Abstract

Modern scholars of Jewish Studies have long recognized that rabbinic texts from late antiquity accept the legality of polygynous marriage and legislate on a variety of situations involving multiple wives. Many of these same scholars have also argued, however, that rabbinic literature contains an observable 'monogamous trend,' which promotes monogamy and condemns polygyny. In order to evaluate this claim, and to further the academic understanding of this subject, this thesis analyzes and contextualizes a comprehensive body of rabbinic legal and narrative texts that intersect significantly with polygyny. This study considers relevant articles of post-biblical rabbinic legislation, as well as subsequent discussions of this legislation, in the legal domains of levirate marriage law, procreation law, betrothal law, inheritance law, testimony law and monarchy law. It also considers narrative, interpretive and prescriptive texts involving multiple wives. These texts are drawn from the Tosefta, the Mishnah, the Palestinian and Babylonian Talmuds, various midrash collections and the Targum to Ruth. The study explicates the legal and conceptual principles, social assumptions and interpretive maneuvers that motivate these texts. This procedure allows for the cogent isolation and identification of a somewhat narrow range of rabbinic perspectives on the issue of polygyny. This thesis shows that previous studies have by and large understated the polygynous aspect of rabbinic literature while simultaneously overstating the case for a monogamous trend.
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Introduction

Since almost the inception of the academic discipline of Jewish Studies, modern scholars have recognized that the corpus of rabbinic literature\(^1\) contains numerous textual traditions that presuppose the legality of polygyny,\(^2\) describe polygynous marriages, and suggest or even recommend polygyny in certain situations. For just as long, though, many of the same scholars have also advanced a number of propositions concerning these textual traditions that destabilize or negate some or all of their polygynous content.\(^3\) In the present study, I will endeavour to carefully examine all of the late antique rabbinic texts that intersect significantly with polygyny in order to define and describe their assertions and assumptions about polygyny and to evaluate modern claims about these texts. I will argue that the corpus of late antique rabbinic literature accepts polygyny as a legitimate marital arrangement, and that the existence of monogamous trends in this body of texts is somewhat doubtful.

There are several factors that make such an endeavour worthwhile. First, the existing literature on this subject is insufficient and somewhat unsatisfactory. Despite the considerable volume of the relevant primary source texts, there has not to date appeared a single manuscript-length study of polygyny in rabbinic literature. Numerous discussions of this issue have appeared in scholarly literature, but the vast majority of these are no

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\(^1\) I use this term as an external designation for the corpus of late antique Hebrew and Aramaic texts that includes the Mishnah, the Tosefta, the Babylonian and Palestinian Talmuds, the Targumim and the various midrash collections. I do not here posit (or necessarily reject) that this collection of texts has a distinct and definite essence and a single or even binary perspective on any particular issue, including polygyny. Aside from the Mishnah (probably early 3\(^{\text{rd}}\) century), there is little in the way of a scholarly consensus concerning the dating of the ‘publication’ of these texts. Cf. H.L. Strack and Günter Stemberger, *Introduction to the Talmud and Midrash* (ed. and trans. Markus Bockmuehl; Minneapolis: Fortress Press, 1996); Shmuel Safrai ed., *The Literature of the Sages* (vol. 2:1 of *Compendia rerum Iudaicarum ad Novum Testamentum*; Philadelphia: Fortress Press, 1987).

\(^2\) The term ‘polygynous marriage’ describes a type of marriage involving one husband and two or more wives. I use this term interchangeably with the term ‘polygyny.’ Earlier studies tend to use the less accurate term ‘polygamy,’ which may also describe polyandrous marriages.

\(^3\) See below, pp. 4-8.
more than three or four pages in length. More substantively, these already brief treatments often skim over the surface of the relevant texts, focusing almost exclusively on the historical kernels that they ostensibly contain. In addition to brevity, many existing treatments of this issue betray, to a varying degree, an apologetic tenor. One of the clearest outcomes of this study is that these shorter, historically oriented treatments have in many cases overlooked numerous and significant literary, intertextual, and ambiguous features of the rabbinic texts under their consideration.

This study will also aid in contextualizing the various legal and ethical positions of later medieval and modern rabbinic communities on the issue of polygyny. Stated briefly, many rabbinic communities have looked upon much of rabbinic literature, especially the Mishnah and the legal portions of the Babylonian Talmud, as authoritative in one way or another. Hence, some consideration of this body of texts has likely influenced and affected rabbinic legal decisions and ethical positions on polygyny, along with other relevant social, cultural and economic factors. As this study will identify rabbinic literature’s range of attitudes towards polygyny, it will help to isolate and identify the impact of rabbinic literature on later attitudes towards this issue.

The present study seeks to define the place of polygyny in rabbinic texts; it does not attempt to describe the place of polygyny in Jewish history. The primary texts that I deal with below establish with some degree of certainty only the modest historical conclusion that rabbinic sages living in Palestine and Babylonia from roughly the second

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5 See p 5 below for a brief discussion of this term.
6 For a sophisticated discussion of the complex relationship between rabbinic texts and the historical realities to which they are connected, see Galit Hasan-Rokem, Tales of the Neighborhood: Jewish Narrative Dialogues in Late Antiquity (Berkeley: University of California Press, 2003), 1-27. See also Jeffery L. Rubenstein, Culture of the Babylonian Talmud (Baltimore: Johns Hopkins University Press, 2003), 7-13.
century until the seventh were comfortable discussing issues pertaining to polygyny and generally assumed its legality.\(^7\) These texts emerge from intertextual legal discussions that do not comment on the practice or prevalence of polygyny amongst either the rabbinic sages themselves or Jewish society at large; hence, this study will not attempt to produce a historical account of the characteristics of the social institution of polygynous marriage in late antique Jewish societies, nor will it provide an estimate as to the prevalence of this institution. This thesis may allow for a critical reassessment of the role of polygyny in late antique rabbinic history, though only to the extent that the rabbinic texts themselves are implicated in such historical undertakings.\(^8\)

This study will also avoid the contentious contemporary debate over the patriarchal or androcentric nature of rabbinic literature. Several contemporary scholars have reasonably drawn a connection between the issues of polygyny and patriarchy.\(^9\) A legal system which permits polygyny but prohibits polyandry bestows greater freedom to men than it does to women in the marital realm, and this constitutes an obvious gender-defined structural inequality. Moreover, a system which grants men the privilege to marry multiple wives simultaneously grants them the privilege of establishing family structures,

\(^7\) Chapter six will show some of the assumptions of mishnaic sages about the nature of the polygynous household, but these are not necessarily reflective of a prevalent social reality.

\(^8\) “What I am not trying to do... is to write social history. Historians often find themselves using law to write history, and Talmudists, using history to understand law. Both of these approaches are faulty. Historians cannot assume that all or even most people followed the law. Similarly, Talmudists cannot assume that sociohistorical realities are accurately reflected in the law. As hard as it will be to restrain myself from seeing the law as a representation of social reality, I will try to do so. What I am interested in is a history of the law, not a history of people. Although it is likely that what jurists see around them dictates their choice of cases to deal with and focus on, we cannot know that for sure. Since all cases could be hypothetical constructs, we cannot deduce social realities from legal preoccupation with certain issues.” Judith Hauptman, *Rereading the Rabbis: A Woman’s Voice* (Boulder: Westview Press, 1998), 4.

i.e. polygynous marriages, which could conceivably be objectionable and perhaps even harmful to the women (and children) who live within them. Nevertheless, polygyny is only one of a very wide range of factors (consider also: gender defined distribution of wealth, social status, choice of occupations, juridical powers, political powers, etc.) that can indicate whether and to what degree a society is patriarchal, and there are and have been many monogamous societies which one can reasonably define as patriarchal, including contemporary Canadian society. Any study of rabbinic Judaism that aims to characterize its patriarchal aspect must consider this wide range of factors, which is a task that lies well beyond the scope of the present study.  

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Methodology

This study does not employ or advocate one single methodology. Rather, it will employ several interrelated critical methodologies in order to analyze several different and distinct genres of rabbinic literature.

My analysis of tannaitic rulings that appear in the Mishnah and Tosefta will first attempt to explicate the basis of the ruling in question. This could be a biblical text, a more fundamental article (or principle) of tannaitic legislation, an inherited pharisaic tradition, an article of Greek or Roman law, or a social or cultural assumption or axiom.  

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This procedure will allow for the isolation and analysis of “postscriptural” tannaitic rulings dealing with polygyny, which are not dependent on pre-existing and authoritative


11 For example, m. Gittin 3:1 rules that a man cannot use the same writ of divorce to divorce two of his wives simultaneously, even if they have the same name. The underlying motivation here is the mishnaic principle that a writ of divorce is only valid for one particular woman.  

biblical material. If the rationale of a particular ruling is ambiguous, I will attempt to provide the most cogent explanation for it, or a range of explanations. I will indicate the minority or majority status of a tannaitic ruling when such designation is both significant and possible.

My analysis of midrashim will follow a slight variation on the procedure above. In locating the rationale for a particular rabbinic interpretation of a biblical text, I will first and foremost consider the role of the intertext, if one is present. Rabbinic midrashim often redeploy some of the linguistic form and/or semiotic content of one biblical (or less often rabbinic) text, the intertext, in order to generate an innovative interpretation of the text under consideration. This procedure will often allow for the cogent interpretation of midrashim that appear to deviate significantly from the surface meaning of the biblical text under discussion.

My analysis of Palestinian and Babylonian talmudic narratives, rulings and statements will at first follow the procedures above, in order to locate the legal or logical basis of individual textual traditions. In addition to treating these texts as individual units, though, I will also treat them as rhetorical elements in dynamic and dialogical textual compositions. As rhetorical elements, individual talmudic traditions do not necessarily reflect majority or even minority positions; some traditions seem to emerge primarily for the sake of academic (or textual) dialogue. Moreover, the authenticity of some texts,

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13 "In all areas of halakha... details and definitions not found in the Tora were added." Shmuel Safrai, "The Oral Tora," in The Literature of the Sages, 125.
14 "The texts cited [i.e., the intertexts] are the generating force behind... [midrashic] textual expansion." Daniel Boyarin, Intertextuality and the Reading of Midrash (Bloomington: Indiana University Press, 1994), 22.
especially Babylonian quotations of otherwise unknown Palestinian traditions, is sometimes dubious.\(^{16}\) I will consider both of these possibilities in my analysis.

**History of Research**

The first modern consideration of polygyny in rabbinic literature\(^ {17}\) appears in Zacharias Fränkel’s 1860 work *Grundlinien des mosäisch-talmudischen Eherechts*.\(^ {18}\) In this pioneering work, Fränkel argues two points: First, he claims that a significant mishnaic ruling, m. Yevamot 2:10,\(^ {19}\) indicates polygyny’s rare and exceptional status “amongst the people.” Second, Fränkel states that the biblical institution of levirate marriage was perhaps the only barrier to total monogamy.\(^ {20}\) The major drawback of Fränkel’s work is its brevity: it amounts to only three sentences.

The next major consideration of polygyny in rabbinic literature appears in an 1860 installment of Leopold Löw’s Hungarian periodical *Ben Chanaja*.\(^ {21}\) Löw’s treatment, which is in part a response to Fränkel’s work, establishes several key concepts that reappear in the work of almost all successive scholars. Löw argues that “unselfconscious”\(^ {22}\) mishnaic texts dealing with multiple wives indicate that polygyny

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\(^{16}\) Rubenstein, *Culture of the Babylonian Talmud*, 8.

\(^{17}\) Early modern sources do not mark a significant distinction between ‘Jewish history’ and the ostensibly historical aspects of rabbinic literature. The present study will mark such a distinction, and so, to the extent that this is possible, I will attempt to disentangle these scholars’ analyses of the relevant texts from their historical assertions.


\(^{19}\) See below, pp 109-112, for an analysis of this ruling.

\(^{20}\) “Im Volk scheint die Polygamie allmählig mehr zu den Ausnahmen gehört zu haben, so dass die Mischna auf die Absicht, sie einzuziehen, nicht reflektiert... Der ausschliesslichen Monogamie stand zumeist die biblisch gebotene Leviratsehe im Wege.” Fränkel, *Grundlinien des mosäisch-talmudischen Eherechts*, 9-10. Translation: “Amongst the people polygamy appears to be mostly known as an exceptional case, to the extent that the Mishnah does not consider the possibility of entering a polygynous marriage... Mostly the bibliically demanded institution of levirate marriage stood in the way of an exclusive monogamy.”


\(^{22}\) “mit aller Unbefangenheit,” *ibid.* 51.
was "uncontroversial" in the second century. Third-century Palestinian aggadic texts, however, display an "unmistakably monogamous perspective." The same "monogamous tendency" that emerges from Palestinian rabbinic texts is not visible in those of Babylonia, where the people had a lower level of civilization.

More than 80 years elapse before the appearance of the next major treatment of the subject. This is the first chapter of Louis Epstein's *Marriage Laws in the Bible and Talmud*. Here, Epstein argues that "in theory at least, the [Babylonian] Talmud assumes polygamy as the marriage rule without question." Rabbinic texts make this a restricted polygyny, however: "in the rabbinic period the Jewish moral sense rose against too many wives." Epstein also suggests that the texts indicate a popular aversion to polygyny: "Apparently, despite the law, people disliked polygamy and protested it when it occurred." Epstein's work cites a much wider range of primary sources than either of his predecessors.

The next discussion of polygyny in rabbinic texts occurs in the second volume of Salo Baron's massive *A Social and Religious History of the Jews*. Baron, like his predecessors, notes that rabbinic texts accept the legality of polygyny: "Husbands were free from the obligation of marital fidelity." Despite the legality of polygyny, however, Baron maintains that rabbinic texts treat polygyny variously as a subject of merely

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23 "unverfänglich," *ibid.* 51.
24 "unverkennbare... monogamische... Anschauung," *ibid.* 54.
25 "eineheliche Tendenz," *ibid.* 52.
26 *ibid.* 55. Löw attributes this partially to the influence of the Roman Empire upon Palestine.
28 *ibid.* 18.
29 *ibid.* 19.
30 *ibid.* 21.
32 *ibid.* 223.
Baron suggests a novel hypothesis to account for this contradictory situation:

Possibly talmudic Judaism clung to this unrealistic legal theory in conscious opposition to Greco-Roman monogamy. Trying to maintain the ancestral heritage against the influx of foreign ideas and institutions, the Jews insisted on the continued validity of the positive principle – man’s liberty to marry more than one wife.\textsuperscript{34}

Following Baron, the next substantial treatment of the issue is S. Lowy’s 1958 article, “The Extent of Jewish Polygamy in Talmudic Times,”\textsuperscript{35} in which Lowy argues that rabbinic texts point to the “universal practice of monogamy in both Palestine and Babylonia.”\textsuperscript{36} As such, monogamy is purely an internal development which has no connection with Roman legislation.\textsuperscript{37} In a variation on Baron’s hypothesis above, Lowy argues that the texts uphold the legality of polygyny in conscious opposition to the monogamy of the Samaritans, Sadducees, and Christians, which is based on “heterodox exegesis”.\textsuperscript{38} Despite the legality of polygyny, the texts draw a “strict line between monogamous practice and academic polygamous freedom.”\textsuperscript{39} Lowy uses textual criticism to negate the content of two texts that would otherwise seem to blur this “strict line.”\textsuperscript{40} Lowy’s study is comprehensive, but its apologetic tone and questionable methodology undermine many of its claims.

\textsuperscript{33} ibid. 227.
\textsuperscript{34} ibid. 228.
\textsuperscript{36} ibid. 123.
\textsuperscript{37} ibid. 116.
\textsuperscript{38} ibid. 132.
\textsuperscript{39} ibid. 138.
\textsuperscript{40} ibid. 124, 129.
Ze'ev Falk undermines two of Lowy’s claims in the first chapter of his 1969 book, *Jewish Matrimonial Law in the Middle Ages.* He argues that rabbinic texts dealing with polygyny are not necessarily of an academic nature only: “to some extent they do reflect a real situation.” Falk also draws a distinction between Palestinian and Babylonian rabbinic documents, and he attributes this distinction to context: “Palestinian Jewry, living as it did under Roman rule, was exposed to the influence of Roman views on monogamy; the Babylonian communities were also in close contact with a polygynous culture, that of the Zoroastrian religion of Persia.”

In two recent but very brief treatments, both Isaiah Gafni and Michael Satlow essentially agree with Falk’s contention that rabbinic views on polygyny reflect their respective cultural contexts. These two studies are valuable in that they consider these cultural contexts in much greater detail than any of their predecessors. Like their predecessors, though, both scholars see the emergence of a monogamous trend in Palestinian amoraic texts.

Two significant conclusions consistently reappear in the studies above. First, most scholars agree that rabbinic perspectives on polygyny and monogamy reflect the influence of their respective cultural contexts. Second, all of the scholars above agree that an observable monogamous trend emerges in at least Palestinian rabbinic texts. The present study will problematize both of these conclusions.

**Plan of the Thesis**

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42 *ibid.* 7.
43 *ibid.*
44 Gafni, “The Institution of Marriage in Rabbinic Times,” 21-25. See p 2 n. 3 for publication details.
The first five chapters of this work will each treat a single area of rabbinic legislation that intersects significantly with polygyny. In these chapters I will follow a consistent formula: I will first analyze an article of tannaitic legislation, or a small group of related articles. Then, I will consider relevant talmudic and then midrashic discussions or illustrations of this legislation.

The topic of the first chapter is the mishnaic codification of levirate marriage law. In this chapter, I will show that rabbinic supplements to the biblical law of levirate marriage make no effort to lessen the incidence of polygyny that would result from the functioning of this institution.

The topic of the second chapter is rabbinic procreation legislation. This chapter will show that rabbinic texts dealing with this issue uniformly presuppose the legality of polygyny. Moreover, the Mishnah and the Babylonian Talmud indicate that a second wife constitutes a valid solution for a couple's infertility.

The third chapter will investigate a series of rabbinic texts that problematize bigamous unions involving one fertile and one infertile wife. I will argue that these texts are participating in a specific literary motif and, as such, their critical element applies to mixed fertility marriages alone.

The fourth chapter will analyze rabbinic betrothal legislation. I will show that this legislation, in all of its late antique manifestations, is intrinsically polygynous.

In the fifth chapter, I will analyze and explicate rabbinic texts that legislate on the quantity and quality of wives whom a king can marry. I will show that the most stringent manifestation of this legislation limits a king to eighteen wives.
The sixth chapter will present three articles of mishnaic legislation that respond to their authors’ perceptions of the polygynous household. I will argue that this legislation is not merely academic.

The seventh and eighth chapters will look at prescriptions and descriptions of polygyny in the Babylonian Talmud. The first of these chapters will show that the Bavli’s depictions of polygyny display no discomfort with this marital arrangement. The second will present and explain the Babylonian Talmud’s two pieces of advice on polygyny.

In the ninth chapter, I will consider two of the texts that modern scholars most often refer to as monogamous trends. I will show that these texts do not necessarily constitute monogamous trends.\textsuperscript{47}

\textsuperscript{47} This term refers to texts that praise or presume monogamy, or criticize or reject polygyny.
Chapter One: Polygyny in the Mishnaic Codification of Levirate Marriage Law

This chapter will explicate and analyze those articles of the mishnaic codification of levirate marriage law that intersect significantly with the issue of polygyny, as well as tannaitic and amoraic treatments of this legislation. I will show that this group of legal, narrative and interpretive texts recognizes but does little to problematize the inherent potential of the practice of levirate marriage to engender polygynous marriages.

The Mishnah’s Order of Women devotes an entire tractate to the subject of levirate marriage law. In accordance with the Mishnah’s concise approach to most subjects, the biblical rules concerning a man’s duty to marry his deceased, childless brother’s widow are wholly absent from the tractate. An understanding of these rules is crucial, because what the Bible says regarding levirate marriage acts as the foundation for the Mishnah’s entire discussion of levirate marriage, and what the Bible does not say functions as the starting point for the Mishnah’s own legislation on the subject. The biblical legislation appears at Deut 25: 5-10:

(5) When brothers live together and one of them dies, and he has no child, the wife of the dead man shall not go to an outsider, to a foreign man. Her brother-in-law shall have sex with her [lit. “come upon her”] and take her as a wife and initiate levirate marriage with her. (6) And the first son that she bears will establish the name of his brother, the dead man, so that his name will not be erased from Israel. (7) But if the man does not desire to take his sister-in-law, then the sister-in-law shall go up to the gate, to the elders, and say, “My brother-in-law will not establish a name for his brother in Israel; he is not willing to initiate

48 On the mishnaic codification of levirate marriage law, see: Ilan, Jewish Women in Greco-Roman Palestine, 152-157; Romney Wegner, Chattel or Person?, 97-113; Satlow, Jewish Marriage in Antiquity, 186-189.
levirate marriage with me.” (8) And the elders of his town shall call him and speak to him. [If] he stands and says, “I do not desire to take her,” (9) then his sister-in-law shall approach him before the eyes of the elders, and remove his shoe from his foot, and spit in his face, and say, “Thus shall it be done to the man who will not build up his brother’s house.” (10) And his name shall be called in Israel, “the household of the removed shoe.”

This biblical passage provides reasonably straightforward instructions for the initiation of levirate marriage and the performance of the shoe removing ceremony (hereafter, the ‘halisah’ ceremony). However, these guidelines are anything but systematic, and there are many conceivable situations for which the passage does not provide guidance. The Mishnah addresses precisely these potentialities in tractate Yevamot.

Two of these potentially ambiguous situations bear a direct and necessary relation to the issue of polygyny. The first of these concerns what should happen if there are multiple brothers who are available to initiate levirate marriage. The biblical passage does not state either that any brother will suffice, or that the duty of levirate marriage is incumbent upon a particular brother in the family. This study will pay close attention in this regard to the Mishnah’s position, or lack thereof, concerning an (otherwise) eligible brother who already has a wife. It is conceivable that the Mishnah could have ruled that

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49 MT:

50 One can easily imagine several reasonable possibilities: The duty could be incumbent upon the eldest brother, as he could have the most authority and responsibility of the brothers. It could also be incumbent upon the youngest, as he has the largest number of fruitful years remaining, and this would help to ensure that the deceased brother would be built up.
the duty is not incumbent on a married brother in order to avoid polygyny in general or (perhaps) unwanted marriages to second (or third, or fourth) wives. In addition to multiple brothers, the biblical passage is equally ambiguous with regard to multiple wives; it does not state that one, some or all of a set of rival wives should go to one, some or all of the brothers.51

In addressing the two ambiguities above, the Mishnah will necessarily promulgate legislation that concerns multiple wives. This is not the case with the following three ambiguities; they bear no direct or necessary relation to the issue of polygyny. In addressing these three areas, however, the Mishnah nevertheless legislates on multiple wives. The first of these three ambiguities concerns incest. The bible does not state what should happen when an incestuous union would result from a levirate pairing. For example, the Bible does not state what should happen when a daughter comes before her father in levirate marriage, after the death of a childless uncle who married his niece.52 A negative answer to this question, i.e., he does not marry her, is not necessarily the only possible answer, as levirate marriage, in itself, seems to contravene a biblical incest law.53 Second, the passage does not state the legal consequences that do, or do not, come with halisah. The third ambiguity here concerns the domain of applicability of the levirate marriage legislation. In the biblical passage, the law seems conditional; it seems to apply only when brothers “live together.” The precise meaning of ‘living together’ is not clear.

51 Here, too, there are many possibilities. One brother could marry all of the wives, in order to maximize the chance that their deceased brother is “built up.” Following the same principle, all of the brothers could each marry one or more of the wives. It could also be the case that one wife would suffice, and marriage to more than one of the wives would be seen as a violation of Lev 18.16. Perhaps any one (or more) of the brothers could marry whichever one (or more) of the multiple wives appealed to him. This would then lead to an ambiguous situation for the co-wives who were not taken in levirate marriage. They could either perform halisah, because they were not taken in levirate marriage, or simply go free, because the duty had already been fulfilled.

52 There are fourteen incestuous possibilities. See m. Yevamot 1.1 for the complete list.

53 Lev 18:16.
Perhaps this clause indicates that, if a surviving brother does not live in the same region or extended household as the widow, she need not trouble herself about finding him.

The Mishnah will fill in each of the five ambiguous gaps above with its own innovative or inherited legislation. It is crucial to note that the Mishnah’s legislation here is in no way dependent upon any biblical material. While the Mishnah dutifully follows the rules that are set forth in Deuteronomy, this material is utterly insufficient to create a complete set of regulations regarding levirate marriage. In order to address these five ambiguities, extra-biblical innovation and decision-making are necessary.\(^{54}\) In other words, post-biblical legislation has, by necessity, an active and creative role in the construction of a (more) complete set of laws regarding levirate marriage. Moreover, this creative role is not limited to choosing between one of two possible options; often there are many viable options from which to choose.

The next section of this chapter will present a careful, sustained, and comparative analysis of the five articles of mishnaic levirate marriage legislation that involve multiple wives. This will help to isolate and define the position of the Mishnah on the issue of polygyny.

**Introduction: m. Yevamot 4:11(A)\(^ {55}\)**

The Mishnah addresses the Bible’s ambiguity about which brother should initiate levirate marriage in two non-adjacent but closely related passages:

It is incumbent on the eldest to initiate levirate marriage, but [if] the youngest has acted first, he is entitled to [her].\(^ {56}\)

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\(^{54}\) The choices that the Mishnah makes (or transmits) in this regard will almost certainly reflect one or more of the following factors: the socio-cultural milieux of first and second century Palestine, a mishnaic ideological programme, inherited pharisaic biblical-interpretive traditions or arbitrary decision making.

\(^{55}\) Three significant rulings (here: A, B, and C) concerning multiple wives appear at m. Yevamot 4:11. Their placement together indicates that the redactor treats polygyny as a single issue.
It is incumbent on the eldest to initiate levirate marriage. [If] he does not want to, they go to each of the other brothers. [If] they are not willing, they return to the eldest and say to him, “It is incumbent on you, either initiate levirate marriage or perform halisah.”

When multiple brothers are available to initiate levirate marriage with the widow, the duty falls first upon the eldest brother. Although the Mishnah uses the term “commandment” (מצות), there are no negative consequences for a younger brother who acts before the eldest brother, or for an unwilling eldest brother whose younger brother acts in his stead. In either case, the initiation of levirate marriage or performance of halisah by the younger brother fulfils the requirement. If the eldest is unwilling, the second passage reports that (rabbinic) authority figures will themselves poll any available younger brothers to see if one of them is willing to engage in levirate marriage or halisah.

The ruling here is not that the eldest brother must perform levirate marriage or accept halisah. What the Mishnah sets forth strictly is only that the responsibility belongs to the eldest brother. This seems to be a moral rather than a legal responsibility, but a moral responsibility that the Mishnah nevertheless couches in legal language. That is, the Mishnah rules that the eldest brother should initiate levirate marriage. This indicates a strong preference, rather than a legal necessity, for the eldest brother to act.

While the ruling above does not, in itself, have a direct connection to the issue of polygyny, a dependent ruling does:

Hebrew m. Yevamot 4.11

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56 m. Yevamot 2:8. Hebrew:
מַעְזָה בָּנוֹדָל לָיִבָּם וָאִם כְּדֵם הַקָּמָה וָאָם

57 ibid. 4:5. Hebrew:
מַעְזָה בָּנוֹדָל לָיִבָּם לָא רָצָה מֶלֶלֶכָּי עַל פֶּל מֶהוֹזָם לָא רָצָה חוֹדָם לָא בָּנָלָה אוֹמָרָה לָא עַלְיָר מֶפוֹזָה לָא חָלָּה אוֹ בָּם
Translation m. Yevamot 4.11

Four brothers married four women and died: If the oldest of them [the remaining brothers] wants to take all of them in levirate marriage, the authority is in his hand.58

Comment m. Yevamot 4:11(A)

If four brothers die without children, the Mishnah rules that the eldest surviving brother has the right to initiate levirate marriage with all four of the widows.

This text is significant to the present inquiry in several regards. First, the fact that the text even appears in the Mishnah is already significant. This passage does not introduce any new legal principle; the texts quoted above establish by themselves that the responsibility for levirate marriage is on the eldest brother, and the Mishnah presumes the legality of polygyny in a whole gamut of texts, most of which I discuss below. This leads to the question of why the text appears at all. One possible explanation is that the ruling implicitly responds to some anxiety about the proper legal (and/or moral) avenue to take in resolving such a situation.

There are indeed two other possible, but by no means superior, legal avenues that the Mishnah could have taken in addressing this situation: halisah and redistribution of the levirate widows to younger brothers. Although a ruling in favour of either of these

58 That is, it is his right to initiate levirate marriage with these women.
two possibilities would represent some deviation from the standard procedures, it would nevertheless be entirely valid in a legal sense.\footnote{There is even a precedent for such a ruling: m. Bekorot 1:27 presents a tradition that indicates a preference for halisah over levirate marriage.}

In the Mishnah’s system of levirate marriage law, the halisah ceremony is a legally unproblematic means to satisfy the biblical requirement for levirate marriage. Hence, it is conceivable that the redactors could have ruled that the eldest brother should perform halisah with the second, third and fourth levirate widows. The second avenue that the redactors could have taken is a monogamous (and more egalitarian) distribution of the levirate widows to unmarried brothers. Just as there are no negative consequences deriving from the halisah ceremony, there are likewise no negative consequences when a younger brother initiates levirate marriage or performs halisah in the place of the eldest brother. As the passages above clearly indicate, the Mishnah’s preference for the eldest brother to initiate levirate marriage is only a preference and not a legal requirement. Moreover, the preference itself appears to be a legal construct of the redactors of the Mishnah, and certainly does not reflect any biblical norm. The ruling, then, embodies an explicit and conscious, though also predictable, decision on the part of the redactors of the Mishnah against these two other valid choices. That the Mishnah upholds its preferences for levirate marriage over halisah and for the eldest brother over the others, even when these preferences lead directly to polygyny, is telling. This ruling reflects a certain degree of comfort with the idea of multiple wives; avoiding polygyny is not a priority here.

The second important aspect of the passage is its usage of the phrase, “If he wants... the authority is in his hands,” rather than “he marries them,” or, “he is
commanded.” The conditional aspect of the phrase suggests that the redactors understand that an elder brother might be hesitant about marrying four of his sisters-in-law. This may reflect a belief that polygynous (levirate) marriages, for whatever reason, are sometimes troublesome. The relatively weak volitional aspect of the phrase suggests some lenience to such hesitation on the part of the redactors. This lenience, in turn, suggests that the redactors intend the legislation for usage.

Several contemporary scholars have argued for the existence of monogamous trends in the Mishnah, and some have asserted that the sages merely cling to inescapable biblical legislation regarding polygyny. Here, the redactors of the Mishnah consciously ignore two perfectly legitimate legal avenues by which they could prevent the initiation of polygynous levirate marriages. Other scholars have claimed that the polygynous legislation is merely academic. Here, the redactors advise polygyny while at the same time signalling some awareness of the negative aspects of polygyny. Moreover, the lenience that this ruling conveys further indicates that it is not just academic. If the legislation were academic rather than prescriptive, then one would not expect any such hesitation or lenience.

**Introduction v. Yevamot 4:12**

The Jerusalem Talmud’s commentary to the mishnaic passage immediately above includes a brief narrative in which polygynous levirate marriage figures heavily.

**Aramaic v. Yevamot 4:12**

ארבעה מאה ימי' דלמא חל加工厂 אוחיון חימיון חימיון חימיון חימיון חימיון חימיון חימיון חימיון חימיון

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60 See above, 4-8.
61 See, for example, Lowy, “Jewish Polygamy in Talmudic Times,” 116-117.
Translation v. Yevamot 4:12

"Four of the brothers..." A story – There were thirteen brothers, and twelve died without children. They came before Rabbi requesting to be taken in levirate marriage. Rabbi said to [the brother-in-law], "Go initiate levirate marriage." He said to him, "I can’t." Each one of [the wives] said, "I will pay maintenance for my month." [The brother-in-law] said, "Who will pay maintenance for the intercalated month?" Rabbi said, "I will pay maintenance for the intercalated month." And he prayed for them, and they left him.

Three years later, they came carrying thirty-six children. They came and stood themselves before Rabbi’s courtyard. [Some people] went up and told him, "There’s a crowd of children below that want to greet you." Rabbi looked out from the window and saw them. He said to them, "What is your business?" They said to him, "We want you to pay the intercalated month." And he paid the intercalated month.

Comment v. Yevamot 4:12

In this rather fantastic narrative, twelve of thirteen brothers die leaving behind twelve widows but not a single child. The widows are all anxious to initiate levirate marriage

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62 m. Yevamot 4:11. The Yerushalmi emends the text slightly to, “four of the brothers.”

63 This likely refers to R. Judah the Prince, a tanna of the fifth generation.
with their one remaining brother-in-law and proceed to petition R. Judah the Prince to bring this about. The brother-in-law himself is hesitant about taking on such a role, on account of the economic difficulty of maintaining twelve wives. The wives agree that they will divide the responsibility for maintenance among themselves, with each wife paying for one month. The hesitant husband then asks about the short intercalated month which harmonizes the lunar calendar with the solar calendar. As all of the wives are already accounted for, R. Judah himself takes on this responsibility. He prays for them, apparently an auspicious act, and they leave.

The narrative jumps ahead three years. The fruitful family, which has produced 36 children, returns to the residence of R. Judah in order to seek payment for the intercalated month. He pays them and the story comes to a close.

This text represents a redeployment of the mishnaic legal scenario from the ruling above in narrative form. The story illustrates how the deaths of multiple brothers can lead to the taking of multiple wives. Moreover, the narrative provides an explanation for why a brother might be hesitant about initiating levirate marriage with multiple wives: the cost of such a venture would be considerable. The text does not, however, illustrate the functioning of the “eldest brother” aspect of the mishnaic legislation; the brother in the narrative is the only remaining brother, and not necessarily the eldest.

The text is clearly fictional. The twelve brides correspond with the twelve months of the year, and the intercalated month allows for R. Judah’s involvement in the later events of the story. R. Judah’s prayer has a curative, fertilizing effect, as it does in at least one other, clearly fictional text. Moreover, 36 surviving children in three years is a

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64 b. Ketubot 62B.
remarkable result, even for twelve enthusiastic brides. Finally, the superscript to the story marks it as such.

Isaiah Gafni mentions this text in his discussion of polygyny in the rabbinic era. Perhaps owing to the fact that the goal of his inquiry is an understanding of historical marriage in rabbinic times rather than depictions of marriage in rabbinic texts, Gafni largely ignores this fictional narrative. He claims that it is:

not different from so many other talmudic discussions of legal doctrine, particularly in the realm of issues such as levirate marriage, that appear to be either hypothetical or legendary... one can enjoy the remarkable story of the poor soul whose twelve brothers die, all childless – leaving him to contract levirate marriage with twelve widows – without necessarily assuming that we are confronted with reality.\(^6\)

Although the narrative above is clearly fictional, this does not mean that it lacks “reality” and has no relation to the issue of polygyny. On the contrary, the narrative represents an enthusiastic acceptance of the polygynous aspect of the mishnaic ruling on which it comments. It portrays R. Judah the Prince, a symbol of tannaitic authority and prestige, as a patron of polygyny. Moreover, it depicts the polygynous marriage as miraculously fertile and thereby enormously successful. The text is entirely positive in its approach to polygyny. This undermines the ubiquitous claim that late antique Palestinian rabbinic documents such as the Jerusalem Talmud presume monogamy.

**Introduction b. Yevamot 44a**

The Babylonian Talmud’s commentary to this ruling asserts that it provides good advice.

Aramaic b. Yevamot 44a

כָּלַח גֶּרָה דַּאַפֶּרֶא לְיָה אַספִּיל תֹּבָה וּמִי עָשַׁה שְׁמוֹת קְמַלַּה דָּאָמָּר מֵאָמֶר לְאָמֶר דָּמְעִיתֵה

Translation b. Yevamot 44a

It is only necessary when he can [do so]. If so, even more also! [Actually,] it teaches us good advice: he does not exceed [four wives], so that [each wife] receives one conjugal visit per month.

Comment b. Yevamot 44A

The Bavli’s comment represents an inter-textual reading of m. Yevamot 4:11. The talmudic text first points out that the mishnaic passage does not specify that the brother initiating levirate marriage must possess the necessary means to support four wives. In response, it proposes (briefly) that more than four wives ought to be equally valid, if economic concerns are not a factor. The text rejects this proposal in favour of a four wife limit. A mishnaic intertext provides the rationale for this limit: m. Ketubot 5:5 states that a scholar ought to provide for his wife sexually at least once a month, on Shabbat. If a man has four wives, he can fulfil this duty by having sex with a different wife every Friday night.

Introduction m. Yevamot 4:11(B)

The discussion above shows, among other things, that the Mishnah places the duty for levirate marriage in the hands of the eldest brother. The next section will show how the Mishnah rules on the multiple widows of a deceased, childless brother.

Hebrew m. Yevamot 4:11(B)

מִי שִׁיחְוָה נוֹשֵׂא לְשׁוֹתָה נוֹשֵׂא וּמִת בְּרָאָה וְאֵלֵי עַל הַלְּיָהָה שֶׁל אָחָה מְנוֹן פּוֹדְרָתָה וּפָרָה
Translation m. Yevamot 4:11(B)

He who was married to two wives and died, the sexual intercourse or halisah of one of them exempts her rival-wife.

Comment m. Yevamot 4:11(B)

This passage establishes the rule that only one of a deceased, childless brother’s multiple wives needs to perform levirate marriage or halisah in order to fulfill the biblical requirement. The woman who undergoes levirate marriage or halisah exempts her rival-wives from both the requirement and the possibility of levirate marriage.66

It is conceivable that the motivation underlying this legislation is a desire to break up existing polygynous marriages. It is easy to see how this ruling could result in fewer multiple wives, in the right circumstances. If an unmarried brother initiated levirate marriage with one of his deceased brother’s multiple wives, this would necessarily result in one less polygynous marriage. However, in light of the fact that the Mishnah ignores other, far more effective, avenues to monogamy,67 this is probably not the motivation here.

Indeed, there are two other explanations that better fit this ruling. The first involves an article of biblical incest legislation. Despite setting forth the requirement for levirate marriage, the Torah also rules that a man cannot marry his brother’s wife.68 Perhaps the present ruling represents a compromise between these two, seemingly contradictory pieces of biblical legislation: the levirate marriage or halisah of one of the multiple wives responds to and satisfies Deut 25:5-7, the exemption of her rivals responds to and satisfies Lev 18:16.

66 Cf. m. Yevamot 1:4.
67 Halisah and redistribution of levirate widows to unmarried brothers would be more effective.
68 Lev 18:16.
The second explanation involves one of the legal consequences of *halisah*. The *halisah* ceremony, like divorce, invalidates a woman for marriage to a priest. Hence, in making levirate marriage or *halisah* a requirement of only one of several multiple wives, the Mishnah may be attempting to maximize the number of women who are available for marriage into the priesthood.\(^{69}\) This explanation garners considerable support from another ruling,\(^ {70}\) discussed below, in which the Mishnah explicitly rules against needlessly invalidating women for marriage to a priest.

**Introduction m. Yevamot 1:1**

The text above establishes the rule that the initiation of levirate marriage or performance of *halisah* by one widow exempts her rival-wives from the biblical requirement of levirate marriage. The text below establishes two similar rules: first, a woman is exempt from initiating levirate marriage or performing *halisah* with her relatives, and second, her rival-wives are likewise exempt.

**Hebrew m. Yevamot 1:1**

חמצת נשיא נשים פטורת זורתן זורת זרותיהו עליה הלוות מן הריבונים פיך

העולות בהו והיה בהו ויהי בהו והיה בהו והיה בהו והיה בהו והיו והיו

אחתא אומת אמי ואשת אמי ואשת אמי והיה בעלות וכללה הבר

אל פפורטת זרותיהו זרות זרותיהו עליה הלוות מן הריבונים פיך הלוות וכללה וכללה

וזא לא טמא וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וגו וג

**Translation m. Yevamot 1:1**

69 Romney Wegner, *Chattel or Person?*, 112.
70 This ruling also appears at m. Yevamot 4:11. See below, p 31.
Fifteen women exempt their rival wives, and the rival-wives of their rival-wives, from halisah and from levirate marriage, until the end of the world.\textsuperscript{71}

And they are these: his daughter, the daughter of his daughter, the daughter of his son, the daughter of his wife, the daughter of her son and the daughter of her daughter, his mother-in-law, and the mother of his mother-in-law, and the mother of his father-in-law, his sister from his mother and the sister of his mother, and the sister of his wife, and the wife of his brother from his mother, and the wife of his brother who was not in his world,\textsuperscript{72} and his daughter-in-law.

These exempt their rival-wives and the rival-wives of their rival-wives from halisah and from levirate marriage until the end of the world.\textsuperscript{73}

And all of these, if they died, or they refused, or they were divorced, or they were found to be barren, their rival-wives are permitted.\textsuperscript{74}

And you cannot say of his mother-in-law, or the mother of his mother-in-law, or of the mother of his father-in-law that they were found to be barren or that they refused.

\textbf{Comment m. Yevamot 1:1}

\textsuperscript{71} That is, the ruling has no temporal limit.

\textsuperscript{72} The Mishnah provides its own explication: “How is it that, ‘the wife of his brother who was not in his world [exempts her rivals]?’ Two brothers, and one of them died, and a brother was born to them, and afterwards the second took the wife of the first in levirate marriage, and he died, the first goes forth, because [she] is the wife of his brother who was not in his world, and the second because [she] is her rival-wife.” m. Yevamot 2:1.

\textsuperscript{73} “How do they exempt their rival-wives? His daughter, or any one of these relations, was married to his brother, and he had another wife, and he died, just as his daughter is exempt, so her rival wife is exempt. The rival wife went and married his second brother, and he had another wife and he died, just as the rival-wife is exempt, so the rival-wife of her rival-wife is exempt, even if they are one hundred.” m. Yevamot 1:2.

\textsuperscript{74} “How is it that, ‘If they died their rival-wives are permitted…’? His daughter, or any one of these relations, was married to his brother, and he had another wife, his daughter died or was divorced, and afterwards his brother died, her rival-wife is permitted. And each one who can refuse, but did not refuse, her rival-wife performs halisah, and is not taken in levirate marriage.” m. Yevamot 1:2.
This mishnah states that certain widows, who cannot marry the surviving brother(s) of their deceased husband because of their relation to him, exempt their rival wives from the requirement of levirate marriage. The first section states the rule and defines its unlimited duration of applicability. The next section enumerates the fifteen categories of women who exempt their rival wives. The third section is a restatement of the first. The fourth presents four situations which result in a woman, who is or was related to the levir, not exempting her rival-wives from the requirement for levirate marriage. The final section specifies three categories of women from the fifteen above who could not possibly have performed refusal (at least with their latest husband) and are certainly not barren.

The Mishnah here proceeds under the unstated (and unsurprising) ruling that biblical incest legislation, excepting Lev 18:16, trumps the requirement for levirate marriage. That is, a widow who is related in any one of the fifteen ways listed above to the sole surviving brother, or to all of the surviving brothers, is exempt from the requirement of levirate marriage. This exemption, however, extends only to the related brother(s). If another, unrelated brother is available, then the widow must perform levirate marriage or halisah with that man.

It is very likely that the Mishnah does not state this rule because such a statement would be somewhat redundant. If the Mishnah allowed incestuous levirate unions, then the ruling at m. Yevamot 4.11 would already exempt any rival wives. That the Mishnah even presents the legislation at m. Yevamot 1.1, then, presupposes that incestuous levirate unions cannot take place.

The motivation behind this legislation is likely the same as that underlying the ruling immediately above, upon which it is conceptually dependent. That is, it likely aims
to minimize the number of women who will undergo *halisah*, or to harmonize Deut 25:5-7 with Lev 18:16, or both.

Tal Ilan has argued that the legislation at m. Yevamot 1:1 reflects a conscious effort to reduce the applicability of biblical levirate marriage legislation. She claims that it “typifies the whole series of laws aimed at reducing so far as possible the force of the biblical law.”

This is a distinct possibility. This explanation, however, overlooks two significant points. First, this legislation will only reduce the incidence of levirate marriage stemming from infertile polygynous marriages, which simple biological and demographic principles will limit to a relatively small level even in a polygynous society. Second, the claim that this text aims to reduce the incidence of levirate marriage “so far as possible” is difficult to maintain, given that an outright endorsement of *halisah* would be both legally valid and far stronger than the legislation here.

There is yet another factor that undermines this reading. The discussion above refers to the Mishnah’s decision that an elder brother’s duty for levirate marriage can and does devolve to his younger brothers. Judith Romney-Wegner points out that “the Mishnah could have chosen to limit the impact of the law by applying the rule literally to one brother alone.” In response to this observation, Romney-Wegner approaches the mishnaic codification of levirate marriage in exactly the opposite manner as Ilan; she reads it as a “maximalist interpretation” of the biblical levirate marriage legislation.

A better interpretation, I think, lies between (or beyond) these two poles. Texts such as m. Yevamot 4:5 indicate that the Mishnah does not always pursue a minimalist

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76 m. Yevamot 4:5.
77 Romney Wegner, *Chattel or Person?*, 100.
78 *ibid.*
interpretation of biblical levirate marriage legislation; texts such as m. Yevamot 4:11 indicate that it does not always pursue a maximalist interpretation. It seems that the Mishnah does not always follow a uniform approach in matters relating to the applicability of levirate marriage.

**Introduction m. Yevamot 1:4**

The Mishnah reports that the ruling at m. Yevamot 1.1 represents only one side of a pharisaic debate.

**Hebrew m. Yevamot 1:4**

בית שמאי מותרין אא הרורה לאוהי ביה הלו אוסרי הלכו ביה שמאי הסילן ולכון

ובית הלא ממברית נחירבו ביה שמאי הסילן ביה הלא פסלו...

**Translation m. Yevamot 1:4**

The House of Shammai permits the rival-wives to the brothers, and the House of Hillel prohibits. [If the rival-wives] performed *halisah*, the House of Shamai invalidates [them] from the priesthood, and the House of Hillel validates. [If the rival wives] are taken in levirate marriage, the House of Shammai validates, and the House of Hillel invalidates [them]...

**Comment m. Yevamot 1:4**

The Mishnah, as usual, accepts the position of the House of Hillel and rejects that of the House of Shammai. The House of Shammai rule, contra m. Yevamot 1:1, that the rival wives of a woman who is exempt from levirate marriage, due to her kin relationship with the levir, are not likewise exempt. If the rival wives of a relative perform *halisah*, the House of Shammai accepts the validity of the ceremonies, thereby invalidating the women from the priesthood. The House of Hillel considers the women already exempt
from the requirement of levirate marriage and do not accept the validity of their performance of halisah. Hence, the women are still eligible for marriage to a priest. Similarly, the House of Shammai accepts the validity of a levirate marriage involving a rival-wife. The House of Hillel does not. The exemption simultaneously constitutes a prohibition; this constitutes an incestuous union from their perspective.

The rationale behind the House of Shammai’s opposing position likely lies beyond concrete reconstruction, owing to a lack of relevant documents. One possibility is that the House of Shammai disagrees because they can disagree; there is no clear biblical precedent for the position of either house, and the topic may represent an occasion for debate.

**Introduction t. Yevamot 1:10**

The Tosefta also contains a report of this pharisaic controversy. This one mentions, in passing, ostensibly historical occurrences of polygyny.

**Hebrew t. Yevamot 1:10**

שאל איה רב ברו יריהא בן פרעה מוה והאמר להו למוי אסימין ראיי בני של יון
גנולימ בנ בם שרבא הראץ ואלא מעיד אדם על משפה בת עלאה מבית
צבאותו על המשפה ית קומא McCarthy מקווה שנה בן פרעה מהה מתוה רבי מקדשן לבר
מוזה א”ר שלפר תמא עני שיאה לי פרעה הבת ואשיאנה להוונה

**Translation t. Yevamot 1:10**

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80 The *Yerushalmi* has a parallel to this text at y. Yevamot 1:6; the *Bavli* has a parallel at b. Yevamot 15a-b.
They asked R. Joshua\textsuperscript{81} concerning the status of the children of the rival wives. He said to them, “Why do you put my head between two great mountains, between the House of Shammai and the House of Hillel? They will destroy my head! However, I testify that the family of the House Alubai from Beit Sevaim and the family of the House of Kufai from Beit Mekoshish are the descendants of rival wives. And high priests have come from them that have presided over sacrifices at the Temple.” R. Tarfon\textsuperscript{82} said, “I want a daughter of a rival-wife to come before me so that I can marry her into the priesthood.”

\textbf{Comment t. Yevamot 1:10}

This passage reports on the disagreement between the two rival houses and, like the Mishnah, appears to side with the House of Hillel. In the first section of the passage, R. Joshua acknowledges the greatness of both houses and the difficulty of deciding conclusively between them on the issue of the rival wives. This does not stop him, however, from reporting that families descending from rival-wives who remarried without \textit{halisah} have produced Temple priests. This constitutes evidence that the position of the House of Hillel represents and continues the priestly tradition. This is significant both because the priestly tradition represents a venerable connection with the past and because the priesthood would seem to value purity of pedigree to a high degree. Note that this text testifies to the existence of polygynous families in the Second Temple period.

R. Tarfon, of priestly descent, wants the rival-wife of a brother-in-law’s daughter\textsuperscript{83} to come his way so that he can marry the woman into the priesthood. As with

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{81} He is an early tanna.
\item \textsuperscript{82} He is an early tanna of priestly descent.
\item \textsuperscript{83} This is a woman who has not performed \textit{halisah} and would, if not for the potentially incestuous connection, be under the obligation of levirate marriage.
\end{itemize}
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the testimony above, such a marriage would constitute a refutation of the House of Shamai’s position in fact and in deed.

**Introduction m. Yevamot 4:11(C)**

The discussion above mentions, in passing, that the ceremony of halisah disqualifies women for marriage into the priesthood. As with the prohibition of incestuous levirate unions, the Mishnah does not state this legal principle outright. Numerous passages unambiguously presume this principle, however, including the following, which gives advice to a brother-in-law who is making a choice between two potential levirate brides.

**Hebrew m. Yevamot 4:11(C)**

היהה אשת נשיה וחברת פסולתו או החולל חולל לפוסולתו ואם היה מרבש meisje לかもしれ.

**Translation m. Yevamot 4.11(C)**

[If] one was eligible and one was ineligible: if he performs halisah, he performs halisah with the ineligible one, and if he initiates levirate marriage, he initiates levirate marriage with the eligible one.

**Comment m. Yevamot 4.11(C)**

This passage provides advice to a man who has the option of initiating levirate marriage or performing halisah with one of two rival-widows, one of whom is eligible for marriage to a priest, and one who is not. It suggests that a man in this situation who wants to perform halisah should do so with the woman who is already ineligible, so as not to needlessly invalidate another woman. A desire to maximize the number of women available to marry priests most likely motivates this ruling.

The next ruling is a little peculiar. It states that a man in this situation who wishes to enact levirate marriage should do so with the woman who is eligible for marriage to a
priest. There are two possible explanations for this position. The first is that the Mishnah considers eligible women superior to ineligible women, divorcees and performers of halisah, in some kind of definite but intangible way. This would be the only occurrence of such a sentiment in the Mishnah, which lends some credence to the following, alternative, explanation: the mishnaic text reads like it does in order to balance the passage stylistically not legally. That is, a brother-in-law who chooses to perform levirate marriage can do so with whichever of the two women he wants; the passage says, “the eligible woman” in order to parallel its mention of the ineligible woman in the previous section.84

**Introduction m. Yevamot 1.1 (Revisited)**

The fifth and final ambiguity that bears a relation to the issue of polygyny is the domain of applicability of the biblical levirate marriage law. The Mishnah addresses this ambiguity by interpreting the phrase “living together” in a temporal sense. That is, a man whose lifetime does not overlap with that of his deceased, childless brother is under no obligation to marry his widow.

The Mishnah clearly assumes this legal principle at m. Yevamot 1.1, quoted and discussed above, where “the wife of his brother who was not in his world” exempts her rival-wives. The motivation underlying this ruling is almost certainly identical to and dependent on that underlying m. Yevamot 4:11(B).

**Introduction Tg Ruth 4:5-6**

The expansive, late antique Aramaic translation of the biblical Scroll of Ruth contains a text which touches upon the institution of levirate marriage, its connection with polygyny, and the dynamics of a polygynous household.

84 b. Yevamot 44a.
Aramaic Tg Ruth 4:5-6

ואמר בנו בנו ובנייתrente החקלאים שיתרננמי ויהו גיורא עין יאם מואבתא איהו מימה כינו

לשיבת התר בנק לידוה שמש מראה על אספתה ואמר פראקיכ כי היא גיורא לי את אוכן

למרפוק על דאיה לי אשתא לי ולרש למשב אוהרנהה עלה. דרמא חאה לי למפייד בטבפי

ואנא_MBbiכני תח אספתני פרוק לכ את ח אספתני אירוח לי את אוכן כוכל לא מפרוק

Translation Tg Ruth 4:5-6

And Boaz said, “On the day that you acquire the field from the hand of Naomi and from the hand of Ruth the Moabite, the wife of the dead man, you must acquire her in levirate marriage, in order to establish the name of the dead man on his estate.” And the redeemer said, “If this is the case, I cannot redeem it for myself. As I have a wife, I do not have the right to marry another in addition to her, lest there be quarrelling in my house, and I will become the destroyer of my own estate. Redeem my estate for yourself, because I cannot redeem it.”

Comment Tg Ruth 4:5-6

In both the Hebrew and Aramaic versions of this section of the Ruth narrative, Boaz tells the redeemer that he must marry Ruth when he acquires her property. Upon hearing this stipulation, the redeemer backs out of the deal, claiming that such a transaction would destroy his inheritance. The biblical version does not spell out how the redeemer’s marriage to Ruth would endanger his inheritance. The assumption here is likely that a son born from Ruth and the redeemer would inherit along with (or instead of) the redeemer’s

85 mt:

ה לא יאמר בנו בנו ובנייתrente החקלאים שיתרננמי ויהו גיורא עין יאם מואבתא איהו מימה כינו

86 The Targum interpolates that this is a levirate transaction; the biblical version does not mention levirate marriage explicitly.
own son(s), in accordance with (a system of) levirate marriage law. The targum addresses this ambiguity by inserting an explanation into the text: the redeemer does not want to marry Ruth because he is already married, and a second wife would engender ruinous strife between the two wives in his household.

Several modern scholars claim that the redeemer’s statement conveys the targumist’s preference for monogamy. The statement certainly conveys the notion that polygynous households engender conflict, and to this extent it unquestionably problematizes polygyny. It does not necessarily follow, however, that the redeemer’s statement is an expression of the targumist’s own ideological perspective. The statement may rather (or also) represent the targumist’s most logical (or only) explanation of this ambiguous biblical verse.

**Conclusion: Polygyny in the Mishnaic Codification of Levirate Marriage Law**

The discussion above has analyzed all of the Mishnah’s extra-biblical levirate marriage legislation that deals with multiple wives. This legal material presumes the legality of polygyny, and legislates for the ambiguities that multiple wives inevitably bring to the biblical law of levirate marriage. Significantly, this material does nothing to prevent polygyny, and even endorses polygyny in one situation in which the taking of multiple wives is not entirely necessary.

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87 “Boaz... goes on to point out that with the purchase goes another factor, the responsibility to take Ruth, widow of Elimelek’s heir, and raise through her a son who will then continue the family of Elimelekh and become his heir. This the redeemer recognizes as imperiling to his own inheritance – surely he is already married and has a family of his own – and so he formally adopts the way out...” Campbell, *Ruth*, 156.

88 Epstein, *Marriage Laws in the Bible and Talmud*, 20; Lowy, “Jewish Polygamy in Talmudic Times,” 117. Etan Levine thinks that the redeemer has no legal right to marry Ruth, because the text presupposes monogamy. Etan Levine, *The Aramaic version of Ruth* (Rome: Biblical Institute Press, 1973), 7, 101. If this were the case, however, one would not expect the redeemer to rationalize his decision as he does in the text.

89 This is a rather commonplace notion. Several biblical narratives portray polygynous households as places of conflict between co-wives. Moreover, the potential for conflict between co-wives provides the basis for two articles of mishnaic legislation. The Tanhuma makes this connection explicit: “Two wives in the household, strife in the household.” *Tanhuma* (Buber) *Ki Tese* 17:1. Hebrew: שתי נשים בבית מרבת בנים.
Amoraic treatments of this mishnaic legislation in the two Talmuds likewise recognize the connection between levirate marriage and polygyny, but do nothing to problematize or prevent this connection. The Targum to Ruth does problematize this connection, but does not necessarily reflect its creator’s preference for monogamy.
Chapter Two: Polygyny and the Duty of Procreation

Polygyny and the pursuit of procreation intersect at many points in biblical and rabbinic literature. Three of the four occurrences of non-royal polygyny in the Hebrew Bible involve barren women directly. Whether reflecting this prevalent literary trope, its own social context or both of these factors, late antique rabbinic literature also inextricably links the issues of polygyny and infertility. This chapter will explicate and analyze the legal and conceptual pairing of these two terms in the Mishnah, the Tosefta, the Babylonian Talmud, and two midrashic traditions.

Introduction m. Yevamot 6:6

The Mishnah promulgates fertility legislation at m. Yevamot 6:6. This legislation, which bears a clear relation to God’s various fertility blessings in Genesis, ordains that a man must produce offspring. While this rule, in itself, does not involve polygyny, a dependent ruling does. When a marriage has not produced children after the passing of ten years, the Mishnah rules that the childless husband must take a second wife. As to the fate of the first wife, the Mishnah apparently leaves the decision to the husband: he may divorce her or retain her as a second wife.

Hebrew m. Yevamot 6.6

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91 Gen 16:3, 29:23-31; 1 Sam 1:2. The exception occurs at Gen 4:19-22.
92 Gen 1:28; 9:1, 7; 35:11.
A man does not refrain from procreation [lit. “being fruitful and multiplying”], unless he already has children [or “sons”] ... [If] he married a woman and lived with her for ten years, and she did not give birth, he is not allowed to abstain. [If] he divorced her, she is permitted to be married to another... The man is obligated to procreate, but not the woman...  

Comment m. Yevamot 6.6

The Mishnah here rules that a man (א supermarkets) must produce children (בנין). The phrase “being fruitful and multiplying” (פּרִי וְרִבֵּה) clearly takes its wording from God’s fertility blessings to Adam, Noah and his sons, and Jacob in Genesis. It is important to note two disjunctions, however, between the legislation here and the fertility blessings in Genesis. First, although this passage uses the same roots (נ-ר-ח, ר-ח) as the fertility blessings, it does not quote Genesis directly. The blessings in Genesis employ imperative forms of these roots; the legislation in the Mishnah uses substantives. This leads to the simple and significant conclusion that the Mishnah does not directly quote Scripture in order to justify this article of legislation. Second, there is not even a hint of any procreation

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93 R. Yohanan ben Beroka objects to this ruling: “Regarding both of them it says, ‘And God blessed them and said to them, “Be fruitful and multiply”’ (Gen 1:28). Hebrew:

על שניתם והוא אמר להם, ויאכלו תלת אלוהים ויאמר להם אלוהים פּרִי וְרִבֵּה

94 This blessing is plural; God addresses it to both male and female. Gen 1:28.

95 Judith Baskin’s translation of this legislation overlooks this crucial point, and her conclusions suffer as a result. Baskin mistranslates פּרִי וְרִבֵּה into the imperative (plural), “Be fertile and increase,” (the Hebrew for which would be, [ם בְּרֵי וְרִבֵּה], and treats the phrase as a quotation of Gen 1:28. Baskin, Midrashic Women, 120. Romney-Wegner makes the same mistake, transposing Gen 1:28’s imperative verbs for the mishnaic substantives. She does not, however, go so far as to insert a biblical citation into her translation. Still, her
legislation anywhere in the Hebrew Bible. The Mishnah itself provides the earliest extant reference to procreation legislation in the canonical texts of rabbinic Judaism.

A simple inverse reading of the passage above seems to allow a man who has children to abstain from further procreation. The Mishnah does not define, however, exactly what it means to abstain from procreation. There are several possible avenues that a man could take in this regard. A husband who has children could divorce his wife and afterwards practice sexual abstinence or marry a sterile woman. Alternatively, the married couple could stay married and use contraceptives. As the Mishnah elsewhere ordains that sexual intercourse is a marital duty, married abstinence does not appear to be a viable option.

The second ruling above establishes that after ten years of childless marriage a husband must not continue to refrain from his procreative duty. As above, the Mishnah here is unclear about what it means to refrain from procreation. One option is certainly divorce and remarriage to another woman, as the following section of the mishnah makes clear. This section rules that a wife who receives a divorce on account of the couple's infertility can remarry. Although the passage does not mention any other option explicitly,
the conditional tone of this section (“[if] he divorced her…”) implies that at least one other option does exist.

The only other option appears to be for the husband to take a second wife in addition to, rather than instead of, the first. This polygynous option finds definite support from the next section of the passage, which states that the duty for procreation is not incumbent upon women. If the duty were incumbent upon women, then the wife, too, would have to seek a new partner after ten years of infertile marriage, thus necessitating the couple’s divorce. That the passage does not mention the option of taking a second wife probably reflects nothing more than “parsimony of language” on the part of the Mishnah. Indeed, the passage mentions divorce not to state it as an explicit option, but to provide additional legislation on the subject.

**Introduction m. Sotah 4:3**

Although in tractate Yevamot the Mishnah does not explicitly mention marriage to a second wife for the fulfilment of the procreation legislation, it does just this in tractate Sotah:

**Hebrew m. Sotah 4:3**

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104 Hauptman, Rereading the Rabbis, 131; Ilan, Mine and Yours and Hers, 205; Daube, “Johanan ben Beroqa and Women’s Rights,” 149. The Hebrew Bible provides two examples of a similar practice: Gen 16:3, 1 Sam 1:2.

105 Hauptman, Rereading the Rabbis, 135.
Translation m. Sotah 4:3

A sterile woman, an old woman, and one who cannot give birth: she does not drink and does not receive her ketubah.

Rabbi Eliezer\textsuperscript{106} says: He can marry another woman for himself in order to procreate through her.

Comment m. Sotah 4:3

This passage arises in a discussion of who can and who cannot drink the adultery-testing bitter waters. The passage first states the rule that several types of women do not drink the waters and do not receive their ketubah. The legal basis for this ruling is apparently the fact that a man cannot legitimately marry a woman who cannot produce children. This is clearly dependent on the procreation legislation discussed above.\textsuperscript{107} As a result of this principle, the Mishnah considers any marriage to an infertile woman automatically and retroactively void. The woman does not drink the waters because she is not the legal wife of the jealous man. She does not receive her ketubah for the same reason; her erroneous marriage does not warrant any such return.\textsuperscript{108}

Rabbi Eliezer objects to this ruling. He states that a man can legitimately be married to a barren woman so long as he also takes a fertile wife for procreation. This, of course, would result in a polygynous marriage. While this text does not mention the ten-

\textsuperscript{106} Perhaps this is Eliezer ben Shammua, a fourth generation tanna.

\textsuperscript{107} Cohen, Be Fertile and Increase, 135-13 n. 41.

\textsuperscript{108} Romney-Wegner claims that the non-repayment of the ketubah in the case of a null-marriage is a "punishment" for the intentional or unintentional pollution she brings to her invalid husband. Romney Wegner, Chattel or Person?, 68-69; cf. m. Gitin 8:5, m. Ketubot 10:1. The situation here invokes the same legal consequence, non-repayment, but involves no such pollution. This leads me to the tentative conclusion that non-repayment of the ketubah is a technical procedure for null-marriages rather than a punishment for ritual pollution.
year time limit, it does explicitly establish the principle that second wives are a valid means to fulfil the fertility requirement.

**Introduction t. Yevamot 8:6**

The Tosefta takes a more exacting approach to polygynous marriages involving infertile partners than does the Mishnah. The ruling below allows fertile men to marry infertile woman as second wives.

**Hebrew t. Yevamot 8:6**

 Urdu כמה מותרת ל！”ונהמה על יחר על כל נל לה נוהמה אלא ל！” שת מושח וה createElement

**Translation t. Yevamot 8:6**

And to how many [husbands] is she permitted to be married? Three. Beyond that she is married only to someone who has a wife and children.

**Comment t. Yevamot 8:6**

The first part of the passage above rules that a woman who has not produced children may only marry three fertile husbands (in succession). The Tosefta here rationally assumes that a woman’s childlessness after thirty years of marriage to three different men indicates that she is infertile.

The second part of the passage rules that a thrice married but still childless woman can only marry a man who already has a wife and children. This ruling seeks to avoid monogamous marriages between fertile men and infertile women. It is dependent on the notion that a man must produce children.

**Introduction t. Sotah 5:5**
The Tosefta contains a parallel to m. Sotah 4:3, which I discussed in the previous section. Like the ruling immediately above, this text indicates that a fertile man can marry an infertile woman as a second wife.

**Hebrew t. Sotah 5:5**

הוֹרֵכָה שְׁנַשֶּׁשׁ עֶקְרֹרָה וַחֲקֶהֶה וַאֲכִי לָא אָשַׁה בְּכִי לָא

**Translation t. Sotah 5:5**

The young man who married a barren woman or an old woman and who does not have a wife and children, [she does] not [drink and does not receive her ketubah].

**Comment t. Sotah 5:5**

Like its mishnaic counterpart above, this toseftan text proceeds under the premise that monogamous marriages between a fertile man and an infertile woman are legally null and void. Only if the husband already has a fertile wife can he contract a marriage with a woman who cannot have children.

**Introduction t. Yevamot 8:5**

The previous rulings both indicate that a fertile man can marry an infertile woman as a second wife. The following ruling, which parallels the mishnaic fertility legislation above, seeks to avoid the converse of this situation.

**Hebrew t. Yevamot 8:5**

כְּשָׁא אָשֶׁה וַשֶּׁהָה עַמֶּה עַמֶּה עַמֶּה לְינַדְּהָא לְינַדְּהָא לְינַדְּהָא אֶלָּא רֶשֶׁי לְבָטֶל אֶלָּא רֶשֶׁי לְבָטֶל אֶלָּא וָאֶזֶּה וָאֶזֶּה וָאֶזֶּה וָאֶזֶּה וָאֶזֶּה

**Translation t. Yevamot 8:5**

See above, 39-40.
[If] he married a woman and lived with her for ten years, and she did not give birth, he is not allowed to refrain. Rather, let him divorce [her] and pay the ketubah. Perhaps he was not worthy to be built up from her.

Comment to Yevamot 8:5

Where the Mishnah does not indicate a preference for either divorce or polygyny, the Tosefta explicitly suggests divorce. The ruling provides its own rationale for this advice: the husband may be the source of the couple’s infertility; he should divorce her in order to grant her another opportunity to procreate. This statement suggests that women have a legal and/or ideological right or responsibility to procreate.

Introduction to Yevamot 65a

Unlike the Mishnah and the Tosefta, the Babylonian Talmud explicitly discusses the possibility of polygyny, rather than divorce, as a course of action after ten years of childless marriage.

Aramaic and Hebrew to Yevamot 65a

אֶפְרֵי אֲ זַרְיִי אֱ יִשְׂרָאֵל אִיּוֹתָהּ אֲ רַבְבּוֹתָהּ מִפּוֹשָׁא אָמַר רֵנֵי אָמַר אֵלֵי אָם אֲ חַי אוֹתוֹת שְׁמֹעָה בֵּית

שָׁמַאי אָמַר לֶה בּוֹרָשָׁא אֲשֶׁר בֵּית אֶצְּלֶה יִצְוָא וּרְחָנָא מְחַמְּבָּה רַבָּא אָמַר נוֹשֵׁא אֵלֵי אָמַר בְּשַׁמְּא הָעֵמֶנֶה

אָשֶׁר נוֹשֵׁא דְּאָה לָהּ לְפַּחֲיוּנָה

Translation to Yevamot 65a

[If] he said, “I will go and marry [another] wife in order to test my fertility.”

110 Saul Lieberman and Judith Hauptman argue that the Tosefta accepts R. Yohanan ben Beroka’s opinion that the duty of procreation is incumbent upon women (Hauptman, Rereading the Rabbis, 132-136; Saul Lieberman, Tosefta Kifshutah: be’ur arakh la-Tosefta (10 vols.; Jerusalem: Bet ha-midrash le-rabanim sheba-Amerikah, 1995), 6:68; The basis for this argument is a series of toseftan pro-natalist rulings that apply to both men and women (t. Yevamot 8:4). The ruling at t. Yevamot 8:6, which I quote above, makes this assertion problematic. It limits women to three husbands but provides no equivalent ruling for men, who apparently must persist in the attempt to fulfill the duty for procreation.
R. Ammi\textsuperscript{111} says, “Even in this [case] he divorces [the first wife] and pays [her] ketubah, because I say everyone who marries a wife in addition to his wife divorces and pays the ketubah.”

Rava\textsuperscript{112} says, “A man can marry several women in addition to his wife, [if] he has [enough] to maintain them.”

\textbf{Comment b. Yevamot 65a}

This passage discusses the legality of polygyny both in the specific context of an infertile marriage and in general. The first section introduces the immediate subject of the discussion: a husband who after ten years of childless marriage wants to marry a second wife to determine if it is he, rather than his wife, who is infertile. Such a determination would have serious legal and financial ramifications for both the husband and his (first) wife. If husband were found to be infertile, then his wife would have the right to make a special plea for a divorce,\textsuperscript{113} in which case she would receive her ketubah. If wife were found to be infertile, then rabbinic fertility legislation would deem the marriage null and void, and the husband would retain the ketubah.\textsuperscript{114}

The next section presents a tradition which challenges the legality of such fertility testing. R. Ammi states that even in the case of an infertile marriage, a husband cannot take a second wife. He bases this ruling on his own unjustified teaching that a man who marries a second wife should\textsuperscript{115} divorce the first and pay her ketubah. This tradition is

\textsuperscript{111} He is a second generation Palestinian \textit{amora}.
\textsuperscript{112} He is a third generation Babylonian \textit{amora}.
\textsuperscript{113} b. Yevamot 65b.
\textsuperscript{114} m. Sotah 4:3.
\textsuperscript{115} Mordekhai Akiva Friedman argues persuasively that this text does not rule against polygyny in general. It establishes, rather, that if a husband takes a second wife against his wife’s will and without her well-being in mind, then she can request a divorce, as in other such situations. Mordekhai A. Friedman, \textit{Jewish Polygyny in the Middle Ages} (Jerusalem: The Bialik Institute, 1986), 8. Hebrew:
significant, because it is the only truly monogamous legal statement in the entire corpus of late antique rabbinic literature. Rava disagrees with R. Ammi’s innovative ruling, maintaining that a man can be married to several women simultaneously, provided that he can maintain them.

The Bavli’s attribution of this monogamous attitude to R. Ammi accords with the legal and historical context of this talmudic sage. R. Ammi is a third generation Palestinian amora, who dates to around the end of the third century. These details are significant because they place R. Ammi firmly within the historical and geographical sphere of influence of the Roman emperor Diocletian, who outlawed polygyny for the Jewish inhabitants of the Roman Empire in 285 C.E. Monogamy does not run directly counter to any positive or negative biblical or rabbinic article of legislation, and there is no reason to assume (forthwith) opposition on the part of Palestinian rabbinic authorities. It is thus possible that R. Ammi’s teaching is a reflection of the dominant legal context of late antique Roman Palestine. This proposition garners strength from the possible influence of Greco-Roman social and cultural values on Palestinian marriage practices.

Just as R. Ammi’s anti-polygyny tradition may reflect the monogamous legal and perhaps social context of late antique Roman Palestine, Rava’s pro-polygyny tradition may reflect, to some extent, the polygynous legal and social context of late antique

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116 "Ami’s (sic) statement, for the first time, reflects a belief in monogamy on principle, as expressed by a rabbinical teacher, without any support from the law or from tradition." Falk, Jewish Matrimonial Law in the Middle Ages, 8.
117 Falk, Jewish Matrimonial Law in the Middle Ages, 8; Satlow, Jewish Marriage in Antiquity, 190.
118 For translation and discussion of these texts, see Judith Evans Grubbs, Women and the Law in the Roman Empire: a Sourcebook on Marriage, Divorce and Widowhood (New York: Routledge, 2002), 160-161.
119 Michael Satlow argues that Jewish Palestinian marital ideologies reflect to a large extent contemporary Hellenistic, especially Stoic, marital ideologies. Satlow, Jewish Marriage in Antiquity, 12-17.
Sassanian Babylonia. I do not make the claim here that Sassanian marital practice should be seen as the source of a Babylonian acceptance of polygyny. Rather, I make the much more modest claim that Babylonian Jews would have found no reason to modify their own legal traditions regarding polygyny in order to accommodate themselves to the dominant culture.

Indirect evidence, however, casts doubt on the notion that R. Ammi’s teaching represents the dominant Palestinian rabbinic position on polygyny. The fact that there is not a single record of R. Ammi’s monogamy tradition, or even a single reference to it, in any Palestinian rabbinic document makes it very difficult to accept that his is the normative position. This is indeed an argument from silence, but silence in this case speaks volumes. This absence may indicate some resistance on the part of the amoraic Palestinian rabbinic movement(s) to the notion of a legally binding monogamy. If this is indeed the case, such resistance might reflect a notion that monogamy is an alien practice. In the same vein, this absence may also reflect a rabbinic notion that polygyny is an authentic Jewish practice.

Alternatively, the absence of R. Ammi’s monogamy tradition may indicate that the tradition is inauthentic, rather than somehow undesirable in the late antique Palestinian rabbinic perspective. That is, R. Ammi’s monogamous ruling may not appear in any Palestinian rabbinic document because R. Ammi never promulgated such a ruling.

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120 I have found it very difficult to locate any relevant primary sources on this topic. This is not as troubling as it could be, because secondary sources, up to the present, are consistent in their portrayals of Sassanian society as polygynous. Cf. Baron, *Christian Era*, 226; Falk, *Jewish Matrimonial Law in the Middle Ages*, 7; Satlow, *Jewish Marriage in Antiquity*, 191; Gafni, “The Institution of Marriage in Rabbinic Times,” 3 n. 89.
122 Lowy, “Jewish Polygamy in Talmudic Times,” 120.
123 Baron suggests that “talmudic Judaism clung to this unrealistic legal theory [polygyny] in conscious opposition to Greco-Roman monogamy.” *Christian Era*, 227.
124 The Hebrew Bible portrays many of its significant characters, who also figure heavily in rabbinic texts, as polygamists: Abraham, Jacob, David and Solomon.
Indeed, given the considerable importance of both the sage and the ruling, it seems unlikely that such a tradition could have gone completely without notice, positive, negative or otherwise. Indirect source critical evidence supports this proposition. The Talmud scholar Jeffrey Rubenstein argues that, when the Babylonian Talmud attributes an otherwise unknown and somewhat unusual tradition to a Palestinian sage, it should usually be seen as a Babylonian textual production.\textsuperscript{125} R. Ammi’s ruling on monogamy fits both of these criteria exactly.

Casting further doubt on the authenticity of R. Ammi’s monogamy tradition is an apparent contradiction that exists between this tradition and a R. Ammi sage story from the same sugya of the Babylonian Talmud. This narrative depicts a woman who appeals to R. Ammi for a divorce on the basis of her childless marriage. R. Ammi initially rejects the woman’s plea, stating that the duty of procreation is not incumbent upon women. The woman then pleads that she wants a child because the child will support her in her old age. R. Ammi accepts this plea, apparently out of sympathy for the woman.\textsuperscript{126}

There is reason to believe that the husband of the childless woman in this narrative probably has, or at least ought to have, a second wife, and that this detail contradicts R. Ammi’s ruling above. The narrative proceeds under the (wife’s) assumption that she is fertile and her husband is infertile; her desire for a child is, after all, the basis of her plea. Even if woman’s husband was infertile, however, the mishnaic duty of procreation would still be incumbent on him. That is, the woman’s sterile husband

\textsuperscript{125} “That a theme is authentically Palestinian but somehow escaped all mention in the Palestinian works themselves is very unlikely.” Rubenstein, Culture of the Babylonian Talmud, 8.

\textsuperscript{126} This [case] is like the woman who came before R. Ammi. She said to him, “Give me the ketubah.” He said to her, “Go, you are not commanded.” She said to him, “What will happen to a woman like this in her old age?” He said, “Like this, we certainly compel.” Aramaic:

כָּא הָוָה דְאָמאָה לַקְסֶה דְּרָמַּא לַמָּוָה לַמָּה קָטֵּּב הָאָמָר לְלָא לְרָמַּא לַמָּה מָאָרָה לְרָמַּא מָאָרָה לְרָמַּא מָאָרָה לְרָמַּא מָאָרָה לְרָמַּא מָאָרָה לְרָמַּא מָאָרָה מָאָרָה לְרָמַּא מָאָרָה לְרָמַּא מָאָרָה

כָּא הָוָה דְאָמאָה לַקְסֶה דְּרָמַּא לַמָּוָה לַמָּה קָטֵּּב הָאָמָר לְלָא לְרָמַּא לְרָמַּא מָאָרָה לְרָמַּא מָאָרָה לְרָמַּא מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה

רָמַּא מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה מָאָרָה
would have had no right to desist from the attempt to procreate; according to mishnaic fertility legislation, he should have either divorced his wife and remarried, or married a second wife. As the husband has clearly not divorced his wife, it logically follows that he has taken a second wife. Now, if R. Ammi really had a tradition banning polygyny, then he could release the childless woman in the narrative on that basis. As the narrative does not mention the husband’s polygyny, or provide any alternative explanation, it contradicts the R. Ammi monogamy ruling above.

While the evidence above is insufficient to make an unassailable conclusion, it does suggest that R. Ammi’s ruling in favour of monogamy is an inauthentic Babylonian textual production. I tentatively conjecture that the Babylonian Talmud fabricates this tradition in order to introduce and deal with the issue of monogamy. If this is indeed the case, it indicates that the concept of monogamy has a significant place in the academic and/or social worldview of the Babylonian Talmud, even if this is not the privileged place.

As I pointed out above, several contemporary scholars draw a subtle contrast between the thoroughly polygynous Babylonian Talmud and the nominally polygynous corpus of Palestinian rabbinic texts. While it is certainly true that the Babylonian Talmud has more to say about polygyny than any other rabbinic document, it also has more to say about monogamy. Unlike the Babylonian Talmud, neither the Mishnah, the

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127 It logically follows but does not necessarily follow that he will marry a second wife. The only alternative reading I can come up with is that the husband was once fertile, had children, got divorced (or became a widower), and then married his new wife and became sterile (or became sterile and married his new wife, in which case she changed her mind). This reading is more artificial than the reading given above, but it is possible.

128 There is also the possibility that this narrative is inauthentic. Even if this were the case, it would indicate that there are inauthentic R. Ammi traditions in the present sugya.

129 pp 4-8.

130 Baron, Christian Era, 226-227; Epstein, Marriage Laws in the Bible and Talmud, 19; Falk, Jewish Matrimonial Law in the Middle Ages, 10; Gafni, “The Institution of Marriage,” 23-24; Satlow, Jewish Marriage in Antiquity, 191.
Tosefta, the Palestinian Talmud nor any *midrash* collection ever questions the legality of polygyny. To this extent one can make the opposing conclusion: the Babylonian Talmud problematizes polygyny more than any other late antique rabbinic document.

**Introduction Pesikta Rabatai: Piska 43 (181b)**

In 1 Sam 1:2, the Hebrew Bible portrays Elkanah as having two wives, Hannah and Peninah. Although the biblical text does not make any explicit statement in this regard, a likely reason for Elkanah’s bigamy is the infertility of his first wife, Hannah. Pesikta Rabatai, a late antique Palestinian *midrash* collection, advances this reading of the biblical text.

**Hebrew Pesikta Rabatai: Piska 43 (181b)**

וַעֲנָה פְּקְדָה אַזֶּלֶּה קֹדֶשׁ בּוֹרֵךְ מְנַפְּשָׁתָן כְּּהֶם שְׁכַבָּה וּרְויָא אִית מִן הֵרְפֵּהוֹת צְפִיבָה שֵׁם

אַלּוֹכֶה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּה בּ לְרַבֲּh

**Translation Pesikta Rabatai: Piska 43 (181b)**

And Hannah deposits souls with the Holy One, Blessed is He, as it is written:

“And there was a man of Ramataim-sophim [from the hill country of Ephraim] and his name was Elkanah ben Yeroham, ben Elihu, ben Tohu, [ben Zuf, an
R. Yohanan said: That is a code: Tohu is [really] Asaf, according to the] atbash [decoding system]; t. is a, h is s, and u is f.

Rabbi [Yonah] said in the name of R. [Isaac]: And after all of this praise it is written of him, “And he had two wives.” And why did he take two wives? Because, “And Peninah had children, and Hannah had no children.” Since Hannah saw that she had not produced children she said, “I will say to [Elkanah] that he should bring my rival into my house. And on account of this the Holy One, blessed is He, will see that I have brought my rival into my house, and he will remember me.” The Holy One, blessed is He, said, “Your life has deposited souls with me.” I will remember [this].” “So the Lord remembered Hannah.”

Comment Pesikta Rabatai: Piska 43 (181b)

The passage above expands and explains three features of 1 Sam 1-2: Elkanah’s lineage, his bigamous marriage and God’s requiting of Hannah. The first section of the midrash uses the atbash reading system to claim that Elkanah’s ancestor Tohu is really Asaf. The purpose of this claim is to show that Elkanah is a Levite, as in 1 Chr 6:8, rather than an Ephraimites, as 1 Sam 1:1 suggests. After this interpretation of 1 Sam 1:1, the midrash then asks why Elkanah has two wives. It answers this question with the following verse, 1 Sam 1:2: “And Hannah had no children and Peninah had children.”

131 1 Sam 1:1.
132 This switches the letters of a word with their numerically inverse corresponding letters. Using the English alphabet this would switch ‘z’ with ‘a,’ ‘y’ with ‘b,’ ‘x’ with ‘c,’ etc.
133 1 Sam 1:2.
134 Ibid.
135 The Bavli also attributes procreation with divine significance at b. Yevamot 62a.
136 1 Sam 2:21.
137 1 Sam 1:1.
138 1 Sam 1:2.
139 1 Sam 2:21.
According to the Pesikta, and perhaps in accordance with the biblical text itself, Elkanah’s marriage to Peninah, his second wife, is due to Hannah’s infertility.

The next section of the midrash narrates Hannah’s role in Elkanah’s marriage to Peninah. According to the midrashic version of events, Hannah herself recognizes her own infertility. Like Sarai before her, she suggests to her husband that he should take a second wife in order that he can have children by her. Hannah also has her own interests in mind in giving such advice; she thinks that God will see her actions and reward her. Hannah is correct in this regard; God witnesses Hannah’s act of procreation by proxy and rewards her in kind.

Several modern scholars believe that this text expresses an anti-polygynous sentiment by presenting Elkanah’s marriage to multiple wives in a negative light. These scholars interpret the word “after” (“And after all of this praise...”) as indicating a moral disjunction between the praiseworthy material in the first verse and the non praiseworthy material in the second. While this is a possible reading, it is also possible that the word ‘after’ is merely an indicator of sequence. 1 Sam 1:2 and its interpretation do follow after 1 Sam 1:1 and its interpretation. God’s praise and reward of Hannah for her polygynous suggestion also seem to conflict with the notion that this passage expresses an anti-polygynous sentiment.

**Introduction Exodus Rabbah 1:16**

In the following midrashic text, God himself asserts that polygyny is a viable and efficient means for procreation.

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140 Epstein, *Marriage Laws in the Bible and Talmud*, 20; Lowy, “Jewish Polygamy in Talmudic Times,” 117. Braude interpolates the moral disjunction into his translation of the *midrash*: “And yet, said R. Jonah in the name of R. Isaac, disparagingly the text goes on to say, despite Elkanah’s merit, *And he had two wives* (1 Sam 1:2).”
Hebrew Ex Rabbah 1:14

The Holy One, blessed is He, said: Whoever gave you [Pharaoh] this counsel is a fool. It would have been [better] for you to kill the females. If there are no females, how will the males take wives? One woman cannot marry two men; one man can marry ten wives, or a hundred. So, “The princes of Zoan are idiots; the wisest of the Pharaoh’s counsellors is a poor counsel,” because they gave him this counsel.

Comment Exodus Rabbah 1:14

The midrash above discusses Ex 1:14 and employs this verse to interpret Isa 19:11. In the text of the midrash, God argues that Ex 1:14’s plan for the Hebrew midwives to kill male but not female children epitomizes (or perhaps constitutes) the bad counsel to which Isa 19:11 refers. The plan, according to God, simply does not represent an intelligent means of impeding the reproduction of the Hebrew people. God tells Pharaoh that a more intelligent plan would involve killing the baby girls, rather than the baby boys. His rationale for this position is that men can practice polygyny, whereas women cannot practice polyandry. The unspoken analogue is that, even if the Hebrew mid-wives were to...
kill off most or even all baby boys, a few surviving men would nevertheless be able to
take multiple wives, ten or one hundred, and repopulate the Hebrew ethnic group.

**Conclusion: A Man’s Obligation for Procreation and Polygyny**

All but one of the rabbinic texts above indicates that a man may enact a polygynous
marriage for the sake of procreation. The Mishnah’s fertility legislation requires that a
man must marry another wife after ten years of childless marriage and leaves the man
with the option of divorcing his first wife or retaining her as a second wife. The
Babylonian Talmud disputes the appropriateness of taking a second wife, both in this
regard and in general, but rules in favour of polygyny. This assumption, i.e., that a man
can initiate a polygynous marriage for his procreative purposes, provides the basis for
Pesikta Rabbatai’s *midrash* on 1 Sam 1:2 and Exodus Rabbah’s *midrash* on Ex 1:16. The
sole exception to this near axiomatic notion, the Tosefta, recommends that infertile
couples should divorce, but rules that fertile men can marry sterile women as second
wives.
Chapter Three: The Rabbinic Critique of Mixed Fertility Polygynous Marriages

Jewish legal texts seldom discuss the topic of polygyny in general. A specific type of polygynous marriage, however, constitutes a subject of considerable discussion, and indeed controversy, in each of the major legal works of late antique rabbinic Judaism. This type of marriage involves one husband, one fertile wife, and one infertile wife. This chapter will examine legal and narrative rabbinic texts dealing with this issue in order to determine their attitudes, both legal and otherwise, towards fertile/infertile polygynous marriages.

**Introduction m. Yevamot 6:5**

Several tannaitic rulings explicitly indicate the legality of mixed fertility polygynous marriages in general. The brief text below problematizes this issue, calling into question the legality of this particular marital arrangement for priests.

**Hebrew m. Yevamot 6:5**

כין דוריית ל אשת יכולת אלא אם כן יז לא אשה בתים ר' יהודה אמר אין"פ שישי ול אשת בתים אלא אם יכולת שנייה והמיתה במחנה חמשה לא מירם אתון אלא גנורג משהחררה ושנפערת ביעלנה נתת

**Translation m. Yevamot 6:5**

An ordinary priest does not marry a sterile woman unless he already has a wife and children.

Rabbi Judah says, “Even if he has a wife and children, he does not marry a sterile woman, for she is the zonah mentioned in the Torah.”

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144 R. Judah b. Ilai.
145 This literally means ‘prostitute.’
But the sages say the only *zonah* is a female convert, a manumitted female slave, and a woman who has engaged in the sex of prostitution.

**Comment on m. Yevamot 6:5**

The Mishnah rules that a priest cannot marry a woman incapable of having children unless he already has a wife and children. Despite its placement, this ruling is conceptually dependent on the fertility legislation at m. Yevamot 6:6, discussed above. The clear implication of this passage is that a common priest who is married with children may take a sterile woman as a second wife.

R. Judah opposes this ruling. He does so by equating marriage to a sterile woman with marriage to a prostitute. As the Torah forbids marriage between priests and prostitutes, this interpretive move precludes marriages between priests and sterile women altogether. The basis for R. Judah’s equation of marriage to a sterile woman with marriage to a prostitute appears to be the notion that licit sexual intercourse entails the possibility of procreation. This pro-natalist understanding of sex parallels certain Stoic justifications for marriage, and stands unjustified by scripture.

The sages refute R. Judah’s position by providing an apparently exhaustive list of prostitute-type women which does not include sterile women. The definition of a *zonah* as one who has had sex as a prostitute is redundant but clear. Less clear is the sages’ definition of manumitted slaves and female converts as prostitutes. Epstein suggests that these women are “disqualified through [their] presumed intercourse with idolaters and slaves.” One possible non-legal explanation is that the sages believe foreign women disrupt priestly purity, even after an apparently transformative conversion. Despite the

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146 Lev 21:7.
148 *Yebamoth*, trans. Isidore Epstein, 61a n. 15.
ambiguous basis of the sages’ definition of former slaves and converts as prostitutes, their position with regard to sterile women is clear: marriage to a sterile woman does not constitute marriage to a prostitute, and a priest can indeed take a sterile woman as a second wife.

Although the language of this passage might suggest that a more lenient position applies for non-priests, this is actually not the case. The passage immediately following this one legislates that the duty to procreate is incumbent upon all males, priest or not. The Gemara sensibly suggests that the non-inclusive wording of this ruling (i.e. “a common priest…” rather than, “a man…”) anticipates Rabbi Judah’s challenge, which applies only to priests, as there is no prohibition on non-priests marrying former prostitutes.

While a more lenient ruling does not apply, m. Sotah 4:3 indicates that an equivalent ruling does: non-priests can marry sterile second wives if they are already married with children. A non-priest can even marry a sterile second wife if, in accordance with R. Judah’s position, one views the bride as a zonah.

Thus, the Mishnah gives its implicit consent to marriages between sterile women and non-priestly men, so long as the men already have a wife and children. Moreover, the Mishnah gives its contested yet explicit consent to marriages between married priests and sterile women.

**Introduction y. Yevamot 7d**

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149 A more lenient position would allow a non-priest can marry a sterile woman without first having a wife and children.

150 b. Yevamot 61b.
The *Yerushalmi’s* discussion of m. Yevamot 6:5 presents three *midrashim* that deal with the issue of non-procreative sexual intercourse. One of these involves a mixed fertility polygynous marriage.

**Aramaic and Hebrew v. Yevamot 7d**

רבי יהודה בן פאצי רבי יהודה בן פאצי: It is written, "Between their rows they press oil [and thirsty they tread the winepress]... no one turns to their vineyard,"[^151] because their sexual intercourse was not for children.

רבי שמעוןytt: It is written, "They ate, but they will not be satisfied; they behaved like prostitutes, but they will not increase,"[^152] because their sexual intercourse was not for children.”

came ו杇ון ודל שבר ופש ופש שרצה ודר שרצה שרצה ופש ובצל ושלום

**Translation v. Yevamot 7d**

Rabbi Judah ben Pazi: It is written, “Between their rows they press oil [and thirsty they tread the winepress]... no one turns to their vineyard,”[^151] because their sexual intercourse was not for children.

Rabbi Shimon said: It is written, “They ate, but they will not be satisfied; they behaved like prostitutes, but they will not increase,”[^152] because their sexual intercourse was not for children.”

It is written, “And Lamekh took for himself two wives, Adah...,” because he would take pleasure in her body; “…Silah...,” because he would sit in the shade of her children.

**Comment v. Yevamot 7d**

The first *midrash* above works with Job 24:11 and Job 24:18. These biblical passages are segments of an extended description of wicked people’s destructive actions, and the

[^151]: Job 24:11, 18.
[^152]: Hos 4:10.
destitute victims of these actions. In the biblical context, the ostensible basis for both the triumph of the wicked and the oppression of the poor is a delay in divine judgement. The *darshan*, however, suggests a different cause for both the actions of the evil and the victimization of the needy: “because their sexual intercourse was not for children.” This interpretation sensitively picks up on a later verse in the chapter: “He consorts with [הַנַּעַר] a barren woman who does not bear children.” In its biblical context, this verse likely describes a trait of a sinful man. The *darshan* reinterprets this verse as a statement of causation.

The second *midrash* above works with Hos 4:10. This biblical text responds to Israel’s perceived murderous and idolatrous sinfulness. The punishment for this behaviour is an inversion of the natural order: Israel will eat without satisfaction and have sex without producing children. As above, the *darshan* provides an alternative explanation for this lack of satisfaction and increase. These represent the consequences of non-procreative sexual intercourse.

The third *midrash* provides an etymological explanation of the names of Lamekh’s wives. The root of Adah’s name, according to this interpretation, is a-d-n (תנ), “pleasure,” because Lamekh takes pleasure in her body. The root of Silah’s name is s-l-l (שלום), “shade/shadow,” because she is Lamekh’s child-producing wife. The rationale for this latter interpretation is somewhat unclear. Perhaps the underlying idea is that children lessen the harshness of old age like shade lessens the harshness of the sun.

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153 Job 24:1.
154 In the present context, an Aramaic reading of this verb is preferable: “He takes pleasure in a barren woman…” Cf. Marcus Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic literature* (New York: Pardes Publishing House, 1950), 1486.
These etymologies appear to proceed under the assumption that Lamekh has two wives in a fertile/infertile polygynous marriage. Significantly, Genesis 4:19-23 portrays both wives as possessing the capacity for bearing children: Adah has two children, and Sila. This midrash, then, interpolates infertility into a biblical text involving only polygyny, indicating a conceptual link between these issues.

**Introduction Gen Rab. 23:1 (Ed. Albeck)**

Genesis Rabbah contains a parallel to the text above as well as another interpretation of Gen 4:19. This latter text explicitly defines Lamekh’s marriage as a mixed fertility marriage and provides it with a negative evaluation.

**Hebrew and Aramaic Genesis Rabbah 23:1**

יִזְכָּה לְלַפְּרֵי שַׁתָּי נַשָּׁתָּו וְלֹא יָרְדֵּה בֵּשָׁמָהוּ וּלְאִירֵי אֶנְשׁוּ וְלֹא יָדֵעֵה דֵּרֵי הָאָדָם

ִמְנָה לַזָּה בֵּעָשָּׁה אֵלֶּה הָרָבָּה אֵלֶּה לְחַשְׂמִישׁוּ וְלִשְׁפִּירִיהוּוּ וַחֲמָשׁוּהוּ יִשְׁבָּה

כְּאָמְרֵנָה בַּחֲרֵי וְשַּׁלְמַשׁוּוּ וַחֲמָשׁוּהוּ וְשַׁלְמַשׁוּוּוּ יִשְׁבָּה יִשְׁבָּה יִשְׁבָּה יִשְׁבָּה יִשְׁבָּה יִשְׁבָּה

הַדְּוָא רָעָה וּכְרִי לְאִירֵי אֶגְלַמְתָּה לֹא יִשְׁבִּי

**Translation Genesis Rabbah 23:1**

“And Lamekh took for himself two wives…” R. Azariah in the name of R. Judah: This is what the men of the generation of the Flood were doing. One of them would take two wives, one for procreation and one for sex. The one for procreation would sit like a widow during her lifetime; the one for sex would drink a sterilizing potion so that she would not have children. And she would sit

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156 The Genesis Rabbah text below makes this connection explicit.
157 Gen 4:19.
before him like a prostitute. As it is written, “He takes pleasure in an infertile woman who does not bear children; he does not do well by a widow…”

Comment Gen Rab. 23:2

This midrash appears in Genesis Rabbah’s treatment of Gen 4:19. Significantly, R. Azariah attributes the text to R. Judah, the tanna who equates infertile rival-wives with prostitutes. His tradition alleges that the men of the generation of the flood would employ contraceptives in order to establish mixed fertility polygynous marriages. Such attribution constitutes an unambiguous critique of this marital practice.

Two distinct intertextual units provide the generating force behind this interpretation. m. Yevamot 6:5 likely provides the basis for the comparison of the infertile rival-wife with a prostitute. As with the Yerushalmi’s first midrash above, Job 24:21 provides the form and much of the content of the present midrash. This biblical verse refers to a sinful man who treats a widow poorly and consorts with in an infertile woman. The darshan interprets the subject of this verse as a man of the generation of the Flood, the infertile woman as his sterilized wife, and the poorly treated widow as his child-bearing wife. The first two of these interpretive moves are straightforward enough, but the latter deserves some mention. The rationale for this equation appears to be the notion that a husband who puts most of his sexual energy into his infertile wife, and only impregnates his fertile wife is essentially treating the latter like a wife with no husband.

Introduction b. Ketubot 62b

The Babylonian Talmud contains an extended series of narratives which deals with the issue of a husband’s conflicting responsibilities to his wife and to his studies. One of

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158 Job 24:21. The text goes on to quote a parallel of the Yerushalmi tradition immediately above.
these narratives also deals with the issue of mixed fertility polygynous marriages. This story portrays a wife who becomes barren during her childless husband’s period of studies at a yeshivah. The text suggests that a polygynous marriage is a less than ideal solution to this difficult situation.

Aramaic and Hebrew b. Ketubot 62b

א沙龙 אישפם ליה לזרה בר ר’ ויס בן עדמא פסקי לה תורה סר שלום ל dhe רב
אולפת קמעה אמא לחר נגוה שית שטיא אולפת קמעה אמא לחר אייבס וזר איויה היה
כע מכסף מהביה א”ל בני דעת ק nok יא בר מצייריא כתיב חכמים וחש综合整治
קתיב דעש למקדש ושכן החכמה אייל ייחר הר בחר עמי רב ד dhe יאיאצקר
دماتר אמר רב חוכ נבוע נגורשה אמר להユニון והעשת משרדר נ()][אייאתא
אוחייתה יאמרו וה אשה ודו ונה עלה רוחם ואיתפאת

Translation b. Ketubot 62b

[R. Judah] went and busied himself for his son’s [marriage] into the household of R. Yose ben Zimra. They agreed for him to go to the Great House [the Academy] for twelve years. They promenaded her in front of him. He said to them, “Let them be six years.” They promenaded her in front of him. He said to them, “I will consummate [the marriage] and then go.” He felt shame before his father.

[R.Judah] said to him, “You have the mind of your creator.” Originally it is written, “You will bring them and you will plant them [in the mountain of your inheritance…]” But in the end it is written, “Make me a sanctuary, so that I may dwell among them…” He went and sat for twelve years. When he returned,

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159 For analysis of these narratives, see Boyarin, Carnal Israel, 139-156; Rubenstein, Culture of the Babylonian Talmud, 107-114.
160 Exod 15:17. This passage refers to the Temple Mount.
161 Exod 25:8. This passage refers to the Tabernacle.
his wife had become barren. Rabbi said, “What will we do? If we divorce her, they will say ‘This poor woman waited in vain.’ If we marry [him to] another woman, they will say, ‘This one is his wife and this one is his prostitute.’ He prayed for mercy on her behalf and she recovered.

**Comment b. Ketubot 62b**

The narrative begins with R. Judah the Prince, the protagonist of the story, making plans for his son’s wedding. This is originally to occur after twelve years of study. Upon seeing his future bride, however, the young man convinces the relevant parties to allow the consummation of his marriage before the study period. Above and beyond its poignancy, this event is crucial for plot development. If the wedding did not take place before the woman became barren, there would be no narrative tension; Rabbi’s son would simply marry someone else. The son feels some shame for his decision, but his father kindly assuages this with a *midrash*: Like the son, God himself decides against his initial plan to delay his union with his bride, Israel.¹⁶²

The son leaves his wife for the twelve-year study period, during which time his wife becomes barren. The remainder of the story proceeds under the assumption that Rabbi’s son cannot abstain from his duty to procreate; he must take a second wife in addition to, or in place of, his first wife.

Despite their tannaitic pedigree, the Babylonian Talmud expresses here a considerable amount of anxiety over both of these possible solutions. The text states that divorce in this situation would constitute a cruel punishment to an undeserving woman in

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the eyes of the anonymous public. The woman’s untimely infertility is, after all, the result of her husband’s extended stay at the academy. The Bavli also portrays the alternative to divorce, polygyny, as a poor solution to this unfortunate situation. It states that people will view the fertile second wife as the son’s real wife, and the infertile first wife as his prostitute.

Several modern scholars have claimed that this text reflects and represents popular resentment against polygyny. Epstein is typical of this approach: “people disliked polygamy and protested when it occurred.” If, however, the text reflects an authentic popular sentiment, then it is curious that only one of the Bavli’s many texts dealing with polygyny expresses this sentiment.

There is a better explanation for the Bavli’s statement above. The term ‘prostitute’ in this particular narrative is likely an intertextual reference to m. Yevamot 6:5. There, R. Judah explicitly equates a sterile rival-wife with a prostitute. The present narrative, then, represents a talmudic redeployment of R. Judah’s legal dictum in narrative form.

The final section of the narrative rejects both of the above solutions in favour of a third: divine intervention. Rabbi prays for the couple, which brings about the miraculous

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163 In reference to this text, Rubenstein states that “they will say,” is a “technical term employed in halakhic discussions to introduce mistaken and undesirable conclusions people will reach if certain rulings are promulgated or actions taken.” Jeffery L. Rubenstein, Culture of the Babylonian Talmud, 108. I do not think, however, that the conclusions here are necessarily mistaken. The tension underlying the negative evaluation of the first solution also motivates the entire series of talmudic narratives of which this is a part. The underlying rationale of the second negative evaluation likely stems from R. Judah’s ruling at m. Yevamot 6:5.


165 This textual manoeuvre does suggest, in passing, an alternative or complementary rationale for R. Judah’s original mishnaic pronouncement. It is possible that the Talmud assumes that a consideration of public opinion informs R. Judah’s identification of a sterile second wife as a prostitute. Note that even in this case there is no public outcry against polygyny in general. There is, however, no indication of this interpretation in the Bavli’s direct commentary to the Mishnah, where this more technical style of interpretation belongs. It seems more likely to me that R. Judah’s opinion informs the anonymous “they” in the present narrative, rather than vice versa.
restoration of the woman’s fertility.\textsuperscript{166} This resolution amplifies the anxiety that the text already manifests towards the two mishnaic solutions to infertile marriage. Indeed, to the extent that the narrative as a whole expresses ambivalence about both of these solutions, it expresses ambivalence about the legislation itself.

**Conclusion**

The issue of mixed fertility polygynous marriages arouses considerable speculation in the Mishnah, Tosefta, *Bavli* and *Yerushalmi*. This speculation flows from both a textual source, R. Judah's statement that infertile wives are prostitutes, and the socio-cultural axiom that sexual intercourse should produce children. While polygynous marriages containing an infertile partner, one who necessarily participates only in non-procreative sexual intercourse, arouse some criticism, this does not constitute criticism of polygyny in general.

\textsuperscript{166} Cf. y. Yevamot 4:12, discussed above pp 18-21, where R. Judah’s prayer also brings about miraculous fertility.
Chapter Four: Betrothal Legislation and Polygyny

This chapter will present and analyze a group of tannaitic and amoraic legal, narrative and quasi-philosophical texts dealing with the betrothal of multiple women. I will argue here that the mishnaic system of betrothal is intrinsically polygynous.

Introduction m. Kiddushin 2:6

The Mishnah sets forth a relatively comprehensive system of betrothal legislation in tractate Kiddushin. According to this legal system, a man can ‘acquire’ a woman through one of three legally valid means: he can have sexual intercourse with the woman, he can give the woman a betrothal document, or he can give her a betrothal gift. The discussion that follows the statement of these three techniques focuses more on the giving of betrothal gifts than on the other two methods.

The Mishnah sets the minimum value of a betrothal gift at the modest amount of one perutah. It also rules that a man must give a gift of at least this amount on one single occasion in order to legally initiate betrothal. If he gives a gift of less than this amount to one woman, or a gift of this amount to more than woman, there is no legally binding betrothal.

Hebrew m. Kiddushin 2:6

המקדש שחר נשמת נשואת פרותרת או נשואת אשה בפתוחת נשואת פרותרת אא פיר ישלה

סכלנהו לאהר מכנן אנה מקדשת...

167 On the topic of rabbinic betrothal legislation, see: Biale, Women and Jewish Law, 44-69; Hauptman, Rereading the Rabbis, 60-74. Ilan, Jewish Women in Greco-Roman Palestine, 88-9; Romney Wegner, Chattel or Person?, 43-45.

168 m. Kiddushin 1:1.

169 A perutah is a copper coin and represents the smallest unit of currency in the Mishnah. Hauptman, Rereading the Rabbis, 69.
Translation m. Kiddushin 2:6

One who betroths two women with something worth a perutah, or one woman with something worth less than a perutah, even if he sent gifts afterwards, she is not betrothed, because he sent [the gifts] on account of the betrothal...

Comment m. Kiddushin 2:6

Betrothal takes place only when the value of the betrothal gift is one perutah per woman at the time of betrothal. The Mishnah takes the position that gifts sent after an incomplete betrothal are merely post-betrothal gifts sent on the occasion of a betrothal that does not (yet) exist; therefore, they do not function as an instrument of betrothal. The incomplete betrothal remains incomplete, even if the total value of the gifts is greater than a perutah.

This ruling's approach to marriage with multiple wives is quite significant for the issue of polygyny in the Mishnah. The passage discusses betrothal to multiple women in exactly the same legal context as betrothal to a single woman. Polygyny, as elsewhere in the Mishnah, does not require or receive its own legal terminology or conceptual framework. In addition, the formal procedure for betrothal functions in exactly the same manner for a polygynous marriage as it does for a monogamous marriage. Gifts of one perutah per woman can effect simultaneous betrothal to two women in just the same way as a gift of one perutah can effect betrothal to a single woman.

Introduction m. Kiddushin 2:7

The text above mentions, in passing, the legality of a simultaneous betrothal of two women. The text below, from the following mishnah in tractate Kiddushin, depicts a simultaneous betrothal to multiple women.

Hebrew m. Kiddushin 2:7
Translation m. Kiddushin 2:7

A happening involving five women, amongst whom were two sisters: A [man] took a basket of figs, it was theirs, but it was sabbatical [produce]. He said to them, “All of you are betrothed to me with this [basket of figs].” One of them accepted on behalf of all of them. The sages said, “The sisters are not betrothed.”

Comment m. Kiddushin 2:7

The Mishnah presents this narrative, which it portrays as an actual event (ממש), alongside a ruling on its behalf, in order to illustrate several legal principles. First, a man can legitimately take sabbatical produce, which is legally ownerless, from someone else and use it to effect betrothal. Second, one woman can legally accept an offer of betrothal on behalf of a group of women. Third, when a man attempts to betroth two potentially incestuous relatives, neither betrothal takes effect. Fourth, and most importantly, this text shows that a man can betroth multiple women simultaneously or, in the phrasing of the Yerushalmi, “like one (Containing).”

Introduction t. Ketubot 5:1

Like the Mishnah, the Tosefta also expresses the legality of betrothal to multiple wives. Whereas the Mishnah refers to a man’s betrothal of three women, the Tosefta depicts a tanna’s betrothal of 300 women.

170 “Here we have an impulsive and irresponsible act which must nevertheless be discussed in legal fashion.” Lowy, “Jewish Polygamy in Talmudic Times,” 119. Note that the text itself makes no explicit comment on the character of the betrothal.

171 For lengthy deliberations on and variations of these legal principles, see y. Kiddushin 2:6 and b. Kiddushin 52a-b.
Hebrew t. Ketubot 5:1

אמר ר' מנחם בן נפתא ר' אליעזר חכמי ממעשה בר' סגפמן שקדוש לב mật שיש לו למאכל

ברתומה שמי שטי בצרות

Translation t. Ketubot 5:1

R. Menahem ben Nafah said R. Eliezer Hakafar [said]: An event involving R. Tarfon: he betrothed 300 women to feed them with terumah173 because those were years of famine.

Comment t. Ketubot 5:1

Like the previous text, this one also depicts an ostensibly historical event: During a famine, R. Tarfon, a priest and tannaitic sage, once betrothed 300 women in order to feed them terumah. In the Tosefta, this narrative constitutes a counter-tradition to the majority position that women who marry priests must wait until the formal marriage ceremony before they can eat terumah.174 This legal context, then, strongly suggests that he did not actually marry these women. Nevertheless, it is sufficient for the present inquiry to note that the Tosefta presents this betrothal of 300 women as both legitimate and binding.

Introduction b. Kiddushin 7a

Like the Mishnah and Tosefta, the Babylonian Talmud explicitly expresses the legality of a man betrothing multiple women. It does so in a poetic manner.

Aramaic b. Kiddushin 7a

אמר ר' מנחם בן נפתא ר' אליעזר חכמי ממעשה בר' סגפמן שקדוש לב밀

לברתומה שמי שטי בצרות

172 A parallel version of this text appears at y Yevamot 4:12.
173 Terumah, briefly, is the priestly portion of the sanctuary tithe. Priests and the (prospective) wives of priests may eat it.
174 "Our rabbis said, 'A woman does not eat teruma until she enters the hupah.'" Hebrew:

רבוריית ארפות אין מהישה אוכלת בחורות עד שתשקמו ות[top]
Translation b. Kiddushin 7a

Rava said, “[If a man] said, ‘Be betrothed to half of me,’ [the woman] is betrothed. [If he said], ‘Half of you is betrothed to me,’ then she is not betrothed.” Abaye said to him, “How does, ‘Half of you is betrothed to me,’ differ so that she is not betrothed? [Is it because] the Merciful One said, ‘[When a man takes] a wife…’ and not ‘half of a wife’? Here too, [though,] the Merciful One said ‘a man,’ and not ‘half of a man.’ [Rava] said to him, “Now, a woman with a pair [of husbands] is not recognized. However, who does not recognize a man with a pair [of wives]? And this is what he should say to her, ‘If I wish to marry another, I will marry [her].’”

Comment b. Kiddushin 7a

Here Rava clearly asserts the legitimacy of polygynous betrothals (and marriages). The text begins with a theoretical expression of this concept: a woman may be betrothed to half of a man, but a man may not be betrothed to half of a woman. Abaye attempts to interpret Rava’s dictum through Scripture: Deut 24:1, which mentions marriage, refers to a woman, not half of a woman. Here, Abaye briefly suggests, one learns that a man cannot be betrothed to half of a woman, as per Rava. Abaye also points out, however, that the biblical text refers to a man, and not half of a man. How, then, can a woman be betrothed to half of a man? Rava ignores Abaye’s interpretations and proceeds to...

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175 Deut 24:1
176 ibid.
177 Note that this is the second Rava tradition that legitimates polygyny.
178 The text deals primarily with divorce.
interpret his teaching himself. He points out that polygyny is legal, whereas polyandry is not. Therefore, a man can betroth a woman to a fraction of himself, saving other fractions for other potential brides. Women do not have the same privilege; their betrothals always and necessarily involve their whole selves.

**Conclusion**

The wide variety of legal, narrative and speculative texts above uniformly indicate the validity of polygynous betrothals, and they do so without ever showing the least discomfort with this concept. Moreover, multiple-woman betrothals use exactly the same formal procedures and enact the same legal consequences as do single-wife betrothals. This suggests that the basic rabbinic framework for betrothal is inherently polygynous.
Chapter Five: Rabbinic Legislation on Royal Polygyny

Deut 17:17 promulgates a series of rules and regulations for the king of Israel. Amongst these rules are directives prohibiting the king’s accumulation of horses, gold, and, significantly, wives: “He [the king] shall not multiply wives for himself, so that they will not divert his mind.” In their respective versions of tractate Sanhedrin, the Mishnah, the Tosefta, and the two Talmudim interpret this biblical material using a variety of different approaches. This chapter will explicate and analyze the rabbinic interpretations of the phrase, “he shall not multiply wives for himself,” that appear in these texts. It will demonstrate that these treatments uniformly presuppose a polygynous framework of marriage and do not engage with the potentially anti-polygynous aspect of the biblical prohibition.

Introduction to Sanhedrin 4:5

The Tosefta limits the applicability of the rule against multiplying wives. It also provides a brief but significant comment on the scope of this restriction.

Hebrew to Sanhedrin 4:5

לא ידעי עליה אלא עליה שתהו חמש עליות מלך

Translation to Sanhedrin 4:5

The Temple Scroll picks up on this anti-polygynous aspect. Column 56 of the Temple Scroll quotes Deut 17:17; the following column rules: “He [the king] shall not take another wife in addition to her, for she alone will be with him all the days of her life.” 11QT 57:17-18. Hebrew:

ולא יתקנה עליה אלא עליה שתהו חמש עליות מלך
“He shall not multiply wives for himself,” [if the wives are] like Jezebel. But if [the wives] are like Abigail, [multiplying wives] is permitted, the words of R. Judah. “He shall not multiply horses for himself”…

But a common person is permitted to [multiply] both [horses and wives for himself]. R. Yose says, “All that is said in the chapter of the king [i.e., Deut 17:15-20], the king is [actually] permitted [to do].” R. Judah says, “This chapter was spoken only to instill awe amongst [the king’s subjects]. For it is said, ‘You will surely set a king over yourself.’”

**Comment t. Sanhedrin 4:5**

The passage above begins by establishing a qualification for the biblical rule against multiplying wives. According to R. Judah, the king cannot multiply wives if the wives are wicked like Jezabel, who encourages King Ahab to commit murder and brings about his ruin. If, however, the wives are good, like Abigail, who prevents King David from committing murder, then the king can indeed multiply wives. R. Judah interprets the second part of the biblical quotation (“so that [the wives] will not divert his mind”) as stating the purpose of the biblical prohibition: Deut 17:17 aims to ensure that the king keeps his wits, not to establish a concrete limit on his wives.

After a discussion of the biblical rule against multiplying horses, the Tosefta points out that an ordinary man is permitted to multiply both horses and wives. This brief (and heretofore unnoticed) remark constitutes the only tannaitic statement that specifically and explicitly signals the legality of polygny.

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181 Deut 17:14.
182 1 Kgs 21, 1 Kgs 22:38.
183 1 Sam 25.
184 b. Sanhedrin 21a.
R. Yose seems uncomfortable with the notion that a king is prohibited from doing what a common man is permitted to do. He rules that the king actually can do all of the things that are mentioned in Deut 17:16-17.

R. Judah concurs with R. Yose. According to his opinion, the aim of the biblical prohibitions is to inspire the respect of the people, and not to impose rules on the king. R. Judah supports this position with reference to Deut 17:14, which instructs the Israelites to set a king over themselves. In the opinion of R. Judah, this means over and above themselves, in which case it does not make sense for there to be a set of rules that are incumbent upon the king but not on the common man. R. Judah’s ruling here fits nicely with his treatment of the biblical rule against multiplying wives above.

**Introduction m. Sanhedrin 2:4**

The Mishnah’s treatment of Deut 17:17 differs considerably from that of the Tosefta. It presents a parallel version of R. Judah’s tradition, but rejects this in favor of a concrete and unqualified restriction.

**Hebrew m. Sanhedrin 2:4**

לָא יְרַבֵּהוּ לָוָּסֶם אַלָּא שָׁמַעְתָּ הָאָדָם שָׁמַעְתָּ הָאָדָם אָמַר מְרַבֵּה וְחָיוֹת הָוָּא לָוָּלבָּד שָׁלֹא וְיַסְדָּרֵתָּ אַחַת לַיְבֵרָה

“Shall not multiply wives for himself,” eighteen only. R. Judah says, “he can multiply [wives] for himself provided that they will not divert his mind.” R. Shimon says, “even if one were to divert his mind, he could not marry her. If this is so, then why is it

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185 Perhaps they will see him as a frugal king and this will impress them.
186 Deut 17:17.
said, “he shall not multiply wives to himself”? Even if [the potential brides] were like Abigail, [he still could not exceed the limit].”

**Comment m. Sanhedrin 2:4**

The *mishnah* above responds to Deut 17:17 through the establishment of a concrete limit on the number of wives a king can marry: eighteen. The selection of this number does not receive an explanation.

Next, the text presents a version of R. Judah’s tradition that appears in the Tosefta as an opposing tradition. Although the phrasing of this version differs slightly from that of the Tosefta, its message is essentially the same: a king is permitted to multiply wives, so long as they do not lead him into sin.

R. Shimon rebuts R. Judah’s position with a logical two-step argument. First, he states that a king should not be able to marry even a single woman who would divert his mind. According to R. Shimon, this is a distinct and self-evident proposition, and for this reason it cannot constitute the sole meaning of Deut 17:17. R. Shimon then suggests a reading of this biblical text that accords with this proposition: the king can marry a maximum of eighteen wives, all of whom must be virtuous like Abigail.187

**Introduction v. Sanhedrin 2:6**

The *Yerushalmi* provides an inter-textual explanation for the Mishnah’s limit of eighteen wives.

**Aramaic and Hebrew v. Sanhedrin 2:6**

187 Cf. 1 Sam 25, where Abigail prevents David from committing a mistaken act of violence.
Rav Kahana says: [the eighteen wife limit comes] by reason [of the following]: “…and the sixth, Yitram, [was born to] Eglah, David’s wife.” And what is written further on? “And if it was too little, I [God] would have added [wives] like these, and like these.”

Comment v. Sanhedrin 2:6

Rav Kahana makes two strong interpretive moves in order to arrive at a scriptural reference to eighteen wives. First, he suggests that 2 Sam 3:5 indicates that David has six wives. Next, he cites 2 Sam 12:8. In this text, God tells David, via the prophet Nathan, that He would have added to David’s wives, mansion and dominion. God uses the phrase, “[ones] like these (fp), and like these (fp),” to describe the objects of his adding. Rav Kahana interprets this to mean, “I would have added [wives] like these [wives],” giving a subtotal of 12, “and like these [wives],” giving a total of eighteen. These biblical texts, then, provide divine sanction to a king marrying eighteen wives.

Introduction b. Sanhedrin 21a

The Babylonian Talmud’s treatment of m. Sanhedrin 2:4 addresses some of the textual difficulties of Rav Kahana’s interpretation above and provides a series of alternate interpretations as well.

Hebrew and Aramaic b. Sanhedrin 21a

hover ני שָׁמַעְתָּ עָשָׂרָה פִּנְלָה מַכְבִירָה לָדוֹד דָּבָדָדְו ... מָתָּהְקָה הָלָדָּדְו אַלְמָא כַּטַּנֶּה

hover סיר יָכְבִה עָשָׂרָה זְמָרָה וַאֲרָבָּתָה זָמַהְמָא אַל יָכְבִּיד לָדָּדְו אַל דְּבָדָּדְו מַכְבִּידָה וַאֲרָבָּתָה זָמַהְמָא

188 2 Sam 3:5.
189 Although Rav Kahana proposes this interpretation, it is not necessarily the meaning of the biblical text.
190 2 Sam 12:8.
191 2 Sam 3:5. Note that the biblical text here refers to David’s six sons, not his six wives. Moreover, David has at least one other wife, Michal, who does not receive mention at 2 Sam 3:5, giving a total of at least seven.
From where [do we learn that] eighteen [represents the maximum number of wives that a king can marry]? As it is written, “and sons were born to David in Hebron…”  

Ravina objected to [this calculation]: Say, [rather], “…like these ones,” [giving a sub-total of] twelve, ‘and like these ones [the twelve],’ [giving a total of] 24.” It was also taught like this [in a baraita]: “he shall not multiply wives,” beyond 24.

For one who interprets the vav [as an amplifying particle], the [limit] would be 48.

It was also taught like this [in a baraita]: “he shall not multiply wives,” beyond 48.

Rav Kahana said: It equates the latter “like these ones,” with the former “like these ones.” Just as the former are six [wives], so the latter are six.

But there was Michal, [a seventh wife].

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192 The *Bavli* proceeds to quote and interpret 2 Sam 3:2-5 and 2 Sam 12:8 in accordance with Rav Kahana’s tradition from the *Yerushalmi* above.
Rav said: Eglah [refers to] Michal; [therefore, there are only six wives]. And why was she called Eglah? Because she was pleasing to him like a heifer [Heb. “eglah”]. And thus [Samson] says, “If you had not ploughed with my heifer [Delilah,]...”\textsuperscript{193}

But did Michal have any children? And it is written, “and Michal, daughter of Saul, did not have a child until the day of her death.”\textsuperscript{194} Rav Hisda said, “Until the day of her death she did not have a [son]. On the day she died, she had a son, [Yitram].” Now, where are [David’s] sons enumerated? [They are enumerated] in Hebron, whereas the Michal event [takes place] in Jerusalem. As it is written, “And Michal, daughter of Saul, peered through the window, and she saw King David leaping about and dancing before Y., and she despised [him].”\textsuperscript{195} And Rav Judah\textsuperscript{196} (but some say Rav Joseph) said, “Michal received her due, [childlessness].” Say, rather, up to that incident she had [a child], afterwards she did not have [a son].

And it is written, “And David took more concubines and wives in Jerusalem,”\textsuperscript{197} in order to fill the [limit] of eighteen.

**Comment b. Sanhedrin 21a**

The passage above begins with what is essentially an extended restatement of Rav Kahana’s tradition in the *Yerushalmi*, which I discussed above. The *Bavli* then presents two different calculations of the number of wives that God ostensibly refers to in 2 Sam 12:8. The first of these doubles the (already doubled) sub-total of the first, “like these,” arriving at a 24 wife limit; the second quadruples this amount on account of the *vav,*

\textsuperscript{193} Judges 14:18. This indicates that ‘heifer’ can be a term of affection.
\textsuperscript{194} 2 Sam 6:23. 2 Sam 3:5 records that Yitram is the son of Eglah, potentially compromising the equation of Eglah with Michal.
\textsuperscript{195} 2 Sam 6:16.
\textsuperscript{196} This is likely Rav Judah ben Ezekiel.
\textsuperscript{197} 2 Sam 5:13.
arriving at a 48 wife limit. The Bavli attributes tannaitic status to both of these calculations.

Next, the sugya reiterates the steps Rav Kahana takes to arrive at a total of eighteen wives. This introduces the Bavli’s treatment of the issue of David’s seventh wife, Michal. First, the text proposes that Eglah, literally “heifer,” is a pet name for Michal. It supports this proposition with reference to Samson, who refers to Delilah affectionately as “my heifer.”

The Bavli then brings up a difficulty with this interpretation. The biblical text states specifically that Michal did not have any children until the day she died. Rav Hisda provides a solution to this difficulty: she had a child on the day she died; that is, she died giving birth to Yitram in Hebron.

Next the sugya points out that this solution contradicts the chronology of the biblical text. 2 Sam 6:16 describes Michal in Jerusalem. David’s residence in Jerusalem, however, occurs long after his residence in Hebron, where Michal is supposed to have perished in child-birth.

An amoraic tradition raises yet another difficulty with this interpretation. One of two sages, either Rav Judah or Rav Joseph, teaches that Michal’s punishment for the incident in Jerusalem is childlessness. This conflicts with Rav Hisda’s tradition above, according to which Michal dies giving birth to Yitram. In response, the talmudic text suggests that before the incident in Jerusalem Michal did have a child, but after the incident she did not; perhaps he died. This resolves the contradiction with the tradition of Rav Judah or Rav Joseph, but not the contradiction with Rav Hisda’s tradition.
In light of these difficulties, the *Bavli* abandons Rav Kahana’s calculation in favour of a less problematic but also less exacting approach to eighteen wives. The text turns to 2 Sam 5:13, in which David takes concubines and wives in Jerusalem. The interpretation here is that this biblical passage describes David filling his quota of eighteen wives.

**Conclusion**

The discussion above has shown the various ways in which rabbinic legal texts interpret Deut 17:17’s ruling that a king cannot multiply wives. The Tosefta essentially negates the prohibition. The Mishnah rejects this negation in favour of a limit of eighteen. The Palestinian Talmud accepts this limit and provides it with a midrashic explanation. The Babylonian Talmud also seems to accept this eighteen wife limit, although it also proposes limits of 24 and 48 wives. None of these texts suggests an interpretation of Deut 17:17 that problematizes polygyny in any way whatsoever, as does, for example, the Temple Scroll.\(^{198}\)

The Tosefta’s edition of tractate Sanhedrin states explicitly what its counterparts in the Mishnah, the *Yerushalmi* and the *Bavli* presuppose: a common man, who is not subject to the royal restriction, can indeed multiply wives. This statement reflects an understanding of marriage that is not only polygynous, but imposes no necessary legal or conceptual limit on the number of wives a man may marry.

\(^{198}\) 11QTemple 57:17-18.
Chapter Six: Reflections of the Polygynous Household in Mishnaic Law

Many contemporary scholars point out, correctly, that much of the tannaitic legal material that legislates on multiple wives is academic in character. Indeed, much of this material responds to ambiguities that the potential for multiple wives brings to other, distinct and pre-existing areas of legislation, such as levirate marriage law. There are, however, at least three articles of mishnaic legislation that respond to the nature of polygynous marriages, rather than their mere possibility. This section will explicate and analyze these three laws, revealing the assumptions about the polygynous household which motivate them.

Introduction: m. Yevamot 15:4

The Mishnah promulgates legislation on the validity of women’s testimony regarding the death of a husband. Having such testimony is crucial for a widow, because without it mishnaic law persists in considering her the legal wife of the (deceased) man. As a result, such a woman will never be able to remarry, at least within the framework of rabbinic law, because this legal system decrees that women cannot initiate divorce. A woman in this situation is known as an ‘agunah,’ or ‘bound woman.’

While in most cases the Mishnah deems a woman’s testimony to the death of a husband as valid, it invalidates the testimony of certain close female relatives of the candidate for widowhood, including rival-wives in a polygynous marriage. This chapter...
will analyze this legislation, showing that it presumes the potential for intensely negative relationships between these female relations.

**Hebrew m. Yevamot 15:4**

הכול נאמנים להעידיה וזו מתמודחת בת החמה ופרתה וברמה בת עלה

**Translation m. Yevamot 15:4**

All are believed to testify on her behalf [that her husband is dead], except her mother-in-law, and the daughter of her mother-in-law, and her rival-wife, and her sister-in-law and the daughter of her husband.

**Comment m. Yevamot 15:4**

The Mishnah accepts the testimony of most women, but not the list of relations above. The assumption here is that these women are liable to give false testimony to the death of a husband in order to get rid of an unwanted in-law. Such fraudulent testimony would, if it were considered valid, dissolve the target woman’s marriage and permit her to remarry. If the victim were to remarry, however, and her first husband was found to be living, then mishnaic legislation would terminate both of her marriages, irreversibly, on account of the technically adulterous nature of her second ‘marriage.’ Moreover, it would deem her children *mamzerim.* The severity of these consequences points to the assumption that these kin relationships can generate an enormous amount of animosity. Moreover, women within these relationships, including rival-wives, are liable to act on this

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203 The Mishnah presents an illustration of this legislation at m. Yevamot 15:6: “A woman who went overseas with her husband, and came back and said, ‘My husband is dead,’ marries and receives her *ketubah,* but her rival-wife is prohibited.” The widow’s testimony dissolves her own marriage, but not that of her rival-wife.

204 This is the daughter of her husband by an ex-wife or rival-wife.

205 m. Yevamot 15:6. For an elucidated translation and in depth discussion of this passage, see Romney Wegner, *Chattel or Person?*, 66-68. Note that the Mishnah presents a dissenting opinion, attributed to R. Shimon, which would allow the woman to return to her first husband.

206 *Mamzerim* are literally and legally bastards, but the English word carries numerous connotations that the Hebrew (probably) does not. R. Shimon would only deem the children of the second marriage *mamzerim.*
animosity with a high degree of cruelty and cunning. This assumption may reflect experiences and observations of (polygynous) family life, or representations of the family in biblical or other literary material.  

**Introduction m. Ketubot 10:2**

The following section will present and analyze two pieces of mishnaic inheritance legislation that intersect significantly with polygyny. The first, which I discuss here, rules on the distribution of inheritance when a husband and father dies after the deaths of his multiple wives. In such a situation, two conflicting legal principles come into play: biblical inheritance legislation ordains that sons inherit their father’s estate, and mishnaic inheritance legislation ordains that sons inherit their mother’s ketubah.

**Hebrew m. Ketubot 10:2**

מ שוהה נשים לשה נשים והא ישראל הכ מת הוא והיהות ממתקשות חבות אמו אמין

שים אלה חמי שמי חותות חלוקין בשוחה高清 מש כי יירו דינא נ пути חותות אימא אמיל

**Translation m. Ketubot 10:2**

He who was married to two wives and they died, and afterwards he died, and the orphans claim the ketubah of their mother: if there is only enough for the two

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207 Biale writes, “these women may be hostile to the agunah, and therefore their testimony is suspect. They may be plotting to get rid of her... Such plotting is probably more a theoretical than a real possibility, but it is insufficient to invalidate the testimony of the husband’s closest female relatives.” Women and Jewish Law, 105 (emphasis added). Hauptman’s commentary is (rightly) more cautious with regard to the nature of this assumption: “The rabbis assume all these women to be inimically disposed toward her [the potential agunah] and likely to fabricate a death report for the purpose of wreaking havoc on her life. Unfortunately, we have no way of knowing if these observations corresponded to the social realities of the time.” Hauptman, Rereading the Rabbis, 199.

208 For two relatively brief treatments of rabbinic inheritance law, see: Ilan, Jewish Women in Greco-Roman Palestine, 167-171 and Hauptman, Rereading the Rabbis, 177-195.

209 Numbers 27:8 refers to this principle in passing.

210 m. Ketubot 4:10 refers to this principle in passing.
ketubot, they divide [the estate] equally. [If there was a surplus of one dinar, these take the ketubah of their mother, and those take the ketubah of their mother.

Comment m. Ketubot 10:2

If a man dies after the deaths of his multiple wives, and his estate is equal to (or less than) the value of his wives’ ketubot, then the sons share the estate equally. Thus, the patrilineal system of inheritance takes precedence over the matrilineal, when economic fact determines that one of these systems must take precedence over the other. If, however, the father’s estate is worth even a single dinar more than the value of the ketubot, then an entirely different scenario emerges. The sons first divide the dinar equally, satisfying the biblical inheritance legislation. Then, they inherit the ketubot of their respective mothers. As these will be worth at least 50 dinarim, and likely more, this ruling gives relative precedence to the matrilineal system of inheritance.

This ruling reflects the concern that a mother’s ketubah, which represents the wealth of her own premarital family, stays with her children specifically, and does not devolve to the children of her rival-wives. This indicates that the framers of the Mishnah view the polygynous household as something of a conglomerate of maternal child groupings rather than a single, homogenous paternal unit.

Introduction m. Ketubot 10:5

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211 This is a silver coin that represents the Mishnah’s second smallest unit of currency, next to the copper perutah. Hauptman, Rereading the Rabbis, 69.
213 Menachem Elon summarizes this point nicely: “When a husband dies and his estate includes property brought by his wife at the time she married him, his sons by that wife are the sole heirs to that property; only the remaining property is shared equally with the father’s other sons. Thus, the possibility that the wife’s property would pass to a different family was eliminated.” Menachem Elon, Jewish Law: History, Sources, Principles. (trans. Bernard Auerbach and Melvin J. Sykes; 4 vols.; Philadelphia: Jewish Publication Society, 1994), 576.
The second piece of mishnaic inheritance legislation that I will discuss here concerns the repayment of ketubot to rival-wives/widows after the death of their husband. If the husband’s estate is sufficient to pay the ketubot of all of his widows, the procedure for inheritance is simple: each widow receives her respective ketubah. If, however, the husband’s estate is insufficient to pay out all of the widows, then the widows inherit in the order of their respective marriages, with each widow swearing an oath to the next.

**Hebrew m. Ketubot 10:5**

ミ שאוה נארשנ תשתו ותשתו קדמת לשתו והשתיניל לשנירית ושנירית
לבריתו והשתות נשנניל והשתית לשנירית והשתית לברינת הרברית
נפרעת שלawah בעלשה ארמר בנסされ זפרש שארה אוארה ונשרת איס לא חרד

**Translation mKet 10:5**

He who was married to four wives and died: the first comes before the second, and the second before the third, and the third before the fourth. The first makes an oath to the second, and the second to the third, and the third to the fourth, and the fourth is paid without an oath. Ben Nanos said, “How is it that she is rewarded because she is last? Even she is paid only with an oath.”

**Comment mKet 10:5**

The passage begins with a statement of the principle that rival-wives/widows receive their respective ketubot in the order of their marriages, when a deceased husband’s estate is insufficient to pay all of the ketubot. That is, the first wife receives her full ketubah, or whatever remains of the husband’s estate if there is not enough for her full ketubah,
before consideration of the second wife, who receives her *ketubah*, in full or in part, before consideration of the third, and so on.

This, of course, does not represent an equitable or even proportional distribution of resources, which leads to the second article of legislation here. This states that the first wife, before receiving her *ketubah*, must swear an oath to the second. The Mishnah does not specify what this entails, but it is likely something to the effect that she has not already received or taken anything from the husband’s estate. Pairs of chronologically adjacent wives repeat this process sequentially except for the last wife, who inherits without an oath. She does so for two reasons: first, the usage of this inheritance pattern indicates that there is insufficient money to pay out the full value of at least the last wife’s *ketubah*. Second, the fact that the last wife even has a chance to inherit means that the other wives have already received their full due. Therefore, whatever is left and, perhaps, whatever the last wife already might have taken, legitimately belongs to her. Ben Nanos disagrees with this lenient position, arguing that she, too, should take an oath, in order to prevent her from acquiring her portion of the estate illegitimately.

That rival-wives must swear oaths to each other reflects the assumption that they are liable to deal fraudulently with each other, at least in this situation. This assumption likely reflects both of the following factors: the inequitable nature of the legislation at hand, and, as with the Mishnah’s testimony legislation, the assumption that polygynous marriage is a locus for conflict between rival-wives.

**Conclusion**

Above, I have explicated three mishnaic legal texts dealing with polygyny, paying close attention to the assumptions about polygynous marriage that motivate them. The first text
rules that the testimony of a rival-wife to the death of her husband does not dissolve the marriage of her rival-wife. This ruling reflects the assumption that one rival-wife may give false testimony in order to get rid of or harm another rival-wife. The second text aims to ensure that the property of one rival-wife does not devolve to the children of another rival-wife. This reflects the notion that mothers and their children living in a polygynous household constitute families within families, at least in this regard. The final text ordains that rival-widows receive their respective ketubot only after swearing an oath. As with the first text, this reflects the assumption that rival-wives are liable to defraud one another. It is crucial to note that all of these legal texts respond to the perceived nature of polygyny, rather than the legal possibility of polygyny.
Chapter Seven: Descriptions of Polygyny in the Babylonian Talmud

The Babylonian Talmud depicts several instances of polygynous marriage which the present chapter will contextualize and carefully analyze. I will show that none of these narratives displays any discomfort with the (basic) concept of polygyny.

Introduction b. Yevamot 37b

The following well known and controversial text portrays a pair of famous Babylonian amoraim participating in an unusual type of polygynous marriage. According to both this text and a parallel at b. Yoma 18a, Rav and Rav Nahman would take temporary wives for sex on their excursions around Babylonia.

Aramaic and Hebrew b. Yevamot 37b

For treatments of this text, see: Gafni, “The Institution of Marriage in Rabbinic Times,” 24-25; Lowy, “Jewish Polygamy in Talmudic Times,” 125-129. Gafni’s treatment is preferable, as Lowy’s is highly apologetic.

This practice resembles the Shiite institution of temporary marriage. The Babylonian locale suggests that there may be continuity between the practice depicted and the later Shiite practice. On the topic of temporary marriage in Islamic law see: Shahla Haeri, Law of Desire: Temporary Marriage in Shi‘i Iran (Syracuse: Syracuse University Press, 1989), 49-72.
R. Eliezer ben Jacob said more on this [topic].\textsuperscript{216} A man shall not marry a woman in this province, and then go and marry a woman in another province, lest they will marry, this [child] and that [one], and a brother will find that he has married his sister.

But is this [the ruling], for when Rav happened to come to Dardeshir, he would say, “Who is it for today?”\textsuperscript{217} And when Rav Nahman happened to come to Shekunzib, he would say, “Who is it for today?”

[But] the Rabbis are different because their names are well known. But did Rava not say: [if a woman] is enticed to marry and is persuaded, she must wait seven clean [days].\textsuperscript{218}

The Rabbis would send their agents in order to inform [the prospective brides seven days in advance]. And if you prefer, I could say that the private meetings of the Rabbis were only for the purpose of being closeted up with [the women]. As a master said, “One who has bread in his basket is not like one who does not have bread in his basket.”

A tanna [taught]: R. Eliezer ben Jacob says, “A man shall not marry his wife with the knowledge that he will divorce her, as it is said, ‘Do not devise evil against your neighbor, for he resides in security with you.’”\textsuperscript{219}

\textbf{Comment b. Yevamot 37b}

\begin{itemize}
\item \textsuperscript{216} The subject of discussion here is haphazard sexual intercourse with many women.
\item \textsuperscript{217} That is, he would ask who would be his wife for the day.
\item \textsuperscript{218} I.e., seven days without the appearance of any menstrual blood.
\item \textsuperscript{219} Prov 3:29. This final baraita does not occur at b. Yoma 18a.
\end{itemize}
The passage above begins with the presentation of a *baraita* that the *Bavli* attributes to R. Eliezer ben Jacob. This *baraita* rules that a man should not marry women in different regions because the children of these unions might marry each other incestuously.

The talmudic text then disputes this ruling. It testifies that Rav and Rav Nahman, both married men (and very prominent sages), would initiate temporary marriages when they visited certain towns. In response, the dialogical text states that R. Eliezer ben Jacob’s ruling does not apply to the Rabbis, because they are well known. Presumably, the children of a rabbi’s various wives will know about each other and thus not enact incestuous marriages.

The *Bavli* then presents an amoraic tradition which conflicts with the sage story. According to Rava, a woman must pass seven days with no sign of menstrual blood before consummating her marriage. Therefore, so the objection goes, these rabbis could not have simply arrived in a town and immediately married temporary wives. The talmudic text then rebuts this objection, stating that the Rabbis would send their agents a week ahead of time to announce their arrival to their prospective temporary brides.

Next, the *Bavli* provides an alternative interpretation of Rav and Rav Nahman’s private meetings with the women.220 These were simply private meetings; there was no sex. This reading accords with a tannaitic tradition; just as it is easier for a man to go hungry when he has bread in his basket, so it is easier for a man to go without sex when he has a woman in his private chambers. This alternative interpretation of the sages’ activities resolves the issue of the seven clean days.

The immediate textual unit ends with another *baraita* attributed to R. Eliezer ben Jacob. This one states that a man should not marry a woman with the intention of

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220 The women in this interpretation are probably not brides.
divorcing her. Prov 3:29 provides scriptural support for this teaching, despite its explicitly masculine marking. The placement of this tradition here is an indication that the redactors do not approve of Rav and Rav Nahman’s behavior.

Indeed, differing elements of this passage cast disapproval on two types of polygynous marriage: R. Eliezer ben Jacob’s first tradition rules against marrying multiple wives in different regions; the anonymous editorial material calls into question the practice of marrying temporary wives on out-of-town excursions. Neither of these textual traditions, however, brings polygyny itself into question. Indeed, in calling one specific type of polygynous marriage into question, R. Eliezer ben Jacob’s tradition implicitly grants legitimacy to other types.

This text is also noteworthy in that it clearly shows that the redactors have at their disposal the means to undermine certain practices that are legal but nevertheless undesirable. Such means could conceivably be used to undermine polygyny, if this were indeed a desideratum.

**Introduction b. Ketubot 80a-b**

The following text rules on the right of a husband to dispense with his wife’s property. As in the previous text, this one deploys a narrative involving a polygynous marriage for a rhetorical purpose. Unlike the narrative above, however, this one does not focus solely on the husband; it gives voice to one of the wives.

**Aramaic b. Ketubot 80a-b**

אָבִיָּנָא לְהָ בַּעַל שְׁמֵכֶר כְּרַקְתַּל פְּרִיוֹת מַהְיָה מִי מַאֲפַרַתָא מָא דּוֹמְרֵי מִי דּוֹמְרֵי מִי
רַבּּנָן פְּרִיוֹת לְבֵּנוֹלָשׁוֹם רְוּחַ בִּיתָא אֲבוֹת לִבְנוֹלָשׁוֹת לְהָיָה מִי בַּר מְרַיָּר מְשַׁמוֹ מֶשַּׁמַּיו דְּרוּבָא אָמַר
מָה שְׁעַשָּׂה שְׁעַשָּׂה רֵי בִּפְּמָא אָמְרַי מְשַׁמַּי דְּרוּבָא הָאָמָר לְאֵל הָאָמָר אֵל הָאָמָר אֵל הָאָמָר
It was asked of them [the Sages]: What is [the ruling on] a husband who sold land for its fruit?\textsuperscript{221} Do we say, “He sold that which he acquired”?\textsuperscript{222} Or perhaps, “When the rabbis ordained that the usufruct should go to the husband, it was for the comfort of the household, not to sell.”\textsuperscript{223} Judah Mar bar Maremar said in the name of Rava, “What he has done is done.”\textsuperscript{224} Rav Papa said in the name of Rava, “He has not done anything.”

Rav Papa said: This [Rava tradition] of Judah Mar bar Maremar was not stated explicitly, it was learned inferentially. For [there] was a certain woman that brought her man two female servants. The man went and married another woman, and he gave one of the [servants] to [the new wife]. [The first wife] came and cried before Rava, but he disregarded her. He who saw this thought that [the ruling] was on account of this reason: what has been done is done. But this is not [the case]. It was on account of the comfort of the household, and there was comfort...

\textit{Comment b. Ketubot 80b}

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\textsuperscript{221} I.e., what is the ruling on a husband who sells his wife’s usufruct property for his personal benefit?
\textsuperscript{222} In which case, the sale is valid.
\textsuperscript{223} In which case, the sale is not valid.
\textsuperscript{224} The sale is legitimate.
A legal question heads the passage: can a husband, who has the right to the usufruct of his wife’s property, sell the actual property itself? The Bavli then provides a positive and a negative answer to this question, and attributes each of these positions to an amoraic rabbi. Judah Mar bar Maremar states that if a husband has sold his wife’s property, the sale is valid. He attributes his position to Rava. Rav Papa disagrees, stating that such a sale would be unlawful and therefore null and void. Rav Papa also attributes his position to Rava, whose name now lends support to both sides of this debate.

The Babylonian Talmud then provides an explanation for the conflicting attributions and a resolution to the legal issue. According to Rav Papa, Judah Mar bar Maremar’s tradition reflects an incorrect application of one of Rava’s rulings, rather than an actual dictum of the sage concerning this particular case. Following this statement is a brief account of the ruling: a woman came before Rava to complain that her husband had assigned one of her two female servants to a new second wife, but Rava disregarded the woman’s claim. Note that there is no complaint concerning the husband’s marriage to a second wife. Rava’s ruling here clearly indicates that there is nothing problematic in her husband’s reassignment of one of her servants. It does not, however, provide the rationale for this position. The text then suggests that Judah Mar bar Maremar thinks that Rava’s decision reflects the principle that a husband can indeed dispose of his wife’s property. Rav Papa, however, states that this is not the actual rationale for Rava’s decision. Rather, the reassignment of the female servant to the new wife is valid because it brings comfort to the household.

**Introduction b. Sukkah 27a**
A man with two wives has the central role in the following *baraita*, which discusses the biblical requirement to dwell in a *sukkah* for the seven days of *Sukkot*.\(^{225}\)

**Hebrew b. Sukkah 27a**

Hebrew text:

Aman שאל בעון אני שירה לי שתי נשים יאת בחבריה ואתה בצלפייר ויוס לי שתי סוכות
אחת בחבריה ואתה בצלפייר וסהא מסוכות לקיכה ואפור אמור לי לא שאני או את

Translation b. Sukkah 27a

He [an administrator of King Agripa] also\(^{226}\) asked [R. Eliezer]: “What happens in a case like mine? I have two wives, one in Tiberias and one in Sepphoris, and I have two *sukkot*, one in Tiberias and one in Sepphoris. If I go from *sukkah* to *sukkah*, will I be free [from transgression]?” He said to him, “No, for I say whoever goes from *sukkah* to *sukkah* voids the [fulfillment] of the commandment of the first [*sukkah*].”\(^{227}\)

**Comment b. Sukkah 27a**

A government administrator asks R. Eliezer if it is legitimate for him to divide the seven nights of *Sukkot* between his two *sukkot* (and his two wives) in different cities. The response is negative; he must spend the seven nights of *Sukkot* in one and the same *sukkah*.\(^{228}\)

**Conclusion**

\(^{225}\) Cf. Lev 23:34.

\(^{226}\) His previous question concerned an exemption from the requirement of eating in the *sukkah* fourteen times in the week of *Sukkot*.

\(^{227}\) That is, a person must use the same *sukkah* all seven nights.

\(^{228}\) The text makes no mention of either of the wives, one of whom will be spending the holiday without her husband.
All three texts above deal with problematic legal issues, and they all refer to polygynous marriages. In none of these texts, however, do the polygynous marriages themselves constitute the problematic legal issue. The first text presents and problematizes temporary marriage for the purpose of sex (or intergender companionship without sex). This is indeed a type of polygyny, but the more general category of polygynous marriages does not come into question here. Indeed, one of the tannaitic counter-traditions to the practice of temporary marriage implicitly presupposes the legality of polygyny. The second text portrays a woman who is unhappy with her husband’s assignment of one of her two female servants to her new rival-wife. She petitions a rabbinic court for the return of the servant, but to no avail. The third text establishes that a man must spend the seven nights of Sukkot in a single sukkah in order to fulfill the commandment, even if he has two wives. Like the other two texts, polygyny is not the central issue of this text, and it does not occasion any discomfort on the part of the redactors.
Chapter Eight: Prescriptions of Polygyny in the Babylonian Talmud

In this chapter, I will show that the Babylonian Talmud contains two brief statements which give advice concerning polygyny. Although quite succinct in themselves, both of these statements are components of lengthy, colourful and distinctively Babylonian sugyot.\(^{229}\) In order to arrive at a comprehensive understanding of these bits of advice, the discussion below will devote considerable attention to explicating their respective textual contexts.

**Introduction: Remedies for a Bad Wife\(^ {230} \)**

The Babylonian Talmud inserts a discussion of bad (and good\(^ {231} \)) wives into its commentary on m. Yevamot 6:6. This section provides definitions of and remedies for a bad wife, often with scriptural support. Significantly, one of the remedies that the text suggests is the taking of a second wife.

**Aramaic and Hebrew b. Yevamot 63A-B**

\begin{verbatim}
руб הוה מופשיםسرطב היה אומר ליה רזמא להצליל מימי שמחה מביתו ויה
דקמה מופשא תם כה ושכבה ונמצאת כי מצערה ליה
דברותיה כי אפור ליה עבדית ליה טפוחים עבדה ליה והמשיח ותטר *
דבריה אפור ליהｃלאואיא ליה אפר ליה נאו יהוה דקר אפר אינן
דבריה כי אפור דקר מטמון שתחמ מית לא תานניהがあり
شكر עשה וגו רבי חייא יהודה אפר ליה מצערת ליה דברותיה כי הוה שמחה מיתי ציור ליה במחזור
עמיתיה יקהל אפר ליה רבי והא מצערת ליהrlen"ז דירוי שמחות לב
אותונות השמהמקור ליה רבי יהודה לרב צדקיהו ומכםchein המה והאמות א"ל
\end{verbatim}

\(^{229}\) That is, these sugyot are Babylonian textual productions.


\(^{231}\) I will not consider this material here because it does not bear an explicit relation to the issue of polygyny. For a relevant discussion, see Hauptman, *Rereading the Rabbis*, 141-144.
Rav was taking leave of R. Hiyya; he said to him, “May the Merciful One deliver you from that which is more troublesome than death.” And is there anything more
troublesome than death? He went out, pondered, and found: “I find the woman [or “wife”] more bitter than death...”

Rav was vexed by his wife. When he said to her, “Make me lentils,” she would make him chickpeas; “Chickpeas,” she would make him lentils. When his son Hiyya grew up, he turned her around, [reversing the orders]. [Rav] said to [Hiyya], “Your mother has improved.” [Hiyya] said to him, “I am the one that turned her around.” [Rav] said to him, “That is why people say, ‘Your progeny will teach you reason.’” [Nevertheless] you should not do this, as it is said, “They taught their tongue to speak deceit, iniquity...”

R. Hiyya was vexed by his wife. When he found something, he would [nevertheless] stash it in his scarf and bring it to her. Rav said to him, “And this one is vexing the master!” [R. Hiyya] said to him, “It is enough that they bring up our children and deliver us from sin.”

Rav Judah was reading [this verse] to his son Rav Isaac: “I find the woman more bitter than death...” [Rav Isaac] said to him, “Who is this like?” “Like your mother.” But Rav Judah taught this to his son Rav Isaac: “A man finds contentment [lit. “cooling of the spirit”] only with his first wife. As it is written, ‘May your fountain be blessed, and be happy with the wife of your youth.’” And [Rav Isaac] said to him, “Who is this like?” “Like your mother.” She gets angry, but it passes with a word.

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235 Prov 5:18
236 Cf. b. Sanhedrin 22B
How should one understand [the term] ‘a bad wife’? Abaye said, “She prepares the tray for him, but she [also] prepares the mouth for him.” Rava said, “She prepares the tray for him, but she turns her back on him.”

R. Hama bar Hanina said: When a man takes a wife his sins are destroyed, as it is said, “He who has found a wife has found goodness, and achieves favour from Y.”^237

In the West, when a man marries a wife, they ask him, “Found or find?” “Found,” as it is written, “He who has found a wife has found goodness.” “Find,” as it is written, “I find the woman more bitter than death.”

Rava said: It is a commandment to divorce a bad wife, as it is written, “Put away the scoffer and conflict will depart; debate and contention will cease.”^238

Rava said: A bad wife who has a large ketubah? [Put] a rival-wife at her side, as people say, “By her partner and not by a thorn.”^239

And Rava said: A bad wife is as troublesome as a rainy day, as it is said, “Dripping on a rainy day and a contentious woman are alike.”^240

And Rava said: Come and see how good a good wife is, and how bad a bad wife is. How good is a good wife? As it is written, “He who has found a wife has found goodness.” If the verse is talking about [the woman] herself, then how good is a good wife that Scripture praises her. If the verse is talking about the Torah, then how good is a good wife that the Torah is equated with her. How bad is a bad wife? As it is written, “I find the woman more bitter than death.” If the verse is taking about [the woman] herself,  

^237 Prov 18:22.  
^238 Prov 22:10.  
^239 Note that this is the third Rava teaching that legitimates polygyny.  
^240 Prov 27:15.
then how bad is a bad wife that Scripture puts her to shame. If the verse is talking about Gehenna, then how bad is a bad wife that Gehenna is equated with her.

"Behold, I am bringing forth an evil from which they will not be able to escape."²⁴¹ Rav Nahman said Rava bar Avuha said: This is a bad wife who has a large ketubah.

"Y. has delivered me into the hands of those against whom I cannot stand."²⁴² Rav Hisda said Mar Ukva bar Hiyya said: This is a bad wife and her ketubah is large...

"I will provoke them to anger with a despicable nation."²⁴³ This is a bad wife who has a large ketubah.

Comment b. Yevamot 63A-B

In the first section, Rav, at the prompting of R. Hiyya, asks himself if there is anything worse than death. After some consideration, he recalls a scriptural text, Eccl 7:26, which answers his question: woman is worse than death. This brief sage story, along with its biblical citation, introduces and sets the tone of the Babylonian Talmud’s extended discussion of bad wives.

The first substantive section of this discussion is a sage story that concerns Rav, his son Hiyya and his anonymous wife. This tradition defines petty, domestic disobedience (non-compliance with a husband’s dinner request) as behaviour befitting a bad wife. That Rav does not accept his son’s practical solution, reversing the dinner request, shows that the real problem lies in his wife’s contrary attitude, rather than what he gets for supper.

²⁴¹ Jer 11:11.
²⁴² Lam 1:14.
²⁴³ Deut 32:21.
The third section is yet another sage story. This one, like the first, involves Rav and R. Hyya. It portrays R. Hyya as a husband who gives gifts to his wife despite her bad behaviour. Rav’s protest to such gift giving allows R. Hyya the opportunity to outline his attitude towards wives in general: it is necessary only that a wife “serves as a licit sexual outlet for her husband,” and brings up his children. The unspoken analogue is that obedient behaviour is not entirely necessary. Note that R. Hyya speaks for men in general; his counsel is a corrective to Rav’s stricter attitude.

The next section of the sugya presents and resolves two conflicting traditions that Rav Judah has ostensibly taught to his son, R. Isaac. In the first, Rav Judah identifies the bitter woman of Eccl 7:26 with his wife, R. Isaac’s mother. In the second tradition, Rav Judah describes his wife as a source of joy. The Bavli reconciles these traditions by describing Rav Judah’s wife as quick to anger but quick to relent also.

The next section of the discussion provides two traditions that define the term ‘bad wife.’ According to Abaye, a bad wife ‘prepares the tray,’ but also has her mouth ready; according to Rava, a bad wife ‘prepares the tray,’ but turns her back on her husband. The meaning of these traditions is unclear. A literal interpretation is possible, according to which a bad wife either nags her husband while he eats, as in the first tradition, or ignores him, as in the second. The sugya’s earlier concern with food lends some support to this reading.

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244 “A primary goal of marriage is to protect a man from sexual misadventure.” Satlow, Jewish Marriage in Antiquity, 8. Hauptman, Rereading the Rabbis, 142.

245 “Faced with such a utilitarian view of marriage, it is not surprising that some women fomented small disobediences.” Baskin, Midrashic Women, 111.
Several contemporary scholars tend towards a different reading of this tradition, however. They read ‘preparing the tray’ as a euphemism for preparing for sexual intercourse, ‘mouth’ as oral sex, and ‘turning the back’ as anal sex.\footnote{As is often the case in rabbinic literature, references to food and food preparation are used metaphorically for sexual behaviours.” Baskin, \textit{Midrashic Women}, 107, cf. 110. Cf., Satlow, \textit{Jewish Marriage in Antiquity}, 27 n. 33; \textit{Yebamoth}, trans. Isidore Epstein, \textit{ad loc} n. 6.}

If one accepts this interpretation, it has a significant corollary. The Babylonian Talmud elsewhere gives explicit approval to a husband’s ‘overturning the table,’ which, following the present interpretive line, means ‘anal sex.’\footnote{b. \textit{Nedarim} 20b} Indeed, the text states that a husband can do what he wants with his wife, despite her protests.\footnote{Cf. Baskin, \textit{Midrashic Women}, 107; Michael L. Satlow, \textit{Tasting the Dish} (BJS 303; Atlanta: Scholars Press, 1995), 286-288. Note that Boyarin reads this passage as vaginal sexual intercourse with the woman on top. Boyarin, \textit{Carnal Israel}, 115-116.} The present text indicates that the same situation does not obtain for a wife: when she initiates non-vaginal intercourse, this constitutes bad wifely behaviour.

The following tradition claims that marriage nullifies a man’s sins and supports the claim with reference to Prov 18:22. This message accords with the more enthusiastic discussion of marriage that occurs a little earlier in the sugya. There are two possible explanations for the inclusion of this tradition here. First, its purpose may be to soften the harsh and negative tone of the surrounding material. Second, its inclusion here may be contingent on the fact that it uses the same proof-text as the following tradition, which returns to the topic of bad wives.

This tradition relates a Palestinian saying. It claims that Palestinians ask the alliterative question, “Found or find(s)?” (\textit{masa o mose}) concerning one’s wife. The words ‘found’ and ‘find(s)’ are explicit allusions to two relevant biblical passages. “Found” refers to Prov 18:22, which takes a decidedly positive view of marriage, and, by
extension, wives. “Find” refers to Eccl 7:26, which takes a negative view of women, and, also by extension, wives. Apparently, one who answers, ‘Found,’ has found a good wife; one who answers, ‘Find(s),’ finds his wife more bitter than death.

The next three traditions offer advice to husbands who have bad wives. The Babylonian Talmud attributes all of these traditions to a single sage, Rava. The first states that divorcing a bad wife is a meritorious act, and supports this statement with a quotation of Prov 22:10. Two aspects of this biblical passage make it suitable for reapplication in this context. First, it uses the terms “contention and strife,” which are suitable to describe domestic disharmony. More significantly, the passage uses the verbal root g-r-sh, which means ‘drive away,’ but also carries the meaning ‘divorce.’ This allows for the reading, “Divorce the scoffer…” Note that scoffer is masculine in the biblical text.

The second tradition offers advice to a husband who finds himself married to a bad wife with a large ketubah. This situation constitutes a source of considerable anxiety for the redactors of the Babylonian Talmud, because divorcing such a wife would entail the loss of a considerable amount of financial capital. The solution to this “nightmare scenario” is a second wife. The proof-text above purports to be a common saying, rather than a biblical quotation. This may indicate some cultural awareness of such marital practice.

There are two ways that taking a second wife could conceivably benefit a husband married to a bad wife with a large ketubah. First, the presence of a second wife in the household could upset the first, bringing a feeling of retributive justice and empowerment...

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249 Satlow, Jewish Marriage in Antiquity, 11.
to the husband. Several late antique rabbinic texts assume that relationships between rival-wives are liable to become unpleasant.\textsuperscript{250}

Second, the presence of a second wife could make the first redundant. The bigamous husband would not have to rely on the first wife alone for domestic and sexual services. This would reduce both the amount of time that such a husband would have to spend with the bad wife, and reduce her social power as a provider of essential services.

The next tradition compares a bad wife to a rainy day, and supports the comparison with a biblical text that says precisely the same thing.

The final Rava tradition of this series emphasizes the benevolence of a good wife and the wickedness of a bad wife. This tradition works with the two biblical passages that receive the most attention in the present sugya: Prov 18:22 and Eccl 7:26. The Bavli's first interpretive step here is to assert the (nominally) literal readings of these passages, i.e., that good wives are good and bad wives are bad. The next interpretive step works with metaphoric readings of the biblical texts: where Prov 18:22 speaks of a woman, it is really speaking of the Torah; where Eccl 7:26 speaks of woman, it is really speaking of Gehenna. The talmudic text does not specifically advance these readings. Rather, it points out that, if Scripture does use the good wife as a metaphor for the Torah, then a good wife must be very good. Likewise, if Scripture uses the bad wife as a metaphor for Gehenna, then a bad wife must be very bad indeed. Whether one accepts the literal or metaphoric meanings of these passages, or both, Scripture's message is clear (and somewhat redundant): good wives are good, bad wives are bad.

The following tradition is an interpretation of Jer 11:11. This passage speaks of an "evil that they will not escape," which probably refers to Babylonia in the biblical context.

\textsuperscript{250} Tg. Ruth 4:6; m. Yevamot 15:4, m. Ketubot 10:5.
Rav Nahman, however, interprets the inescapable evil as a bad wife who has a large ketubah. As above, the Bavli associates such a situation with a lack of agency; a husband cannot easily divorce such a woman, however bad she may be, without incurring a significant loss of economic power.

The following two traditions make the same metonymic displacement. They interpret Israel’s enemies in Lam 1:14 and Deut 32 as a bad wife with a large ketubah. These midrashim further emphasize the malevolence and inescapable power of the bad wife who has a large ketubah.

In this textual unit, the Babylonian Talmud defines a bad wife as temperamental and disobedient; harmful, annoying and depressing. The ideal solution to such a woman is divorce. In one marital situation, however, this solution is not feasible: when the bad wife has a large ketubah. The remedy for this difficult situation is a second wife.

**Introduction: b. Pesahim 113A**

In tractate Pesahim, which (ostensibly at least) deals primarily with the Passover festival, the Bavli provides advice on a number of related and unrelated issues. One of these issues is marriage to multiple wives. This advice and its relation to the talmudic text are the subject of the discussion below.

**Aramaic b. Pesahim 113A**

[א"ל] רב לבר אָמָּר לָא חֵוֹר בֵּיתָהּ לָא צֶפֶן בַּה מְסָמָה לָא נָבַּה בַּה בַּכּוֹלָהּ אָל חֵוֹר בְּעִיר

דריש פַּמָּח אָסָרָה לָא תְּמֵכָּב חֵוֹרָה יָא מַסָּב חֵוֹרָה נָבַּה בְּלָה

**Translation b. Pesahim 113A**


Rav [said] to Rav Asi: Do not reside in a county where the horse does not neigh and the dog does not bark. And do not reside in a town whose leader is a physician. And do not marry two [wives]; if you married two, marry three.

**Comment b. Pesahim 113A**

In this tradition, Rav provides Rav Asi with three pieces of advice. The first of these is straightforward enough. It correlates the sound of dogs and horses with their presence, and proceeds under the logical assumption that these animals are useful for community defence. The second piece of advice is a little less straightforward. Perhaps the assumption here is that physicians are generally too busy with their own work to provide good community leadership.

The third piece of advice, which concerns polygyny directly, has at least three possible interpretations. According to the first, the tradition provides men with useful domestic guidance: a household with three wives is more stable than one with two. Although the text does not spell out why this is the case, one can speculate that three wives are less likely to foment cohesive resistance to their husband than two. This has been the dominant interpretation in modern scholarship.251

Two other, interrelated interpretations are possible, however, according to which the advice has an esoteric rather than (merely) social meaning. These accord better with the surrounding talmudic text, which deals with such issues as malevolent demons, spell casting women, and, above all, the dangerous nature of pairs. Before presenting these

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alternate interpretations, a brief discussion of the surrounding material is necessary to provide context.

The Babylonian Talmud, at least in this extended textual unit,\(^2\) ascribes a malevolent force to all even numbers, especially pairs. This is evident early on in the sugya. The mishnaic passage that heads the sugya ordains that a Jew should drink at least four cups of wine at a Passover Seder. The first talmudic comment to this passage expresses the redactors’ surprise that the sages could enact such dangerous legislation.\(^3\) The text goes on to discuss the inherent danger of, among other things, drinking pairs of beverages, eating pairs of food items, and cleansing or having sex twice.

Dual objects and actions are dangerous because a demon-king rules over all pairs:

Rav Joseph said: Joseph the demon said to me, “Ashmedai, the king of demons, is appointed over all pairs…”

Rav Papa said: Joseph the demon said to me, “For two we kill; for four we do not kill; for four we injure. For two, [we act] whether [it is] unintentional or intentional; for four [we act if it is] intentional; [if it is] unintentional [we do] not [act].”\(^4\)

In addition to conjuring forth potentially fatal demons, pairs also make men susceptible to women’s witchcraft:

A man divorced his wife. She went and was married to a shop-keeper. Everyday he would go and drink wine [at the shop]. She would cast spells against him but this would not work for her, because he was cautious about making pairs. Once,

\(^3\) b. Pesahim 109b.
\(^4\) b. Pesahim 110a. Aramaic:

אמר בר יוחנן אמר לוי זכה אמר לאשמדא מקなぜ תכף חרושת חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהיחזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי חזון אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפל尼斯ות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפל尼斯ות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפל尼斯ות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלניסות ויהי gezon אפלנ

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[though,] he drank a lot and did not know how many. Until sixteen [drinks,] he was clear-headed. From there onwards he was not clear-headed and was not cautious about making pairs. She sent him off on a pair. As he was walking he met an Arab. [The Arab] said to him, “A dead man is walking here.” He went and embraced a palm. The palm cried out and he burst.255

An even number of drinks allows a man’s ex-wife to magically bring about his untimely explosion. Just as pairs of objects can lower a man’s defences against women’s witchcraft, pairs of women, working in tandem, increase their potential for harm:

Where there are two women sitting at an intersection, one on this side of the road, and one on the other side, facing each other, it is certain that they are casting spells. What is the remedy? If there is another road, take it. If there is not another road, [but] there is another man, let them hold each other’s hands and pass by.

And if there is not another man, let him say this: “Igrat izlat asia belusia behik kebal.”256

Pairs of women present a formidable threat to the male subjects of their sorcery.

This belief in the demonic power of pairs allows for a new perspective on the first text above. It is conceivable that a man’s marriage to two women could be dangerous for two esoteric reasons. First, the mere installation of a pair of women in the domicile could

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255 b. Pesahim 110b. Aramaic:

256 b. Pesahim 111a. The first four words of this incantation are probably the names of demons. The Aramaic of the last two words is uncertain, but may mean “are killed.” Michael Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods* (Baltimore: Johns Hopkins University Press, 2002), 458. Aramaic:
leave the man open to demonic attack and susceptible to women’s witchcraft. Second, the pair of women could operate as a pair and increase their magical potency in the event that they themselves decided to cast spells against their husband. Moreover, the bigamous union in itself could very well inspire animosity among the wives and bring them to cast spells against him. A third wife could conceivably disrupt the unholy power of such a pairing.

Although this interpretation harmonizes well the surrounding material, it, too, has its deficiencies. First, the tradition itself gives no indication that it presumes that pairs are dangerous. Second, this interpretation does not explain why the text does not suggest divorce as an equally viable pair-breaking solution.

In light of these deficiencies, I will here suggest a third, tentative interpretation. The underlying rationale of the Rav tradition, as an independent unit, is ambiguous. That is, its advice may reflect social assumptions, esoteric beliefs, both of these factors, or neither. However, the reason for its inclusion in the present sugya is the numeric aspect of its preference for two wives over three. In turn, the inclusion of this text into the composite yet distinct sugya implicitly endows it with the esoteric meaning above.

While the underlying rationale of this text is ambiguous, the surface meaning is both clear and significant to the present study. The tradition rejects bigamous marriage, but not in favour of monogamy, as one might expect. Rather, it advises taking a third wife.

**Conclusion**

The discussion above has shown that the Babylonian Talmud contains two textual traditions that advise a husband to take an additional wife in two specific situations: when
he is married to a bad wife who has a large *ketubah*, and when he finds himself married to two wives.\textsuperscript{257}

\textsuperscript{257} The first piece of advice appears to lead into the other; but the traditions do not seem to be aware of each other.
Chapter Nine: Monogamous Trends?  

Modern scholars of Jewish studies have long pointed to the existence of monogamous trends in rabbinic literature. What these scholars refer to as monogamous trends are texts that ostensibly praise or presume monogamy, or criticize or reject polygyny. I have treated two of the texts that scholars often suggest favour monogamy, in locations better befitting their respective legal and conceptual contexts. My analysis of these two texts has demonstrated that variant readings of these texts, which undermine their designation as monogamous trends, are possible. This chapter will consider two more texts that scholars often deem monogamous trends. I will carefully analyze these texts, showing that alternate readings are possible here, too.

Introduction m. Yevamot 2:10

A long line of modern scholars has advanced a monogamous reading of a ruling at m. Yevamot 2:10. In the discussion below, I will explicate both the pertinent ruling and its monogamous interpretation, before proposing an alternative approach.

Hebrew m. Yevamot 2:10

המס שיאפי או האישה מבדה על בעליה נרי, והו לא יישאנה פיאנה או שחלצה בפי נישאה

מעני סהאיה בו דני מוכל נשייה יים נשים חמש חוחות להנהנה לד צולק שיגוא

לאוהים ונחאלמנ נז נתיישור חוחות להנהנה לד צולק מחות חביות לאוהים

Translation m. Yevamot 2:10

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258 On the topic of monogamous trends, see: Baron, Christian Era, 223-229; Epstein, Marriage Laws in the Bible and Talmud, 18-21; Falk, Jewish Matrimonial Law in the Middle Ages, 6-10; Gafni, “The Institution of Marriage in Rabbinic Times,” 21-25; Lowy, “Jewish Polygamy in Talmudic Times,” 115-138; Satlow, Jewish Marriage in Antiquity, 190-191.

259 Tg Ruth 4:6, b. Yevamot 65a.

The sage who forbade a woman to her husband on account of her vow, this one does not marry her. If she refused or performed halisah before him, he can marry her, because that was a court [of three]. And all of [the sages] that were married and their wives died, they are permitted to marry [the women who are subject to their decisions]. And all of [the women] that were married to others, and were widowed or divorced, they are permitted to be married by [the sages]. And all of [women] are permitted to [the sages’] sons and brothers.

Comment m. Yevamot 2:10

This series of rulings deals with potential conflicts of interest. The first ruling establishes that a sage who upholds a woman’s vow against her husband cannot marry the woman, if and when the husband divorces her. This ruling aims to remove a sage’s self-interest from the legal decision making process. If a sage could indeed marry the woman who is subject to such a decision (hereafter, ‘the subject woman’), it is conceivable that this fact could induce him to uphold the vow without sufficient legal reason, in order to bring about an opportunity to marry the subject woman himself.

The second ruling establishes that a sage who officiates at a woman’s ceremony of halisah or refusal has the right to marry the subject woman. The Mishnah states the rationale for this ruling: ceremonies of halisah and refusal require the majority decision of a panel of three sages. The assumption here is that while one sage could conceivably

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261 A woman has the right to make several vows that make sexual relations between her and her husband difficult or impossible. Cf. Romney Wegner, Chattel or Person?, 54-61.
262 That is, if she was married as a minor but refused her husband when she attained majority age.
make a corrupt decision for his own benefit, it is unlikely that another sage, who does not stand to benefit, would aid him in such an undertaking.\(^{263}\)

Following this ruling, the Mishnah sets forth three exceptions to the first ruling above. I will discuss the second and third of these exceptions before moving on to the first, which constitutes the focus of the present discussion.

The second exception states that a sage may marry the subject-woman if her subsequent husband dies or divorces her. Underlying this ruling is the assumption that a sage will not make a corrupt decision for the sake of a distant and uncertain benefit.\(^{264}\)

The third exception states that a brother or son of the sage, who upholds a woman's vow against her husband, has the right to marry the woman. The assumption here is that a sage will not make a corrupt decision for the benefit of his son or brother.\(^{265}\)

The first and most significant of the three exceptions states that a sage may marry the subject woman if he had a wife at the time of his decision, and the wife subsequently died. Several modern scholars advance a monogamous reading of this ruling. According to this reading, the text assumes that a sage who already has a wife will not make a corrupt decision in order to acquire a second wife.\(^{266}\) "The Mishnah presupposes that a married man [the sage] might have no designs in marrying another woman."\(^{267}\)

The reading above is valid and, as scholars suggest, it is indeed monogamous. There is another valid interpretation of this text, however, in which there is no assumption of monogamy. According to this reading, the ruling aims to establish an

\(^{263}\) The Yerushalmi expresses this well: “For two are not likely to sin on behalf of one.” y Yevamot 2:12. Hebrew: שארא נBins מחיים ללתנים מלכם אתיא

\(^{264}\) “For a man is not likely to sin for a later time.” y Yevamot 2:12. Hebrew: שארא אד אגע מחיים ללתנים זומן.

\(^{265}\) “For a man is not likely to sin for either his son or his brother.” y Yevamot 2:12. Hebrew: שארא אד ובי מחיים ללתנים לא מסיב בפי או בפי אתיא.

\(^{266}\) Following this reading, the text would not allow for divorce in order to preclude a (still monogamous) exchange of wives.

\(^{267}\) Gafni, "The Institution of Marriage in Rabbinic Times," 27 (emphasis Gafni’s).
uncertain and (legally) unchangeable period of time between the decision and the time the
sage could possibly marry the subject woman: his wife's remaining lifespan. The
assumption here is that a sage would not make a corrupt decision for the sake of a
potential opportunity to marry the subject woman at an indefinite point in the future.\(^{268}\)
That is, a sage would not make a corrupt decision in order to marry a woman sometime
after the death of his present wife, which could constitute a long period time. Note that
this rationale parallels that of the second exception exactly.

The second reading has a slight advantage over the monogamous reading above: it
does not entail the assumption of monogamy. That is, it accords with the dozens of socio-
legal texts in the Mishnah that presuppose, describe and legislate on polygyny. While it is
indeed possible that a single ruling could assume exactly the opposite of what all these
other texts assume, this proposition does seem somewhat unlikely.

**Introduction Avot de Rabbi Natan Version b. (ARNB) Ch. 2 p9**

While there is only a possibility that the *mishnah* above presupposes monogamy, the
*midrash* below clearly expresses a monogamous sentiment. In this aggadic text, Job states
that monogamy accords with the divine model for marriage but polygyny does not. In the
following section, I will first explicate this *midrash* and then present two differing
readings of its monogamous content.

**Hebrew ARNB Ch. 2 (p9)**

ר' יוחנן בן בתיהו אמר דבריה תורה נשים בונים דברים עמהם והם חלילים אלהים ב التالي
רבי לאון"ד להנהגו להonna נשים יהיה נוחה ולךハウי רמאי להנהגו להחל reelection אשת
בלבל אשה אחר אשת דחלה.

\(^{268}\) Following this reading, the text would not allow for divorce because a man can initiate divorce
whenever he so desires.
R. Judah ben Batira says: Job would inquire of himself: “[I will have made a covenant with my eyes; how could I look upon a virgin maiden?] And what is my portion from God above?” If it had been appropriate for Adam to have been given ten wives, He would have given them to him. But it was not appropriate for him to be given more than one single wife. My wife, too, is sufficient for me, my portion is sufficient.

The first section of the midrash above, which ARNB attributes to R. Judah ben Batira, quotes Job’s question to himself at Job 31:2: “What is my portion from God above?” Job’s answer to the question, which is essentially that a single wife is his portion, clearly points to the preceding verse, Job 31:1. In this passage, Job states that he will not look upon a virgin, because such an action would establish a covenant with the young woman. As Job already has a wife, and the term ‘covenant’ is a common biblical metaphor for marriage, the darshan reasonably interprets Job’s statement as an indication of his personal commitment to monogamy. The text elucidates the rationale for this commitment: Job views Adam and Eve’s marriage as an ideal type. The phrasing of this statement (i.e., “If it had been appropriate…”) simultaneously asserts the appropriateness of monogamy and the inappropriateness of polygyny. In the same vein, the passage ends with a pietistic first-person endorsement of monogamy.

Many scholars have argued or implied that this text conveys and promotes the monogamous ideological perspective of its author: “This passage is a strong polemical statement against polygamy; … [a monogamous] attitude is strongly championed here by

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Judah ben Batyra. Like the monogamous reading of the *mishnah* above, this a valid possibility. Also like the *mishnah* above, however, there is a different way to approach this text.

The monogamous content of this text certainly represents its author's (ostensibly Judah ben Batira's) interpretation of Job's perspective on monogamy. It does not necessarily reflect the author's own perspective on monogamy, however. While it is possible that the author concurs with what he thinks Job thinks, nothing in the text necessitates such agreement.

**Conclusion**

Above, I have analyzed the two texts that scholars most often claim reflect a monogamous trend in rabbinic literature. The first text, m. Yevamot 2:10, may presuppose monogamy in a legally significant situation. The second text, ARNB ch. 2 p9, does express a monogamous sentiment, and this may reflect its author's endorsement of monogamy. These are only possibilities, however. As I have show, one can legitimately approach both of these texts in ways that undermine their status as evidence for a monogamous trend.

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271 My teacher, Robert Daum, has insightfully pointed out that Job's statement here does not necessarily represent a programmatic statement on monogamy. Job might rather be expressing gratitude for his one wife, like Adam in Gen 2:23.
Conclusion

The discussion above has shown that late antique rabbinic literature does little to problematize polygyny and almost nothing to prevent it. In all of the numerous tannaitic and amoraic legal texts involving multiple wives, only one tradition calls the legitimacy of polygyny into question. This single exception to the rule is a minority opinion of doubtful authenticity that appears in a text which also explicitly endorses polygyny.\textsuperscript{272}

Extra-biblical rabbinic legislation explicitly permits polygyny for the fulfillment of two biblical commandments despite the existence of other, equally valid and entirely monogamous means of fulfilling these commandments. In chapter one, I have shown that rabbinic texts explicitly permit a man to marry his deceased, childless brother’s widow as a second (or third or fourth) wife, rather than requiring him to perform halisah. Chapter two has shown that tannaitic and amoraic legal texts allow a man to marry a second wife in order to fulfill the duty of procreation, without first requiring him to divorce his potentially infertile first wife.

The third chapter of this work established that rabbinic texts problematizing mixed fertility polygynous marriages uniformly apply the term ‘prostitute’ to the infertile partner in the marriage. This connection indicates that these texts are drawing on a distinct social-critical and literary motif, and that the critical aspect of these texts neither stems from nor presupposes a rejection of polygyny.

Rabbinic betrothal legislation, the subject of chapter four, does not mark any distinction between polygynous and monogamous betrothals. The legal mechanisms that enact betrothal function in exactly the same way whether a man betroths a single woman,

\textsuperscript{272} b. Yevamot 65a. See above, pp 42-48.
a series of women, or many women simultaneously. This indicates that the legal and conceptual framework of rabbinic marriage is inherently polygynous.

Deut 17:17 problematizes polygyny to some degree by prohibiting the king of Israel from "multiplying wives." In chapter five, I have shown that the most stringent midrashic interpretation of this verse limits the king of Israel to an ample eighteen wives. Other interpreters set the limit at 24 and 48 wives; R. Judah removes the limit altogether. Rabbinic texts, then, do not engage with the potentially anti-polygynous aspect of the biblical text.

Many of the legal texts involving polygyny address complications that the potential for multiple wives brings to areas of law such as levirate marriage. This legislation appears to be, as scholars have suggested, academic in nature. There are also, however, three articles of tannaitic legislation, which I present in chapter six, that respond to assumptions about the nature of polygynous households, rather than the mere legality of polygyny. This indicates that the authors of this legislation are to some extent familiar with the dynamics of polygynous households.

In chapter seven, I have shown that none of the Babylonian Talmud's three depictions of polygyny problematizes or even mentions polygyny. In chapter eight, I have shown that the Babylonian Talmud even recommends polygyny as a solution for two situations.

Rabbinic literature's position on monogamy corresponds to its position on polygyny: there is no unimpeachable evidence for a monogamous trend in rabbinic literature. A few texts might express an ideological preference for monogamy, but different and arguably better readings of these texts negate or constrain their ostensibly
monogamous content. Other aggadic texts that refer to the contentious nature of the polygynous household do not necessarily constitute monogamous texts, because a depiction of the negative aspects of a system does not necessarily represent the antithesis of that system.\footnote{The antithesis of a system could, though, very easily integrate depictions of the negative aspects of that system into its own.} One might better designate texts such as these as polygynous texts of a critical nature.

I will now briefly and tentatively run through some of the implications of the conclusions above. First, my critical rereading of the ostensibly monogamous texts above destabilizes those historical claims about the monogamous nature of late antique Jewry which employ these texts as their primary source of support. Second, my conclusions about the polygynous nature of rabbinic discourse harmonize with the scant non-rabbinic evidence that points to the practice of polygyny amongst late antique Jewry.\footnote{Cf. Satlow, \textit{Jewish Marriage in Antiquity}, 189. What I have in mind here are the Babatha archive, Justin Martyr's dialogue with Trypho, and the repeated promulgations of monogamy laws by imperial decree.}

Third, my conclusions about the polygynous nature of rabbinic legislation accord with the legal form of the eleventh-century Ashkenazi ban on polygyny.\footnote{On this issue, see Avraham Grossman, "The Historical Background to the Ordinances on Family Affairs Attributed to Rabbenu Gershom Me'or ha-Golah ('The Light of the Exile,')" in \textit{Jewish History: Essays in Honour of Chimen Abramsky} (ed. Ada Rapoport-Albert and Steven J. Zipperstein; London: P. Halban, 1988), 3-23. There is a comprehensive list of citations at p 2 n. 1.} Medieval rabbinic texts refer to the ban as a \textit{takkanah}, which a synod of rabbis can promulgate by their authority alone, rather than a \textit{din}, or decision on the basis of a biblical or talmudic text. This suggests that, at least for the Franco-German \textit{rishonim}, rabbinic (and biblical) legal texts were insufficient or unsuitable to justify a ban on polygyny. Fourth, the conclusions above suggest that the Ashkenazi tradition of monogamy is likely the result of social, cultural, intercultural and/or economic factors, and does not represent the internal development of an incipient monogamous trend. This in turn indicates that
rabbinic texts have not, at least in this instance, had a hegemonic role in determining rabbinic values.


Friedman, Mordekhai A. *Jewish Polygyny in the Middle Ages*. Jerusalem: The Bialik Institute, 1986.


