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# HOW MUCH JEWISH POLYGYNY IN ROMAN PALESTINE?\*

ADIEL SCHREMER

## Introduction

Students of the institutions of marriage and the family are inclined to ask whether marriage in a given society is monogamous or whether polygyny is the prevailing norm.<sup>1</sup> The

\* This paper is a revised version of an introductory part to one of the chapters in my dissertation, “Jewish Marriage in Talmudic Babylonia” (Jerusalem: Hebrew University, 1996), written under the supervision of Prof. M.D. Herr. I would like to express my thanks to Prof. Herr for guiding me in writing this dissertation, as well as for reading and commenting on an earlier draft of this paper, which was submitted for publication in the summer of 1997.

The following abbreviations are used throughout this article: Friedman, Polygyny = M.A. Friedman, “Polygyny in Jewish Tradition and Practice: New Sources from the Cairo Geniza,” *PAAJR* 49 (1982), 33–68; Friedman, *Jewish Polygyny* = M.A. Friedman, *Jewish Polygyny in the Middle Ages: New Documents from the Cairo Geniza* (Jerusalem and Tel-Aviv, 1986) [Hebrew]; Gafni, Marriage = I.M. Gafni, “The Institution of Marriage in Rabbinic Times,” D. Kraemer (ed.), *The Jewish Family: Metaphor and Memory* (New York and Oxford 1989), 13–30; Herr, Marriage = M.D. Herr, “הנישואין מבחינה סוציאקונומית לאור ההלכה,” in J. Ben-Sason (ed.), *משפחות בית ישראל* (Jerusalem 1976), 37–46 [Hebrew]; Ilan, *Jewish Women* = T. Ilan, *Jewish Women in Greco-Roman Palestine* (Tubingen 1995); *JCFS* = *Journal of Comparative Family Studies*; Lieberman, *TK* = S. Lieberman, *Tosefta Ki-fshutah*, 10 Volumes (New-York 1955–1988).

<sup>1</sup> A terminological clarification is needed here. The term usually applied to the phenomenon of one man being married to more than one woman simultaneously is “polygamy.” This usage, however, is inaccurate; “polygamy” refers to marriage with more than one spouse, be that of a man marrying more than one woman, or a woman marrying more than one man. The latter type of marriage is known from several societies, and termed “polyandry”;

interest in this aspect of marriage rests in the widespread and accepted assumption that the stand a society takes toward polygyny, in theory and practice, reflects its general view on the institution of marriage and its goals. It is assumed that in a society where polygyny is allowed and practiced, much weight is placed on the value of procreation and bearing children, seen as the principle object of marriage. Moreover, it appears that a society which allows polygyny emphasizes the sexual satisfaction of the male, thereby reflecting its views on the status of the female.<sup>2</sup> It is therefore no surprise that this subject draws the attention of historians who are interested in social history and particularly in the history of marriage and the family.

This subject, not surprisingly, also caught the interest of students of rabbinic culture. However, in this case, scholarly treatment of the subject focuses primarily on its legal aspects, while questions of actual social reality are somewhat neglected. Thus, most statements found in scholarly literature regarding the question of whether Jewish society in the land of Israel during the Roman period was monogamous or polygynous reflect rabbinic legal and moral views on the matter. Some scholars are simply not interested in aspects of social practice in Jewish history; others, it appears, tend to identify the halakhic rulings of the rabbis with social reality — a

see E.W. Westermarck, *The History of Human Marriage*, III (New York and London 1921), 107–157. The eleventh volume of the *JCFS* is devoted entirely to this phenomenon. The precise term for the former is “polygyny,” and this term will be used here. Some use the term “polygyny” to refer to second marriage (after divorce or the death of one of the spouses) as well. See, for example J. Meyendorff, “Christian Marriage in Byzantium: The Canonical and Liturgical Tradition,” *Dumbarton Oaks Papers* 44 (1990), 102; A. Macfarlane, *Marriage and Love in England: Modes of Reproduction 1300–1840* (Oxford 1986), 218. This meaning will not be considered here.

<sup>2</sup> See *The Anchor Bible Dictionary*, (New York 1992), IV: 565, s.v. “Marriage.”

problematic view in itself and one not entirely accepted today.

Since our social reality and the prevailing, familiar, form of marriage are monogamous, we are inclined to ask whether the norm of marriage among the Jews of the Roman period was similar, or whether they practiced polygyny. Consequently, if one assumes the self-evident, that Jewish society during the Mishnaic and Talmudic periods was indeed polygynous, it is necessary, indeed, expected, to prove this assumption. It is a bizarre situation, not least because, as anthropologists have shown, polygyny is the accepted and common form of marriage in the overwhelming majority of human societies throughout the world. In Goody's words: "To start by trying to explain polygyny is to start from the wrong end. As far as human cultures are concerned, it is monogamy that is rare, polygyny [is] common."<sup>3</sup>

At the root of this peculiar situation is the widespread view that polygyny, as a type of marriage, disappeared from Jewish society as early as the Second Temple period. The title "Monogamous Trends," given by S.W. Baron to the chapter dealing with this subject in his monumental *A Social and Religious History of the Jews*,<sup>4</sup> reflects this scholarly consen-

<sup>3</sup> J. Goody, *Production and Reproduction: A Comparative Study of the Domestic Domain* (Cambridge 1976), 51. See also idem, "Polygamy, Economy and the Role of Women," J. Goody (ed.), *The Character of Kinship* (Cambridge 1973), 189. Goody's opinion has been followed by other anthropologists as well; see, for example M. Verdon, "Polygyny, Descent, and Local Fission: A Comparative Hypothesis," *JCFS* 14 (1983), 1–2. For other factors that possibly affect the frequency of polygyny, see, for example D.R. White and M.L. Burton, "Causes of Polygyny: Ecology, Economy, Kinship and Warfare," *American Anthropologist* 90 (1988), 871–887; G.R. Lee and L.B. Whitbeck, "Economic Systems and Rates of Polygyny," *JCFS* 21 (1990), 13–24; W.H. Hern, "Polygyny and Fertility among the Shipibo of the Peruvian Amazon," *Population Studies* 46 (1992), 53–64; idem, "Shipibo Polygyny and Patrilocality," *American Ethnologist* 19 (1992), 501–522.

<sup>4</sup> See: S.W. Baron, *A Social and Religious History of the Jews* (New York 1952), II: 223–229.

sus. A similar approach has been adopted by the majority of scholars who have dealt with the subject — including Lichtenstein, Low, Epstein, Lowy, Herr, Safrai, Friedman, and others.<sup>5</sup> As G. Alon put it: ~~“As long as it would not be proven to the contrary, it should be assumed that all of the Jews — unless in special cases — abstained from marrying two women or more.”~~<sup>6</sup>

This view, which can be traced back to Z. Fraenkel's study of marriage laws in Talmudic literature,<sup>7</sup> is based on several sources in talmudic literature, all of which share an anti-polygynous tendency. However, in reviewing Fraenkel's arguments, which formed the basis of subsequent research, a clearly apologetic note emerges. To be sure, statements bearing a negative tone toward the possibility that a man would marry more than one woman may be found in Talmudic

<sup>5</sup> See, for example L. Lichtenstein, *Die Ehe nach mosaisch-talmudischer Auffassung und das mosaisch-talmudische Eherecht* (Leipzig 1879), 46; L. Low, “Eherechtlichen Studien,” *Gesammelte Schriften* (Szegedin 1893), III: 46–52; L.M. Epstein, *Marriage Laws in the Bible and the Talmud* (Cambridge Mass. 1942), 13, 17, 20; S. Lowy, “The Extent of Jewish Polygamy in Talmudic Times,” *JJS* 9 (1958), 115–138; Z.W. Falk, *Jewish Matrimonial Law in the Middle Ages* (Oxford 1966), 3–10; Herr, *Marriage*, p. 47, n. 46; idem, “Continuum in the Chain of Torah Transmission,” *Zion* 44 (1979) [= *I.F. Baer Memorial Volume*], 53 [Hebrew]; idem, “The Family,” in: M.D. Herr (ed.), *The History of Eretz Israel: The Roman Byzantine Period — The Mishnah and Talmud Period and the Byzantine Rule [70–640]* (Jerusalem 1985), 148–149 [Hebrew]; S. Safrai, “Home and Family,” M. Stern and S. Safrai (eds.), *Compendia Rerum Iudaicarum ad Novum Testamentum*, I,2, *The Jewish People in the First Century*, Assen (Amsterdam 1976), 749–750; M. Yismach, “ריבוי נשים בישראל,” *Sinai* 47 (1983), 240–243; [Hebrew]; R. Margalioth, עוללות מחקרים תלמודיים קצרים – (Jerusalem 1989<sup>2</sup>), 15–18 [Hebrew]; Friedman, *Jewish Polygyny*, pp. 7–11; Gafni, *Marriage*, 23.

<sup>6</sup> See: G. Alon, “Sociological Method in the Study of the Halachah,” *Tarbiz* 10 (1939), p. 247, n. 10 [Hebrew].

<sup>7</sup> See Z. Fraenkel, “Grundlinien des mosaisch-talmudischen Eherechts,” *Jahresbericht des judisch-theologischen Seminars Breslau* (1860), 10–11.

literature. Nevertheless, the question to what extent these statements reflect the prevailing norm among the Jewish mass of the period has yet to be examined carefully. It should not be automatically assumed that a correlation exists between the Rabbis' views and social practice.<sup>8</sup> Moreover, a close examination of these sources raises doubts as to whether they were properly interpreted, and it would therefore appear that they are deserving of a renewed study.

Before proceeding to our main discussion, a terminological clarification is required. What precisely is meant when a given society is designated as polygynous? If one takes this term to mean that all, or even most, of the society's male members marry more than one woman, it is evident that Jewish society of antiquity was not polygynous. However, such a definition would render it very difficult to find a polygynous society anywhere. For simple demographic reasons alone, it is very difficult to imagine the existence of a society in which every man marries more than one woman without assuming that this society also adopted certain mechanisms in order to control the distribution of the sexes so as to prevent an equivalent number of males and females, i.e. the exposure of male babies.<sup>9</sup> Needless to say, in Jewish society such conditions never existed.

It must be therefore assumed that if Jewish society (of any period) was polygynous, it practiced "limited polygyny" only,

<sup>8</sup> This point, discussed by historians of Jewish society of the Second Temple, Mishnaic and Talmudic periods, is also highlighted in scholarly literature devoted to Roman history. See my "Men's Age at Marriage in Jewish Palestine of the Hellenistic and Roman Periods," *Zion* 61 (1996), pp. 54–55, and nn. 30–32 [Hebrew].

<sup>9</sup> Moreover, even in societies where infant exposure prevailed, it is usually the female babies who were at risk. For a discussion of this phenomenon, see C. Patterson, "'Not Worth the Rearing': The Causes of Infant Exposure in Ancient Greece," *Transactions of the American Philological Association* 115 (1985), 103–123.

i.e. only few of its male members married more than one woman.<sup>10</sup> The reason for this limitation is, above all, economic; it is economically difficult to maintain more than one wife.

This being the case, it seems that it would be pointless and unjustified to characterize Jewish society of the Mishnaic and Talmudic period as non-polygynous simply because the actual practice of polygyny was rare. As the rareness of the phenomenon is innately associated with its definition, it cannot, at the same time, be used as an argument in the discussion. In other words, arguing that Jewish society of the Mishnaic and Talmudic period was not polygynous merely because there are not enough concrete examples to illustrate its actual practice is simply a *petitio principii*. Furthermore, in view of the limited value of rabbinic literature as a source of statistics of any kind regarding the Jewish society of the time, the number of concrete cases that may be adduced in favor of one view or the other cannot serve as the sole argument. Consequently, the discussion must be based on qualitative not quantitative arguments.<sup>11</sup>

A polygynous society is best defined as not monogamous, and a monogamous society is a society in which an enforced norm of monogamy exists.<sup>12</sup> According to such a definition, a society which allows its male members to marry more than

Therefore the West is NOT monogamous

<sup>10</sup> "Limited polygyny" is customarily defined as one whose frequency in society is at most twenty percent, and "general polygyny" as one whose frequency is above twenty percent. See R. Clignet, *Many Wives Many Powers* (Evanston 1970), 21. In the ancient Near East only limited polygyny prevailed. See Westermarck (above, n. 1), pp. 25; 43. See also P. Laslett, *Household and Family in Past Time* (Cambridge 1972), 46.

<sup>11</sup> The literature dealing with the differences between a quantitative approach and a qualitative one in the social sciences is vast and need not be reviewed. Some general and useful discussions are found in N.K. Denzin & Y.S. Lincoln (eds.), *Handbook of Qualitative Research* (Thousand Oaks, London, and New-Delhi 1994).

<sup>12</sup> See: Laslett (op. cit.), 53–65.

one woman and in which cases of polygyny are actually found — even if only limited cases — should be regarded polygynous. This classification does not reflect any statistical claim, nor does it contain any statement regarding the family life of most of that society's members. Rather, it intends primarily to express something about the society's attitude towards marriage and family life.

In what follows I would like to examine the two mentioned dimensions of the definition — its legal dimension and the actual practice of polygyny — in respect of Palestinian Jewry of late Second Temple, Mishnaic, and Talmudic periods. I shall first examine the halakhic possibilities of marrying more than one woman. Then I will try to assemble the available evidences regarding its effectuation during these periods. Needless to say, most (though not all) of the material has already been mentioned in previous studies of the subject. However, I believe that the relevant sources have not always been correctly interpreted. I shall therefore introduce the relevant sources (known to me), offer my reading of the material, and finally I will try to draw from it some historical conclusions.

### The Halakhah

There is no prohibition in the Bible against marrying more than one woman, and biblical law even recognizes the existence of such a possibility (Deut. 21:15). Moreover, several of the more famous characters in the Bible — Abraham, Jacob, Elkanah, David, Solomon, and others — were polygynous.

In the Second Temple era too, there is (within Pharisaic Judaism) no halakhic prohibition against polygyny, as is the case in rabbinic literature. Moreover, numerous Tannaitic sources treat polygyny as a common, prevailing phenomenon, and one with which the Tannaim are highly familiar. The Hebrew term צרות (lit. "rivals," i.e. associate wife), designating two women married to the same man, is frequently used in



**Tannaitic literature.**<sup>13</sup> In addition, there are many other halakhot which also deal with polygyny.

A halakhah in mYev. 4:11 deals with the case of “a man who had been married to two wives and died” (מי שהיה נשוי לשתי נשים). Another halakhah states that “there is no bill of divorce after a bill of divorce” (אין גט אחר גט [mYev. 5:1]), and it presupposes a situation of polygyny, as has been interpreted by all commentators. A halakhah in mYev. 13:8–9 discusses the situation of “one who was married to two minor orphans” (מי שהיה נשוי לשתי יתומות קטנות). Another examines the situation of “a woman whose husband and her rival went overseas” (האשה שהלך בעלה וצרתה למדינת הים [mYev. 16:1]). Another discusses the case of two women who were married to the same man and offer conflicting evidence regarding his fate — “one says ‘he died,’ and one says ‘he did not die’” (אחת אומרת מת ואחת אומרת לא מת [mYev. 15:5]). The question of which rival has priority as regards the *Kethubah* collection is discussed in mKet 10:1–4. Problems that might arise in respect to the bill of divorce in cases where a man has more than one wife are raised in the halakhah in mGitt. 3:1: “if a man has two wives whose names are identical” (יש לו שתי נשים ושמותיהן שוין)<sup>14</sup>, and in a baraitah in tGitt. 6:5: “if a man has two wives, one in Judaea and one in the Galilee” (יש לו שתי נשים אחת ביהודה ואחת בגליל). Another halakhah discusses the case of a man who has “two wives who had not before given birth” (שתי נשיו שלא)<sup>15</sup>, while another one examines the problem of “a man who cohabits with his five wives who are [in a state of] *niddah*” (הבא על חמש נשיו נידות) [mKerit. 3:7]).

<sup>13</sup> See: C.Y. Kasovsky, *Thesaurus Mishnae* (Jerusalem 1960), 1540; idem, *Thesaurus Thosephthae* (Jerusalem 1961), 44–45.

<sup>14</sup> This is the reading of the reliable manuscripts of the Mishnah — MS Kaufman, MS Parma 138, and MS Cambridge (ed. W.H. Lowe).

<sup>15</sup> mBech. 8:4, according to the reading in MS Kaufmann, MS Parma 138 and MS Cambridge (ed. Lowe): שתי נשיו. In the printed editions: שתי נשים (literally: “two women”). However, even according to this reading the meaning is two wives (i.e. of the same person), as suggested by Rashi (ad. loc.).

The possibility that a man might have five wives is also mentioned in tNed. 6:1, and in a baraitah found in bEruv. 73a: “Our Rabbis taught: if a man has five wives who are in receipt of a maintenance allowance from their husband” (תנו רבנן: מי שיש לו חמש נשים מקבלות פרס מבעליהן). Although it is possible to argue that the number five is no more than a round number designating “very many,”<sup>16</sup> the point is that these halakhot reflect a familiarity with the possibility of polygyny.

Tannaitic halakhah refers to the case of “a young man who married a barren woman, or an old woman, and who has another wife and children” (הרובה שנשא עקרה וקנה ויש לו אשה ובנים) [tSot. 5:2]). It also refers to a case in which “he had acted as groomsman for him in the case of one wife, and he asks him to do [the same] for him in the case of two wives” (עשה עמו שושבינות באשה אחת ומבקש שיעשה עמו בשתי נשים).<sup>17</sup> In addition, Tannaitic sources also discuss various problems related to purity laws, such as *niddah*, which may arise in cases where a man has more than one wife. For example, “His

<sup>16</sup> In scholarly literature attention has been drawn to the use of the numbers three, seven, and ten, as “round numbers,” and the number nine has been shown as used for exaggeration. See J. Bergmann, “Die runden und hyperbolischen Zahlen in der Agada,” *MGWJ* 82 (1938), 361–376; S. Friedman, “A Critical Study of Yevamot X with a Methodological Introduction,” Z. Dimitrowsky (ed.), *Sources and Studies* (Jerusalem and New York, 1978), 316–317 [Hebrew], and the bibliography cited there. To the best of my knowledge, the number five has not been mentioned in these studies, but it seems that we should treat it as a round number, which designates “very many” (the examples are numerous, and there is no need to list them here). By this I do not mean to say that whenever the number five is mentioned it is used as an exaggeration; there are cases where the number five means precisely the number five. Such is the case of R. Yosse’s five sons; the text lists their names explicitly and so we have no reason to suspect the accuracy of the number.

<sup>17</sup> tBB. 10:9 (ed. Lieberman, 165); bBB, 145b. Cf. *Tosafot* ad loc. s.v. “עשה,” but see also *Diqduq Sofrim* to Bava Batra, p. 199, n. 9, and S. Lieberman, *TK X* (Bava Batra), 449 [Hebrew].

two wives, one *niddah*, the other not *niddah*” (שתי נשיו אחת נדה) [tKrit. 2:12]). One baraitah deals with a complicated case in which “a man married a woman and wrote her a *Kethubah*, divorced her but did not pay her her *Kethubah* [then] married another woman, and wrote her a *Kethubah*, [and afterwards] remarried the first [woman] and wrote her a [new] *Kethubah* over her [previous] *Kethubah*” (נשא אשה וכתב לה כתובה, גירשה ולא נתן לה כתובה, נשא אחרת וכתב לה כתובה, החזיר את [הראשונה] וכתב לה כתובה) [yKet. 10:1, 33,4]). Another baraitah discusses the testimony of a man who married two wives: “[If a man declares]: ‘I married a woman overseas’ ... when is this said? In the case of one wife, but in the case of two wives he must bring a proof about the woman” (אשה נשאתי) במדינת הים ... כמה דברים אמורים? באשה אחת, אבל בשתי נשים מביא ראיה [bQidd. 79b]). The question of how the *Ma’aser Sheni* should be redeemed when a man has two wives is mentioned in a baraitah in bSan. 14b: “A man and his two wives may redeem the second tithe of unknown value” (איש ושתי נשיו פורדין מעשר) (שני שאין דמיו ידועין). A source brought by Rabbi Izhaq ibn Giat (Spain, 11th century), and apparently originating from a Tannaitic source, mentions the problem of a man who is mourning and has two wives: “if he had two wives — the one he is used to be with overturns her bed, but the one which he is not used to be with does not have to overturn her bed, only his” (תניא היו לו שתי נשים — זו שרגיל אצלו כופה מטתה, ושאינו רגיל אצלה אינה כופה מטתה אלא מטתו בלבד).<sup>18</sup>

<sup>18</sup> See: *Shaare Simhah*, II (Firta 1862), 46 (= M. Higger, *Treatise Semahot* (New York 1931), 249, # 12). R. Yizhaq’s source most probably originates in *Tractate Semahot*, but as it is not found in the one known to us, caution should be exercised in using it. This despite the possibility that the text of the tractate at his disposal was larger than the one at ours.

To the above mentioned sources one should add all the sources which speak of rivals (צרות) — see above, n. 13. See also the list given by L.H. Strack and P. Billerbeck, *Kommentar zum Neu Testament* (Munich 1926), III: 648–649, n. b.

Is it possible to deduce from these sources what the social reality was like? I shall attempt to answer this question later; at this stage I would like to emphasize the fact that in all the above – cited sources there is not even the slightest hint of any kind of opposition to the practice of polygyny.

Furthermore, in Tannaitic literature there are several halakhic rulings that permit the marriage of a woman specifically to a man who is already married and has children! Thus, for example, tYev 8:5 rules: “If he married a woman and lived with her for ten years and she did not give birth, he is not allowed to abstain [from procreation], and he must divorce her and pay her her *Kethubah*... Had he divorced her she may go and marry another ... How many [times] is she allowed to remarry? Up to three. Beyond that she may not remarry except to one who has a wife and children” (נשא אשה ושהה עמה) עשר שנים ולא ילדה אינו רשוי לבטל אלא יוציא ויתן כתובה ... גרשה – תלך ותנשא לאחר ... ועד כמה מותרת להנשא? עד שלושה. יתר על כן לא (תנשא אלא למי שיש לו אשה ובנים).<sup>19</sup> Similarly mYev. 6:5 states: “A common priest may not marry an *aylonit* [= a sterile woman] unless he has a wife and children” (כהן הדיוט לא ישא) (איילונית אלא אם כן יש לו אשה ובנים). In this Mishnah one also finds Rabbi Judah’s view, according to which, “even one who has a wife and children shall not marry an *aylonit*, for that is the *zonah* mentioned in the Torah” (אף מי שיש לו אשה ובנים לא ישא אילונית)

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<sup>19</sup> In this context reference should be made to Midrash ha-Gadol to Ex. 21:4: “‘He shall give him a wife’ — he gives him one wife, but he does not give him two wives. Is this so also to a free person? By saying ‘His master shall give him a wife’ Scripture teaches that to him he does not give two wives [but] he does give to a free person two wives” (יתן לו אשה – אשה אחת) נותן לו ואינו נותן לו שתי נשים. יכול לא יתן לבן חורין שתי נשים ת”ל אדניו יתן לו אשה, (לו אין נותן שתי נשים, נותן הוא לבן חורין שתי נשים). Epstein and Melamed included this paragraph in their edition of Mekhilta de-Rashbi to Exodus (Jerusalem 1955), 162. If their identification of the passage as emanating from the Tannaitic work is indeed correct, we shall have to include it in the list of Tannaitic sources which explicitly allow one to marry more than one woman.

שהיא זונה האמורה בתורה<sup>20</sup>). From Rabbi Judah's ruling it may be inferred that a person who already has children is allowed to marry a second wife provided she is not sterile. These sources indicate that the claim that the rabbis resisted the possibility that a man would have more than one wife is unjustified.

Conversely, there are several statements made by the rabbis which scholars have interpreted as evidence of widespread opposition to polygyny. However, in light of the above mentioned sources, it would appear that these statements ought to be reexamined carefully and closely.

The most important source in this context is a statement made by Rabbi Ami, a Babylonian Amora by birth, who immigrated to Palestine and flourished in Tiberias in the middle of the third century. He held that: "Whosoever takes another woman in addition to his present wife must divorce her [i.e. the former] and pay her her *Kethubah*" (כל הנושא אשה (על אשתו יציא ויתכן כתובה).<sup>21</sup> Many scholars have interpreted this statement as signifying an anti-polygynous view, and a halakhic prohibition against polygyny.<sup>22</sup> However, such an interpretation is unwarranted. The idiom "he must divorce [his

<sup>20</sup> This is the reading of MS Kaufmann, MS Parma, and MS Cambridge (ed. Lowe), as well as of other text witnesses. See *The Babylonian Talmud with Variant Readings*, Tractate Yevamot (Jerusalem 1986), 373. Only in the printed editions do we find the secondary reading: אף על פי שיש לו.

<sup>21</sup> bYev. 65a (end). In several text witnesses the saying is ascribed to Rav Ami (this is the Rif's reading, and this is the reading attested to in Rashba's novellae [ed. Dickman, p. 367], in *Nimuqey Yosef* [ad loc.], and in *Tosafot Had mi-Qamaey* [ad loc.]). Had we thought this reading to be the original, it might have had certain importance, for it ascribes the saying to a Babylonian authority. It would therefore have been problematic to use it as a source reflecting the Palestinian view. However, the attestation of the reading "Rabbi Ami" in all the MSS indicates that in all likelihood the reading "Rav Ami" is secondary, and one should not rely upon it. Cf. Also: Friedman, Polygyny, p. 41, n. 16; idem, *Jewish Polygyny*, p. 7, n. 17.

<sup>22</sup> See, for example: Falk (above, n. 5), p. 8; Herr, Marriage, p. 46, n. 36; idem, "The Family" (above, n. 5), p. 149; Gafni, Marriage, 23.

wife] and pay her her *Kethubah*” is found in other places in Rabbinic literature. A close reading of these sources indicates that rather than being a prescribed halakhic ruling, the idiom’s object is to support the woman if, as a result of her husband’s violation of the harmony of their family life, she sues him to divorce and demands payment of her *Kethubah*.

Thus, for example, we read in mKet. 7:1–5:

המדיר את אשתו מלהנות לו – יוציא ויתן כתובה ... המדיר את אשתו שלא  
תטעום אחד מכל הפירות – יוציא ויתן כתובה... המדיר את אשתו שלא  
תתקשט באחד מכל המינים – יוציא ויתן כתובה... המדיר את אשתו שלא תלך  
לבית אביה – יוציא ויתן כתובה... המדיר את אשתו שלא תלך לבית האבל או  
לבית המשתה – יוציא ויתן כתובה... אמר לה: על מנת שתאמרי לפלוני מה  
שאמרת לי או מה שאמרת לי, או שתהא ממלא ומעדה לאשפה – יוציא ויתן  
כתובה.

### Matt. 19!!!!

One who restricts his wife by vow not to derive any benefit from him ... must divorce her and pay her her *Kethubah* ...

One who restricts his wife by vow from tasting a certain fruit must divorce her and pay her her *Kethubah* ...

One who restricts his wife by a vow that she not adorn herself with a certain kind must divorce her and pay her her *Kethubah* ...

One who restricts his wife by a vow that she not go to her father’s house ... must divorce her and pay her her *Kethubah* ...

One who restricts his wife by a vow that she not go to the house of mourning or to the house of feasting, must divorce her and pay her her *Kethubah* ...

If he said to her: ‘On condition that you tell so-and-so what you have told me, or what I have told you, or that you fill and pour out on the garbage’ — he must divorce her and pay her her *Kethubah*.

Now, a related Baraitah in tKet. 7:11 states: “Under what circumstances did they rule ‘He must divorce her and pay her her *Kethubah*’? When he wants but she does not want, [or] she wants but he does not want. But if they both want [to

continue the marriage] they continue [their marriage]” (אימתי אמרו יוציא ויתן כתובה? בזמן שהוא רוצה והיא אינה רוצה, היא רוצה והוא אינו רוצה. אם היו שניהן רוצין יקיימו). This Baraitah suggests that the halakhic ruling, “He must divorce her and pay her her *Kethubah*” should not be taken as a prescribed rule, but as upholding the woman’s position if she claims that her husband has so radically changed their marriage life that she prefers divorce to marriage and wishes him to pay her her *Kethubah*. However, if the wife has no objection to her husband’s actions there is no need to force them to break their marriage bond!<sup>23</sup> This has been noted by Ritba in his novellae: “Whosoever marries a wife in addition to his first wife must divorce her and pay her her *Kethubah*’ — this has certainly not been said except when it is against his wife’s will” (כל הנושא אשה על אשתו יוציא ויתן כתובה – והא לא מתאמרא ודאי) כל הנושא אשה על אשתו יוציא ויתן כתובה – והא לא מתאמרא ודאי).<sup>24</sup> In other words, according to Rabbi Ami, marrying a second wife without having the first

<sup>23</sup> Such an understanding also emerges when comparing the ruling given by Rav — “Whosoever says ‘I do not feed and I do not nourish’ must divorce [his wife] and pay her her *Kethubah*” (האומר איני זן ואיני מפרנס יוציא ויתן כתובה) [bKet. 77a] — and the ruling of the Baraitah in the Tosefta, which states, “A man may marry a woman on a condition that he does not feed and nourish” (אדם נושא אשה על מנת שלא לזון, על מנת שלא לפרנס) [tKet. 4:7, ed. Lieberman, 67; yKet. 5:2, 29d]. This comparison indicates that although one may understand Rav’s saying on a linguistic level as obligatory, it is not necessary to understand it this way, and we may assume that in case the wife agrees there is no reason not to allow the continuation of the marriage.

<sup>24</sup> See *Hiddushe Ha-Ritba to Yevamot*, ed. Yafhan (Jerusalem 1992), II: 643–644. See also the statement made by the anonymous Gaon in his responsum: “You asked about a man who has a wife and he went and took [i.e. married] another one in addition to her — [the answer is:] if his first wife agreed to this it is all right, but if not she collects her *Kethubah* [payment] from him” (וששאלתם: אדם שיש לו אשה אחת, והלך ונטל אשה אחרת עליה – [תשובה:] אם רצתה אשתו ראשונה בכך – מוטב, ואם לא גובה כתובתה ממנו [The Gaonic Responsa, Shaarey Zedek, 4:4:60]). Some scholars ascribe this text to Rav Hilai, but Friedman has suggested that in fact it is of Palestinian origin. See Friedman, *Polygyny*, 45–46; idem, *Jewish Polygyny*, 16–17.

wife's consent may be regarded as grounds for divorce; the question of polygyny, as such, has not been raised at all.

This interpretation of Rabbi Ami's statement is not new. Medieval commentators interpreted it in a similar manner,<sup>25</sup> as, more recently, has Friedman.<sup>26</sup> We may assume that there were cases when a man's wife preferred her husband to marry a second wife rather than divorce her.<sup>27</sup>

Moreover, we find in rabbinic literature the idea that the husband's marriage to a second woman could have been on his first wife's initiative, in the hope that such a marriage would bring her luck (for instance, that she may become pregnant, if she had not born children thus far).<sup>28</sup> The discussion between Jacob and Rachel in Gen. 30:1–4 has been portrayed in such a manner:

וַיֹּאמֶר הַתַּחַת אֱלֹהִים אֲנֹכִי אֲשֶׁר מִנַּע מִמֶּךָּ פְּרִי בֶטֶן – מִמֶּךָּ מִנַּע מִמֶּנִּי לֹא מִנַּע.  
אָמְרָה לוֹ: כִּךְ עָשָׂה אֲבִיךָ לְאִמְךָ? לֹא חָגַר מֵתֵנִי כְּנִגְרָה? אָמַר לָהּ: הוּא לֹא הָיוּ לוֹ  
בָּנִים, אֲנִי יֵשׁ לִי בָנִים. אָמְרָה לוֹ: וּזְקִינְךָ לֹא הָיוּ לוֹ בָּנִים וְחָגַר מֵתֵנִי כְּנִגְרָה?  
אָמַר לָהּ: יָכוֹלָה אֶת לַעֲשׂוֹת כְּשֶׁם שַׁעֲשֵׁת וְזִקְנָתִי. אָמְרָה לוֹ: וּמָה עָשִׂיתָ? אָמַר לָהּ:

<sup>25</sup> See again above, n. 21.

<sup>26</sup> See: Friedman, Polygyny, 41; idem, *Jewish Polygyny*, 8.

<sup>27</sup> See: Friedman, *Jewish Polygyny*, introduction, 13–14; 24–25, 83. As Patai already noted, in a polygynous society the marriage of a woman to a man who already has a wife could be considered an honor to that woman, because only a man of high status could afford himself more than one wife. See R. Patai, *Sex and Family in the Bible and the Middle East* (Garden City 1959), 39.

<sup>28</sup> It is well known that some commentators understood Sarah's request to Abraham in Gen. 16:2 ("Go in unto my maid, perhaps I shall have a son [lit. 'build up'] through her [אִילֵי אֲבִנָּה מִמֶּנָּה ... אוֹלֵי שִׁפְחָתִי (בְּאִינָא אֶל שִׁפְחָתִי)] in this way." According to this interpretation, Sarah's request rested on the belief that pregnancy is a blessing which might have an effect upon other women as well. See, also: Patai (*op. cit.*), 42. For the legal background see R. Yaron, "Go in unto My Maid," *Proceedings of the Fifth Congress of Jewish Studies* (Jerusalem 1969), 5–9 [Hebrew]; Tikva Frymer-Kensky, "Patriarchal Family Relationship and Near Eastern Law," *Biblical Archeologist* 44 (1981), 211–212.



הכניסה צרתה לביתה. אמרה לו: אם הרבר הזה מעכב הנה אמתי בלהה בא אליה וגו' ואבנה גם אנכי ממנה – מה זו נבנת עליי צרתה, אף זו נבנת עליי צרתה.

And he said: 'Am I in God's stead, who has withheld from you the fruit of the womb?' — From you he withheld it, but not from me. Said she to him: 'Did then your father act so to your mother? Did he not gird his loins against her?' 'He had no children' he replied, 'I do have children!' 'And did not your grandfather have children?' she pursued, 'yet he too girded his loins against Sarah?' 'Can you then do what my grandmother did?', he asked her. 'And what did she do?' 'She brought her rival into her home', he replied. 'If that is the obstacle', she returned, "Behold my maid Bilhah, go in unto her... and I also may have a son through her"; as she had a son through her rival so she [Rachel] had a son through her rival.<sup>29</sup>

Indeed, the idea that the introduction of a rival helped Rachel become pregnant is stated explicitly in the Midrash: "And God remembered Rachel' — it should have been so, because she brought her rival into her home ... because of Dan Rachel was blessed with pregnancy; because of Dan Joseph and Benjamin were born" (בזכות דן נפקדה) ... בזכות דן נולדו יוסף ובינימין!<sup>30</sup>

A similar idea is expressed in connection with Hannah: "Since Hannah saw that she did not give birth she said to herself: 'I shall tell him to bring my rival into my house, and from this God will see that I brought my rival into my home and he will requite me'" (כיון שראתה חנה שלא ילדה אמרה: אומר לו) שיכניס צרתי לביתי, ומתוך זה יראה הקדוש ברוך הוא שהכנסתי צרתי לביתי (ויפקוד אותי).<sup>31</sup>

<sup>29</sup> GenRab. 71:7 (ed. Theodor-Albeck, 831).

<sup>30</sup> GenRab. 73:4 (ed. Theodor-Albeck, 848).

<sup>31</sup> PsiqRab. 43 (ed. Friedman, 181b).

In light of all these sources it is difficult to imagine that Rabbi Ami meant, in these cases, to express his objection to polygyny to the point of forbidding it. After all, had his intention been to forbid polygyny as such, we would expect him to clearly and emphatically declare: “A man is not allowed to marry two women”!

Contra Yeshua in Matt 19!!

A similar attitude might be adopted towards the above-cited (p. 191) Baraitah in tYev. 8:5, used by some scholars as evidence of the prohibition of polygyny: “[If] a man married a woman and lived with her ten years and she did not bear children he may not abstain, but he should divorce her and pay her her *Kethubah*, lest it was because he did not merit having a son through her” (נשא אשה ושהה עמה עשר שנים ולא ילדה אינו רשוי לבטל). Some scholars, viewing this Baraitah as a prescribed halakhic ruling, concluded that it forbids marrying a second wife even for the purpose of procreation. However, as shown above, such an interpretation is unwarranted. Indeed, in light of other Tannaitic sources containing the phrase יוציא ויתן כתובה (which were cited above) it is clear that here too, the baraitah’s ruling may be understood as favoring the wife, if she prefers divorce to sharing her husband with another wife. The possibility, in itself, of a man marrying more than one wife is not discussed here at all. Nor does the Baraitah forbid such an act.

Ample proof of this is found in the Baraitah itself: “[If] he divorced her — she may go and marry another, lest it was because she did not merit being reproduced through him. And how many [times] is she allowed to remarry? Up to three. Beyond that she may not remarry except to one who has a wife and children” (גרשה, תלך ותנשא לאחר, שמא לא זכה ליבנות ממנו. ועד) כמה מותרת להנשא עד שלשה. יתר על כן לא תנשא אלא למי שיש לו אשה (ובנים). One cannot argue that the first part of the Baraitah opposes polygyny as such, while the second approves it.<sup>32</sup>

<sup>32</sup> Even if one insists on taking the Baraitah’s ruling as a prohibition to marry an additional wife for the sake of procreation, this does not necessarily

It is hardly a coincidence that according to mYev 6:6, to which this baraitah is “attached”, “[if] he married a woman and lived with her ten years and she did not give birth he is not allowed to abstain [from procreation]” (נשא אשה ושהה עמה) (עשר שנים ולא ילדה אינו רשאי ליבטל). Rashi (ad. loc.) is clearly correct when he elaborated the Mishnah’s rule by saying: ‘He should divorce her *or marry another with her*’ (או יגרשנה או ישא) (אחרת עמה).<sup>33</sup> Understanding the Baraitah as prohibiting polygyny is not only unnecessary, but also questionable.

imply a general opposition to polygyny. As Friedman put it: “The insistence that the infertile wife be divorced seems to be based on the assumption that her husband would not likely marry another woman as long as he was married to her, and not on opposition to polygyny as such.” See Friedman, *Polygyny*, p. 40, n. 15. Cf. *Sheeltot de-Rav Ahai Gaon*, Genesis, 18 (ed. Mirski, 120).

<sup>33</sup> See also: Maimonides, *Ishut*, 15:7. This understanding of the Mishnah is reflected in the homily in *PsikRab.* 43 (ed. Friedman, 181): “And Hannah — her also the Holy one, blessed be he, tried according to *her* strength. And how long did He try her? Our Rabbis said: ‘Nineteen years.’ And how [did they arrive at this figure]? Ten years that she lived with him and not given birth, and [then] he took Peninah who bore him ten sons” (וחנה? צירפה הקב”ה אף [היא] לפי כחה. וכמה? צירף אותה? אמרו רבותינו תשע עשרה שנה. והיא? צירפה עשר שנים ששהתה עמו ולא ילדה ונטל את פנינה וילדה לו עשרה בנים). It is clear that the Mishnah is at the base of this passage, and that its author understood it in the same way as Rashi and Rambam.

It is true that the first sentence of the Baraitah in the Tosefta repeats the Mishnah’s ruling verbatim, and Lieberman (*TK VI*, p. 71) sees this sentence as a *lemma* from our Mishnah itself, thus viewing the Baraitah’s rule, יוציא אינו רשאי, as an explication of the Mishnah’s unspecified phrase, לביטל. But Lieberman’s view on the relations between the Mishnah and the Tosefta is questionable, and Friedman has recently suggested that it be viewed conversely. See S. Friedman, “The Primacy of Tosefta in Mishnah-Tosefta Parallels — *Shabbat* 16,1 הקדש” *Tarbiz* 62 (1993), 313–315 [Hebrew]; idem, “Mishnah-Tosefta Parallels,” *Eleventh World Congress of Jewish Studies*, C/1 (Jerusalem 1994), 15–22 [Hebrew]; idem, “Mishnah-Tosefta Parallels (*Shabbat* 13,14),” *Bar-Ilan* 26–27 (1995), 277–288 [Hebrew]; idem, “The Primacy of Tosefta to Mishnah in Synoptic Parallels,” H. Fox and T. Meacham (eds.), *Introducing Tosefta: Textual, Intratextual and Intertextual Studies* (New York 1999), 99–121.

An explicit anti-polygynous stand is taken by CD 4:20–21. This text contains a well-known polemical passage condemning the “Builders of the Wall” (the Pharisees?) for having taken “two women in their lifetime.”<sup>34</sup> However, this source reflects sectarian thought and it should not be used as evidence for the prevailing social views of the Pharisees or of any other stratum of Jewish society. On the contrary, the polemical character of the passage may in fact indicate that the custom of marrying more than one woman was common practice in that society. It is this question to which we now turn.

### Evidential Sources

Several sources testify to the practice of polygyny among the Jews of Second Temple, Mishnaic and Talmudic periods. Some of these sources describe actual cases of men who were married to more than one woman (simultaneously). Despite their importance, these sources are limited in number, and viewing them as representative is therefore problematic. Other sources, however, reveal polygyny to be a widespread social phenomenon. Consequently, these latter sources are of much greater value in respect to our discussion.

The most important source in this context is the Mishnah and the related Tannaitic sources (in the Tosefta, the Yerushalmi and the Bavli) of the first chapter of tractate Yevamot. An analysis of these sources leads to the conclusion that the Jews of the Second Temple and Mishnaic periods practiced polygyny which might even have been a quite widespread phenomenon. Due to their importance I shall begin the discussion with these sources.

<sup>34</sup> CD IV:20–21, on which see G. Vermes, “Sectarian Matrimonial Halakhah in the Damascus Rule,” *JJS* 25 (1974), 197–202; and my “Qumran Polemic on Marital Law: CD 4:20 — 5:11 and its Social Background,” J.M. Baumgarten, E.G. Chazon, and A. Pinnick (eds.), *The Damascus Document: A Centennial of Discovery* (Leiden, Boston, Köln, 2000), 147–160.

According to mYev. 1:1, “fifteen women exempt their rivals and their rival’s rivals from *halizah* [pulling off the sandal] and from *yibbum* [levirate marriage] without limit” (חמש עשרה (נשים פוטרות צרותיהן וצרות צרותיהן מן החליצה ומן הייבום עד סוף העולם). The general principle behind this Mishnah is that in cases where the duty of *yibbum* contradicts the incest laws the latter have primacy over the former. In other words, one would be completely exempt from the duty of *yibbum*. The meaning of this Mishnah’s specific ruling is elaborated in the chapter’s subsequent halakhot. From these halakhot we learn that the Mishnah deals with the possible problems that might arise when a man married to two women dies childless, and his brother is expected to fulfill the duty of *yibbum*. According to that chapter’s halakhah, in the case that the living brother is not allowed to marry his deceased brother’s wife (due to their near kinship relation), he will not be required to perform the levirate marriage with her. This woman is free to remarry without recourse to *halizah*.

This principle is not disputed. However, the Mishnah is not only concerned with the wife whom the living brother is exempted from marrying (in levirate marriage), but also with her rival. The rival, who has no kinship relation with the living brother, and therefore could have been married to him, is also exempted from *yibbum* (or *halizah*). Both women are free to remarry whomever they wish, as if they were ordinary widows. This is, however, the view of the School of Hillel; according to the School of Shammai, although the first woman is exempted from the levirate marriage, her rival is not, and must marry the living brother. Until they perform the act of *halizah*, she cannot remarry.

Contrary to other halakhic disputes (such as those primarily over custom), this dispute could have had dangerous social implications. For as the Baraita in tYev. 1:8–9 put it: “[If] these co-wives went and got married — the House of Shammai say: ‘They are invalidated and the offspring is invalid’; the House of Hillel say: ‘They are valid and the offspring is

valid.' [If] they entered into levirate marriage — the House of Shammai say: 'They are valid and the offspring is valid'; the House of Hillel say: 'They are invalid and the offspring is a *mamzer*'" (הלכו צרות אילו וניסו [לשוקן] – בית שמיי או' הן פסולות) (הולד פסול, בית הלל או' הן כשירות והולד כשר. נתיבמו – בית שמיי או' הן (כשירות והולד כשר, בית הלל או' הן פסולות והולד ממזר). This problematic situation is reflected in Rabbi Yohanan ben Nuri's complaint: "Come and observe: can this *halakhah* be observed among Israel?! [If] to act in deed in accord with the opinion of the House of Shammai — the offspring will be a *mamzer* according to the opinion of the House of Hillel; if it is to act in accord with the opinion of the House of Hillel, the offspring is blemished in accord with the opinion of the House of Shammai!" (בא וראה היאך הלכה זו רווחת בישראל: [אם] לקיים כדברי בית) (שמיי – הולד ממז' כדברי ב"ה; אם לקיים כדברי בית הלל – הולד פגום כדברי יבת שמאי [tYev. 1:9]). There is no doubt that whoever follows the opinion of the House of Hillel would never marry a woman whose family followed the opinion of the House of Shammai, and vice versa. In other words, this halakhic controversy could deeply divide Jewish society, leaving it with no means of overcoming the social rupture.

Tannaitic sources reveal that this problem was quite acute during the first century. According to a Baraitah "in the days of Rabbi Dosa ben Harkinas the rival of the daughter has been permitted, and it was troublesome for the Sages, for he was an old man and a great master" (ימי רבי דוסא בן הרכינס התירו צרת) [bYev. 16a]). And when the sages asked Rabbi Yehoshua for his opinion on the matter he replied: "Why do you push my head between two high mountains, between the House of Shammai and the House of Hillel, that they will crush my head?" (למה אתם מכניסין ראשי לבין שני הרים גדולים, לבין בית שמיי) [tYev. 1:10]). We may sympathize with Rabban Shimon ben Gamliel's concern: "What shall we do with the former co-wives?" (מה נעשה להם לצרות הראשונות?) [*ibid.*]).

The fact that halakhic authorities discussed so emphatically and emotionally this dispute between the House of Shammai and the House of Hillel indicates that the issue was of real concern. In other words that the social reality raised by this halakhic dispute did indeed exist at the time.<sup>35</sup>

It seems unlikely that the issue was considered urgent and acute simply due to one case. On the contrary, Rabbi Yehoshua, for example, testifies that the families of Qifai and Meqoshesh included descendants of co-wives, some of whom had even been chosen as high priests. Similarly, Abba, Rabban Gamliel's brother, was married to two women, one of whom was Rabban Gamliel's daughter, and after his death Rabban Gamliel married her rival in the levirate marriage (in accord with the opinion of the House of Shammai).<sup>36</sup> It is against this background that we can fully appreciate Rabbi Tarphon's statement: "I crave to have a co-wife of the daughter, and I should marry her into the priesthood" (תאיב אני שתהא לי צרת הבת ואסיאנה לכהונה) [tYev. 1:10, and parallels]).

Moreover, this problem was raised only in cases where the husband died without having children, and one of his wives was forbidden to his brothers because of their close kinship. If such a combination was frequent enough to

<sup>35</sup> In contrast to the view held by some scholars (for example, Lowe [above, n. 5], p. 116), who maintain that these discussions are of a purely academic nature. From the fact that one of the rabbis who discuss the problem is Rabban Shimon ben Gamliel, we may infer that it persisted during the second half of the second century (no matter how we understand his argument; on this point see Lieberman, TK, VI, 6). It is true that a Genizah fragment of the Tosefta reads רבן גמליאל, but there is no doubt that this reading is secondary, as it is in conflict with the readings in all other manuscripts, both in the Tosefta itself and in the parallels.

<sup>36</sup> bYev. 15a. Although this information is found only in the Bavli I see no reason to suspect its authenticity, because it is difficult to believe that someone would invent such information without any factual basis.

produce the great halakhic dispute in the Yavne generation, we may safely assume that cases of “normal” and “simple” polygyny (for example, cases where the husband did not die childless, or that none of his wives had any kinship relation with his brothers) were more frequent.

This conclusion is corroborated by Josephus, who explicitly states that it is customary among Jewish men to marry more than one wife (Ant. XVII:14; cf. War, I:477). It is also supported by Justin’s claim, that the Jews marry many women.<sup>37</sup> Since these testimonies are of a general and observational character, they are of higher value for us than a few specific evidences for the actual practice of polygyny.

Furthermore, several sources from that period indeed testify to the existence of polygyny:

- 1) Joseph, son of Tobias, married his niece while being married to another woman (Josephus, Ant. XII:186–189).
- 2) Herod had many wives (Josephus, War I:477; Ant. XVII:18).
- 3) Antipater, Herod’s son, married the daughter of his brother, Aristobolus, and another woman, the daughter of Antigonos.<sup>38</sup>
- 4) In the families of Qifai and Alovai were rivals.<sup>39</sup>
- 5) Abba, Raban Gamliel’s brother, had two wives (bYev. 15a).

<sup>37</sup> Justinus Martyr, *Dialogus cum Triphone Iudaeo*, IV:141, *Patrologia Graeca*, ed. Migne, VI, p. 800 (English translation in A. Roberts & J. Donaldson [eds.], *The Ante-Nicene Fathers*, I (Edinburgh 1989) [reprint], 266, 270).

<sup>38</sup> See Josephus, Ant. XVII:18, 92. Cf.: L.M. Epstein, *Marriage Laws in the Bible and the Talmud* (Cambridge 1942), 17; Ilan, *Jewish Women*, 87.

<sup>39</sup> See Rabbi Yehoshua’s testimony in tYev. 1:10 (ed. Lieberman, p. 3); yYev. 1:6, 3a; bYev. 15a.



- 6) Rabbi Eliezer ben Hyrqnos married his niece while married to another woman.<sup>40</sup>
- 7) A Jewish official under Agrippa II had two wives (bSuk. 27a).
- 8) Babatha's second husband, Judah, was married to another woman Miriam, at the same time.<sup>41</sup>

In addition, mQid. 2:7 mentions “five women, among them two sisters, and a man collected a basket of figs ... [and gave them] and said: ‘All of you are thereby betrothed to me’ ... and the Rabbis ruled: ‘The sisters are not betrothed’” (מעשה בחמש נשים ובהן שתי אחיות וליקט אדם אחד כלכלה של תאנים ... ואמר הרי בולכם מקודשות לי ... ואמרו חכמים: אין האחיות מקודשות). There is also

<sup>40</sup> yYev. 13:2, 13c: “Said Rabbi Abbahu: There was a case with Rabbi Eliezer’s wife (sic!) who pushed him to marry his sister’s daughter” (אמר רבי (אבהו מעשה באשתו של רבי אליעזר שהיתה דוחקת בו לשאת את בת אחותו). This is the reading in MS Leiden; in the printed editions the reading is: “Rabbi Eliezer’s mother,” and this is the reason why this source escaped the notice of most of the scholars who dealt with the subject. However, there is no doubt that the reading found in the body of MS Leiden should be preferred, as the other reading has no textual foundations and originates in the emendator of the manuscript. See also Friedman, *Jewish Polygyny*, 163–164. Heiman’s attempt to argue that Rabbi Eliezer married his niece only after his first wife’s death (see A. Heiman, *Toldot Tannaim ve-Amoraim* [London 1910], 173) is apologetic and without foundation. Tal Ilan (*Jewish Woman*, pp. 86–87, n. 91) correctly notes that the fact that Imma Shalom (Rabbi Eliezer’s wife) was Rabban Gamliel’s sister, is found only in the Babylonian Talmud, but this makes no difference to our point nor does it refute our contention that Rabbi Eliezer married two wives. Cf. Also: Avot de-Rabbi Nathan, Version A, chap. 16 (ed. Schechter, 32).

<sup>41</sup> See: Y. Yadin, *Bar-Kokhba — The Rediscovery of the Legendary Hero of the Second Jewish Revolt against Rome* (Jerusalem 1971), 249; N. Lewis, *The Documents from the Bar Kokhba Period in the Cave of Letters — Greek Papyri* (Jerusalem 1989), 23–24; 113–115; 127–128. For a different interpretation of the material, see R. Katzoff, “Polygamy in P. Yadin?” *Zeitschrift für Papyrologie und Epigraphik* 109 (1995), 128–132 (but see Lewis’ reply in his “Judah’s Bigamy,” *ibid.*, 116 [1997], 152 [I am indebted to Prof. Hannah M. Cotton for bringing the latter to my attention]).

the case of Rabbi Tarphon, who betrothed “three hundred” women in days of famine (tKet. 5:1).<sup>42</sup> The case of Rabbi

<sup>42</sup> Although some scholars mention these two examples, I did not include them in the list above. This is because they are without doubt unusual cases, as the round and exaggerated number three hundred in the story of Rabbi Tarphon may illustrate, and it is no coincidence that S. Krauss suggested its emendation to “three.” See: S. Krauss, *Talmudische Archaeologie* (Leipzig 1911), II: 27. Needless to say this suggestion is unconvincing, for the number three hundred is repeated in all versions of the story, and is attested to in all manuscripts. Moreover, these stories speak of betrothal, not of marriage, and therefore reflect, at most, the legal situation, but not normal marriage practice, in which we are interested. I also did not include here Rabbi Tarphon’s statement: “I crave, when a co-wife of a daughter shall come to me and I shall marry her” (אמר רבי טרפון תאבני מתי תבוא צרת הבת לידי ואשאנה) [bYev. 15a]), which was interpreted by Rashi (ad. loc.) as referring to Rabbi Tarphon’s brother’s wife’s co-wife (see also Herr, “The Family” [above, n. 5], p. 149), the reason being that in the parallel version of this Baraita (in tYev. 1:10 [ed. Lieberman, p. 3], and in yYev. 1:6, 3a), the text is: “Said Rabbi Tarphon: ‘I crave that I will have a co-wife of the daughter, and I will give her in marriage within the priesthood’” (אמ. ר’ טרפון תאבני אני שתהא לי צרת הבת ואשאנה לכהונה). According to this version it is difficult to find here any hint that Rabbi Tarphon’s brother had two wives. Rather, Rabbi Tarphon is speaking here as a judge, and gives expression to what his view would be if such a case had come before him.

The case of Rabbi Yose ben Halaftah, which was mentioned by Strack and Billerbeck as an illustration of polygynous marriage (see their *Kommentar zum Neuen Testament* (Munich 1926), III: 649, n. 1) is simply a mistake. Although they refer the reader to yYev. 1:1, 2b, to bShab. 118b, and to GenRab. 85:5 (ed. Theodor-Albeck, 1038), nothing in these sources indicates that Rabbi Yose was married to more than one wife. It seems that the real basis for their claim is the Tosaphists’ note (bShab. 118b, s.v. אימא), that according to the Yerushalmi there were [several] *Yevamot* involved in that case. However, this does not correspond to what is found in the Yerushalmi, and, unless we assume they had a somewhat different text of that Yerushalmi (ינשי אחי instead of אשת אחי — see Pnei Moshe, ad. loc.), it simply appears to be a mistake on the part of the Tosaphists. Another possibility is that they referred to a different [Palestinian] source, which they called “Yerushalmi.” See V. Aptowitzer, “Unechte Jeruschalmizitate,” *MGWJ* 55 (1911), 419–425; J.N. Epstein, “Maasim li-bne Erez Israel (Halachic Practice) (Ant. 35),” *Tarbiz* 1:2 (1930), 37–38 (= idem, *Studies in Talmudic Literature and Semitic Languages*, II,1 (Jerusalem 1988), 330–331); E.E. Urbach, *The Tosaphists: Their History, Writings, and Methods* (Jerusalem 1980<sup>4</sup>), 712.

Judah ben Ishmael's brother, who entered the levirate marriage with more than one woman, a clear indication that he had many wives simultaneously, should also be included in our list.<sup>43</sup> Another possible case of polygyny is that of Rabbi Jacob ben Aha who said of himself that he has two sons from two women (yQidd. 3:11, 64c).<sup>44</sup> All these examples demonstrate that polygyny was not regarded as an impossibility. Of more importance is the fact that in none of these cases is there any opposition whatsoever to the possibility of a man marrying more than one woman at a time.

In this context, the story of a man who was forced by Rabbi Judah the Prince to marry his twelve levirates deserves special attention:

<sup>43</sup> yYev. 4:11, 6b, in respect to the Mishnah's statement, that in case of several levirates "if the older of them wishes to marry them all (in levirate marriage) he is allowed to," the Yerushalmi asks: "How about to act with cunning?" (מהו להערים), which was interpreted by Lieberman to mean: להערים כמה יבמות מהרבה אחים כדי לירש בנכסים (see Lieberman, TK, VI: 57, n. 59). The answer is given in an anecdote about Rabbi Judan ben Yishmael: "They did so to him" (עברין ליה כן). In this context the note should be understood that Rabbi Judan had another brother who did such a thing to him, and married several levirates of their other deceased brothers and was thus married in polygynous marriage. The interpretation suggested by other commentators holds the Yerushalmi's statement to reflect Rabbi Judan's actions, but this does not correspond to the linguistic meaning of the text.

No doubt the possibility that polygyny was practiced due to levirate marriage ought to be taken into consideration. This despite the question of whether *haliza* was preferred over *yibbum* in that period. On this question, see J. Katz, "Levirate Marriage (*yibbum*) and *haliza* in the Post-Talmudic Times," *Tarbiz* 51 (1980), 59–62; Ilan, *Jewish Women*, 152–155; M.A. Friedman, "The Commandment of Pulling off the Sandal Takes Precedence over the Commandment of Levirate," *Te'uda* 13 (1997), 35–66 [Hebrew]. If the levirate marriage of Rabban Gamliel of Yavne with the rival of his brother's wife (who was his own daughter), mentioned in bYev. 15a, took place while he was married (see mBer. 2:5), it might illustrate this reality.

<sup>44</sup> It is possible that we are dealing here with second marriage, which took place only after the first wife's death, and we must therefore treat this text cautiously.

דלמא: תלת עשר אחין הויין ומתין תרין עשר בלא בנין. אתיון בעיון מתיבמה קומי ר'. א"ל ר': איזיל ייבם. א"ל: לית בחילי. והם אומרות כל חד' וחדא: אנא מזינגנא ירחי. אמר ומן זיין ההוא ירחא דעיבורא? א"ר אנא זינגנא ירחא דעיבורא, וצלי עליהון ואזלוך להון. בתר תלת שנין אתון טעונין תלתין ושיתא מיינוקין. אתון וקמנו להן קומי דרתה דרבי. סלקין ואמרין ליה לרע קרייא דמיינוקין בעיין מישאול בשלמך. אודיק ר' מן כוות' וחמתון. אמר לון: מה עיסקיכו? אמרין ליה אנן בעיין תיתין לן ההוא ירחא דעיבורא [ויהיב להון ההוא ירחא דעיבורא].

A story: There were thirteen brothers, twelve of whom died without children. They [the widows] came before Rabbi [Judah, the Prince] and asked him to be married [in the levirate marriage]. Said Rabbi to him [i.e. to the thirteenth brother, who was alive]: "Go and marry [in the levirate]." He said: "I am [financially] unable." And each one of them said: "I will provide for my month." He said: "And who will provide for during the intercalary month? Said Rabbi: "I will provide for during the intercalary month." And he [Rabbi] prayed for them and they went away. After three years they came carrying thirty-six children. They came and stood in front of Rabbi's courtyard. They [Rabbi's servants] went up and said to him: "There is a crowd of children below wishing to greet you." Rabbi looked out from his place and saw them. He said to them: "What is your affair?" They said to him: "We want you to give us [the payment of] that intercalary month. [And he gave them [the payment of] the intercalary month]."<sup>45</sup>

Despite the tradition that the man in the story was no less than the famous *Tanna* Bar Qapara,<sup>46</sup> the story's legendary character makes it difficult to use it as a reliable historical

<sup>45</sup> yYev. 4:11, 6b, according to MS Leiden. The final words are absent from the manuscript itself and were added by the emendator.

<sup>46</sup> See Lieberman, TK, VI: 244; Friedman, *Jewish Polygyny*, p. 129, n. 3.

source.<sup>47</sup> However, given this reservation, the question remains what social values engendered such a story?

The story is told in the Yerushalmi's *sugya* in the context of the ruling of mYev 4:12: "Four brothers married to four women and they died, if the oldest [surviving] brother among them wants to enter into levirate marriage with all of them [the women] he has the right to do so" (ארבעה אחין נשואין ארבע נשים). (ומתו אם רצה הגדול שבהן לייבם את כולם הרשות בידו). The story itself speaks of a man who refused to enter the levirate marriage because of his difficult economic situation (לית בחיילי). However, since the women agreed to support him (instead of him supporting them, as is usually expected) he had no choice but to enter the levirate marriage with them, and he was blessed with thirty-six children. There is no doubt that the story's intention is to encourage levirate marriage, despite the financial difficulties it imposes.<sup>48</sup> This being the case, one must conclude that the story does not view polygyny as problematic.

Sources of the late Byzantine period, such as *Sefer ha-Ma'asim*, explicitly mention the practice of polygyny. This source, as has long ago been recognized, is not theoretical but rather discusses actual cases for which a halakhic decision was asked. In several instances it alludes to cases of men who were married to more than one woman. For example, a Genizah fragment of *Sefer ha-Ma'asim*, published by Margalioth, tells of "a man who married two women" (איש שנשא שתי נשים).<sup>49</sup> Another fragment published by Margoloth speaks of "a

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<sup>47</sup> See, for example: Gafni, Marriage, 22; Ilan, *Jewish Women*, 152–153.

<sup>48</sup> This was already recognized by M.A. Friedman, *op. cit.* (above, n. 43), 41. Compare: Ilan, *Jewish Women*, 152–153.

<sup>49</sup> See. M. Margalioth, הויגנה זמ לארשי צרא תובליה (Jerusalem 1974), 86: "A man who married two women" (מישנ יתש אשנש שיאי). The editor's suggestion to amend the text to read שרגש ("Who divorced") is without foundation, and in light of the text he himself published on p. 93 (see below), which speaks of a similar situation, it is unnecessary.

man who has two wives” (ומי שיש לו שתי נשים).<sup>50</sup> A Genizah fragment published by Friedman discusses the case of “a man who [already] has a wife and went and married another” (אדם שיש לו אשה והלך ונשא אחרת).<sup>51</sup> The same text also relates the case of “one [who] married two women and died without children” (מי שנשא שתי נשים ומת בלא בנים).<sup>52</sup> In a Genizah fragment published by Lewin, the case of “one who had two, three, or four wives” (מי שהיו לו שתיים או שלוש או ארבע נשים), is examined.<sup>53</sup> Arguably, the formulation of this passage might give the impression that it does not really discuss an actual case brought to court. Perhaps. Be that as it may, it does reveal that the author was familiar with the social phenomenon of polygyny.

A confirmation of this conclusion is found in Roman legislation of the time. There are several Roman rulings and laws which are directly concerned with marriage among the Jews. For example, the law of Arcadius and Honorius, given in the year 393, contains a prohibition forbidding the Jews to act according to their custom (*mos*) and law (*lex*) regarding marriage. It states: “None of the Jews shall keep his custom in marriage unions, neither shall he contract nuptials according to his law, or enter into several matrimonyes at the same time.”<sup>54</sup> As this legislation explicitly forbids polygynous

<sup>50</sup> *Ibid.*, p. 93, l. 8.

<sup>51</sup> M.A. Friedman, “Marriage Laws Based on *Ma’asim Livnei Eretz Yisrael*,” *Tarbiz* 50 (1980–1981), 215, alongside his commentary on pp. 220–223 (now also in his *Jewish Polygyny*, 11–12).

<sup>52</sup> See also Friedman, *ibid.*, 235, and H. Neuman, ספרות המעשים לבני ארץ ישראל ודקעה ההיסטורית, M.A. thesis, Hebrew University (Jerusalem 1990), 100.

<sup>53</sup> See B.M. Lewin, מעשים לבני ארץ ישראל, *Tarbiz* 1:1 (1930), 93.

<sup>54</sup> See A. Linder, *The Jews in Roman Imperial Legislation* (Detroit and Jerusalem 1987), 191–193. The sources from *Sifrut ha-Ma’asim* cited above show that there were Jews who did not follow the Roman law in this respect. See also, Linder, *ibid.*, 389–392. Cf. Friedman, *Jewish Polygyny*, 13.

marriage, it may be assumed that the Jews of that era did actually practice polygyny. This conclusion is corroborated by Theodorithos, who, at the beginning of the fifth century C.E., testified that “In the past both the Jews and the Greek used to marry two, three, or four women, or even more, at the same time.”<sup>55</sup> These sources confirm the information found in *Sefer Ha-Ma‘asim*, which, depicting an identical reality, indicates that the halakhic discussion of that reality was not theoretical but practical.

In light of all this, it can be assumed that at least some of the Tannaitic sources relating to polygyny, examined above, are far from being simply theoretical discussions in the rarefied atmosphere of rabbinical study circles and academies. Rather, they reflect a social reality with which the rabbis were highly familiar. The Mishnah in the tenth chapter of tractate *Kethuboth* may serve to illustrate my contention. This Mishnah discusses the halakhic problem of *Kethubah* payment in the case of “a man who was married to two women” (מי שהיה נשוי שתי נשים). It ruled that: “The first has precedence over the second” (הראשונה קודמת לשניה). It can be argued that this Mishnah is no more than a theoretical discussion of the general problem of owing money to two people at once, using the example of polygynous marriage to illustrate the situation. However, at the end of that chapter, the Mishnah rules: “And this is so also regarding [any kind of] monetary debt” (וכן בעל חוב). This ending suggests that the previous discussions were not just examples of the theoretical question of what happens when one owes money to more than one person simultaneously. Rather, they should be taken at face value, the assumption being that the Mishnah chose to demonstrate its principles by referring to cases of polygyny precisely because such cases were common and familiar, an integral part of the social environment of the time.

<sup>55</sup> Linder, *ibid.*, 139.

### Opposing Sources

As seen, not only do the available sources contain no halakhic prohibition of polygyny, but they actually indicate that there were some men who practiced polygyny and married more than one woman. Yet, despite the above-mentioned evidence, it has been customarily argued that there was a tendency to oppose the practice of polygyny among the Jews of Eretz Israel during the Mishnaic and Talmudic period. This opinion appears to be based on a few Aggadic and Midrashic sources, which scholars believe to express such tendencies. Let us reexamine these sources in order as to fully appreciate their stand toward polygyny.

On the verse in 1Sam. 1:1 “And he had two wives” we find in MidShem 1:7 the following dispute:

רבי חגי בשם רבי יצחק: הכתוב פותח בשבחו [וחותם בשבחו]. רבי לוי בשם רבי חמא בר רבי חנינא אמר: הכתוב פותח בשבחו ומזכיר גנאו. ורבנן אמרין: הכתוב פותח בשבחו, ומזכיר וחזור ופותח בשבחו.

Rabbi Haggai in the name of Rabbi Izhaq: Scripture begins with praise of him, [and concludes with praise of him]. Rabbi Levi in the name of Rabbi Hamma bar Rabbi Haninah said: Scripture begins with praise of him, and mentions his disgrace. And the Sages say: Scripture begins with praise of him, and mentions his disgrace, and return to begin with praise of him.<sup>56</sup>

The text does not explicitly reveal for what praise, and, more importantly, for what disgrace of Elkhana Rabbi Levi is referring. However, in a relating homily in PsiqRab. 43 we

<sup>56</sup> MidShem. 1:7 (ed. Buber, p. 23a). I added [וחותם בשבחו] according to the reading of MS Parma and Yalqut Shimoni (see Buber’s note, ad. loc.). On the other hand I do not accept Buber’s addition: ומזכיר [גנאו], as it is not supported by the Manuscripts’ textual evidence. I believe that we should accept Friedman’s explanation of the Sages’ position in his note to the relating homily in PsiqRab. (see next note), according to which scripture “mentions” the *course of events*.



find: “Said Rabbi Yona in the name of Rabbi: And after all this praise he wrote of him ‘And he had two wives’?!” (ואחרי) (כל השבח הזה כתב בו ‘ולו שתי נשים’?).<sup>57</sup> From this scholars have concluded that the author of this text disapproved of polygyny.

In my opinion, such a reading ignores both the context and the formulation of the passage, and therefore misinterprets its intention. Rabbi’s words are in fact an expression of astonishment: is it really possible that “after all this praise” Scripture will say something negative of Elkanah?! Surely not! We are forced to assume, so claims the homilist, that even in this case one should praise Elkanah! In fact, this is indeed subsequently written: “And why did he marry two women? Because ‘And Peninah had children, but Hannah did not have children’.”<sup>58</sup> In other words, the reason for Elkanah’s marriage to a second wife was Hannah’s barrenness, and the intention to produce offspring, and therefore it should be regarded a positive act.

Moreover, as has been noted above, Elkanah’s marriage to Peninah was presented by the homilist as Hannah’s initiative:

כיון שראתה חנה שלא ילדה אמרה: אומר לו שיכניס צרתי לביתי, ומתוך זה יראה הקדוש ברוך הוא שהכנסתי צרתי לביתי ויפקוד אותי. אמר לה הקדוש ברוך הוא: חייך חנה, הפקדת אצלי נפשות, [נפשות] אני משלם (לידך) – כי פקד ה' את חנה.

When Hannah saw that she did not bear children she said: “I will tell him to bring a rival to my house, and

<sup>57</sup> PsiqRab. 43 (ed. Friedman, 181b). The attribution of this homily to Rabbi Yonah in the name of Rabbi (i.e. Rabbi Judah the Prince) is doubtful. We do not find Rabbi Yonah transmitting directly any statement of Rabbi, who lived over hundred years earlier. Possibly, we should read: Rabbi Yonah in the name of Rabbi [Hanninah]. This suggestion is supported by the reading in MidShem. (see the reference in the previous note).

<sup>58</sup> PsiqRab. *ibid.*

thereupon, when the Holy one blessed be He, sees that I had a rival to myself brought into my house, He will requite me'. The Holy one, blessed be He, said: 'Indeed, as thou livest, Hannah, thou didst cause souls to be deposited with Me, and I shall pay thee back' — So the Lord requited Hannah.<sup>59</sup>

There can be no doubt that the homilist did not consider Elkanah's marriage to Peninah, described here as aimed at fulfilling the duty of procreation, as negative behaviour. On the contrary, it is presented as an act which gained God's approval! It would appear therefore that this text must be understood as encouraging polygyny in cases where one's wife is barren, and the object of the marriage to another woman is to bear children.

This interpretation of the text's intention is supported by an analysis of a homily which underscores the disgrace of the members of flood generation for having married many women but not for the sake of procreation:

ר' עזריה בשם ר' יודן [ברבי סימון]: כך היו אנשי דור המבול עושין, היה אחד מהן לוקח ב' נשים אחת לפירייה וריבייה ואחת לתשמיש, זו שלפיריה וריבייה היתה יושבת כאלמנה בחייה, ושלתשמיש היה משקה כוש עיקרים שלא תלד, והיתה יושבת לפניו כזונה ... תרע לך שהוא כן, שהרי היימרוד שבהן, זה למך, לקח לו ב' נשים, ערה – ריעדי מינה, צלה – שתהא יושבת בצילו.

Rabbi Azariah in the name of Rabbi Judah [ben Simon]: The men of the generation of the Flood used to act thus: each took two wives, one for procreation and the other for sexual satisfaction. The one that was taken for procreation would stay like a widow throughout her lifetime; to the one that was taken for sexual satisfaction he would give a drink of potion of roots so that she not bear, and she sat before him like a *zonah* [harlot] ... The proof of this is that the best of them, Lemech, took for himself two wives: Adah — [she was so called] because he kept

<sup>59</sup> *ibid.*

her away; Zilah — [she was so called] because she will sit in his shadow.<sup>60</sup>

As has been noted by L. Ginzberg,<sup>61</sup> Rabbi Judah ben Simon condemned the flood generation not because they married more than one woman, but because one of these women was “used” solely for sexual satisfaction and not for bearing children. The parallel in yYev. 6:5, 7c reveal this interpretation to be indisputably correct. In the parallel our text comes right after the following passage:

אמר ר' יודה בן פזי: כתיב 'בין שורותם יצהירו ולא יפנה דרך כרמים', שלא היתה בעילתו לשום בנים. אמר ר' סימון: כתיב 'אכלו ולא ישבעו הזנו ולא יפרצו', שלא היתה בעליהן לשם בנים. כתיב: 'ויקח לו למך שתי נשים', עדה שהיה מתעדר בגופה, צילה שהיה יושב בצילה של בנים.

Said Rabbi Judah ben Pazi: It is written: “Between rows [of olive trees] they make oil ... May not turn aside by way of their vineyards” (Job 24:11...18) — [it means] that their intercourse was not aimed at [producing] children. Said Rabbi Simon: It is written: “They have eaten but are not satisfied, they are [promiscuous] but do not increase” — [it means] that their intercourse was not aimed at [producing] children.

Here too the homilist castigated the members of the flood generation for marrying more than one woman merely in order to fulfill their sexual desire.<sup>62</sup> Polygyny as such was not discussed here at all.

Rabbi's reaction when he heard of his son's wife's barrenness — “What shall he do? Shall he marry another woman? People will say ‘That one is his wife and that one is his harlot!’” (י'תירחא אתתא ביסנינ) [bKet. 62b])

<sup>60</sup> GenRab. 23:2 (ed. Theodor-Albeck, 222–223).

<sup>61</sup> L. Ginzberg, *An Unknown Jewish Sect* (New York 1976), 340, n. 3.

<sup>62</sup> See also: Seder Eliyahu Rabba, 18 (ed. Friedman, p. 99), for a similar idea.

— can be understood in a similar manner. This source was also used by some scholars to demonstrate the anti-polygynous position they believed typical of Jewish society during the Mishnaic and Talmudic periods. Rabbi was understood to oppose the possibility of his son marrying a second wife even for the purpose of procreation.<sup>63</sup> However, the above homilies from *Genesis Rabba* and from the *Yerushalmi* show such an interpretation to be incorrect. Rabbi's fear that people might say that one of his son's wives is his real wife and the other is his harlot, was a result of the fact that the son's wife was barren and could not bear children.<sup>64</sup>

The analysis of these sources indicates that the Sages did not disapprove of polygyny in itself; Their attitude towards polygyny was dependent on the particular circumstances in which it occurred. In cases where its purpose was considered to be positive (for example, in order to bear children), the rabbis did not look upon it negatively. In other words, rabbinic attitudes towards polygyny were not determined by an ethical sense of the institution of marriage (such as that held by the Christian Church, for example), but by a different factor. What was this factor?

Several sources, in which one may detect an anti-polygynous attitude, give rise to the possibility that the rabbis were principally concerned with maintaining the normal and peaceful course of marriage, and stability within the family. This can be seen, for example, in Rabbi Ishmael's saying: "If a man has two wives [the one is beloved and the other hated]' ... Rabbi Ishmael says: Scripture speaks here of the

<sup>63</sup> Thus Herr, *Marriage*, p. 46, n. 36. See also Y. Levine Katz, "Childlessness in Aggadic Literature," *Te'uda* 13 (1997), 100 [Hebrew].

<sup>64</sup> This interpretation is corroborated by the homily in Tan. Ki-Teze, 3: "And he is a harlot's son" Rabban Shimon ben Gamliel says: [She is called *zonah* (harlot)] because she brought her rival into her house" (וְהוּא בֶן אִשָּׁה זוֹנָה) (— רשב"ג אומר: שהכניסה צרתה לביתה). See also Friedman, *Jewish Polygyny*, p. 9, nn. 24–25; p. 24.

normal course of events, and tells us that in the end he will come to hate her and love the other” (כי תהיין לאיש שתי נשים) (האחת אוהבה והאחת שנאה) – ... רבי ישמעאל אומר בדרך ארץ הכתוב (מדבר, מגיד שסופו להיות שונא אותה ואוהב אחרת).<sup>65</sup> In Midrash ha-Gadol, which in all likelihood preserves the version of the [lost] *Mekhilta* to Deuteronomy, things are presented more explicitly: “Rabbi Ishmael says: Scripture speaks of the normal course of events, and tells us that if he shall have two wives, in the end he will love one [of them] and hate the other” (ר' ישמעאל אומר: בדרך ארץ הכתוב מדבר, שאם יהיה לו שתי נשים) (סופו להיות אוהב אחת ושונא אחרת).<sup>66</sup> This source explicitly expresses a view opposing polygynous family life; however, its rationale is not based on any ethical or theological view of marriage, but on a practical concern, i.e. the wish to maintain a disturbance-free marriage.

This stand is clearly stated in the *Targum* of Ruth 4:6: “I cannot redeem because I have a wife, I am not able to marry another, lest she will cause a quarrel in my house, and [by doing so] I will damage my land. Redeem you for yourself because you don’t have a wife” (לית אנא יכיל למפרוק לי על דאית) (לית לי רשו למסב אוחרניתא עלהא, דלמא תהא למצו בביתי ואהא לי אתתא, לית לי רשו למסב אוחרניתא עלהא, דלמא תהא למצו בביתי ואהא לי אתתא, (מחבל את אחסנתי, פרוק לך את, ארום דלית לך אתתא). Some took the words “I am not allowed” and to reflect a

<sup>65</sup> SifDeut. 215 (ed. Finkelstein, 248). Finkelstein printed this passage in petite, to indicate its marginal origin. The fact that it is absent from several MSS supports his suggestion, and its most likely origin is the [lost] *Mekhilta* to Deuteronomy. Since in the Midrashim of the school of Rabbi Ishmael (the *Mekhilta* being one of them) Rabbi Shimon is mentioned together with his father’s name, i.e. Rabbi Shimon ben Yochai (see M. Kahana, “New Fragments of the *Mekilta* on Deuteronomy,” *Tarbiz* 54 [1985], 507), the reading Rabbi Shimon (alone) is suspect. This supports Finkelstein’s suggestion to read רבי ישמעאל instead of רבי שמעון, since, as has been demonstrated by Epstein, the interchange between these two names in Hebrew manuscripts is extremely frequent. See J.N. Epstein, *מבוא לנוסח המשנה* (Jerusalem 1964),<sup>2</sup> 1191–1194.

<sup>66</sup> See: D.Z. Hoffman, *מדרש תנאים לספר דברים* (Berlin 1910), II: 128.

halakhic prohibition of polygyny.<sup>67</sup> As noted by Friedman, however, the correct meaning of this phrase is simply “I am unable,” and the rationale behind this “inability” is immediately stated: “Lest it cause a quarrel in my house” (שמא תהא למריבה בבית).<sup>68</sup> Indeed the view that “two women in the house [cause] a quarrel in the house” (שתי נשים בבית – מריבה בבית), is attested elsewhere in rabbinic sources.<sup>69</sup>

In light of these sources it seems that the few anti-polygynous statements that are found in rabbinic sources reflect a concern to preserve peace and tranquility within the family and the normal course of marriage.<sup>70</sup> For this reason, in case

<sup>67</sup> See, for example, A.H. Freiman’s review of L.M. Epstein’s *Marriage Laws in the Bible and the Talmud*, in: *Kirjath Sepher* 23 (1947), 109; S.Z. Havlin, “The Aramaic Translation of *Ruth* — a Vulgate Translation?” *Sidra* 2 (1986), 25–27.

<sup>68</sup> Friedman, *Jewish Polygyny*, 9–10.

<sup>69</sup> Tan. Ki-Teze, 1, 115a; TanBub. Ki-Teze, 1, 17a.

<sup>70</sup> We learn of the fact that the rabbis were concerned with the quality of family life from the Baraitah in SifDeut. 290 (ed. Finkelstein, 309). This Baraitah describes the elders’ advice to one who faces the levirate marriage: “‘And speak unto him’ — Provided that she is suitable for him. If he is a child and she an elderly woman or he is an elderly man and she is a child they shall say to him: ‘Go to someone who is similar to you, why should you bring dissension into your house?’” (רברו אליו – בהוגנת לו. שאם היה הוא ילד והיא זקנה, הוא זקן והיא ילדה, אומרים לו: כלך אצל כמותך ולמה לך להכניס קטטה לביתך ודברו אליו — בהוגנת לו. שאם היה הוא ילד והיא זקנה, הוא זקן והיא ילדה, אומרים לו: כלך אצל כמותך ולמה לך להכניס קטטה לביתך). Cf. Friedman, *Jewish Polygyny*, 10. See also (in a different context): A. Schremer, “Kinship Terminology and Endogamous Marriage in the Mishnaic and Talmudic Periods,” *Zion* 60 (1995), 21. A similar concern may form the background to some of Rabbi Aqiva’s statements. For example, his opinion that a woman must bathe and adorn herself during her menstruation period is contrary to the view held by the Elderly Sages (זקנים הראשונים), who forbade this (SifMez. 5:12; yGitt. 9:11, 50d; bShabb. 64b; Avot de-Rabbi Nathan, Version A, chap. B [ed. Schechter, 4b]). See also his view in mGitt. 9:9, which allows a man to divorce his wife simply on grounds that he found a more beautiful woman. In other words, Rabbi Aqiva prefers divorce over the possibility of ruined marriage life. This interpretation had been suggested long ago; see J. Goldin, “Toward a Profile of the Tanna Aqiba ben Joseph,” *JAOS* 96 (1976), 38–56. Compare W.S. Green, ‘What’s in a Name? — The

where another value was involved — such as the barrenness of the first wife, and the wish to bear children — the rabbis did not oppose marriage to another woman.

There is (to the best of my knowledge) only one text which opposes polygyny on principle. I refer to a saying of Rabbi Judah ben Batyra, in Avot de-Rabbi Nathan:

דורש היה איוב בינו ובין עצמו: ומה חלק אלוה ממעל [ונחלת שדי ממרומים]  
אילו היה ראוי לאדה"ר להנתן לו עשרה נשים היה נותנו לו ולא היה ראוי להנתן  
לו אלא אשה אחת בלבד, אף אני די אשתי די חלקי.

Rabbi Judah ben Batyra says: Job used to reason with himself “What would be my portion from God above, and my heritage from the Almighty on high” (Job 31:2)? “If it had been appropriate for ten wives to be given to Adam, God would have given them to him. But it was not appropriate for him; and for me too my [one] wife is sufficient, my portion is sufficient.”<sup>71</sup>

As noted by Saldarini, this passage appears to be “a strong polemical statement against polygamy.”<sup>72</sup> However, he also noted that already Schechter had suspected the whole passage to be a late insertion in the text. In any case, it is important to keep in mind that Avot de-Rabbi Nathan, as well as the other sources mentioned above — *Targum* of Ruth, Midrash Shemuel, and Pesiqta Rabbati — are all late works, whose final redaction took place not earlier than the seventh century.<sup>73</sup> On the other hand, the Palestinian Talmud and the

Problematic of Rabbinic “Biography”, W.S. Green (ed.), *Approaches to Ancient Judaism*, I (Missoula 1978), p. 95.

<sup>71</sup> Avot de-Rabbi Nathan, Version B, chap. 2 (ed. Shcechter, 5a).

<sup>72</sup> See: A.J. Saldarini, *The Fathers According to Rabbi Nathan*, Leiden 1975, p. 39, n. 6.

<sup>73</sup> On Midrash Shemuel and Pesiqta Rabbati, see M.D. Herr, “Midrash,” *Encyclopaedia Judaica*, XI (Jerusalem 1971), col. 1513. On Avot de-Rabbi Natan, see M. Kister, *Avot de-Rabbi Nathan: Studies in Text, Redaction and Interpretation*, PhD Dissertation, The Hebrew University (Jerusalem 1993), 214–219 [Hebrew]. This is true also of few other Midrashic sources relating

early Amoraic Midrashim contain no views opposing polygyny in itself. None of the halakhic sources mentioned above contain even the smallest hint that the halakhic view was one which forbade polygyny. This indicates that during the Mishnaic and Talmudic period Jewish society did not regard a man who marries more than one woman as a delinquent.

### Conclusions

How common was polygyny in Jewish Roman Palestine? On the basis of the available sources no precise answer can be given to this question. To determine the exact percentage of men married to more than one woman at once is simply not possible, and so perhaps the answer to this question will never be known. However, it seems that the inability to provide an exact number is not the real issue. What is important, and particularly in light of the definition suggested at the beginning of this paper, is that Jewish society of Eretz Israel of the Second Temple, the Mishnaic, and Talmudic periods may be designated as a polygynous society. This conclusion is based, on the one hand, on the fact the rabbis did not prohibit polygyny, and, on the other, on the evidence indicating the actual practice of polygyny during these periods.<sup>74</sup>

to our subject, which were cited in scholarly literature, and recently assembled by Friedman, *Jewish Polygyny*, 7–13. See also the *drasha* in bSot. 12a (= ExRab. 1:17 [ed. Shinan, 66–67]), which seems to reject the plain meaning of the Biblical verse in 1Chr. 4:5, according to which Ashhur had two wives: “‘And Ashhur, the father of Tekoa, had two wives Helah and Naarah’ ... ‘Had two wives’ — [this means] Miriam became like two wives. ‘Helah and Naarah’ — she was not both Helah and Naarah, but at first she was Helah [= an invalid], and finally Naarah [= a young girl].”

<sup>74</sup> This being the case, one wonders if the widespread practice of polygyny in the eastern parts of the Mediterranean during the Middle ages, as revealed by the document found in the Genizah, and demonstrated by Friedman in his studies (esp. Friedman, *Polygyny*, and idem, *Jewish Polygyny*) reflect a Moslem influence, or whether it should be regarded a continuation of ancient Jewish practice.



There are alongside these sources a few Midrashic passages which appear to express a negative view of polygyny. Scholars based their claim regarding monogamous trends in Jewish society of the period under discussion on these sources. However, a close reading of the latter shows that the rabbis did not oppose polygyny in itself. As long as polygyny did not threaten daily family life and was motivated by the wish to bear children (or any other positive motive), the rabbis did not regard it as a negative act. It appears that rabbinic views of the institution of marriage were not guided by an ethical or theological sense of that institution, but by a practical approach. As Herr put it: "Marriage, for the masters of Halakhah, was not considered as a 'holy' goal, but only as an optimal socio-economic means."<sup>75</sup>

## Appendix

In the course of this study I stressed the need to distinguish between the rabbinic views of how things ought to be, and how things actually were. I argued that in order to say something about reality, the social historian must look for sources reflecting the latter; not those that highlight the former.<sup>76</sup> The Mishnah (and related sources) of the first chapter in tractate Yevamot, for example, because it reveals actual social reality and not merely rabbinic attitudes and wishes, might be such a source.

In this context mYev. 2:9–10 is of prime importance to our discussion. According to some scholars, this Mishnah, once its social background is deciphered, reveals that monogamy was the norm among the Jews of the period. It states:

<sup>75</sup> Herr, *Marriage*, 46. Compare Katz (above, n. 43), p. 172, n. 283.

<sup>76</sup> As noted above some scholars tend to identify the rabbis' opinions as a reflection of social practice, a view I do not share.

המביא גט ממדינת הים ואמר "בפני נכתב ובפני נחתם" — לא ישא את אשתו. "מת", "הרגתיו", "הרגנהו" — לא ישא את אשתו. רבי יהודה אומר: "הרגתיו" — לא תנשא אשתו; "הרגנהו" — תנשא אשתו. החכם שאסר את האשה בנדר על בעלה הרי זה לא ישאנה. מאנה או שחלצה בפניו — ישאנה, מפני שהוא בית דין. וכולן שהיו להם נשים ומתו מותרות לנשא להם. וכולן שנישאו לאחרים ונתגרשו או שנתלאמנו מותרות לנשא להם. וכולן מותרות לבניהם או לאחיהן.

If one brings a bill of divorce (*get*) from overseas and he said "In my presence it was written and in my presence it was signed" — he [the bearer] may not marry his [i.e. the divorcer's] wife. [If he said:] "[He is] dead," or "I killed him," or "We killed him" — he may not marry his wife. Rabbi Judah says: [If he said] "I killed him" — his [i.e. the divorcer's] wife may not be married; [if he said] "We killed him" — his [i.e. the divorcer's] wife may be married.

If a sage prohibited a wife to her husband on account of a vow, he may not marry her [himself]. If she exercised the right of refusal (*mi'anah*) or if she performed *halizah* in his presence — he may marry her, because he is serving as a member of a court.

And all of these if they had wives who [subsequently] died — they may marry them. And all of them if they married others and were divorced or became widows — are permitted to them or their sons, or their brothers.

What is the rational behind this Mishnah's ruling that in cases where "they had wives and they [i.e. the wives] died" they are permitted to marry the women under discussion? At first glance, one tends to agree with Albeck's explanation, that the Mishnah assumes that in this case one may safely presume that the men gave neither their testimony nor their judicial decision regarding the personal status of that woman, in order to marry her. According to Albeck, the reason for that assumption is that in the society in which the Tanna of this Mishnah lived a norm of monogamy prevailed. Hence, there is no place to suspect a married man of acting unlaw-

fully in order to do something he is in any case unable to do (i.e. to marry a second additional woman).<sup>77</sup>

Had this been the only possible interpretation, this Mishnah could be regarded as a source reflecting (though indirectly) actual social norm — and that norm would seem to be one of monogamy. It is hardly a coincidence that from the time of Fraenkel onwards this source was utilized as a source indicating that Jewish society of the Mishnah period was monogamous. However, in light of all the halakhic sources noted above, which deal with various cases of polygyny, and do not reveal any negative valance toward it, one must ask whether Albeck's interpretation is indeed the Mishnah's only possible interpretation.

<sup>77</sup> I say: "May act unlawfully," without specifying, because the Mishnah can be interpreted in two ways. According to one interpretation, it is aimed at avoiding slander (לזוֹת שְׁפִתִּים), and is thus related to many other halakhot which were established for the sake of appearance (מִפְנֵי מְרָאִית עֵין). This interpretation, shared by many commentators, is in line with the Talmud's reasoning of a previous Mishnah: "[The reason is] because, as Rav Ami said: 'Put away from you a perverse mouth and slanderous lips'" (מִשּׁוֹם דֶּבֶר אִסִּי, רֹאמֵר) (bYev. 24b)]. This understanding of the Mishnah appears to be supported by the fact that in a related Baraitah in the Tosefta we find the general rule: "Keep distant from what is ugly, and from what looks ugly" (אִמְרוּ חֲכָמִים רַחֵק מִן הַכִּיָּאֹר וּמִן הַדּוּמָה לְכִיָּאֹר) (tYev. 4:7, ed. Lieberman, 12)). All the things mentioned there are not sins in themselves, but may cause people to *suspect* that the one who did them actually sinned. See G. Alon, "Halacha in the Teaching of the Twelve Apostles (The Didache)," *Tarbiz* 11 (1940), 135–136 [Hebrew]; Lieberman, TK, VI, 34. However, according to Maimonides (*Mishneh Torah*, Divorce, 10:14), the prohibition of the Mishnah is not associated with appearance, but is aimed at preventing the witness to a bill of divorce from giving a false testimony (in order to marry the woman), and the sage from giving a wrong halakhic decision (due to a similar motivation). This understanding is supported by the context of the previous halakhot in that Mishnah's chapter. It seems to be the way this Mishnah was understood by the Yerushalmi, ad. loc.: "I say that to this [i.e. to marry that woman] he was intending from the beginning" (אָמַר) (אֵי לֵכָךְ מִתְכַּיֵּן מִתְחִילָה). In other words, the rationale of the Mishnah is to prevent the Sage from acting illegitimately.

I believe not. It is enough to assume that this Mishnah is based on the assumption that the craving of a man who has a wife is much less intense than that of one who does not have a wife,<sup>78</sup> and a married man is not suspected of acting unlawfully in order to have the chance of marrying an additional wife. Therefore, says the Tanna of this Mishnah, if the sage had a wife at the time he gave his ruling, there is no reason to suspect him of forbidding the woman to her husband in order to marry her himself.

Furthermore, not only this Mishnah can be fully understood without using a norm of monogamy as a background to its ruling, but far beyond. Assuming a polygynous background to the Mishnah's ruling, its reasoning would be even more persuasive. For if the sage could have married the woman, but nonetheless refrained from doing so, this is an ample proof of his innocent intentions when giving his judicial decision!

It follows that the Mishnah should not be regarded as necessarily demonstrating the existence of a norm of monogamy among the Jews of the period. Nor does the Mishnah break the boundaries of the general picture we have drawn from all other sources.

<sup>78</sup> If to use the Talmud's famous proverb: "You cannot compare one who has a piece of bread in his basket with one who does not have a piece of bread in his basket" (אינו דומה מי שיש לו פת בסלו למי שאין לו פת בסלו) [bYom. 18b and parallels].