to divorce her immediately.

**Previous literature:** Not mentioned previously.

**Transcription:**

1. אלדיך וטורף עד אולדנהטן [בואלטס]אמ..
2. והקפבל דידי אגנה דכ פירת ל׳ צומח.
4. שאלמוה וקאלאן אן טראבר ג込んだ מקומטא.
5. ואותנוג טנק הלק מא טטראג בנקה חק.
6. ואלישד ואלישד אבר געל קאל דק ון ורפק.
7. שא אמדאה אן כאנ//לך// ראכח פי וגהָר פואֶקל.
8. ואקבל מש אא יוקול דק ואלאא יאבר דק.
9. ואطبعת מח אא יוקול קכל אלאא יאבר דק.

**Verso:**

.1 [למם או רלו או תקע אצת ויה.
.2 [שהר[א] רע נא טסיצ ליה לא אמדאה.
.3 לא אבורהו והשאורה בדע דול פין.
.4 [ענעגרהו אלאמפוכ פלאש..] או? ל.כ.
.5 אלאא פאלטלאק האפל קד אבלגנעה.
.6 [מע אוליריס מאן ראדה קרנה בכא עטן.

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16 Paper, 6.5X5.5 cm.
17 The Genazim’s computer generated matches function in FGB offers Mosseri IV 27 2 as written in a similar manner and, indeed, there are several appealing similarities between the two fragments. Interestingly, the writer of Mosseri IV 27 2 also mentions a marital dispute, this time between the paternal uncle of the recipient and his wife: “Your paternal uncle, ʿImrān, is complaining. All sorts of nastiness took place between him and his wife because of you,”. About. [See note 3 in the edition of ENA NS 31 21.
18 I have benefitted from Goitein’s provisional transcription found in PGB.
19 On this so-called “mysterious sign,” see note after the translation.
Translation:

(1-5) I inform you, after the blessings [of greeting]s and kissing your hand, that I sent you with Šāfī the completed […] I met with Mr. Solomon who said that several meetings took place between you and your uncle (6-9) and that your uncle was obliged to swear that his daughter will not leave (the house) the rest of the holiday. The elder, Abū ʿAlī. and Joseph, the maternal uncle of her mother, told you: “If you still desire your wife, then come and accept what he tells you.” Now, my brother (Verso) (1-4) […] it is necessary that you and she live together for two months in the same place (lit. in a house), without her mother or father coming to her. Afterwards, consult (about it) and if the place (or situation) pleases her […], (5-8) and if not - then an immediate divorce. We have reached an agreement with the rayyīs: If you want, you can leave; we will prevent you (from leaving) for a month or more. See what will happen and whatever happens, inform us. And peace.

On the so-called “mysterious sign:”

Various interpretations have been offered to the meaning of this sign, from an abbreviation of the basmala to an indication that the text is a continuation of a previous text. It must be said that the two examples pointed out by Friedman (TS Ar 40 56v and Mosseri IV 7v) offer a strong support to the argument that the sign indicates a continuation because the sign appears in the verso of the letter, i.e. where we would not expect a basmala. Beyond the attestation in this document, I am aware of these further attestations of this sign: TS 8 J 10 16 (ed. as Doc. #8 below); Mosseri IV 27 2; ENA NS 2 21; and quite number of the documents in Friedman-Goitein, Halfon – see

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20 This is a typical name for a slave.
21 It is possible to complete the sentence ḥalid[al khul] kasmal, to mean “the completed mantle” or “the artificial small turban” (or a permutation of the two).
22 Translation not certain. The letter has נבת ענך which I suggest reading nuba(yyi)tʿanka. For bavvataʿ an meaning “to prevent from”, see Steingass, 153, and Kazimirski, 181. From the context, however, we would expect something with the meaning of “we will house you for a month or more,” but I could not find such a meaning in the usual dictionaries.
VIII, 10 (TS Ar 48 270: ），VIII, 60 (Bodl MS Heb e 94 30: ），VIII, 64 (TS 12 228: ），VIII, 67 (TS 8 60: ）and VIII, 93 (TS 16 40: ）- only in this document the sign is noted in the edition). Some of these attestations (VIII, 10, 67 and 93) seem to support Friedman’s suggestion that the sign marks a continuation either because they begin with ʿallaqtu, which means “to write” (Blau, Dictionary, 451) but with the meaning of “to hang” or “append” – see, for example, Goitein-Friedman, Abraham Ben Yijū, 328, n. 4) or because they are something that the writer forgot to write and then remembered to add. On the other hand, none of these attestations appear with the basmala, thereby strengthening Cohen’s argument. Furthermore, in VIII, 64 and ENA NS 2 21 the sign appears where we would expect the basmala in what is clearly the opening of the letter. Perhaps this sign (which, as can be seen, appears with a substantial degree of graphic variation) meant different things to different scribes. If the sign in this document has the meaning of “continuation,” it is possible to suggest that this short letter was appended to the kitāb al-jamāʿa (the public/communal/group letter) that the writer mentions twice. See Li Guo, Commerce, Culture and Community in a Red Sea Port in the Thirteenth Century: The Arabic Documents from Quseir (Leiden: 2004), 111-114; Friedman, “Quṣayr and Geniza Documents on the Indian Ocean Trade” JAOS 126 (2004), 405-6; Goitein-Friedman, India Traders, 506-507; Cohen, “On the Interplay of Arabic and Hebrew in the Cairo Geniza Letters” in Studies in Arabic and Hebrew Letters in Honor of Raymond P. Scheindlin (Piscataway: 2007) 22-23; and Goitein-Friedman, Maḍmūn, 437-438
A Hebrew deed in which witnesses testify that Ezra b. Samuel b. Ezra, the representative of the merchants,\(^2\) came to them to complain about his sister, Mubāraka. He asked the witnesses to go and convince her to retract her claim to a share from her father’s inheritance. Apparently, she refused and was threatened with the ban. Undeterred, she appealed to the *shoḥet ha-shoftim* (a Hebrew rendition of *qādī al-qudār*\(^3\)), who sent footmen to seize her brother, thereby humiliating him. The deed discloses that she had five “godless” men supporting her. The deed was to be sent to the “Head of the Yeshiva” to obtain his judgment on the matter.

The bottom part of this document (TS 13 J 30 3) was published first by Mann and later by Gil. Since some of the witnesses are either known to be Karaites or appear in other Karaite documents, the fragment has been discussed repeatedly in the context of Karaite - Rabbanite legal and administrative cooperation.\(^4\) A Karaite background may also play a role in Mubāraka’s claim to inherit from her father.\(^5\) With the recent join of the top part (TS 8 J 6 8) of the document, some of what had been said about TS 13 J 30 3 requires revision. Therefore, the whole document deserves to be published together. The join was the result of a collaborative effort conduct on Facebook by Ben Outhwaite, Amir Ashur and Oded Zinger.

The date written in TS 8 J 6 8 is 4994AM (1234CE), however the style of script and the personnel mentioned point to the first half of the 11\(^{th}\) century. On his notecards Goitein already proposed correcting the date to 4794. It seems that in anticipation of “ninety”, the writer wrote down “nine hundred” rather than “seven hundred”.\(^6\) It is this dating conundrum which first captured Ben Outhwaite’s eye and roused his curiosity. It is

\(^1\) Paper, 14.5X37.5cm.
\(^2\) The earliest reference in the Geniza to ‘the representative of the merchants’ is found in a document from 1004 (TS 28 3, see *Med. Soc.* 1:192).
\(^5\) See Rustow, *Heresy*, 169-170; although Bārra’s case, discussed in Chapter One, shows that daughters claiming a share in their fathers’ inheritance was not a phenomenon confined to Karaites.
\(^6\) Incidentally, in Evr. Arab. II 586, v.16, we find the opposite mistake when 714 AH is written instead of 914 AH.
interesting that this mistake was not noticed by the court, or at least it did not prevent the document from being signed. The deed, therefore, should be dated to between 18 August to 15 September 1034.

Now that the year of composition for this document is definitively known, it is possible to identify the “Head of the Yeshiva” as Solomon Gaon b. Judah (1025-1051). Similarly, the Qāḍī al-Qudāṭ approached by Mubāraka can be identified as Abū al-Fath ʿAbd al-Ḥākim b. Saʿīd (b. Mālik?) b. Saʿīd al-Fāriqī. ʿAbd al-Ḥākim belonged to a prominent family of judges (his brother, three of his sons and at least one grandson all served as judges and viziers of the Fatimid state). He was first a judge in Tripoli (in modern Libya) and then moved to Egypt to become the Qāḍī al-Qudāṭ in 419HA/1028CE, serving in this post until his dishonorable discharge in 1036 or 1037. He died in 1043, after confining himself to his home (on this incident see below). In addition to his judgeship he was also entrusted with responsibility for the pious foundations and matters of taxation. His annual income is said to have been 20,000 dinars.

A short digression on this Qāḍī al-Qudāṭ might shed some light on Mubāraka’s decision to approach him with her suit against her brother. Ibn Ḥajar al-ʿAsqalānī (1372-1448) quotes Ibn Muyassar’s (1231-1278) description of ʿAbd al-Ḥākim: “he was of contemptible soul (saqaṭ al-nafs). He was excessive in eating harīsa9 and zalābiya10 in the court of the mosque when he came there to judge.” The cause of his fall from grace was his conduct in a certain matter of inheritance. The events are related in two versions, one by Ibn Muyassar as quoted by Ibn Ḥajar, and the second in an anonymous continuation (dhayl) to the continuation of Ibn Burd to al-Kindi’s famous book on the judges of Egypt. While Ibn Muyassar’s version is more polished, the dhayl version contains more details.11 The gist of the story is that a certain wealthy man called al-

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7 When Gil published TS 13 J 30 3, he estimated the date as “around 1020” and suggested that the head of the Yeshiva was Yoshiyyahu (see Gil, Ishmael, 1:667 and Gil, Palestine, 1:647)
8 According to the dhayl to al-Kindi (see below) his annual income was 50,000 dinars.
9 A dish of ground meat and wheat.
10 Sweet pancake.
11 Both accounts can be found in al-Kindi, The Governors and Judges of Egypt, ed. Rhuvon Guest (Leiden: 1912), 497-500 and 613-614 (both in Arabic section). Ibn Ḥajar’s account can also be found directly in Ibn Ḥajar al-ʿAsqalānī, Rafʿ al-īṣr ʿan qudāṭ miṣr (Cairo: 1961), 308-310. For his relatives’ biographies see ibid, pp.78-79 (son) and 83-85 (grandson) 366 (another son). Passing references to him can be found in the following works: al-Maqṭari, Ittīʿāl al-khulafāʾ (Cairo: 1971), 2:334; al-Suyūṭī, Husn al-muhādara (Cairo: 1968), 2:148; Ibn al-Sayrafi, al-ʾIshāra ilā man nāl al-wizāra (Cairo: 1924), 48-50. Finally, see also
Zaylaʿī died leaving a handsome inheritance. He was survived by his daughter, who soon died, leaving the entire sum to her freedwoman mother. There was a long line of men seeking to marry the woman for her money, among them “our” judge ʿAbd al-Ḥākim, “for one of his reasons,” as the dhayl comments sarcastically. When he was refused, he gathered four witnesses (at least one of them was an agnate of the daughter) and wrote a deed declaring her legally incompetent (safīha). In this way, he obtained control of her wealth, but she fled from him and threw herself before the slave girls of the wazīr, Abū al-Qāsim al-Jarjarāʾī, who informed their master. The latter then summoned her and learnt of her plight. To make the story short, ʿAbd al-Ḥākim was punished for his transgression, removed from office (his son substituted him for a while) and forced to return the money and make high daily payments to the woman. The four witnesses who declared her incompetent were also punished, while the witnesses who testified on her behalf received robes of honor. Apparently, ʿAbd al-Ḥākim spent the rest of his life in disgrace, confined to his house. When he died, his son prayed over him in the house and he was buried inside the house. It is interesting to note that al- Zaylaʿī died on March 1033 and ʿAbd al-Ḥākim was removed from office either in 1036 or 1037.

The Geniza deed, dated to August/September 1034, took place in the midst of this scandal. Did Mubāraka turn to ʿAbd al-Ḥākim because she knew of his unscrupulous ways and flexibility when it came to matters of inheritance?

On verso and interspersed on recto: faded Arabic script writings.
Previous literature:

Previous edition: TS 13 J 30 3 was first published by Mann, Jews 2:173-4. Goitein noted important corrections in his Reader's Guide to Mann’s work (p.XXXII). Gil republished the document in Gil, Palestine, #44.

Mentioned (Partial list):


Transcription:\textsuperscript{17}

TS 8 J 6 8

1. וה בפנינו אנו העדים החתומה
2. עלموتינו לפמיה בחתת בדידת אולב
3. ובשהת אולב ומסת מאמות ותשעה
4. וארבעה עינינו לזרידה בפסטה מפרים
5. שלום ניוו נילו מתבנה ככ היכ
6. בא אוליאנה זורה הוכה חנן שגאול בך
7. עזרה פקיד הזחרים ושאולנו לול
8. על אחותה מקאראות הפרות שшибוב
9. מארהاء ש[ליימא[לכמא?]
10. אליא[ל[ב[[בדר
11. דבל

TS 13 J 30 3

היהו והיהו ויהי ויהיה.\textsuperscript{18} מעדת ישראל הניהו

\textsuperscript{17} I have benefitted from Goitein’s provisional transcription of TS 8 J 6 8 found in PGB.
Translation:

(1-2) What took place before us, we the undersigned witnesses to this deed, on the month of ‘Elul, (3-4) 4994AM\(^{22}\) (=1034) in Fustat-Mitzrayim, (5) which is situated upon the River Nile: When (6) Ezra, the elder, b. Samuel b. (7) Ezra, the representative of the merchants, came to us and asked us to go (8) to his sister Mubāraka and reconcile her to return (9) from her ways […]. We went to her and […] Threatened her] (TS 13 J 30 3: (1)) that she would be severed from the congregation of Israel. (2) This Mubāraka did not pay heed to our words and went to the judge (3) of judges. (23) The footmen\(^{24}\) seized him

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\(^{18}\) Mann read [לָהֵן] שָׁשֵׁבִי, Gil read like Goitein.
\(^{19}\) Mann read [לָהֵן] שָׁשֵׁבִי, Gil read like Goitein.
\(^{20}\) Mann read [לָהֵן] שָׁשֵׁבִי, and I read like Gil.
\(^{21}\) Mann read קיאס, Goitein and Gil read קיאם.
\(^{22}\) The year should be corrected to 4794AM.
\(^{23}\) Hebrew for the Arabic qāḍī al-qudāt, see n. 3 above.
\(^{24}\) raglīm means in Hebrew foot soldiers (see, for example, Jeremiah 12:5). Here it translates the Arabic rajjāla, footmen answering to the qāḍī or head of the shūrta. On them see Med. Soc. 2:370, n. 38-39. This document can contribute to the on-going discussion regarding whether the Muslim judge had troops at his disposal and his relationship to the shūrta.
(i.e. her brother) and she humiliated him. (4) He was therefore forced to flee from her. She insists on her claims and is stubborn in her insolence, demanding her father’s inheritance from her brother in Muslim courts. She has about five men supporting her who do not fear God. (9) We wrote down in our testimony what we know so as to forward it to the seat of our lord, the head of the yeshiva, so he may do what will earn him heavenly reward. Peace on all of Israel.

(Signed:) Faraḥ b. Muʾammal, m(ay he rest in) p(eace).
 Qiyām b. Mevorakh, m(ay he rest in) p(eace).
 Joseph b. Yisraʾel al-Tustari, m(ay he rest in) p(eace).
 Joseph b. ʿAzarya, m(ay he rest in) p(eace).
 Solomon b. Ḥalfon, of Allepo.
 Tamām b. Abraham, the money changer, m(ay he rest in) p(eace).

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26 Lit. strengthen her hand, could also mean assist her. Notice that this seems to be a theme in the depiction of insolent women in court, see also Bodl MS Heb c 13 20, discussed above. Perhaps this was a way of the court to pass on the blame from women (similar to the mechanism passing on the blame from men) by saying that there are several people who support her in her defiance.
27 In 1034, this was Solomon Gaon b. Judah (1025-1051).
28 See Gil, Tustaris, 25.
29 As Mann notes (Jews 1:150 and 2:173-4), a man with this name signed a legal deed (TS 28 2) in Fustat, 1018. Bodl MS Heb d 66 69 (ed. Mann, Jews, 2:173) is a letter of Nathan b. Abraham, the Head of the Yeshiva, to Perahya rosh ha-pereq b. Muʾammal he-hasid. The letter also states that Perah/Perahya was a physician. He also signed a Karaite deed of release, see TS 16 131, l.28.
30 On this name see Friedman, Jewish Marriage, 2:439. Where he suggests that Mevorakh b. Qiyām mentioned in BM Or 5550 is a relative of this person. See also Mann, Jews, 1:99.
31 As Mann, Gil, Rustow and Olszowy-Schlanger note, in all probability this is the brother of Sahl, the father of the famous Tustari brothers.
32 As Rustow noted, a man with this name signed a Karaite betrothal deed on the right margins, dated by Olszowy-Schlanger to the 1060s. See TS 16 109, ed. Olszowy-Schlanger, Karaite Marriage Documents, #1. It is possible to add that he also signed (together with Faraḥ b. Muʾammal) a Karaite deed of release, see TS 16 131, l. 21.
33 Gil suggested that this might be the son of Khalaf ha-Melammed of Aleppo b. Joshua, who was the emissary of the lepers of Tiberias, see Gil, Palestine, 3:690 (index). Khalaf dictated his testament on 30 August 1034 and died soon after, see TS 13 J 1 8, ed. Gil, Palestine, #253. Interestingly, Solomon is the only witness whose father is mentioned as still alive, which might suggest that the deed was signed in the first half of the month of Elul.
34 I could not find information about him.
A sale recorded in a court notebook. Sitt al-Ikhwa bt. Futūḥ sells to her brother one eighth of a house in Alexandria for nine dinars. Her husband confirms the sale.

Fustat, 21-31 May 1241.

Recto contains the top part of a testament made about two weeks earlier (on 8 May 1241), written in the same hand. Abū al-Fakhr al-Jabbān (the cheese seller) b. Saʿadīya gave his mature virgin daughter, Karam, two thirds of a dār as well as 130 black dirhams. His mature virgin granddaughter, Rashīda, received two dinars and his mature wife, Ḥasab bt. Abū Naṣr ha-Cohen, received one dinar in addition to the two dinars of her delayed marriage gift. He also released her from any oath. The rest of his property was given to Abū al-Fakhr’s son, Ibrahim.

Previous literature:


Transcription:

1. מה שהעידים במעדנינו ממה שהעידים במעדנינו. מה שהעידים במעדנינו.
2. אלעשר אלף שניים אלף סו בשר נשא אלがあAaron ומא התקין והתרחח שקין
3. ל notícia שAGMENTEA אשור הורגלו למגיה במה בפמטאות מזרום אשא על נדה
4. על נדה אף ישמע החיה אלמא אשא אלמא אלמא אלמא באלמא פשתח
5. אלעשר אלף אחד אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלף אלףalus.
6. באנני קד אבעת אכי אפרים אלדאר אלדי והו יהוד ארבאלסינריה מסיך תלת.
7. אספה מנ הרביעי וtüמרם חומתא שאית ניר מקומון וה/בם אולאימם עברא.

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1. Paper, 17cm X 16cm.
2. dār in Judeo Arabic can mean a house, a courtyard, warehouse or a room; see Blau, Dictionary, 222. I have usually used the middle option of house.
3. Both Rivlin and Goitein translated al-imra’a al-kāmil as “the perfect woman.” However since the same term appears on verso in line 4 it must simply mean “the mature.”
4. I have benefitted from Goitein’s provisional transcription found in PGB.
5. We would expect to see here something like אנחנו חתומי מטה מה ישנו את המזוות או אנחנו חתומי מטה.
6. It seems that the writer switched fromבחצור toבחטור, or vice versa.
We, the undersigned, testify to what took place before us: On the second ten days of the month of Sivan 1552 (21-31 May 1241) according to the dating of deeds to which we are accustomed here in Fustat-Mitzrayim, which is situated upon the River Nile, Sitt al-Ikhwa (“Mistress of the Brothers”), the mature woman, bt. Futūḥ, known as Ibn Zabqala, (may his E(nd be) G(o)od), came before us in the presence of someone who knew her and said: “bear witness for me and make the symbolic purchase from me, as of now, that I sold to my brother, Ephraim, the eighth of the house that is mine and is in the port city Alexandria, three parts of a "house."
from twenty four parts, shared – not divided. The house is in the district of the prisons, held in partnership with (8) Abū Sa’d, the Cantor (may his E(nd be) G(ood)). (I sold the house) for nine Egyptian dinars, Egyptian coin and I received //from him// the sum. (9) We made the symbolic purchase from the aforementioned Ephraim //Ibn al-Futūḥ// that he inspected the property and purchased a true purchase. (10) We made the symbolic sale from Joseph, the dyer, b. Mr. ʿUlla, the elder, m(ay he rest in) E(den), that he permitted (11) his wife, the aforementioned Sitt al-Ikhwa, the sale of the eighth. We made the symbolic purchase from them regarding everything we heard (12) from them in this deed. we signed it and gave it to the aforementioned Ephraim so it will be in his hand (13) as a proof (with) the weight and force of all deeds used by Israel, not like promises and not like formularies (used in Jewish courts and we made a purchase) (14) regarding everything written and explicated [above with an instrument fitting for purch]ase, as of now, cancelling any no[tifications and conditions

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12 Geniza deeds, like their Arabic papyri equivalent, divide real estate into twenty four parts (qirāṭs). “Shared – not divided” is the common phrase that indicates that the division reflects only units of account, not a physical division. In other words, Sitt al-Ikhwa is selling an eighth of the house, but this eighth is not physically demarcated or divided from the rest of the house, see Goitein Med. Soc. 4:82.

13 According to Goitein “the District of Prisons (or Baths, Khuṭṭ al-Dayāmis, from Greek demesion),” see Med. Soc. 282; Hava, 208 and Wehr, 292.

14 Goitein read אלקזאז, but I read אלקחזאן. The little circle after the 습 might indicate that a correction existed at the bottom of the document which is not preserved. An Abū Sa’d, the cantor, appears in at least two other documents: TS 6 J 1 12, v.7 (where he is called the son of the female teacher) and ULC OR 1080 J 159, r.16.

15 Compare Bodl MS Heb a 3 16, r.8-10 (ed. Goitein-Friedman, Lebdī, 286).

16 Qallaba al-mulk (or milk), see Goitein, Med. Soc. 4:373, n. 33, and Diem-Radenberg, 178. See also Lane, 2553a.

17 Asmakhta (heb.) – on this term see Berachyahu Lifshitz, Promise – Obligation and Acquisition in Jewish Law (Heb.) (Jerusalem:1988).

18 Here some text appears to be missing.
An interesting exchange of letters dealing with a family dispute with political repercussions. On the one side we find a short letter that may have been appended to another letter. The writer is concerned about two things. First, he asks the recipients to go to a certain Abū ʿAlī and ask him to approach a certain Abū Zikrī and ask him to write a letter of appointment to the writer. Friedman identified this Abū Zikrī with Abū Zikrī-Yahyā-Sar Shalom-Zūṭā from the famous controversy with Maimonides. Second, the writer inquires why his brother had beaten the wife of his paternal uncle. From the way these concerns are interwoven in the letter, it seems that the writer’s concern that Abū Zikri might back away from writing the letter of appointment is connected with the fight between his brother and the wife of his uncle. His request that the recipients do something that will improve the “love that is between me and them,” shows that the writer had a personal interest in the fight with the uncle’s wife, who might have been related to Abū Zikri.

On the other side of the page, we have the reply to the letter stating that the brother only “talked” with the wife of the uncle. In any case, the blame was on “them” (further suggesting a conflict between the families), since they said that “you are not good enough for us for you are the relatives of Muslims.” The writer of the response letter retorts defensively: “By God! We do not have any Muslim among us.”

Egypt, 1166-1195 (according to Friedman’s identification of Abū Zikrī)

**Previous literature:**

**Mentioned:** Goitein-Friedman, *Maḏmūn*, 438; Goitein-Friedman, *India Traders*, 507; Friedman, “Maimonides, Zūṭā, and the Muqaddams,” 488 and 511 (translation into Hebrew of r. 1-9).

**Transcription:**

1. אלדי אעלמכם בה אני וצלת מן פצל אללה תעאלי סאלם ואעלמת.
2. פצל אללה תטאלא סאלם ואעלמת.

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1 Paper, 5X14cm.
2 I have benefitted from Goitein’s provisional transcription found in PGB.
3 For the meaning of this sign, see the edition of TS 6 J 3 17, Doc. #5, above.
אלגמאעה בצמ ארא פורה
לתיר אלאהא דא קדרות טפלות
לעגא אבו עלי והוֹדוֹת פ מצלזל
אלא ענגי ב טני פיכקה
勐ני פיר דא דכיר דא דא
פי חטא אלגמאעה פךון
תופיק ואשגל קרלי ב אלכרי
בכון זאנה הקול//וא אפי אב אסעַחא
genעליה פ[אפר] צארב בית עמי
פאסקעל יתامعة ל MIDI
 ActiveRecord
סמלון 5 ב טכיר שע
וכלוה יכתב לי מני במא
דרחרח פ חטא אלגמאעה
שמעמה זא طريق ופורחי
עלר יאר צארב אב אסעַחא//בית עמי
לא דסרפת בקפאצק ושהלו
וא קדרות זא ינפללו ש שעמא
יתכןבאמה בירר וניהמו
פיכון תופיק ושלום

Verso:

.1 בש רה
.2 אלכלה תמעלאו כוּן פנוך
.3 וליא כילור 7 פינ ביבר
.4 אמאו כוּן אב אולכרי קאל
.5 לכי אאני אסַחא
.6 בכלא מער ביט טמר
.7 אאני אלי אאני קאל
.8 אלכלה אכני רנו תעלות

4 It looks like the tav was added later as a correction.
5 It looks like the writer first wrote הנשעח and then corrected himself.
6 Probably should be שָׁע.
7 This should be יילאָה.
Translation:

(1) I hereby inform you that I have arrived safely, by the grace of God, the exalted. I informed the group (jamāʿa)\(^{10}\) what happened and they were very happy. Now, if you can, go to Abū ʿAlī and bid him to go to Abū Zikrī so that he will write a (letter of) appointment\(^{11}\) regarding what I had mentioned in the pubic letter (kitāb al-jamāʿa), may it be a success.

(9) Abū al-Khayr troubled my heart when he told me that my brother, Abū Ishāq, may I be his ransom, beat my paternal uncle’s wife. Do me a favor and inform me what you hear from Abū Zikrī, may the Rock (preserve him). Let him write me (letter of) appointment according to what I mentioned in the public letter. Whatever happened, let me know. And let me know why Abū Ishāq beat my uncle’s wife. May I not be deprived of your life, and peace.

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8 Perhaph $מסית$ was intended?
9 The same scribal error is found in the right hand margins of TS 18 J 3 5, ed. Gil, *Palestine*, #599.
10 It is not clear what type of group the writer intends, whether “the community,” a group of friends/allies or even “the extended family.”
(19) If you can, do something concerning the love that is between me and them, may it be a success, and peace.

(The Reply)

(1) In Y(our name), O M(erciful),

(2-3) May God, the exalted, help you and not deprive us from seeing your face.

(4-11) Regarding Abū al-Khayr telling you that Abū Ishāq talked with the wife of your uncle, it was only that they said: “By God! You are not good enough for us for you are relatives of Muslims and because of this you deserve to be put under the ban.”

(12-18) He answered: “By God! We have no Muslim among us at all! The one who deserves to be put under the ban is he who casts evil among people and corrupts the state of intimacy with their partners. Such a person (ought to be) placed under the ban …

(19) It did not end well. Do not let it trouble you.

Regarding the one who ridiculed him, inquire for me in whose possession it is (?).

May God settle what is between the children (for the best). May God settle [

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12 ‘itrat al-masālima (?) It is also possible to translate “you are the descendants of Muslims.” I am not aware of another example of the use of masālima.

13 The word here is only partially preserved. From this point the letter becomes unclear and the suggested translation is uncertain.

14 alkazahu – I did not find this verb in the fourth form in the dictionaries. However, in ENA NS 21 13, r. 5, (translated in Goitein, “The Twilight of the House of Maimonides: Joshuah ha-Nagid (1310-1355)” (Heb.) Tarbiz 45 (1984), 91), we find lakaza ‘alayhim (written לָקָזָע עֲלֵיהֶם) meaning “ridiculed them/spread rumors about them;” see Goitein’s comment in n. 73. A similar meaning appears in TS 16 272, r.14, ed. Frenkel, Alexandria, #30 (I read לָלָכָז עֲלֵיהֶם where Frenkel read לָלָכָדו עֲלֵיהֶם). It seems that the writer is referring to the in-laws’ remark, but it is also possible that the verb is used in its more common meaning of striking someone’s chest with a fist – and thus refers to Abū Ishāq striking the wife of the paternal uncle. See also Dozy, 2:556.

15 The meaning of this sentence is unclear and the translation offered is uncertain.
A letter from Naḥum b. Mansūr in Malīj to Abū Kathīr, the parnas, in Fustat. The writer thanks the recipient for his help obtaining a kitāb from the capital which was read publically in the synagogue to great effect, thereby bringing about the reconciliation between the writer’s daughter and her husband. For more details see Chapter Two and Chapter Four.

Abū Kathīr is the usual kunya for the Hebrew name Ephraim (due to Genesis 48:19). It is probable that Abū Kathīr, the parnas, can be identified with Abū Kathir, Ephraim ha-Cohen b. ‘Eli, who was a parnas like his more well-known father, ‘Eli (‘Allūn) ha-parnas, the trustworthy, the friend of the Yeshiva, b. Ya’īsh (Yaḥyā, Ḥaim) ha-mumhe, active between 1057-1107. The letter was written in the good hand of the cantor, Ibn Jāzfīnī, who added a personal message at the bottom of the letter (on his identity see the long note after the translation). The identity of the other personalities mentioned in the letter is discussed in the notes.

The verso contains a calendrical calculation in a different hand for 24 September 1091 (4852AM, 1403AG, 1024 since the destruction of the second temple, the 7th year in the 256th Metonic cycle, a year that is peshuṭa and ke-sidran, “Thursday Eve, three hours, the 10th of Tisheri.” Therefore, our letter was written before 1091CE.

Malīj, before 1091.

1 Paper, 16.5X19cm.
2 On the father see Med. Soc. 2:78; Goitein, Palestine, 125; Cohen, Jewish Self-Government, 110-113; and the edition to CUL Or 1080 J 276. On his son there are fewer sources. We find him mentioned in letters addressed to his father, like in TS 24 49, v. 4, ed. Goitein, Palestine, 125-131; TS 8 J 15 9, r.9 (Here he is specifically called Abū Kathīr); or TS 8 J 16 29, r. 6, ed. Scheiber, Geniza Studies, 78*-79*. We also find him signing legal documents, for example in a 1092 deed (TS 20 31) and a 1098 court notebook (ULC Add 3414 2v, other parts of this shelfmark were edited in Goitein-Friedman, Lebdī, I, 10-11). Goitein also points to ENA 2736 20 as a document connected with Ephraim, however, this shelfmark does not exist and I could not find the correct document intended. Finally, as Goitein already suggested, a certain Ephraim b. Eli (افرايم بن عالي الايسلندي) leased a plot of land from “the clerk in charge of the government foundations and akhār” with an Arabic script deed dated 1115 and it is possible that this is the same person as in our letter. The verso contains a deed from 1138 (as read by Khan, I cannot make out the date in this deed) whereby the son of Ephraim passes the ownership of the land that he inherited from his father to his own son. If this deed indeed deals with the same Ephraim, this gives us a terminus ante quem for Ephraim death, see TS Misc 29 24, ed. Khan, ALAD, #23.
3 For the meaning of these terms see MT, Zemanim, Hilkhot qiddush ha-hodesh, 8:6-10.
4 I have left out some calendrical information which I do not understand or am not certain about. Perhaps this note was written by a proud father careful to record the exact time of his son’s birth so his horoscope can be figured out.
Previous literature:


Transcription:⁵

1. שלום שלום מואדון השלום ומרגעים חומרים שלום כדי לעל ברעם כל联系我们

2. עלינו ملفוער אלה מחלא ורסי אלפרנס אנדיה שמר על מלקה⁶

3. תורן⁷ על אל=fopenניא פומל ברעם כל והרי וה护身符ים והנהヘルבר

4. צאלוהו על לא קבע חמצום בפי אפלים מצון אנדיה⁸

5. ראני חניך ותעצור בפשעium מצון אנדיה⁹

6. ענדי ומך⁴

7. שמלת והר שمائة ברעם כל והרי וה护身符ים והנה_HELבר

8. תורן אחרון רמה אתלפי ומכתוב ברעם כל והרי וה תמך ועמד מנדיה⁹

9. פוגעים בעת אחרון עתדה בלאלהוש חוצים וחוגים על מנשה מקאריא⁹

10. אלנפח אלפרנס אליס difficoltà נקרא על מא.getClassName

11. פי אלכלכוס יאפרניא ואברהור על פי זע區 במקהל וא💔קר

12. אלנפד ברעם כל והרי וה聿ים והנהHELבר

13.alezê והה⁷⁴⁴⁸ אלפרנס אנדיה מהצוה שמות אלפרנס אלפרנס

14. Examiner מונ IRequest הוא מהצוה שמות אלפרנס אלפרנס והנהHELבר

15. אלא עלי ואחת הכלה ו GridView⁴⁴⁴⁹ עתדה בלאלהוש חtraîים וחוגים על מנשה מקאריא⁹

16. אלא עלי ואחת הכלה ו GridView⁴⁴⁴⁹ עתדה בלאלהוש חtraînים וחוגים על מנשה מקאריא⁹

17. אלא עלי ואחת הכלה ו GridView⁴⁴⁴⁹ עתדה בלאלהוש חtraînים וחוגים על מנשה מקאריא⁹

18. אלא עלי ואחת הכלה ו GridView⁴⁴⁴⁹ עתדה בלאלהוש חtraînים וחוגים על מנשה מקאריא⁹

19. אלא עלי ואחת הכלה ו GridView⁴⁴⁴⁹ עתדה בלאלהוש חtraîים וחוגים על מנשה מקאריא⁹

20. אלא עלי ואחת הכלה ו GridView⁴⁴⁴⁹ עתדה בלאלהוש ח треינים וחוגים על מנשה מקאריא⁹

21. אלא עלי ואחת הכלה ו GridView⁴⁴⁴⁹ עתדה בלאלהוש ח треינים וחוגים על מנשה מקאריא⁹

22. אלא עלי ואחת הכלה ו GridView⁴⁴⁴⁹ עתדה בלאלהוש ח треינים וחוגים על מנשה מקאריא⁹

23. אלא עלי ואחת הכלה ו GridView⁴⁴⁴⁹ עתדה בלאלהוש ח треינים וחוגים על מנשה מקאריא⁹

24. אלא עלי ואחת הכלה ו GridView⁴⁴⁴⁹ עתדה בלאלהוש ח треינים וחוגים על מנשה מקאריא⁹

⁵ I have benefitted from Goitein’s provisional transcription found in PGB.

⁶ This word has both a dot under the gir in to signify a jin and three dots for a segol. The dot under the he signifies a hirag. The classical Arabic jahi was apparently pronounced jehi.

⁷ The word (see also l. 23) appears in other Judeo Arabic texts for huwa see TS NS 324 135 and see Blau, *Grammar*, 57.

⁸ It seems like the gir in to was corrected from a kaf.

⁹ *Mujtamiʿ in* > *mushtamiʿ in*, see Blau, *Grammar*, 37 and 287.
Right-hand margins:

וכתבת פֶּרֶשֶׁת הַפָּי וָנָשָׁהֵם אַרְדֻהֲוַא אֶלְכְּרֵי יָמִיָּא אָלְפַרְנָאָס שָׁלֶגֶו

ואשכַר לי אַבְּנָא מחבֵּבֶו וָאַדְעַי לוֹ שְׁבלוֹ

Verso:

יצל אָלַי מִצְרֵי זֶבַחְוַא אֶלפַרְנָאָס אֶלֶגָּלֶלוֹ

חֲבֵה מִן מחבֵּבֶו נָאְחוּם בְּנֵי אָלְשֶׁיָךְ אֲבוֹ דַרְכִּי

מלכַד אָלַי אֶלפַרְנָאָס

ишע רב

Translation:

(1) *In Your name, O Merciful,*

(2) *Peace and peace again from the Lord of peace and from him who makes in heaven peace.*

The creator of all knows how much longing I have for my lord and master, the venerable *parnas,* my honorable elder and dignity, the one who is there for me at times of calamities. I ask the creator of all to keep you alive, protect you and make your end good. May I not be deprived of your handwriting (i.e., your letters) concerning the good that you have done for the woman. May (God) protect your son, Ibn Kathīr, and gladden you with him. I pray for you night and day. You are there for me in every calamity. I boast of (knowing) no one but you. To everyone who talks to me, I say: “my lord, the *parnas,* he shall he shall obtain a ruling for me” (*yaʿkhudh ḥukmī*).

I inform you, my lord and master, that the woman returned from you and you dispatched with her a letter. The cantor, judge Menasse, (may the) R(ock) P(rotect him), my lord the elder Ibn Maḥbūb Abū al-Faraj, and the cantor from Ashkelon took

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10 Echoing Job 25:2 known from the closing of the *Amida* and the *Qaddish.*
11 *lāʿadimtu khuṭākā(?)* – I did not find this expression. Khuṭā can mean “steps,” “strides,” however, a more likely reading would be something like *kuṭṭāka* with the meaning of “may I not be deprived of your handwriting.”
12 It is difficult to decide whether the writer’s wife or his daughter is intended. Since the writer’s wife appears later in the letter, Goitein thought it was she. However, the case of Saʿīda bt. David (see Chapter One) certainly suggests that the daughter too could have made the trip. Furthermore, the numerous women’s petitions suggest that it might have been expected that the appeal would be done by the daughter rather than by her mother. Of course the recipient knew to whom he gave the letter, so no specification was needed.
13 This seems to be *fa-waijahta maʿaḥa kitāb > fa-waijata.*
14 *Kitāb* could mean here a letter, a petition or a responsum.
15 The identity of this Menasse, the judge, is unclear.
16 The identity of Ibn Maḥbūb, Abū al-Faraj, is unclear. However, it is possible that he is identical with an Abū al-Faraj Ibn Maḥbūb that appears in a very interesting contemporary letter. TS 12 288 is a letter from
it.17 There was a group of people assembled in the synagogue, reading the letter, examining what was in it, and doing exactly what it said.18 They instructed19 the boy, who is the husband of my daughter, that she should not have a double20 (i.e. a second wife) without being paid her meʿūḥar. The boy submitted (lit. broke down) and kissed my head and the head of her mother. They made amends between us and we all submitted. I hereby inform my master, the parnas (may the) R(ock) p(rotect him), of what happened, may I not be deprived of your favor and may I be your ransom. I send you the most favorable and most perfect greetings, and greetings to your son, and greetings to ʿAyyāsh. Thank him for me, may I not be deprived of you and may I not be deprived of him, for what he did with the woman.

The writer of these words (i.e. the scribe), your servant and child, Ibn al-Jāzafīnī the young, the cantor, who made the connection with you,21 kisses your hands and sends you the most favorable and most perfect greetings. He, I and my uncle pray for you with the Torah scroll in the synagogue of Malīj. I ask the Creator of all to keep you alive, my master, the parnas, and may He fulfill for you the biblical quote: “The Lord is thy keeper; the Lord is thy shade upon thy right hand” (Psalms 121:5). May your peace ever increase and not decease. Amen neṣāḥ Sela. Great Salvation!


17 I.e. four people took the letter: (1) the cantor, (2) Judge Menasse, (3) Ibn Maḥbūb Abū al-Faraj and (4) the Cantor from Ashkelon.

18 wa-ʿamalū bi-mithlihi – see Blau, Dictionary, 30 and 650.

19 Usually we find istaqarrā al-amr ʿalā (‘the matter was settled that ’), however, here istaqarrū al-ṣabīy ... bi-ʾan must mean something active and authoritative.

20 The meaning of this sentence hangs on our understanding of mathnawiyya in the sentence wa-istaqarrū al-ṣabīy alladhī ḥuwa zawj bintī bi-ʾan lā yakūn lahā mathnawiyya illā wa-yaʾzin muwakkhcharahā. mathnawiyya means ‘exception.’ Kazimirski also mentions a meaning of “a formula for divorcing a woman that has no force when pronounced only twice,” but this meaning has no relevance in a Jewish context, see Kazimirski, 1:240. Goitein writes that “the details of the dispute are not stated; it only said that if the husband wished for a divorce the legal authority obliged him to pay the delayed marriage gift in full.” It seems that Goitein thus understood the meaning as: “They instructed the boy who is the husband of my daughter that there shall be no exception except that he should pay her meʿūḥar.” However, three considerations lead me to suggest the understanding of mathnawiyya as ‘second/double’ (i.e. a second wife) even though I could not find this meaning in the dictionaries: (1) The basic meaning of the root is ‘double’/‘second’ (and this is true for the root in many Semitic languages). (2) The fact that it is preceded by lā yakūn lahā does not sit well with a meaning of exception (lit. they instructed him...that she shall have not exception). But “she shall not have a second (or a double)” works very well. (3) The ruling that the husband may not take a second wife without paying the wife her delayed marriage gift conforms well to what we know about polygyny in the Geniza, see Friedman, Polygyny, 7-23.

21 Translation uncertain. Alladhī ṭalaʿa waṣlī ʿindaka. waṣl has the meaning of “connection,” and “union of friends.”
(p.s.) I, Ibn al-Jāzfīnī, the cantor, ask my master, the parnas, to send my greetings to Manṣūr Ibn Dinūn, who is from the people of our city and lives in the neighbourhood of the Palestinian synagogue, in the bakery alleyway.

(p.p.s.) I wrote (this letter) in a time of haste in the evening, but I wished to pray a lot for my lord the parnas, (may) G(od) p(rotect him) (i.e. because I prayed for you so much, it became late and I had to write the letter in haste).

(p.p.p.s.) And thank for me Ibn Maḥbūb, I pray for him, and peace.

(Address:) Send to my lord, master and dignity, the venerable parnas, the elder Abū Kathīr, may God protect him. To Fustat, to the hand of the parnas.

From he who loves him, Naḥum b. [[Ḥibba]] Manṣūr, (may he) R(est in) E(den)

Great Salvation!

A note on the al-Jāzfīnī family:

The scribe who wrote this letter is a certain Ibn al-Jāzfīnī. The (Ibn/Ben) al-Jāzfīnī family was a family of cantors who immigrated to Egypt from Sepphoris/Ṣaffūriya in Palestine, but probably hailed originally from Qazvin in Iran (see below). This family of cantor has been mentioned repeatedly in scholarship on piyyut, however, the information is scattered between different publications and there is much material from the documentary Geniza that can be brought into the discussion. It is hoped that this technical note will be of benefit to both social historians and scholars of piyyut.

Most of what we know about the family comes from several colophons. Mann first published TS 8 K 18 4 2r (cited by him as TS 8 K 13 4, corrected in M. Zulai, “Studies in Jannāi” in Studies of the Research Institute for Hebrew Poetry 2 (1936), 348, n. 3) that contains a Ṣıddūq dīn (acceptance of (divine) judgment) and a eulogy copied by “Yefet, the cantor, b. ʿAmram ha-mumḥe b. Moses, the cantor and ha-mumḥe, may they rest in Eden, the garden of God, known as Ben al-Jāzfīnī from the town of Tirṣa, known as Ṣaffūriya,” see Mann, Jews, 2:357. Fleischer noted two other colophons of Yefet that inform us that ʿAmram was also a cantor (TS K 6 3 and TS H 15 109, which records that Yefet bought the manuscript). It is now possible to add Strasbourg 4078 32 which contains a colophon by Yefet that allows us to add another generation to the family: “Yefet, the cantor, b. ʿAmram, the cantor, b. Moses, the cantor, b. Joseph, the cantor,
m(ay their memory rest in) E(den), known as Ben al-Jāzfīnī.” Yefet might be the same as Ḥasan b. ʿAmram, the cantor, (Ḥasan=Yefet) who composed a piyyuṭ in TS NS 133 72, recto left side. Another piyyuṭ of his may be found in a piyyuṭ with the Acrostic but Fliescher, who published the piyyuṭ, considers the identification unlikely, see TS NS 275 97, edited and discussed in Ezra Fleischer, “A New Study in the Poetry of R. Ḥai Gaon” (Heb.) in The A.M. Habermann Memorial Volume, ed. Zvi Malachi (Lod: 1983), 119-121 and 128-129 (where other versions of this piyyuṭ are cited). Gil thought that the acrostic should be read as [ ] [ ] and considered it probable that it was our Yefet, see Gil, “More about Palestine During the First Muslim Period“ (Heb.) Cathedra 70 (1994), 33-34. Scholars have also identified piyyuṭim written by a certain ʿAmram b. Mūsān (ʿאמרא בן מוסע) – the acrostic in TS H 3 104) or ʿAmram b. Moses (ʿאמרא בן משה – the acrostic in TS 10 H 7 4 1r) which may be Yefet’s father, see Zulai, “Studies in Jannāi,” 348/25 and n. 3 and Ezra Fleischer, “Studies in the Structural Development of the Me’orot and Ahava Piyyuṭim” (Heb.) in Simon Halkin Jubilee Volume (Jerusalem: 1975), 380-384.

It is possible to complement the information from colophons and acrostics, gathered mostly by Ezra Fleischer, with information from the documentary Geniza. We have two letters written by Yefet b. ʿAmram: TS 20 28 is a short Judeo Arabic letter preceded by a lengthy Hebrew poem of praise asking for financial assistance from Hillel, probably the son of Joseph b. Jacob Ibn ʿAwkal. We hear that Yefet went to Alexandria but the pesiqā he received there was insufficient. Goitein dates the letter to ca. 1040, see Med. Soc. 2:106, n. 14, 5:35 and 514, n. 52 and 5:194 and 562, n. 52. TS 8 J 22 20 is a fragment of a letter by Yefet b. ʿAmram to Moses ha-Cohen, the respectable and pious prince, b. Ghulayb ha-Cohen. There are two well-known Moses ha-Cohen b. Ghulayb, a grandfather and his grandson. The grandfather passed away in 1026 (TS 18 J 2 16, ed. Gil, Palestine, #61) so TS 8 J 22 20 was addressed, in all probability, to his grandson (we have documents concerning him from around the turn of the 12th century, see TS 8 J 18 32, ed. Gil, Palestine, #615; Bodl MS Heb d 79 35; and TS Ar 18 (2) 4, ed. Gil, Palestine, #617). Another letter that probably mentions Yefet and may have actually been written by him is TS 8 J 22 19, a letter from Umm Sālim to her sister Umm Salāma (to be sent to the house of al-hemdat b. Pinḥas, maybe her husband). Umm Sālim reports that she has not heard from Sālim, presumably her son, who left to balad al-rūm despite
sending him several letters, written by the two sister’s relative, the cantor son of Mu’ammar Ben al-Jāzfīnī. It seems like Mu’ammar is the Arabic equivalent of 'Amram and since the handwriting bears resemblance to Yefet’s it appears that Umm Sālim used Yefet’s scribal services not only in her letters to Balad al-Rūm, but also in her letter to her sister.

We also find a number of references to a certain Ibn al-Jāzfīnī from documents in the first half of the 12th century. This man must have been the son or the grandson of Yefet. See TS NS J 419, r.7, ed. Frenkel, Alexandria, #94, where the cantor b. al-Jāzfīnī is sent to a house in Alexandria by a haver to sing mournful eulogies (did he use TS 8 K 18 4?). Another example is TS AS 147 9, Ḥalfon b. Menasse’s notes on a marriage agreement where one of the witnesses is Ibn al-Jāzfīnī. An interesting undated document is ENA 2738 12, a short letter in which Ibn al-Jāzfīnī invites Abū Mūsā Hārūn, “the ornament of conviviality and crown of revellers” (jamāl al-majālis wa-tāj al-qāṣṣāfīn) to come to a party of his friends, see Med. Soc. 5:39, n. 145. Another document is Halper 395, a letter from Abū al-Munā b. Ḥmrn, from Ashkelon, who can be identified with Tiqva b. Amram (documents between 1098-1138, see Med. Soc. 5:213 and Yagur, “Ashkelon,” 62-63) to Abū al-Ḥasan b. Saʿīd, the money changer, b. Mašmūdī, the physician of the square (ṭabīb al-murabbaʿa - written in Arabic script, then murabbaʿa is added in Hebrew script). In the end of the letter Abū al-Muna asks Abū al-Ḥasan to take a letter that was rolled into Abū al-Muna’s letter. This was a letter from the cantor, Abū al-Ḥasan al-Jāzfīnī (this is probably Yefet’s son) and should be delivered to the house of the deceased Nahary b. Nissim and to the house of Abū al-[…] son of the Cohen.

Finally, we find “b. al-Jāzfīnī,” “al-Jāzfīnī” and “house of al-Jāzfīnī” in charity lists dated around 1107, see TS Misc 8 9, verso Col. III, line 16 (eight loaves), ed. Cohen, Voice of the Poor, #59; TS K 15 15, verso Col. III, line 14 (eight loaves), ed. Cohen, Voice of the Poor, #61; TS K 15 50, verso Col. I, line 21 and Col. IV, line 6 (twice eight loaves), ed. Cohen, Voice of the Poor, #63; TS J 1 4, Col. I, line 23 (ten loaves), ed. Cohen, Voice of the Poor, #64; TS Misc 8 25, verso Col. III, line 8 (eight (?) loaves), ed. Cohen, Voice of the Poor, #65; TS K 15 102, Col. I, line 8 (four loaves), ed. Cohen, Voice of the Poor, #67. The fact that the “house of Jāzfīnī” occurs in charity lists should
not be taken to mean that the family was poor. As communal functionary, Ibn Jāzfīnī was entitled to communal support.

The various documents written by members of the family (TS 10 J 10 13, TS 20 28, TS 2738 22, TS 8 J 22 20 and, perhaps, TS 8 J 22 19) shows a similarity in handwriting, however, not enough to identify the writer of TS 10 J 10 13 with certainty.

The meaning of the nisba, ألبازفینی, has been so far uncertain. In his notecard on this name (in the “Family names” category) Goitein suggests connecting it to جزف, “selling by an estimate” and suggests that it is an occupational name of a person who sold in the marketplace by estimate. He also mentions a 30/11/69 letter from Abraham Biran that this was not a name of a place (Prof. Abraham Biran was an expert of Biblical archaeology and presumably Goitein asked him about a location in Palestine bearing this name). While we know that the family came from Sepphoris in Palestine, I would like to suggest that this is a nisba for a person coming from Qazvin, Iran. While the usual nisba is qazwīnī, its appearance as Ghāzfīnī/Jāzfīnī is possible considering its Persian origin. Today we find this Persian nisba spelt in a similar way. For example, the name of the modern Persian film maker Anahita Ghazvinizadeh is spelt اناهیتا جازفینی زاد. According to the internet, the current head of the Islamic cultural center at Fresno California is called إمام محمد علي غازفینی.
Document 10: TS 10 J 12 1

A letter from a physician to his uncle describing the physician’s marital woes. His first wife died in a plague and his second wife, who came from the family of a prominent physician in al-Mahalla, did not live up to the writer’s expectations. Since the entirety of Chapter Five is dedicated to this letter, I refrain from giving a full description here.

While the handwriting is quite professional and the document has been well preserved, the language of the letter is on occasion very difficult. The translation offered here is therefore uncertain at times and subsequent research will probably improve the translation.

After the translation, there is a note on when Abū al-Hayjā’ al-Samīn, a Kurdish general of Saladin mentioned in r.31, was in Egypt.

The Egyptian Delta, 1169-1182.

Previous literature:


Transcription:2

1 בשמח חלמי
2 תברא ב億 עולם יאנת אלבלקעל עלי והעניר אולהולקchers עלע אולהולקchers אתה
3 אין מה냐 יוק מיאליאקראitia בלני养殖场 וְנָכָר אלה ונכרי
4 רואית יומק פאללה גמרת בך אלישה volta מפורקתה והדה אלדרינה
5 ואמא סמב כורי לי גאתוכי וך כלי יוק אייצור (1) לסבטא והודה

1 Paper, 16x24cm. Turned along the bottom edge (↓).
2 I have benefitted from Goitein’s provisional transcription currently available only on FGB.
תראדה אמור אלומץ ותורגמהו הרה לא תגש כלבר פסלת

עלו חלות ואלבוה בצמא ואיכז חזרתי פי חחק ומגלהו לא

ممכלך צו פא najwięks אתלד לבהלן ב נאמה וחנו להוק פמד

את חמה עיניך ממגמה ויהי דבר יải בברק וחותה ושחר

ובער פבלוא חמה על ילו חזרות לאנדנה כבאת יליע🌿

ולעון הלפלה ילדה אלזאגי ב נכל פאמהנה פה ללעום

אבעד בו אלבע צבני והברא לי אלל שלמה המך

אפריר ואגיי מתה אלהלת ואלזרלד יᨎ יינו

כנן הנגה יקביום הנחא עוה עאתלד ואלזרלד יᨎ יינו

אני אקפיי חקוה הרגענה ונטנה כל פא אל בליית חלה

פדרית א ואמיות עלי פאמר בעב אקאמאתי עוב סחל ג פסין

מירפאמדקחר metod גאני ל אלל겔ד יפאר הלל גメディア

אלי אללמדה גנטשה בכנ זבר אלייד והילום אפורexterity יאברד

ראיה פי מפריך פהדה תאפ אנקדו הא אלבוק

מקרר על פסללת בא למורה ואשעתה ס一點ות עבות

示范基地 היווה עלה ויפלאברא אללדה או הייבר ואליי

חאתאו לנ لماذا אלבואר כי קראת עלה לי אכנ אקרר עלה

מן הגוה אלנאゲנ

אכין אללﮕו קד אינקיקר או בכר מיי בקרד יכין האלума אכלפגים המא

אכין בידיו פלאתקה נדע פאבדה און חרטן יגאלליי קשת געש

אכין אל花纹 אכלל ואקא פالأردن הנאצי ויפה קסטו יינאוד

פלמא אמותדה פתקל ילא אונלן נ MOCKER פאבה ויהי

ך יניאו פלחנה ואברגרי וחלד פג זגיד הה הנזהו ואללו

ונדרהמה מנד שטח פפי בורג יאמברדיא אמלובדר

פקקא נ רכננ ויידא איבאר אוקנ אלשיד קד אברביי אל

וב אליוונה אאלמוריק בכולע

Right margin:

1. מני אפשות דכלל ב בוכא בידיו אנט פאות מrequestCodeיי רבי משלו אנהי ויהי בצהל המרדת לא

2. ילומני להדו ופי יביש הלד ילפו פסלת רבעהל פוסמתהה אנהי זארא פ格會員ל ואלמולהו אוה

3 It is also possible to read אני.

4 Probably should be אמללה.

5 It seems the writer wrote first and then corrected it to דעך.
Verse:

1. מתכונתוerrick האמונתאעל בגדותאֶלדּי הַגָּלֶפֶלֶת
2. אֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
3. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
4. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
5. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
6. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
7. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
8. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
9. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
10. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
11. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
12. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
13. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
14. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
15. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
16. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
17. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
18. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
19. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
20. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
21. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
22. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה
23. וַאֲפַלּוּאֶלְדֵּי דִּרְמָהְוַאֹ מָן אֶלְדֵּי הַגָּלֶפֶלֶת פִּי אָלוּפַתְּה

6. Perhaps this should be like it is found in v.2.
7. Should be: צָרַף.
8. This is a dot underneath the final kaf to mark it as a כ; see n. 3 in the edition of ENA NS 31 21 above.
10. It is also possible to read שיכוני.
11. Should be: שַׁכְנִי.
12. Should be: אוּפָדוּת.
Translation:
(1) In (Your) Name, Merci(ful),
(2) My letter to my father,\textsuperscript{14} dearest to me of all people. You are to me the father substituting for (my) father to the point that (3) there is not a single time that a letter reaches me from you, without it being as if I am (4) seeing your face.\textsuperscript{15} May God unite us before our parting from this world.

(5) And as for the reason why I have not been writing to you regularly, it boils down to two reasons. The first (6) is the onslaught of fate and its vicissitudes, (with which I do not bother you) so that your heart will not be grieved, let alone (7) your health.\textsuperscript{16} (The second

\textsuperscript{14} The writer is writing to his uncle but addressing him as “father” out of respect.

\textsuperscript{15} For such \textit{mā minhā} constructions see also TS 13 J 35 15 r.29, ed. Frenkel, \textit{Alexandria}, \#81, pp. 573-77, and TS 16 297, r.17-19. The \textit{tadhkār} (also: \textit{tidhkār}) are probably letters but they can be any kind of souvenir or memorandum (commonly called \textit{tadhkira}). The idea of letters being a substitute for seeing the correspondent is common in Geniza letters and has roots in antiquity, see \textit{Med. Soc.} 5:214-217 and 229; Kraemer, “Women Speak for Themselves,” 199; Bagnall and Cribiore, \textit{Women’s Letters from Ancient Egypt}, 12 (where references to antiquity are found). al-Jāhiz already treats it as a convention, see al-Jahiz, \textit{The Epistle on Singing Girls of Jahiz}, trans. A.F.L. Beeston (Warminster: 1980), 32. An excellent treatment of this motif appeared recently in Franklin, “More than Words on a Page,” 287-305.

\textsuperscript{16} For the islamicate context of such statements, see Franz Rosenthal, \textit{“Sweeter Than Hope:” Complaint and Hope in Medieval Islam} (Leiden: 1983), 1-58, especially p. 9. See also Kraemer, “Women,” 212 n. 159 and Goitein-Friedman, \textit{Joseph Lebdī}, 248 n. 7, and the literature cited there. For \textit{fadlat} \textit{ālā} in this sense, see \textit{fadlat} \textit{‘an} and \textit{fadlat} \textit{‘alā} in Blau, \textit{Dictionary}, 508. For \textit{ḥāl} in the sense of “bad health” see ibid, 155.
reason is) the hiding of my inheritance in your property.\textsuperscript{17} In short, (8) your slave substantiates what God said to his prophet:\textsuperscript{18} “\textit{O, mortal, I am about to take away from you (9) the delight of your eyes through pestilence and the word of the Lord came to me in the morning and (10) in the evening my wife died}” (Ezekiel 24:15-18).\textsuperscript{19}

When it was thus decreed upon me, I became perplexed because she was to me a “support (11) from the town” (Samuel II 18:3). She left behind for me this three year old boy and I became dependent on people on his account (12) after the humiliation\textsuperscript{20} and the reuniting (with him?). As soon as I left the town after 18 days, mute (from grief\textsuperscript{21}), I (13) and four other physicians (who came in) my honor, I was overtaken by expenses, for cloths, (14) for shrouds, burial and reception. For she was dear to her people and the town, 12 dinars! (15) While\textsuperscript{22} we were settling her property, we returned and found that everything in the house was carried away (16) and I had to return\textsuperscript{23} everything myself.\textsuperscript{24}

After I was single for one year and sick for three years, (17) I lost everything I had.\textsuperscript{25} God decreed that I entered (18) al-Maḥalla and met Ibn Sabra, (who) are today my in-laws, to obtain his (19) opinion on my illness.\textsuperscript{26} We spoke about the matter of this woman and agreed that the maintenance (20) would be on me. I married\textsuperscript{27} her for various

\textsuperscript{17} A difficult sentence whose translation above is merely a suggestion. I understand אלנדה as \textit{nida}, see Blau, \textit{Grammar}, 42-45 and 289 and the literature noted in p. 42, n. 70. The word התירחי can be \textit{tawriṭī}: “my share of the inheritance” (Lane, 2934b) or it can be \textit{tawriyyatī}: “my hiding” or “my disguising,” (but also “my showing”). Thus, another possible meaning is “(to prevent) the divulging of the secret of my hiding, for your sake.”

\textsuperscript{18} Compare with TS 12 780, r. 17 (ed. Gil, \textit{Ishmael}, #85): \textit{wa-sahha fi amrī mā qālat al-halakha}.

\textsuperscript{19} On this sentence relationship to the biblical passage, see Chapter Five.

\textsuperscript{20} It is also possible to read \textit{tadallul} rather than \textit{tadhallul}, meaning “pampering, spoiling.” Perhaps after he came home he had to spoil his child who suffered from his mother’s death and father’s absence.

\textsuperscript{21} The spillage of meaning from \textit{khras} to \textit{khrs} (see Blau, \textit{Dictionary}, 175) can suggest “slandered.”

\textsuperscript{22} \textit{Bīn ma} is probably read as \textit{radatu} see Blau, \textit{Grammar}, 80; and see also recto, margins l.3. See TS 18 J 4 18, l. 29 also dealing with debts, ed. Goiten-Friedman, \textit{Abraham ben Yijū}, doc. III, 12, p. 145, n. 33.

\textsuperscript{23} A house of a deceased would usually be sealed up until his estate can be divided. Evidently, something went wrong and when the husband came back to his house, he found it empty.

\textsuperscript{24} The writer wrote אֲמַלְתָּה “I hoped for”. Haggai Ben Shammai kindly suggested to me that the writer intended to write אֲמַלְתָּה but dropped one of the letters, as he did several times in the letter. I have followed his suggestion.

\textsuperscript{25} The writer refers both to the Ibn Sabra family and to a specific member of the family (probably its head) who was a prominent physician.

\textsuperscript{26} In Arabic \textit{dakhala bi} means the physical act of consummation. In Judeo-Arabic texts this metonymical verb is used ubiquitously in a softened meaning of “to enter into a marriage.” This, in all probability, was due to the influence of the Hebrew expressions “he brought the wife into his home” and “to enter underneath the marriage canopy.”
reasons: one of which was their (21) respectability,28 dignity and knowledge of medicine. The other reason is that I wanted my child to be well brought up and that I would not (22) be dependent on people. The other reason is that I have (already) studied from his excellence29 all that I could. (23) For this knowledge (of medicine) is difficult for me due to (my) old age and the yoke of house and kingship.30

(24) Her family believed that I (still) had with me a remainder (of my wealth). However, fate had destroyed me and what (25) was in my hand. Thus, remorse seized her and she started lifting from the house one item after (26) another until she emptied31 the house to an amount of one hundred and fifty dinars.

(27) When I demanded its return, I told her “renounce your delayed marriage payment” but she refused and it amounted to (28) twenty dinars. I became angry and removed my child from them and returned him to his family. (29) I kept away from them for two years in Minyat Ghamr, Alexandria and in the Buḥayra province.32 (30) It was decreed that someone gave me a lift33 to Abyār. The Sheikh34 had sent (31) Abū al-Hayjāʾ al-Samīn35 towards

28 This meaning is found, for example, in TS 13 J 24 1, ll. 24-26: “tell Mukarram that if his goal is respectability (sutra), let him come to Damascus for it will provide (lit. cover) for every disgraced (lit. uncovered) and it is a good city” (ותקולי למכרם אן כאן קצדה פיגי דמשק פهى תסתר כל מהתוך והי בלד טייבה).

29 This can be read jawda (or jūda) or jūdihi. It seems that the writer here means medical expertise rather than generosity, as later in the letter his attitude to Ibn Sabra is far from positive. For the use of this word in context of medical excellence, see TS Ar 40 16, r.6, ed. Khan, Arabic Legal and Administrative Documents, #90 and D. S. Richards, “A Doctor's Petition for a Salaried Post in Saladin's Hospital” Social History of Medicine 5 (1992) 297-306.

30 See Lamentation Rabba (Buber edition) for Lamentations 3:27. Recently, Friedman has shown that the expression עול מלכות was used in contemporary sources for the burden of service in the Muslim government, especially as a physician. This seems to suggest that our physician used to work as a physician in the Muslim government service. See Friedman, Halfon, 244.

31 There is a certain word play here between akhlat “she emptied” (see also line 24) and akalat “she ate up”. Indeed, Goitein translate it as “ate up,” see Gottein, Med. Soc. 3:184. Compare this with ENA 4020 30, r.22-23 which Goitein translated in a personal draft as “He wrote to the Elder Abū ʾIshāq: ‘They (the officials) have ‘eaten up’ his crops and conspired to take all his property.’”

32 On all these locations, see Golb, “The Topography of the Jews,” 116-149.

33 See El-Said Badawi, A Dictionary of Egyptian Arabic, (Beirut: 1986), 349: rakkiṭak waraayya sarac il-geef - “I gave you a lift behind me (on my donkey) and you stole my bread. Also possible, “lent me a horse;” Lane, 1142c.

34 The identity of this person is unclear. While the writer refers to him merely as “al-shaykh,” he seems to have been of high enough rank to give orders to one of Saladin’s most prominent generals.

35 This is Husām al-Dīn Abū al-Hayjāʾ al-Samīn, an important Kurdish emir under Saladin, see note below.
(Right side Margin (written perpendicularly) (1) me so send me his income.\textsuperscript{36}  

I had, in my own hand, a legal opinion (fatwā) from the Rayyis, R. Moses, that it is she who is rebellious,\textsuperscript{37} I do not (2) owe her anything! While I was away, she gave birth to a girl of mine. The girl grew and she weaned her, while I was away. I went back to al-Maḥalla (3) and we went to court. The telling of it all would take too long. (In the end,) she brought back all the household items while I returned the boy. Between one thing and another, in this situation, I spent out of my (4) hand, from what money I attained, 15 dinars. \textsuperscript{38} They did this, easing my heart for a few days. However, they returned to taking out (of the house) item after item and selling them.  

(Verso:) (1) My life\textsuperscript{39} worsened further. She was arrogant to me through this boy of mine and the baby girl (2) that I maintained, with the poll tax that I had to pay.\textsuperscript{40} My livelihood in al-Maḥalla dwindled. (3) I became irritated (lit. my chest tightened) as my fortunes with women turned upside down. For I used to gaze at a wife (lit. a house) who had no equal (4) at all,\textsuperscript{41} whereas this kind of wife is unfit for a friend or an enemy.\textsuperscript{42}  

(5) I entered the little one into a kuttāb because he is seven years old today. I do not have with me a (6) bible. Because of that reason I told you about, if you have something with you from (7) the days of the deceased, M(ay his) M(emory be blessed), that will show his (i.e. the writer’s seven year old son) favor with you, give it as a present to Abu’l-Hasan (i.e. the writer’s son).\textsuperscript{43} For he is (like) your own son to the point that he (8) asks me for you and always says to me “my lord, show me my uncle!”\textsuperscript{44}  

\textsuperscript{36} The meaning of this sentence is obscure.  
\textsuperscript{37} On Annahā hiya baʿalat ha-mardūt see Chapter Five.  
\textsuperscript{38} The order of words in this sentence is unusual, and the translation is not certain.  
\textsuperscript{39} Another possible meaning: livelihood.  
\textsuperscript{40} Translation uncertain: al-tifla alladḥī razaqtuḥā maʿa kawn alladḥī hasala li khārij (perhaps read as kharāj?). Perhaps the writer is saying that he maintained the daughter with whatever income he obtained.  
\textsuperscript{41} Another option is to read mujammal, i.e beautiful – “not equal in beauty;” see Molad-Vaza, 268.  
\textsuperscript{42} The usual meaning of taʿakkasa fi is “to swing from side to side”. Here the meaning must be “to be inverted, turned upside down,” with reference to the comparison between the wives in the following sentence. See also TS 10 J 17 7, v. (Goitein translates “turned my mind upside down,” see Med. Soc. 5:573, n. 104). On the superfluous ta marbūṭa in 7 see Blau, Grammar, §120 and also the additional remarks in p. 304.  
\textsuperscript{43} This is a difficult sentence and the translation is uncertain. Boys would often be given book amulets when they began their education, see Goitein, Med. Soc. 4:218 and 222. I am deeply indebted to Krisztina Szilagyi for her help in making sense of this passage.  
\textsuperscript{44} See Blau, Dictionary, 759 and Grammar §111a. Both the writer and his son address the recipient as “uncle,” see Goitein, Med. Soc. 3:249. This passage has an interesting parallel in TS 10 J 16 14, a letter from Mansūr in Alexandria to his brother, Abū al-Faraj al-karshāwī (?), in the Maṣṣaḥa neighbourhood of Fustat: (r. 14-16) “The young one has started to speak and talk. His only words are ‘my uncle.’ ‘My uncle’
I did not know (9) anything afflicted you until Abū’l-Surūr met me and told me what happened (10) to you with Yaḥyā, the Elder, may he be remembered for his evil deeds by the divine law whose (11) power we all know.45 It saddened me, as whenever something is revealed about one of us, and especially you! May God, the exalted, punish him and may he not shame us by his reputation (13) more than already took place. What happened to him will have no effect. Moreover, you will go (14) with him to the military commander,47 (let) someone else punish him!48

is Mūsā, may God have mercy on Mūsā and give life to Mūsā;” wa-l-ṣaghir qaḍ tafaṣṣalwa wa-takallama wa-mā lahu kalām ilā ‘ammī ’ammi huwa musā wa-l-hayāh li-mūsā. It seems that the young boy was named Mūsā and it seems to me that the ‘uncle’ was not the biological uncle, otherwise there would be no need to explain to Abū al-Faraj who is meant. Mūsā was also the name of the boy’s grandfather, who is mentioned with a blessing for the dead in the margins, so perhaps he is intended. It is also possible to read: “His only words are ‘my uncle,’ ‘my uncle.’ His name is Mūsā...”45

45 On such expressions see Btol. MS Heb. B 11 15 (cat. 2874) l. 32 in Goitein and Friedman, India Traders of the Middle Ages: Documents from the Cairo Geniza: India Book (Leiden: 2008), 757-763 see especially n. 28 on p. 762. Yahyā is a very common name in the Geniza and certain identification is impossible. One tempting possibility is that this evil Yahyā is the Yahyā from the Scroll of Zūḥa, active in this period and notoriously called “the Evil.”

46 See Biberstein-Kazimirski, s.v. عَنْش together with the meaning of the root in Hebrew.

47 sāhib al-harb seems to have a general meaning of a seasoned warrior and a specific meaning of an official military/administrative position. The Lisān al-‘Arab explains “al-ḥusnu aḥmaru” (beauty is attended by difficulty) by stating that “the lover of beauty experiences from hardship what the sāhib al-harb experiences from war; (s.v. حمر). Ibn Taymiyya discusses whether or not the sāhib al-harb (interchangeable with wālī al-harb) should follow sāhib al-kitāb (interchangeable with sāhib al-‘ilm); Ibn Taymiyya, Majmū‘ al-Fatāwā, 20:393. In Tabarī’s Taʾrīkh al-Rusul wa-l-Mulūk there are several occurrences of the general sense (see De Goeje’s edition 1:1371, 2:1061, 3:222) as well as a couple of the specific official sense (ibid, 3:384 - where the Leiden edition has sāhib al-ḥirāb while other editions have sāhib al-harb) and 3:1560. Perhaps the most straightforward explanation of sāhib al-harb would be as an abbreviation for sāhib dīwān al-harb. However, I could find only one reference to the existence of a dīwān al-harb; see Malcolm Cameron Lyons and D.E.P. Jackson, Saladin: The Politics of Holy War (Cambridge: 1982), p. 56, where they quote from a passage (not edited in Cahen-Ragib’s edition) regarding the predominance of Jews in dīwān al-harb from al-Makhzūmī’s Kitāb al-Minhāj fī Ilm Kharāj Misr (MS. Brit. Mus. Add. 23483, p.103). sāhib al-harb may also be another name of the Fatimid wālī al-harb, on which see Emile Tyan, Historie de l’Organisation Judiciaire en pays d’Islam (Leiden: 1960), 576 and 581. Indeed, in Mosseri III 121 Abraham Maimonides is asked about a man who took a legal document and brought it before the mutawallā al-harb, without the knowledge of the Jewish court, who then commanded those involved to come before him; see Glick, Seride Teshuvot, 212. Sāhib al-harb appears as a specific position in Ibn Khaldūn’s Muqaddima when it is described how “the Pen” and “the Sword” (i.e. the administrative and military branches of the government) can be divided to several subdivisions. Ibn Khaldūn writes: “‘The Sword’ includes such subdivisions, for instance, as the offices of chief of military operations (sāhib al-harb), chief of police, chief of the postal service, and administration of the border regions;” Ibn Khaldūn, The Muqaddimah: An Introduction to History, tr. Franz Rosenthal (Princeton: 1967), 2:4. Finally, sāhib al-harb might be related to the term ḥarb misr which occurs several times in the historical record. To give one example, Tabarī reports that during the reign of Mutawakkil, ‘Anbasa b. Ishāq al-Ḍabbbī was, in Joel Kraemer’s translation, “the officer in charge of the Egyptian security forces” (‘āmil al-lā ḥarb misr); see Tabarī, 3:1430 and ibid, The History of al-Ṭabarī: Incipient Decline, Vol. 34, tr. Joel L. Kraemer (New York: 1989), 143. In the Geniza, sāhib al-harb appears in at least two other Geniza documents, both in the sense of a specific official. The first is in the Arabic script address of TS 13 J 23 5. Moshe Gil, who published the letter, read the address as “صاحب الحبر” and translated “the partner of the
And now, my uncle, I do not (15) have any other pain⁴⁹ that you (would) want to see, more than this matter. I am (16) in a state of fear regarding these people (i.e. the Ibn Sabra family) for I want to raise him and how will God help me (17) to be free from them? For they have made me grow old⁵⁰ before my time! How I threw (18) myself down like a camel!⁵¹

I did not rush to Fustat to procure in it what I want, (19) instead, I have taken from the countryside the things I needed like “Harvest is past etc” (Jeremiah 8:20). I ask from (20) your kindness that you will not inform him⁵² of my situation nor where I am. For if it reaches (him), he will (21) attain shame among Jews.⁵³ These people and I are in (22) such a situation! So strive to remove about me the wrong opinions. I also sent a letter to (23) inform my first in-laws that they should not inform him where I am. Send me (a letter) (24) informing me what happens with him, whether he is in the city or outside of

⁴⁹ Reading ḥurqa; see Blau, Dictionary, 119. Another possible meaning (based on taharrqa fi al-fiṭr) is “to be eager to do.” This solves Gil’s uncertainty regarding TS 10 J 15 11.4 (white, then as now, was burdened with all sorts of cultural meanings and features repeatedly in medieval Arabic autobiographical writings; see Dwight Reynolds, ed. Interpreting the Self: Autobiography in the Arabic Literary Tradition. (Berkeley: 2001), 78, 177 and 183.

⁵⁰ Lit. “they made my hair white”. It is equally possible to read (the meaning would be the same), and I have decided for them,” see Gil, Ishmael, #265, 2:793 n. 4.

⁵¹ These people and I are in (22) a state of fear regarding these people (i.e. the Ibn Sabra family) for I want to raise him and how will God help me (17) to be free from them? For they have made me grow old before my time! How I threw (18) myself down like a camel! Presumably the writer’s seven year old son.

⁵² A difficult sentence whose meaning is not certain. Also possible: “for if he will come to me, he would obtain shame among Jews.”
it. Perhaps (25) he would encounter on the road what others encountered and we will not be *picky*. (26) In short, (tell me) everything that happens to him for he is my link to (what) I had in my previous life: he and his mother.⁵⁴

(27) with them (i.e. the Ibn Sabra family) are fifty⁵⁵ dinars. They did not inform me of what is with them at all.⁵⁶ Nor did they acknowledge to me (28) anything. While I carried them (on my expense) as if they were guests! The old (29) and the young treated them with honor out of respect to me. After that she joined him, obeyed him (30) and went behind him.⁵⁷ A *son of Israel* buried her, may God attach her (31) to Him.

(Right hand margin, written perpendicularly:) I am sending you greetings and to the elder Abū’l-Munajjā, send him my greetings and to the elder Abū ‘Alī and your children and their little ones.⁵⁸ Praise to the one who decreed this situation as well as what follows for us. God, the exalted, grant what is best. *Peace on to you and to all of Israel, Amen.*

**Additional note:** When was Abū al-Hayjā’ al-Samīn in Egypt?⁵⁹

While Abū al-Hayjā’ might have visited Egypt on an earlier date, for example with Shirkuh, in the Egyptian campaigns of 1164 or 1167, he probably settled in Egypt only with Shirkuh’s third campaign in 1169.⁶⁰ Indeed, it is in August of that year that we

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⁵⁴ The meaning of last few sentences is unclear. Partially because the vague “perhaps he would encounter what other encountered,” but mostly because it is not clear to whom the various occurrences of the third person singular refer to, the uncle or the writer’s son. On the one hand, in line 23 the uncle is referred to in the second person with emphasis, therefore it is the son who is intended here. On the other hand, in line 26 it makes sense that it is the uncle who is the link to the son and his mother (but the son can also be seen as a link to his past life). Thus I decided to leave the sentence vague. It seems to me that “we will not be *picky*” refers to finding a match (to the writer? His son? The uncle?). We should recall that the writer himself found a match while “on the road” and that matters of matchmaking were often intentionally left vague; see Friedman, *Ḥalfon*, 347.

⁵⁵ Goitein read thirty. Twenty is another possibility.

⁵⁶ See Blau, *Dictionary*, 779.

⁵⁷ This whole sentence is unclear, and the translation is only a suggestion. The crux of the problem is how to understand מַצַּתָּה לָכֶם “disagreement took place” to “she designated an heir”.

⁵⁸ Abū’l-Munajjā and Abū ‘Alī are very common names in the Geniza and cannot be identified with certainty.

⁵⁹ This appendix is limited to published works and, being a tangent to the publication of the Geniza letter, cannot claim to be exhaustive of the mentions of Abū al-Hayjā’ in the historical record. The following abbreviations are used:

Abū Shāma (al-Mudhayyal)


find his first mention in the historical record, when Saladin appoints him to lead an army against the uprising of the Blacks after the killing of Mu'tamin.\textsuperscript{61} In 1174, Abū al-Hayjā‘ heads the campaign to suppress the Banū al-Kanz rebellion in Upper Egypt, a rebellion which has already taken the life of his brother who had his iqṭā‘ in the region.\textsuperscript{62} While Saladin left Egypt for Palestine in October 1174 with his army, we should be careful not to assume that Abū al-Hayjā‘ always followed Saladin or his armies, as Saladin had to leave about half of the Egyptian army behind him in Egypt to secure his base of operation.\textsuperscript{63} In fact, we find Abū al-Hayjā‘ suppressing two rebellions in Egypt in 1180/1.\textsuperscript{64} However, at a certain point, Abū al-Hayjā‘ joined Saladin; we hear that Saladin appointed him governor of Nisibis in September 1182 and dismissed him by early 1183, due to complaints about his oppressive conduct.\textsuperscript{65} In September 1189 Saladin sent him to Acre, and he was the commander of its army (muqaddam\textsuperscript{an} ‘alā jundihā) in the difficult winter of 1190-1 until he was replaced in Acre by Masḥūb in February 1191.\textsuperscript{66} We next

\textsuperscript{61} Yaacov Lev, \textit{Saladin in Egypt} (Leiden: 1999), xii-xv.


\textsuperscript{64} Gibb, \textit{The Armies of Saladin},” 77.


\textsuperscript{66} Ibn Shaddād, 235 and 265 (with much detail, Abū al-Hayjā‘ is referred to as al-amīr al-isfahalār, Persian (sepah-salār) for “commander of the army”); Ibn Shaddād (tr.), 122 and 141; al-Bustān al-Jāmī‘, 438 (which mentions the death of his nephew during the siege); al-Faṭḥ al-Qussī, 456 (where his generosity and
find him alleviating Saladin’s strained position in Jerusalem in December 1191 with an Egyptian army. Thus, at some point between February and December 1191, Abū al-Hayjāʾ was in Egypt.

In March and May 1192 we find Abū al-Hayjāʾ in Palestine serving as valued counselor to Saladin’s uncle, al-ʿĀdil. In June he was leading some troops in the area between Ascalon and Bet Guvrin. On Wednesday evening, the 1st of July, Saladin convened a council, and “the Emir Abū al-Hayjāʾ attended with great difficulty and sat on a stool in the presence of the Sultan.” It was decided to prepare for a siege in Jerusalem. The next day Abū al-Hayjāʾ told Saladin that it was the opinion of the troops that if they stayed in Jerusalem they might suffer the same fate as in the siege of Acre, and that the best course of action was to go out and meet the Franks in the open. Abū al-Hayjāʾ finished off his words with “if you want us, then you or one of your family should be with us, around whom we may unite, for otherwise the Kurds will not submit to the Turks nor the Turks to the Kurds”.

After Saladin’s death in 1193, the affairs of Abū al-Hayjāʾ took a sharp turn for the worse as he became embroiled in the conflict between Saladin’s heirs and the different factions in the Ayyubid army. The Kurds and Asadiyya (the mamluks that used to belong to Shirkuh, Asad al-Dīn) resented the fact that al-ʿAzīz favored the Ṣalaḥiyya (the mamluks of Saladin). As a result, the Asadiyya decided to ally themselves with ʿĀdil and Afḍal. It seems that as the leader of the Kurdish emirs (mugaddam umarāʾ al-akrād), Abū al-Hayjāʾ played a central role in these maneuverings. Ibn Taghrībirdī informs us that Abū al-Hayjāʾ personally resented al-ʿAzīz because the latter had removed him from liberality are stressed). Ibn Khaldūn, 5:319 and 323 (where it is reported that Abū al-Hayjāʾ complained to Saladin about his suffering from the length of his stay in the besieged city and therefore he was replaced); Abū Shāma, 4:232-234; Ibn al-Athīr, 10:71 and 87; Ibn al-Athīr (tr.) 2:366 and 380; al-Nuwayrī, 28:418. Ibn al-Athīr, 10:102; Ibn al-Athīr (tr.). 2:392; al-Maqrīzī, 1:107; Abū Shāma, 4:288. Ibn Khaldūn, 3:27; 67 While all other sources simply mention that Abū al-Hayjāʾ came to Jerusalem with an Egyptian army, thus allowing for the possibility that he himself did not go to Egypt, al-Isfahānī, states (in a rather convoluted way) that “Husām al-Dīn Abū al-Hayjāʾ arrived from Egypt with a large army and he was later followed by Egyptian armies” see al-Fath al-Qussī, 562. 68 See Ibn Shaddād, 353, 359 and 362; Ibn Shaddād (tr.), 198, 202 and 204. 69 The second quotation is Richards’ translation, see Ibn Shaddād (tr.), 209-210, Ibn Shaddād, 369-371; Abū Shāma, 306-308. 70 Ibn Wāṣîl, 3:46-51, which give a much greater role to Abū al-Hayjāʾ in these events than other sources.
his governorship of Jerusalem. In August 1195 al-ʿĀzīz left Egypt to confront al-Afḍal in Damascus (this was his second attempt). In September 1195 the Asadiyya (with Abū al-Hayjāʾ) broke away from al-ʿĀzīz’s camp and made an appeal to their members that were still in Egypt to abandoned him. However, al-ʿĀzīz’s regent in Egypt, Bahāʾ al-Din Qarāqūsh, remained loyal to al-ʿĀzīz, despite the fact he was an Asadī. Outnumbered in Syria, and his control of Egypt threatened, al-ʿĀzīz hurried back to Egypt. ‘Ādil and Afdal, together with Abū al-Hayjāʾ al-Samin, followed al-ʿĀzīz into Egypt and confronted his forces at Bilbays. On the way, al-Afḍal re-instated Abū al-Hayjāʾ in Jerusalem. The siege of Bilbays prolonged, and, when peace was finally brokered by al-Qādī al-Fāḍil towards the end of 1195, it was agreed that the Asadiyya and the Kurds would return to service under al-ʿĀzīz and that no harm would come to them. However, Abū al-Hayjāʾ left Egypt with al-Afḍal. Clearly, his prominent role in the switching of loyalties of the Asadiyya meant that he would not be safe in al-ʿĀzīz’s realm. Thus 1195 was the last year that Abū al-Hayjāʾ would set foot on Egyptian soil.

For the sake of completion we will briefly follow Abū al-Hayjāʾ in the last years of his life. After al-ʿAzīz came out of Egypt for the third time and conquered Damascus from al-Afḍal in June 1196, on his way back to Egypt he passed through Jerusalem and dismissed Abū al-Hayjāʾ from its governance for good. Abū al-Hayjāʾ took off to the east and was received by much honor and fanfare at Baghdad in the beginning of 1197 by the Abbasid Caliph, al-Nāṣir li-Dīn Allah (reigned 1180-1225). When he rode through the streets of Baghdad, he made quite an impression: “His head was small and his belly was very large to the point that his belly rested on the neck of the mule.” A local potter, inspired by his generous contours came up with a new design of mugs which were soon

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72 Ibn Taghrībirdī, 6:123. This might answer who was the unnamed Kurdish Emir that collaborated with Masṭūb against al-ʿĀdil regarding the governorship of Jerusalem, see Stephen Humphreys, From Saladin to the Mongols: The Ayyubids of Damascus, 1193-1260 (New York:1977), 94.
73 Humphreys, 100.
74 Ibn Taghrībirdī, 6:124.
75 For the events reported in the paragraph see Maqrīzī, 1:124-128 (who stresses the important role of al-ʿĀdil in alienating the Asadiyya and al-ʿAzīz from each other); Maqrīzī (tr.), 110-113. Ibn al-Athīr, 10:138 (who stresses how the members of the Ṣalaḥiyya strove to turn al-ʿAzīz against the Asadiyya); Ibn al-Athīr (tr.), 3:23; Al-Nuwayrī, 447-8 (who adds that al-Afḍal reached Damascus in the Month of Muḥarram 592, which ended in the 4th of January 1196. Thus it is clear that Abū al-hayjāʾ left Egypt before 1196). Abu Shama, 426-7.
76 al-Būṣṭān al-Jāmiʿ, 462 (which claims that Abū al-Hayjāʾ rebelled against al-ʿAzīz and that al-ʿAzīz let him leave alive only after he surrendered his wealth); Ibn Wāṣil, 3:70; Ibn Taghrībirdī, 6:126; Abū Shāma, 440; and see Humphreys, 104 and the literature cited there.
called Abu al-Hayjā’, a fact that seems to have amused our Kurdish ex-general.\(^7\) However, his enjoyment of his new status in Baghdad was short-lived. The Caliph entrusted him with a mission to Hamadhān, which soon met with failure. Afraid to go back to Baghdad, Abū al-Hayjā’ turned to his native town of Irbil, but died on the way, towards the end of 1197 or the beginning of 1198. According to an oft repeated anecdote, he arrived at a certain mound where he instructed his followers to bury him. When they dug his grave, they discovered in the ground a tablet bearing the name of his father.\(^8\)

The memory of Abū al-Hayjā’ lives on in Palestinian folklore. Abū al-Hayjā’ is a common family name among Palestinians and in other parts of the Arab world. Many attribute the name to their descent from Ḥusām al-Dīn Abū al-Hayjā’ al-Samīn to whom they attribute the first name of Muhammad. In popular tales he is said to have received from Saladin several tracts of land around Palestine as a reward for his exertion to liberate the holy land from the crusaders and specifically for his valiant performance in the Battle of Ḥiṭṭin (according to some, he died a short while after the battle from injuries he sustained). In these regions, he founded several villages and when he left for Baghdad, his sons (some claim he had up to eight) continued to dwell in these villages. The two most well known of these villages are ‘Ayn Ḥawḍ (Ein Ḥōd) and Kawkab - Abū al-Hayjā’, which still bares its legendary founder’s name. In fact, in the center of Kawkab the supposed tomb of Ḥusām al-Dīn Abū al-Hayjā’ al-Samīn, and one of his sons is venerated to this day by his descendants. In a strange twist of fate, the tomb is visited today even by some co-religionists of that country physician who mentioned Abū al-Hayjā’ in a letter to his uncle so many years ago.\(^7\)
In this legal deed, Sibāʾ bt. Isaac, the dyer, declared that she has received a get from her husband, Husayn b. Abraham, and released him from her dower and dowry. She also declared herself responsible for the maintenance and all other affairs of their child, Hārūn (Aaron). After she released her husband from any future claim, her husband also released her.

Fustat, 27 November 1009.

Verso empty.

Previous Literature:

Previous edition: ll. 6-8 edited in David, “Divorce,” 139.

Mentioned: Abramson, In the Centers and in the Diasporas, 104; Goitein, Med. Soc. 3:124, 268, 453 and 486; Friedman, “Polygamy – New Information from the Genizah” (Heb.) Tarbiz 43 (1973/4), 168, n. 3; Friedman, “Pre-Nuptial Agreements,” CXIV, n. 2; Mordechai Glatzer, Ittur Sofrim (Sefer Ha-Ittur) of R. Isaac b. Abba Mari: Introduction (Jerusalem: 1985), 2:50. Ben Sasson, Qayrawan, 455; and Ben Sasson, “Fragmentary Letters from the Genizah: Concerning the Ties of the Babylonian Academies with the West” (Heb.) Tarbiz 56 (1986/7), 187.

Transcription:

1. חצרנא נחן אלמתבתה כטוטנא אספל יהודה
2. אלباركיה יות3 אלאתוד לה סנטם מַנַךְ בָּלָה לַטְּלֵב מֵאָה
3. אַלִּית הָלָה מַנִּיא הָאָדוֹת וְשַׁרְיָה לַלְּשׁוֹאָרִת
4. אלימטסי אלטאריר בָּה פּוֹסְטַטֶּה מְגַר הקַּלָּת
5. סֶבֶּא הָה בָּתֶּנ רֶחֶק אַלְּצָבָאָגַהּ אַקְנָו מְנָא מַעַבְּרֵה
6. אָוכַטְנְבַה אַוכַטְנְבַה אֶשָּׁנְהֵה עַל יַבְּנְיָאָניַה
7. נַמְּן מַנְּתַנְּ בֵּי אֲבָרְבֵּה יִזְּבָה יִזְּבָהָה
8. מַנְּ מְזֶרָא דְּלֶרֶשׁ שֶׁאַרְיָא כְּלָא פִי מָטוּבַי הוּלְכַה
9. עָנָּהָה מַנְּתַנְּ דְּלֶרֶשׁ דְּלֶרֶשׁ וְלַדְּרֶשׁ דְּלֶרֶשׁ וְלַדְּרֶשׁ

1 Paper. 12X20.8cm. On the document there is also an erased shelfmark: TS 8 J 35 6.
2 David read her name as חָבָא, see David, “Divorce,” 139.
3 Abramson, (Centers and Diasporas, 104) read: יִם לָאֲאוֹתָה אַלְפְּוָאָה מַן מְפָלִין מַנְּ צֶרְיָה לַהַלֶּטָה מַנִּיא הָאָדוֹת וְשַׁרְיָה וֵלַלְשׁוֹאָרִית פִי מַסְטָא פְּתַר and translated to Hebrew: “The first day of Kislev year 1321 [1011 (!)] in Fustat Egypt.”
Translation:

(1) We, the undersigned to this deed, were present (2-3) on Sunday, 8 Kislev 1321 to the dating of deeds (27 November 1009) (4) according to which the date is written in Fustat-Miṣr. (5) Sibā’ bt. Isaac, the dyer, said: “Make the symbolic purchase from me, as of now, (6) and write, sign and witness for me that I received (7) my bill of divorce from Ḥusayn b. Abraham, my husband. I released him (8) from my delayed marriage gift and any trousseau⁴ that I had in my Ketubba. (9-10) No dinar, no dirham, no claim whatsoever, no oath and no ban remain for me with this Ḥusayn. (11) I have undertaken the maintenance of his child, Harūn (Aaron), his provisions and all his affairs (12-13). No claim whatsoever, no harassment, no legal suit nor contention remains for me against him //except his release/.⁵ (14) We, the witnesses, made the symbolic purchase from this Sibā’ (15) bt. Isaac, the dyer, to Ḥusayn, her divorcée, (16) b. Abraham regarding everything described in this deed (17) with an instrument fitting for purchase. We gave it

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⁴ See Bodl MS Heb b 11 3, l. 6, ed. Friedman, *Polygyny*, 78-82. See also *Med. Soc.* 3:124, n. 34, where this document is mentioned and *shuwār* explained as trousseaux and *raḥl* as the movable possessions of the husband with reference to Idris “Marriage,” 46, sec. 9.

⁵ This seems to mean that she released him from all obligations except the obligation to release her.
(i.e. the deed) to (18) this Ḥusayn according to the command of Sibāʾ, his divorcée, (19) so it will be in his hand a true and established proof. We have also made a symbolic purchase (20) from Ḥusayn b. Abraham to Sibāʾ (21) bt. Isaac that no movable possession, no claim in the world, no oath and no ban remain for him against Sibāʾ (23) except the correct sending of this deed⁶ (?)..

(Signed:) Samuel b. Jacob.⁷

Mundhir b. Shabbat.⁸

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⁶ Translation not certain. It is clearly the counterpart to the comment discussed in the note above. 'Allaqa can mean ‘to write’ (see Blau, Dictionary, 451) so I am understanding mu'allaq as a written document. It can also mean that this deed was attached or joined to some other document.

⁷ He is probably Samuel b. Jacob who was contracted in 1021 to write eight bible books for 25 dinars, see TS 10 J 5 15, ed. Bareket, Shafir, #8.

⁸ This man signed Mosseri VII 45 2 (A 45), ed. Bareket, Jews of Egypt, #82, in 1024/5. There are several references from the beginning of the 11th century to people who might be connected with this witness. A certain Solomon b. Mundhir signed a deed in 1038 (TS 13 J 6 31) and in 1047 (TS 20 160, ed. Friedman, “Pre-nuptial Agreements,” CVII-CXIV, and especially n. 25 in p. CXIV). A certain Salama b. Mundhir is also mentioned in a letter (TS 10 J 21 9) but from the script this letter seems to be from the 12th century. A certain Aaron b. Mundhir signed a letter which Goitein ascribed to 10th century Damascus (TS 18 J 1 1), but the script may also accommodate the first half of the 11th century. An Arabic script letter (TS Ar 41 79) was written by Abū Mundhir could be connected to سابا/شابا? A certain Abū Mundhir in mentioned a couple of times in an account (TS Ar 30 284) mentioning Sunday, 4 Jumādā II in year 1003 of the Islamic calendar, i.e. 1003. However, perhaps it is better to read 2 Conf. have the year as 1000 and then the date mentioned really falls on a Sunday (although, the Islamic calendar is often imprecise in such matters).
**Document 12: TS 13 J 4 7**

In this legal deed, Aaron b. Abū al-Riḍāʾ and his wife, Labwa (“Lioness”) bt. Abū Ghālib, release each other from all claims. Labwa releases Aaron from her entire ketubba payment, including her delayed marriage gift. She even goes so far as to give him her dowry as a gift. Furthermore, she commits to provide the maintenance and poll tax for her older son, Furayj, for two years and to pay for his learning the craft of silversmithing. She will also provide maintenance for their young son, Raḍī, for ten years. On his part, Aaron commits to provide their clothing. In giving away her dowry, Labwa was going far beyond the usual ransom divorce. As David notes (see bibliography), legally speaking, Labwa was not allowed to renounce Aaron’s obligation to maintain their children, because it is not hers to renounce.

Fustat, 19-28 June 1244.

On the verso: a calendar calculation for the year 1250 (1561AG, 50(10)AM, the 13th year in the 264 metonic cycle, a year that is peshuṭa and ke-sidran.

**Previous Literature:**

**Previous edition:** Il. 18-23 are edited in David, “Divorce,” 165-166.


**Transcription:**

1. שֶׁהָדוֹדוּת אֲדֻחַת בָּאָמֶנָא אָנָּה שֶׁהָדוֹדוּת דַּהוֹדוּתִּים לֶחָהָה לַמָּא הָאָמָא פִּי אֲלַעֶשֶׁר

2. אֲלַעֶשֶׁרִמְנָא מֶחָדְשָׁשׁ תְמוּנָא שֶׁנָּהָה אֲלַפְּאָה וְתְמוּנָא מַמְאָה וְתְמוּנְשׁמָא וְתְמוּנָא שֶׁנָּה

3. לֶפְּנֵי שֶׁשָׁרְתְּהַ פְּלִיסָא דוּלְבָּא דוּלְבָּא לֶפְּנֵי בֵּי בְּפָסְסָא מַמְיְרוּ דוּלְבָּא דוּלְבָּא

4. נֶהֱרָא מַמְיְרָהָה זָרָהָה קֶדֶמְתָא אָאוֹרָה גָּר אָמָא אָלָרֵזָא לֶפְּנֵי לֶפוּדָּה בְּתָוְיֶא

5. אָבָר נַאֲלָבָא נַעְלָא קָאָלָא לָא קָאָלָא פָּמָא קָאָלָא קָאָלָא תְמוּרָה בְּלוֹשָׁן מְעַכּבָּשִׁי

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1 Paper, 17.6X23.7cm

2 See n. 3 in the edition of TS 10 J 10 13.

3 I have benefitted from Goitein’s provisional transcription found in PGB.
Translation:

(1) The testimony which took place before us, we, the undersigned witnesses: On the middle ten days (2) of the month of Tammūz 1555AG (June 1244) (3) to the dating of deeds, the dating to which we are accustomed in Fustat Mitzrayim (4) situated upon the

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It seems that first לסנ was written and it was then corrected to סנ.

It seems that the writer first wrote אכתלאפאתה and then corrected to אכתלאפאתה. In any case, the correct form is אכתלאפאתה.

David read: יכפיהם אתענהם. However, see the way both ס and פ are written in תוסفة on line 16. In any case, David understood the two words in the same way as I do, which probably means that his different reading is an earlier stage of his working on the document or a typo.
River Nile, Aaron b. Abū al-Riḍā, m(ay he rest in) E(den), and his wife, Labwa (5) bt. Abū Ghālib, m(ay he rest in) E(den), came before us and told us: “Make the symbolic purchase from us, a complete and rigorous purchase, as of now, (6) and write and sign using every expression of right that each of us, I, the aforementioned Aaron, (7) have released the obligation of Labwa7, my wife, from any claim, demand, oath and judicial proceedings, (8) from the laws of men and the laws of heaven and from all types of different vows. (9) Nothing in the world remains for me with her, neither small nor large.” Similarly, (10) this Labwa bt. Abū Ghālib //said// “Make the symbolic purchase from me and witness for me, as of now, that I released (11) the obligation8 of my husband, Aaron b. Abū al-Riḍā, from all that women are due (12) from men and from my ketubba, essential and additional, and from the dowry. I have released (13) him of all this orally and in (my) heart, in this world and in the next, a complete (14) rigorous release. Nothing remains for me of his obligation from what is worth a penny or more. (15) Moreover, I gave to my husband, the aforementioned Aaron, all that I am due from his obligation: the essential (16) ketubba, the addition and the dowry in a complete, clear and public gift, an (17) eternal gift, a gift of a healthy person, a gift that cannot be reversed, a definitive and certain gift (18) as of now.” Thus said to us this Labwa bt. Ghālib: “Go around the markets (19) and in the public areas and make public this gift that it is not hidden nor concealed, (20) in my name from this day and forever. This Labwa also accepted that she will maintain her (21) older boy, Furayj, for two years from the date of this deed in all his needs and his poll tax (22) for two years not including his clothing (lit. his cover), and she accepted that she will maintain the younger one, Raḍī, for ten years from the date of (23) this deed. She will (pay for) the older one’s studying silversmithing9. Aaron will clothe the two, i.e. his children. (24) We made the

7 Qad abraytu (<abra tu, see Blau, Grammar, 83 and Blau, Dictionary, 41) dhimmat Labwa zawjaṭī dā – dhimma is, of course, a term laden with deep cultural meanings in islamicate culture. It is very common in legal deeds in various meaning all revolving around protection, covenant, responsibility, and debt (see for example in numerous documents in Ackerman-Lieberman’s PhD Dissertation). See Blau, Dictionary, 228 and Lane, 976.
8 Ṽaṭṭin ēbrīṭī ( 추진!) .dest ( 추진) one wonders how should we understand these deviations from classical Arabic. Was the scribe simply careless or does this reflect the way Labwa spoke (or both)? Notice that the scribe also wrote Ṽaṭṭin in l. 23, perhaps reflecting the way the word was spoken. I have gone with the conservative assumption of mere scribal slip.
9 wa-tu allim al-kabīr al-ṣiyāgha – lit. “she will teach the older boy silversmithing.” Goldsmithing could also be intended.
symbolic purchase from Aaron and Labwa, a complete, rigorous purchase as of now, cancelling (25) all notifications and conditions on everything written and explicated above. Written between the lines (26) in the ninth line:¹⁰ “and she said” and this is its confirmation. Everything is true, correct and established.

(Signed:) Solomon b. Jesse, the Nasī, M(emory of the) R(ighteous be) B(lessed)¹¹ Joseph b. Shabbetay, H(is) M(emory to the) W(orld to) C(ome).¹²

¹⁰ I.e. between the ninth and the tenth lines.
¹² This man is unknown. A certain Joseph b. Shabbetay caused a stir in mid-12th century Sicily when he converted to Islam (see TS 12 372, ed. Ben Sasson, Sicily, #112 and Gil, Ishmael, #513). TS NS J 261 is a letter addressed from a certain Isaac to a Joseph b. Shabbetay al-Rūmī, who may be “our” Joseph or the one who converted in Sicily.
Document 13: TS 13 J 13 30

A petition to Samuel the Nagid b. Ḥananya from a suffering wife. The writer describes her dispute with her husband in some detail and asks for the Nagid’s assistance. See more details in the Introduction and Chapter Four.

The document is slightly torn making several readings uncertain.

Fustat, 1140-1159.

Previous literature:
Mentioned: Not mentioned previously.

Transcription:

1. bash rkh
2. liker hurvat negeudot perorot nefesh ha-rav north
3. navon etnikh tafarot maron (1) robin aodot [v]: Shomali negeud
4. tenn/la/le bem yi tzeavat shor shevim negdi negeudim bni
5. enborim etn hayemetun v'ozshavat te'urei alonim yishaal
6. bato bi-arocetro tmin v'hei imishor yishorrow du b'kha moror
elephadot al'atamat
7. zek aman po r'zot
8. teh Yi l'hadehodot ha-kadash v'ozh de'orim me'erezot v'zegorn
9. aham vayi be'ameh zam al'achak fesakat me'atam
10. avehem ma v'alalad veha ma al'shadu alekha hamfelu she cilumin
11. la'ah tefor, fesakat te toneret ha-tamoror a'ad kravim ma ahavatam
12. aleh a'tu hakha etlazet ha melaku ve'shalu ao ca [w] ... am la flemi
13. al'akek v STORAGE [a] [v] [ca] [v] [ca] [v] [ca] [v] al'atamat eka
14. nii feshatat alekha etlazet ha melaku ... batik? aham a [v] zem kelbekle
15. oni aleh melaku alel melaku she'aton la ve'is'hun alekha etlazat ha [v] ...
16. fey vuyi fesakat ma le'enu bi'at fesakat [w] ca tsbik ayam ma [w]
yi b'lale'akar de'avorim fesakot? al'mahot? [a] ... b'khat ... a'

1 Paper, 14X21cm.
2 This document has the literary form of a petition, a style that the Jews adopted from the Muslims Arabic petition, see the edition of Mosseri V 355 above.
3 I have benefitted from a transcription found in the PGB.
4 On <a> see Blau, Grammar, 39.
5 It is also possible to read yonodeh. In his provisional transcription Goitein read fesakat get yonodeh.
6 ta'rikh an is “vestige of tanwin;” see Blau, Emergence, 167-212.
Translation:

(1) In Your name, O Merciful. To the gate of the nagidate, may your rule last forever.

(2-7) To the honor of his excellency, dignity of the nagidate, wreath, magnificence, mantle and crown of our lord, the turban of our magnificence, our master and rabbi, our lord Samuel, the great Nagid of the people of the Lord of Hosts, prince of princes, Nagid of Negidim, grandee of grandees, the right hand of the kingdom, the diadem of nobility, may God crown the people of Israel with your long life and make lasting your rule until the coming of the teacher of righteousness. Amen, so let it be.

The servant (8) informs your holy excellency, may God benefit you: it is not hidden from our lord (9) the fear my father, m(ay he rest in) E(den), was in, for he feared my husband greatly. He (i.e. my husband) told me: (10) “Look at the misery and fear your father was in. Do what will release me (11) and not hurt you.” He wrote a bill of divorce with an early date, so that If I have need (12) of it I will sh[ow] it to be divorced. I do not
know whether […] or not. When\(^{12}\) (13) […] the fear. I demanded that he [return] to live at home [as he was used to] doing, but he did not (14) come. I went to Cairo for my demand [for his return (?) to] my home, except if\(^{13}\) he would put my heart at ease (15) and come to Fustat, for there is a condition obligating him not to lodge me in Cairo. He an[swered] (16) to my face: “You have no home with me.” I asked him: “[For] what reason?” He said: “You will not […] (17) until you agree to a delayed marriage gift of two dinars.” I left the city (i.e. Cairo) to my home […] (18) five months. He provided neither for me nor for my family. I [lef]t the matter to his gentlemanly character\(^{14}\) and tho[ught] (19) that the matter would be settled and we would not burden his Excellency, our lord. However, when he sensed that I (20) intended to inform his excellency of my matter, he started demanding reconciliation (ṣulḥ) between us\(^{15}\) according to what (21) he thought best […] I refused to do that, (22) except according to the opinion of your excellency, our lord, and according to what the law of Israel (sharʿ yisraʾel) requires.

(23) The servant [asks] that my case be presented before you and you would examine my situation. For I am a desolate [woman], (24) I have no man. I have only God, the exalted, //?\/// and your excellency. [Your excellency is?] (margin:) the father of orphans and the judge of widows. May God, the exalted, not lock your gate in the face of anyone of Israel […] and may He bring about the days of the Messiah in your lifetime, so let it be. Amen and Amen.

\(^{11}\) Translation not certain, partially because of the uncertain reading of הירפתא.

\(^{12}\) See Blau, Dictionary, 639 and see also line 19.

\(^{13}\) Meaning not clear.

\(^{14}\) See Med. Soc. 5:191-2.

\(^{15}\) See Cohen, “A Partnership Gone Bad,” 237.

\(^{16}\) If the suggested completion is correct, then the translation would be “what he thought best and will bring me a cure.”

\(^{17}\) The word נידה or נידה is written above the line, but I do not understand what it means.
In this legal deed, the daughter of Abraham, the Beloved of the Yeshiva, releases her husband, Sar Shalom b. Yeshū’a, from responsibility to fifty dinars out of the seventy dinars of the delayed marriage gift promised in the ketubba. She also releases him from the “trustworthy” clause in her ketubba.

Abraham, the Beloved of the Yeshiva, is Abraham b. Nathan, the seventh (on him see note 6 below).

Fustat, 15-25 April 1126.

Previous literature:


Transcription:

1. ור שר שלום שע... 
2. שר בן ר ותנו ותנו..... אלי דארה במחצר .... נוגה [ת] איל.
3. בת כלך פר זאביה הלחת והישבעה פר צור אפרים באה [ת]ך?
4. א買い? קאלה לא אקנס מני אשמו אל טבי מיוער ביבימ[ת]ך לכ מודיעי והניאי
5. בצרו אנ באבנס אנ ק מודעה אתני סאמחת להו אל יום שלום בן שם רמא
6. ישעת דן ממלד אלפאבען חזיאי אלפי שניליל בביילד במלכוהב
7. פי חתובה סאמתה纳米 ממלה[ת]ה[א] בכסמס דינא שאר משלו ולד
8. אבק למדא גרי שעריה ינירה פק חסמנה ואפצ[ת]ה[א] אליא [דלך]
9. אלאמרות איןין אל עוכר לי עלי נמס פי חתובה סאמתה באב[ת]יע
10. לך ומסלח לי מרחה גמורה פמא בבלו והלאוהוה בא
11. ואכטע אטנא קגל שדדי קוגר והתחי בבלו במשרה לקות בך
12. על כל דכתיב ומסhiro לנייא ווך דלך פי אלישיב ולאביא זמר תורש
13. נמס שש אעליא לי השמות שרי קיות
14. עון מבן וי שמלת ה גודו ביל שמריה זפל
15. אלעזר ביר אביהי צל

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1 Paper, 20.7X30 cm.
2 I have benefitted from Goitein’s provisional transcription found in PGB.
3 Also possible בּכְמַת[ת]ל
4 Probably the initials of Psalms 37:37: שֶׁמֶרֶד (תְּמוּנָה) (יְרֵאָה) (כֹּל) (אֶרְחָיו) (לֶאֶשָּׁה) (שֶׁלשָׁמָּה)
Translation:

(1-2) His H(onor), Mr. Sar Shalom, may the Rock [preserve him] b. his H(onor), Mr. Yeshu’a m(ay he rest in) E(den), asked us, the witness undersigned [in this document] to enter into his house, in the presence of his wife,⁵ [Si]tt al-[…] (3) bt. his H(onor), G(reatness and) H(oliness) Mr. Abraham, the beloved of the Yeshiva, m(ay he rest in) E(den).⁶ Her brother⁷ was present and identified her. (4) Then, she told us: “Make the symbolic purchase from me and bear witness for me, as of now, cancelling any notifications and conditions, (5) according to my will, while not being coerced, that I have released, I mean released,⁸ my husband, the aforementioned Sar Shalom (6-7) b. Mr. Yeshu’a, from fifty dinars of good and high quality of the seventy dinars he prescribed as a debt owed by him for my delayed marriage gift written in his⁹ ketubba.¹⁰ (8) I do not leave for myself anything except only twenty dinars. I also have relinquished [in addition to that] (9) the trustworthiness that he had bestowed on me in my ketubba. I have released him from all (10) this and have released him a complete release orally and in (my) heart, in this world and in the next. (11) We, the witnesses, have made the symbolic purchase from her, a complete and rigorous purchase with an instrument fitting for purchase (12) on everything written and explicated above. This was in the last tenth of the month of (13) Nissan year 1437AG (15-25 April 1126). True and Established.

(Signed:) Nathan ha-Cohen b. Solomon, m(ay he rest in) E(den)¹¹

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⁵ See Libson, “Court Memorandum,” 129, n. 83.
⁶ This is Abraham b. Nathan, “the seventh,” a prominent member of the Jewish community with strong connection to the highest levels of the Jewish leadership, as well as ties with Islamic authorities. On him, see Cohen, Self Government, 130-131. On his brother Araḥ b. Nathan (Musāfir b. Wahb), see Frenkel, Alexandria, 91-93. Abraham was still alive in 1115 (see #5 below) and we know him to be dead in 1126 (#1). This is the most complete list of documents related to him: (1) TS 18 J 1 20; (2) TS 10 J 11 16; (3) Bodl MS Heb d 66 29 (trans. Goitein, Education, 103-106); (4) TS NS J 24 (ed. Frenkel, Alexandria, #88); (5) TS NS J 131; (6) INA D 55.7 (ed. Ackerman-Lieberman, “Partnership Culture,” #31); (7) TS 18 J 4 2; (8) TS 13 J 19 4 (ed. Frenkel, Alexandria, #68); (9) TS 13 J 22 23 (ed. Frenkel, Alexandria, #73); (10) TS 13 J 15 24; (11) TS 24 21 (ed. Frenkel Alexandria, #38); (12) TS 13 J 15 7; (13) TS 13 J 16 9; (14) BM Or 5535 I (ed. Gil, Palestine, #611) and (15) BM Or 5535 III.
⁷ This might be Abū al-Ḥasan mentioned by TS NS J 24 v.4, ed. Frenkel, Alexandria, #88 (see note on p. 602).
⁸ The woman is reported to have first said mahaltu, which is a Hebrew root in Arabic conjugation, and then sāmaḥtu, which is regular Arabic.
⁹ Occasionally a ketubba is mentioned in Geniza documents as the husband’s.
¹⁰ I re-ordered and simplified this sentence for the purpose of clarity.
¹¹ Documents signed by him: 1122-1150. We also have a ketubba in his hand from Tyre, 1102. Later, he moved to Egypt to served there as judge. Here his signature appears without the typical embellishments that appear in his other signatures. On him, see Friedman, “Signature Embellishments and a Special System for
Ṣadōk b. Shemarya, m(ay he rest in) E(den)\(^{12}\)

“M(ark the) b(lameless,) n(ote the) u(pright,) f(or there is a) f(uture for the) m(an of) i(ntegrity);” *(Psalms 37:37)*

Elʿazar b. Evyatar, m(ay he rest in) p(eace)\(^{13}\)

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\(^{12}\) This is probably the man who in later years was contracted by Maliḥa to teach her son the Arabic script and arithmetic, see TS NS J 401, ed. Goitein, “Side Lights on the Jewish Education,” 109-110.

\(^{13}\) It appears that he wrote the deed. This man is probably Abū al-Baqāʾ al-Ahwāzī Elazar b. Evyatar who received a release from Ḥalfon/Khalaf b. Joseph, known as Ibn Qushqūsh in the 1130s, see CUL Or 1080 J 5 13 + CUL Or 1080 J 51, ed. Weiss, *Ḥalfon,* #251-252. As Goitein suggests in his notecards, this man was probably the grandfather of Abū al-Baqāʾ Elazar b. Evyatar *rōsh ha-medabrīm* known as Ibn al-ʿAjamī. It is fitting that the son of al-Ahwāzī was remembered after his death as the ‘son of the Persian.’ A certain Evyatar b. Elazar b. Yeter(?) appears as the husband of a woman in a note also mentioning a certain Hayyim or Hayye, see ENA 2592 1.
This bifolio contains, on the one side, a Judeo Arabic midrash on the throne of Solomon and, on the other side, a fragment of a literary anecdote containing ten pieces of marital advice to a daughter.

The Genazim Project’s computer generated matches program allowed me to identify several other Geniza fragments belonging to the codex from which this bifolio was taken. Further research revealed additional parts of this codex. However, none of the pages discovered completes the marital advice anecdote. Here are the known fragments from this codex:

**TS Ar 16 4** - Throne of Solomon midrash and ten piece of marital advice to a daughter.

**Identifications made with the Genazim program:**

- **TS Ar 16 25** – Bifolio of the Throne of Solomon midrash.
- **TS NS 90 35** - One leaf (i.e. two pages) which I identify as belonging to Ibn Shāhīn’s *An Elegant Composition Concerning Relief after Adversity*, Chapter 36. While this fragment is written in the same hand as TS Ar 16 4, the number of lines in this page is different, which raises the possibility that this page was taken from a different codex written by the same scribe.
- **TS Ar 48 152** - One leaf (i.e. two pages) from the same codex as TS NS 90 35, identified as belonging to Ibn Shāhīn’s *An Elegant Composition Concerning Relief after Adversity*, in Abramson, *R. Nissim Gaon*, 507-8.

**Further identifications:**

- **TS NS 70 63 + TS NS 70 108 + TS NS 288 196** – this join completes the first page of the Throne of Solomon midrash.
- **TS Ar 18 (2) 115** - Throne of Solomon midrash.
- **TS NS 32 23** - Throne of Solomon midrash.

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1 Paper, 21.3X13.7 cm
2 On the Judeo Arabic version of the midrash of Solomon’s throne, see Alon Tenami, “A Genizah Fragment of the Legend of King Solomon’s Throne” *Ginzei Qedem* 6 (2010), 197-210. I would like to thank Alon Tenami for discussing this midrash with me.
3 I would like to thank the Genazim Project and Roni Shweka in particular for checking for me this shelfmark in their program before it was made publically available in the FGP. It is also worthwhile to mention a few other fragments suggested by the Genazim program which may have been written by the same scribe: TS Ar 1b 85+86 and ENA 3254 20 (and see n. 11 below).
4 The size of the page of TS NS 90 35, however, conforms with the dimensions of TS Ar 16 4.
I hope to publish the Judeo Arabic text of this midrash in the future.\(^5\)

The ten pieces of advice given by a mother to her daughter is a Judeo Arabic reworking of an Arabic literary anecdote usually told about the advice Umm al-Ḥārith gave to her daughter when the latter was about to be married to al-Ḥārith al-Mālik, the king of Kinda. This anecdote is first attested in Kitāb al-Waṣāyā of Abū Ḥātim al-Sijistānī (Baṣra, d. ~864) and al-Fākhir of al-Muṣafḍāl Ibn Salama (Kūfā, d. ~904), but is better known in the version found in The Unique Necklace (al-ʾIqd al-Farīḍ) of Ibn ʿAbd Rabbihī (Spain, 860-940).\(^6\) As Yehudit Dishon has shown, this anecdote appeared in a Hebrew version in Mishley he-ʿArav (Spain or Provence, around the beginning of the 13\(^{th}\) century) and in later moralistic works.\(^7\) Recently, I was able to trace this anecdote still further to Hebrew works in Provence, North Africa and Constantinople, two Yiddish works published in the 17\(^{th}\) century and even 14\(^{th}\)-century Christian works in Italian and Catalan.\(^8\) Since we do not possess the beginning of the anecdote, we do not know whether our version had a frame story similar to the Arabic versions. I plan to publish a full study on the peregrinations of this anecdote in the future.

**Previous literature:**


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\(^5\) Together with the fragments mentioned above, I have collected over thirty shelfmarks dealing with this midrash.


\(^7\) See Yehudit Dishon, “The Description of the Ideal Wife in Medieval Secular Hebrew Literature” (Heb.) *Yeda Am: Journal of the Israel Folklore Society* 23 (1986), 3-15 and ibid, *Good Woman Bad Woman*, 203-205. See the further information contained in Chapter Three.

\(^8\) So far, I am familiar with the following Jewish works which contain the anecdote: *Malmad ha-talmidim* of Jacob Anaṭoli, the two *Menorat ha-maʿar* of Abuhab and al-Neqave, *Kitāb mahāsin al-adāb* (a Judeo Arabic reworking of Mishley ʿarav, not related to the Geniza fragment here published), *Sefer ha-musar* of Yehuda Khalaṣ, *Sefer lev tov* of Isaac ben Eliakim, and *The Burning Mirror* of Moses Henochs Altschuler. The two Christian versions are *Dodici avvertimenti che deve dare la madre alla figliuola quando la manda a marito*, ed. Pietro Gori (Firenze: 1847) (Gori dates the piece to around 1300) and “Consell de Bones Doctrines” in *Alfons el Vell, Lletra a sa filla Joana de càstig e de bons nodriments*, ed. Rosanna Cantavella (Gandia: 2012), 81-91. The two works are discussed in Alice A. Hentsch, *De la Littérature didactique du Moyen Âge s’adressant spécialement aux femmes* (Genève: 1975, originally 1903), 119-120 and 189-191 and see also Diane Bornstein, *The Lady in the Tower: Medieval Courtesy Literature for Women* (Hamden: 1983), 63. For the Yiddish works, see Noga Rubin, *Conqueror of Hearts: Sefer Lev Tov by Isaac Ben Eliakum of Posen, Prague 1620 – A Central Ethical Book in Yiddish* (Tel Aviv: 2013), 247 and 337-338. I would like to thank Noga Rubin for discussing this anecdote with me and informing me about some of the Jewish works mentioned above.
Transcription:

10. ואלתחנהו [ב]בלבוקת תחלשנו
11.uesto אתצעריאו אתנשנהו ואלתחנהו
12. אתנשנהו אתנשנהו ללבית
13. תמס אתךוביא אתנשנהו על כל א
14. תמס אתךוביא [את]ךוביא ואתנשנהו
15. אתנשנהו אתנשנהו לכניסה
16. לנשא ינשה אל תקע עינה
17. מנך עליה קטייה אל ישה מנך
18. אלא נקב Bermuda אולא
19. אתנשה לא תשתך Leben מארס לא

Verso:

1. (]=-] זה פאר פומ נעש [ב]מרד [בוד]
2. כדרא אתפשות סרח אל תבט[ב]
3. ואתנשנהו ואתנשנהו
4. אתפשות סרה אל ואתנשנהו
5. אתפשות סרה אל ואתנשנהו
6.APTER אבית ביבי אנק אל תנחלין
7. דר מתי תורה חווה עלי חמוד
8. ורפה עליה סכטך פא אוחכא
9. ואilate יחסן אלצנע לך
10. זה

Translation:

(1-5) (The first) and the second: accepting advice and acquiescing for they are hearing and obeying. The third and the fourth: taking care of the house is good management and safeguarding the servants is good judgment. The fifth (6-10) and the sixth: taking care of his nose and where his eyes fall. Do not let his eye fall on anything unseemly in you and

9 The word preceding this word must have been אלי איליו, a fact which might assist a future identification of the preceding page.
10 This word is not found on the Geniza fragment, but can be reconstructed from context, as well as, from Arabic parallels.
11 This sign marks the end of the anecdote. A similar sign appears in ENA 3254 20, which may have been written by the same scribe, see n. 3 above.
let him not smell from you anything but good fragrance. The seventh and the eighth: do not disobey his command and do not (verso: 1-5) (reveal) his secret. For if you disobey his command, you will arouse his anger and if you reveal his secret, you will not be safe from his unfaithfulness. The ninth and the tenth: the more you exalt him, the more he will honor you.\textsuperscript{12}

(6-9) Know dear daughter that you will not attain all of these (qualities) until you prefer his desire over your desire and his pleasure over your anger regarding what you like or dislike. May God improve His favor to you.

\textsuperscript{12} Note that these are hardly two separate qualities.
In this legal deed, Sitt al-Kull bt. Elijah, the wife of Yakhin (=Thābit) b. Shabbat, presented her ketubba to the court, which examined it and confirmed that she was owed by her husband seventy-five dinars. Of this sum, twenty-five dinars were her delayed marriage gift, and fifty dinars were her dowry “as is customary” – which meant she was entitled to a third of which, i.e. 16 ⅔ dinars. The ketubba also declares her trustworthy. Once this was established, Sitt al-Kull informed the court that her husband had been unemployed in Fustat (Miṣr), and left her at least six years ago without leaving maintenance for her or for his daughter. She told the court that she still awaits his return, but recently life had become very hard. Therefore, she nominated Abraham b. Abū al-Khayr as her representative to sue her husband for her monetary rights.

It is possible that Yakhin b. Shabbat is identical with a certain Yakhin ha-meshōrer (the singer) who abandoned his family in al-Maḥalla when the local governor demanded that he pay the poll tax (kharāj) despite the fact that he claimed to be a khaybarī: “Yakhin ha-meshōrer used to live in al-Maḥalla and he is a Khaybarī, but the governor of al-Maḥalla (ṣāhib al-maḥalla) harassed him and demanded that he pay the poll tax. So Yakhin fled from him and left his family dwe[I]ng in it (i.e. in al-Maḥalla).” The claim of being a Jew from Khaybar and thus exempt from paying the poll tax harks back to popular traditions about the Battle of Khaybar.

Previous literature:
Not mentioned in the literature, except in Baker-Polliack, Catalog, #7644, where it is mistakenly identified as a marriage contract.

Transcription:

1. [ףשתית ידוע] אטנה בד דינה מת אלכילה בחאליה וונה יכין הכ אן שבת נקמה מ[...]
2. [فح שחר מתוכה עלי ונה ק[ן] שבת הנכ prova עליה ואסתברינאה וחרר[תא]
3. [וחכת נזרה אלמבת אלאתא] פסונא אלמיסתמק אלה פי עליה ונה מה פ[י נונבר] מ[מאש]
Translation:

(1-2) Sitt al-Kull bt. Elijah, wife of [...] Yakhîn b. Shabbat called Mr. [...] m(ay he rest in) E(den), presented to us, the court, the deed of Ketubba owed by her *aforementioned* husband, Yakh[în] b. Shabbtay. We read, examined, verified (3) and confirmed with complete certainty that she is owed according to it (i.e. according to the ketubba) by her husband, the *aforementioned* Mr. Yakhîn, (4) seventy-fi[ve] dinars, from which twenty-five are actual dinars\(^6\) and fifty dinars are a dowry, according to the custom of the land, (5) for which she is owed by him a third, that is 16 ⅔ dinars. According to this ketubba, she is (6) *trustworthy in respect to him as long as he live and in respect to all his heirs after him as two trustworthy valid witness*. After the aforementioned (7) Ketubba was confirmed by us with complete certainty, (8) the *aforementioned* Si[tt al-]Kull said to us:

“Know, O court, that my husband has tarried\(^7\) in Fustat (*Miṣr*) and abandoned me more or less s[ix or read: seven] (9) years ago. He travelled without depositing maintenance with me, nor what I (10) or his daughter may be sustained with. I am still waiting patiently;\(^8\) [perhaps] he will return or send me and his daughter [what] (11) we may be sustained

\(^5\) This appear like תאנת, but Thābit=Yakhîn was probably intended.

\(^6\) This is her delayed marriage gift.

\(^7\) Also possible: “had been unemployed in Fustat,” see Blau, Dictionary, 6.

\(^8\) It is also possible to translate “I have waited patiently until today.”

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with. Now, the matter has become very difficult for me and I have nothing left to be succored with. I do not know (12) what to do. Therefore, I ask to appoint Ibrahīm b. Abū al-Khayr as my proxy to go to my husband, the *aforementioned* Thābit (13) b. Shabbat to sue him for the maintenance I am owed by him, from the time he left until today. (14) If he chooses [   ] to me [       ] in all that is due to me from my aforementioned ketubba, (15) delayed marriage gift and dowry […] and will give it to him (16) […] and bear witness for me   [
The first three lines of a 10th century Hebrew deed. PLYṬY, daughter of (left blank) called QPNU, came before the court screaming and yelling. The pronunciation of these names is unclear. vaʿad keneset sahar ’agulat bet dinenu are clear references to the Sanhedrin and suggest that this deed originated in the court of the Palestinian yeshiva at Jerusalem.

Verso contains an attempt, written in a later hand, to arrange King David’s progeny born in Hebron according to his wives as they appear in 2 Samuel 3:2-5.

**Previous literature:**

Not mentioned previously.

**Transcription:**

1. אנו בית דין החתומים למטה כך היה המעשה בתוך וועד כנסת סהר עגולת בית דינו. בא

2. לפנינו פלメディア בת המכונה קסנו. עשתה ושקה ממיה ורשה וחוזרה ושהו וмиילתה

3. וחבלת האמרת כפה שם עמותי ראוני ובררי והאוני דבני ושם המﻛם לכנר אשא

**Translation:**

We, the undersigned court: thus were the proceedings in the congregation of the crescent assembly, the circle of our court: PLYṬY b. (left blank) called QPNU came before us screaming, yelling, beating, shouting, shrieking, crying, whining, complaining and saying thus: “listen to me, my lords and masters, hear my words and the Place (i.e. God) will listen to you, for (I am a) woman […]

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1 Parchment, 18X3.5cm.
2 In his notecards, Goitein referred to this document as “very old.” I estimated this deed as belonging to the tenth century due to its script. This dating has been confirmed by Edna Engel, of the Paleography Project of the Jewish National and University Library, to whom my thanks are given.
3 A man named Paliti is mentioned in PT, Sukka, 10a.
4 See also 1 Chronicles 3:1-4 (where the son of Abigail is called Daniel).
5 I have benefitted from Goitein’s provisional transcription found in PGB.
6 Also possible: קסנו.
Four fragments making up the top several lines of a legal deed. A reconstruction of how the fragments fit together is offered below.

Sittūna bt. Ḥayyīm b. Solomon, known as Ben al-Raḥbī, came to court to nominate a representative to sue her husband, Faraḥ b. Joseph, known as Ben Bānūqa, who had abandoned her years ago without maintenance. Apparently, he had also sold part of her dowry and mortgaged the rest of it.

This document is mentioned by TS 13 J 20 17, a letter to ‘Eli b. ‘Amram from a court clerk specifying the deeds written and fees received during Eli’s absence, see transcription and description by Mark Cohen in PGB; also mentioned in Goitein, *Med. Soc.* 2:230; and Bareket, “Eli b. ‘Amram,” 17, n. 79. The passage relevant to our document reads: “I have written a power of attorney for receiving a bill of divorce in Spain (Andalus) from Ben Bānūqa to his wife, the daughter of Ḥayyīm ben al-Raḥbī, by Farjūn the parnas, the seller of flax (*al-kattānī*), may God keep him alive. He (Farjūn) will bring it (the power of attorney) to you for its authentication (*li-yaqūmhā* – i.e. to make the *qiyyum*). Nothing was charged from him, I have informed you, my lord, of

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1 Paper, 17X9cm.
2 i.e. from Raḥba, there are several towns with this name in North Africa and Syria, see Yāqūt, *Mu’jam al-Buldān*, ed. Wüstenfeld (Leipzig: 1867), 2:762-767, and see Cohen, “A Partnership Gone Bad,” 224, n. 17. There are several people in the Geniza with this nisba, see Gil, *Ishmael*, 4:896 (index). Sittūna’s father makes an appearance in ULC Or 1080 J 6: A summary of the contents of a deed (made in Fustat according to the witnesses) in which Ḥayyīm b. Solomon b. Aaron Cohen Raḥbī appointed a representative, Issac b. Barhūn, to travel to Qayrawan to sue his mother-in-law, Rivka bt. Isaac. Solomon, Ḥayyīm’s father, died leaving two married sisters and three sons: Raḥmūn and Harūn were in Qayrawan and Ḥayyīm who was away. Apparently, Rivka bt. Isaac b. Isaac (the wife of Ḥayyīm’s late father, Solomon) obtained Solomon’s estate by a stratagem (*ḥāzat mā khallafa bi-ḥīla*). Ḥayyīm, probably the eldest son (old enough to travel and trade), nominated Isaac to sue his mother-in-law for what he claimed she seized. The power of attorney was dated to 14 March 1034. See on this document Goitein, *Med. Soc.* 3:256, n. 40; Bareket, *Shafrir*, 287 (index); and David, “Divorce,” 20 and 326 (for other references see FGB). It is important not to confuse Sittūna’s father with another contemporaneous Ḥayyīm b. Solomon, who was a *haver*, on him see Gil, *Palestine* 3:673 (index).
3 Goitein notes that Bānūqa was the name of the beloved daughter of Caliph al-Ma’mūn (813-833). Several people are known from this family. The earliest is Joseph b. Israel Ben Bānūqa who is mentioned in a letter to Ibn ʿAwkal (TS 12 291, v.11, ed. Gil, *Ishmael*, #207). His son was probably Israel b. Joseph Ben Bānūqa who wrote a letter to Nahary b. Nissim (TS 10 J 9 8, ed. Gil, *Ishmael*, #233) and was mentioned in a deed of 1047 (TS 13 J 9 5, r.7-8, ed. Gil, *Ishmael*, #633). It is likely that “our” Faraḥ b. Joseph is the brother of Israel b. Joseph. Farah also makes an appearance in ULC or 1081 J 30, a legal testimony in which Faraḥ b. [Joseph Ben] Bānūqa declares that he was on a journey with a shipment of goods that were received in Qayrawan by Barhūn b. Moses Taherti. Another document, TS AS 152 182, is a faded and hard to read fragment of a letter mentioning a commenda agreement between a certain Ben Bānūqa (either Faraḥ or Israel) and Nissim b. Shemarya (this information is taken from Ben Sasson, *Qayrawan*, 489 – the document is faded and the present writer cannot make much sense of it without more extensive study).
This passage allows us to attempt a completion of line 7 in our document as well as to date it approximately to the 1050s-1060s.

**Previous literature:**


**Transcription:**

The testimony which took place before us, we, the undersigned witnesses to this deed [of appointment]: Sittūna bt. Ḥayyīm b. Solomon, known as al-Raḥbī, m(ay he rest in) p(eace), came before us and said: “Know, my lords, that several years ago my husband, R. Faraḥ, known as Surūr b. Joseph, m(ay he rest in) p(eace), known as Ben Bānūqa, walked out and abandoned me naked, bare and without maintenance. I was left a forlorn

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discussion of the context this completion is probable, but not certain.

8 These cannot be read from the document and is a suggestion following TS 13 J 20 17.

9 Farah and Surūr are related names, both meaning joy.
aguna, 10 a widow of the living. I have nothing in my hands after he sold some of my dowry and pawned the rest. Years have already passed […] Now my lords, be my witnesses and make the symbolic purchase from me, as of now, and write and sign using every ex[pression of right. Give to Farjūn the parnas, the flax merchant b. […] so it will be in his hand a proof and evidence […] I have made] before you a complete declaration that I have given him as a complete gift […] four cubits of land in my courtyard11 and through them I have appo[inted him my representative…..] to sue my husband [ R. Faraḥ ] known as Surūr[ b. Joseph

10 The text probably reads “ʿAguna ʿAguma.” ʿAguma is often used in the context of abandoned wives, alluding to PT Ḥagīga 11a (2:2) (כון דברי אבות בָּשָׁלָם וְאַלְפֵּנָּהוּ תְנוֹתֵי? ). See also Gil-Fleischer, Yehuda ha-Levi, 498, n. 22; Goitein-Friedman, Helfon, 468, n. 61; and Ephraim Bezalel Halivni, “More than One Meaning: Aguna and Erev Shabbat” (Heb.) Language Studies 10 (2005), 29.

11 On this expression, see Cohen’s next book tentatively titled Law and Society in Maimonides’ Mishneh Torah: Codification in the Post-Talmudic Islamic Economy, Chapter Seven.
A letter from a certain Ishāq b. Ḥādīn from al-Maḥalla to Abū al-Ḥasan ‘Alī al-Kohen b. Yahyā, the well known parnas in Fustat, active between 1057-1107. In the letter, Ishāq describes the marital problems of a couple in al-Maḥalla: the wife wanted to move to Fustat because life in the rīf was not for her, while her husband, a certain Ephraim, said that Fustat was too expensive and he could only move to Damietta. The couple had already gone to court in al-Maḥalla, however, according to the writer, once the wife realized she was about to lose at the local court, she left for Fustat to appeal to the parnas. The letter at hand is the writer’s reply to the parnas’ inquiry. See further discussion in Chapter Four.

On the possible identity of the Joseph he-ḥaver, the judge in al-Maḥalla, see the note following the translation.

Al-Maḥalla, 1057-1107. If the identity proposed to Joseph the judge is correct, then the dating can be narrowed further to 1084-1107.

Previous literature:


Transcription:
(1) In (Your) name, O Merciful

(2) The letter of my lord has arrived, may God prolong your life and make lasting your honor, (3) strength, health, and favor. I understood (your letter). Regarding what you mentioned (4) in the matter of Ephraim: I sent for him and he came to me. I showed him (5) the letter of my lord, may God guard you. I saw that he desires (6) his wife and the reason for his neglecting her is only because she left (7) him and went up to Fustat against his command. (This was) after (8) she and he sought judgment in al-Maḥalla from

5 It is possible to complete this lacuna with סיה מקא[ ...
6 On אגל, see Blau, Grammar, 35-36.
7 The completion suggested is uncertain. לאגל and מן אגל are more common, but we would expect to see the part of the initial lamed of לאגל above the line (some trace of it might be there) or the final nun of מ, see n. 11 below. Another option is to read something like ל צמאן אלסלטאן והו רג, see n. 1 below.
8 See Blau, Dictionary, 233.
Mr. (9) Joseph [ha-ḥaver], may the R(ock) pr(eserve him). It became affirmed to him (i.e. to Joseph) that she transgressed (10) [...] When she saw that the ruling would be against her, she went up (11) to Fustat against his (i.e. her husband’s) command. Also, he did not have [...] (12) He is a poor man. He is not able (13) to reside in Fustat. If she comes to him, he will have nothing (14) dearer than her. If she does not desire to live in the Delta (rīf), he will put her up (15) [in] Damietta. If she desires him, she should tell him (16) to send her a messenger who would bring her to him (17) according to where she chooses that he put her up. For he cannot (18) leave the t[ow]n [becau]se of the government’s tax collector and cannot leave.11 If she chooses him (also possible: it) he will have nothing dearer than her. If she does not want him (also possible: it), let her inform him so he will send her bill of divorce to her. This will be her choice and not his. I send you the utmost greetings of peace.

(Verso: Address written in Arabic script (except al-Kohen):
(To:) My lord, the elder, Abū al-Ḥasan ʿAlī [al-]Kohen b. Yahyā al-fīrnās, may God prolong his life and make lasting his honor, strength, happiness and humble his enemies.
(From:) He who is grateful for his favor, Ishāq b. ʿImrān.

On the identity of Joseph he-ḥaver

The identity of Joseph he-ḥaver, who was the officiating judge and probably the mugaddam of al-Maḥalla, is not clear. Joseph is among the most common names in the Geniza and the identity of mugaddams in al-Maḥalla has not been reconstructed. In TS 13 J 19 6, a letter to the community of al-Maḥalla from Joseph ha-Levi the Jerusalemite b. Moses, one of the first individuals Joseph greets is “the Ḥaver … Joseph” (r.21) (in his notecard Goitein dates the letter to around 1090). I think it is possible to make out barely,

9 On the identity of this man, probably the mugaddam in al-Maḥalla see the note after the translation.
10 If the suggested completion is correct, then the sentence would be something like “He did not make her suffer.”
11 This line is faded and torn. The completions suggested are uncertain and so is the resulting translation; see n. 7 above. On tax farming, see Med. Soc. 2:358-363. מַדִּי can mean either “appointment as a tax farmer” (Med. Soc. 2:361), “tax farm” (see TS 13 J 14 14, r.18-r.m.2: madī ilā al-dammān alladhi fi al-Minya/Munya), or “tax farmer” (Blau, Dictionary, 388). If we understand the text to mean “because of the tax collector,” it is possible to point to the many cases in the Geniza of debtors hiding in fear of the tax collector; see Cohen, 43m 131-138 and 165. However, if the person could not leave town due to the tax collector, why does he suggest moving the wife to Damietta? If we understand the text to mean “because he is a man of the government’s tax farm,” we can point to a case where a wife had to join her husband at the Delta (rīf) because he was a tax famer there; see Abraham Maimonides, Responsa, #98, p.150.
in the beginning of r.22, the word “ha-Levi.” This is significant because we know a 
muqaddam of al-Maḥalla called Joseph ha-Levi he-ḥaver (ha-Meʿulle) from a series of
documents concerning a communal conflict in al-Maḥalla during the Nagidate of
Mevorakh b. Saadya published in Cohen, “A Conflict in a Provincial Egyptian Jewish
Community,” 123-154 and ibid, Jewish Self Government, 236-240 and 322-337. Cohen
dates the conflict to around 1105. The identity of this muqaddam has hitherto been
unknown, but Goitein and Cohen have speculated that he was of Palestinian origin (due
It seems to me that the muqaddam of Cohen’s documents is none other than Joseph ha-
Levi he-ḥaver b. Ḥalfon, known from several other documents that allow us to track his
movement from shām to Egypt. We find him in Tripoli, Lebanon, in 1081, writing a deed
of appointment and signing its authentication clause as Joseph ha-Levi he-ḥaver b.
Ḥalfon (TS 13 J 1 19, ed. Gil, Palestine, #607). We then find him in 1083 in Aleppo
signing the authentication of a deed of appointment, this time without the title ḥaver
(ENA NS 17 31r). This document is especially intriguing as its margins and back side
contain several drafts of legal documents, among them a fascinating document of legal
court record regarding a commercial partnership in Fustat, 1084 (ed. Ackerman-
Liebermann, “Partnership Culture,” #23). Most significantly, the incomplete draft
regarding the commercial partnership gives way quite abruptly to a marriage agreement
of a couple who had married in Tyre and later divorced, only to remarry in al-Maḥalla
(Ackerman-Lieberman published part of the document but apparently did not realize that
the draft continues on the other side, in the margins of the Aleppo document). The most
reasonable way to explain how a 1083 deed from Aleppo was used as draft paper in
Fustat in 1084 and later in al-Maḥalla is to posit that someone associated with the court in
all these locations kept the deed and allowed the court clerk to use the ever shrinking
empty space for drafts. This remarkable document ties Joseph ha-Levi b. Ḥalfon of shām
to Fustat and, more importantly, al-Maḥalla. To the period of 1084-1090 we should also
date Bodl MS Heb c 28 19, a letter from a certain Nāshī b. Thābit to Joseph ha-Levi he-
ḥaver gedol ha-yeshiva b. Ḥalfon ha-Levi he-hasid. In the letter, Nāshī asks Joseph to
convey his thanks to al-shofet ish yisrael (see below on his identity), who is his
representative when he is away. After informing Joseph that he kisses his hands and that his wife and child also send their greetings, he asks Joseph to inform “the distinguished Rav” of his gratitude, for he knows that it was he who was behind the assistance he received. This information indicates that “our” Joseph was at that time in Fustat and that he was connected with Judah ha-Kohen b. Joseph, who served on David b. Daniel’s court. In 1092 we find Joseph again in Fustat signing (again, without the “ḥaver”) the authentication clause of a complicated debt settlement in the court of David b. Daniel (TS 20 31).

By 1117, Joseph was no longer alive, as indicated by the prenuptial agreement of his son, Ḥalfon ha-Levi, where Joseph ha-Levi’s name appears with the blessing for the dead (TS 24 75, ed. Ashur, “Engagement and Betrothal,” H-23 and Weiss, “Ḥalfon,” #94). Other documents involving his son are TS 13 J 18 15 (a letter to Ḥalfon from 1147), TS NS 246 22, r.19, ed. Nehemia Allony, “A Twelfth Century List of Personalities and their Titles” Sefunot 8 (1964), and 127-133 and TS K 15 47 v.1-2 (where we learn that Ḥalfon was a physician), see Med. Soc. 5:578-9, n. 38.

Two documents whose attribution to Joseph ha-Levi he-ḥaver is questionable are TS 16 123 (ed. Gil, Palestine, #566), a ketubba written in Ramle in 1051, in which the bride remarries her husband and appoints a certain Joseph ha-Levi b. Khalaf as her representative; and Westminster Misc. 35 (ed. Gil, Palestine, #605 and Goitein, Palestine, 278-282) where, in a letter from Tripoli from the 1070s, Gil suggests that “our relative Joseph” might be Joseph ha-Levi b. Ḥalfon of TS 13 J 1 19 (see above). However, Joseph was a common name and Goitein did not make this identification.

While I consider the identification of Joseph ha-Levi he-ḥaver of Cohen’s documents with Joseph ha-Levi he-ḥaver b. Ḥalfon to be almost certain, it is not clear that he is Joseph he-ḥaver (without the Levite epithet) in our letter (ULC or 1080 J 276). It is therefore important to suggest two other candidates. The first is Joseph ha-shofet, the delight of the yeshiva (mesos ha-yeshiva), ish yisrael, b. Abraham, who came before the court in Damietta to rent (together with Daniel and Ḥalfon, sons of Isaac) a silk tax farm.
from a certain Musāfir for a year, starting in January 1106, for two dinars a month (Bodl MS Heb d 66 8). He is also mentioned in a letter to Joseph ha-Levi he-haver (Bodl MS Heb c 28 19 – see above) in lines 1-2 of the right hand margins. However, we have nothing that ties him to al-Maḥalla nor did I find him mentioned with the title “haver.”

The other candidate is the Joseph he-haver b. Elʿazar who signed a deed of appointment that Gil attributed to Acre in the first half of the 11th century and Goitein to Tinnis in the second half of the 11th century (TS 20 103, ed. Gil, Palestine, #225 and see Goitein, Med. Soc. 5:118 and 538). Goitein based his attribution on TS 12 657 (tr. Goitein, Letters, 173-174), in which Judah ha-Cohen b. Joseph (the famous “ha-Rav”) informs Nahray b. Nissim that the Nasi (David b. Daniel b. ‘Azarya) has ordered a ban to be imposed on Joseph b. Elʿazar, the silk merchant (or silk worker) residing in Tinnis and known as al-haver (obviously, David b. Daniel did not think him deserving of the title) for his prayers and offering of supplications to the disgraced Mevorakh b. Saʿadya (could it be that this loyalty he showed Mevorakh earned him the position in al-Maḥalla when Mevorakh regained power?). It appears that Judah ha-Cohen intervened on Joseph’s behalf to delay the declaration of the ban until all the information would be obtained and examined. The problem with this identification is that we cannot tie him to al-Maḥalla. Incidentally, Joseph he-haver b. Elʿazar should not be confused with Joseph ha-mumhe b. Elʿazar, son of the shofet who was active and signed legal documents during the same period in Fustat (see Antonin 460, where he signs a ketubba in 1065); Bodl d 66 133v, (ed. Ashtor, “Information on the Jews of Latakiya in the Era of the Crusades” Sefer Joseph Braslavi (Braslavski) (Jerusalem: 1970), 483-484 with Goitein’s corrections in Med. Soc. 2:484).

### Geniza Documents Consulted

**Collections and Abbreviations**

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<tr>
<th>Abbreviation</th>
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<td>INA</td>
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<td>JNL</td>
<td>National Library of Israel (old: Jewish National and University Library (INUL) and Jewish National Library), Jerusalem</td>
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<td>TS</td>
<td>Taylor Schechter Collection, Cambridge University Library&lt;sup&gt;2&lt;/sup&gt;</td>
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<tr>
<td>Westminster</td>
<td>Westminster College, Cambridge. Recently jointly acquired by the universities of Cambridge and Oxford and will be called Lewis - Gibson</td>
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<sup>1</sup> These shelfmarks (historically cited by Goitein as ULC) indicate Geniza fragments that arrived at Cambridge prior to Schechter’s journey.

<sup>2</sup> The different types of shelfmarks used to indicate whether a document was kept in a box (for example: TS J 1 4), a bound volume (for example: TS 10 J 12 1) or under glass (for example: TS 12 270), but now these differences no longer apply. TS NS (New Series) are documents sorted since 1954 and TS AS (Additional Series) are documents sorted since 1974.
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