

# The Ottoman Middle East

Studies in Honor of Amnon Cohen

*Edited by*

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OF ORPHANS, MARRIAGE, AND MONEY: MATING PATTERNS  
OF ISTANBUL'S JEWS IN THE EARLY NINETEENTH CENTURY

Minna Rozen

The findings presented below offer a glimpse into the world of the Jewish family in Istanbul in the first half of the 19th century. This brief glance is part of a larger work in progress on the history of the Jews of Istanbul in the Ottoman era (1453–1923). Of course, family life is only one aspect among many of this history; yet the wealth of sources at my disposal makes it an especially fruitful and fascinating area of study.

In the first part of the above mentioned work,<sup>1</sup> concerning the history of the Jewish community from the Ottoman conquest of Constantinople to the death of Sultan Süleyman the Magnificent (1453–1566), I present a tapestry of Jewish family life in Istanbul, a community made up of interwoven strands of local Greek-speaking Jews and emigrants from Italy, the Iberian peninsula, and to a lesser degree, the lands of Ashkenaz. Notwithstanding the diversity of Jewish society in the capital, the nature of the Jewish family there was very clear-cut: a patriarchal, Mediterranean family whose primary *raison d'être* was perpetuating the family name (and bloodline).<sup>2</sup> Since it was the male heirs who bore this name, a further defining characteristic was the desire to keep the family's assets in their hands; accordingly, the ancient Jewish laws of inheritance were maintained, giving precedence to male heirs over female ones and to the heirs of the male over those of the female.<sup>3</sup>

An additional feature of the Istanbuli Jewish family of this era is the perception of the woman as a means of strengthening the family lineage.

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<sup>1</sup> The first volume of this opus has already appeared: Minna Rozen, *A History of The Jewish Community in Istanbul: The Formative Years (1453–1566)* (Leiden: Brill, 2002, 2010); see in particular 99–196.

<sup>2</sup> Rozen, *Jewish Community in Istanbul*, 99–111; idem, "The Social Role of Book Printing among Istanbul Jews in the Sixteenth through Eighteenth Centuries," in idem, *A Journey Through Civilizations*.

<sup>3</sup> L. Bornstein-Makovetsky, "The Istanbul Regulations of Inheritance and Their Expression in the Social Life in the Ottoman Period," in A. Haim (ed.), *Society and Community: Proceedings of the Second International Congress for Research of the Sephardi and Oriental Jewish Heritage, 1984* [in Hebrew] (Jerusalem: Misgav Yerushalayim, 1991), 3–24; R. Lamdan, *A Separate People: Jewish Women in Palestine, Syria and Egypt in the Sixteenth Century* (Leiden: Brill, 2000), 232–250; Rozen, *Jewish Community in Istanbul*, 123–126.

She was the chattel of her father, and later, her husband; but either way, she was the repository of the family's honor.<sup>4</sup> In the event of a divorce, contemporary rabbinic rulings generally favored the interests of the husband.<sup>5</sup> If the woman was a widow, the interests of the late husband's heirs took priority. Under such circumstances, her male offspring could be taken from her by the husband's family after reaching two years of age, and in any event, from the age of six.<sup>6</sup> Her daughters remained with her, since in any case they did not perpetuate the line; often, the mother was forced to sign an undertaking that if she remarried, her daughters from her first marriage would go with her and would not remain under the aegis of their late father's family. Under this pattern, the choice of a marriage partner was governed almost entirely by business considerations, and the spouse, for the first marriage at least, was selected by the parents. The final decision of course rested with the father, but the women of the family exercised great informal influence on the choice of a wife for a family member, in particular if she was not from the extended family itself. In a family from the middle class or higher, that is, one that owned property that would pass upon marriage from one family to the other, love was utterly irrelevant.<sup>7</sup> Another outcome of this situation was the high incidence of marriage within the family, in particular to a male from the male line, such as: an uncle from the father's side, a male cousin from the brother's side, a second cousin from the paternal grandfather's side. Such marriages allowed a wealthy father who wanted a comfortable life for his daughter also after her marriage to provide her with a generous dowry without fear that her premature death would cause the assets to pass to a different line, as would have been the case according to *halakha* (Jewish religious law).<sup>8</sup>

Monetary and property concerns dictated that a young child orphaned of his father would be raised by his father's family from approximately age six at the latest, and would generally also marry a woman from within that family. This ran counter to *halakha*, which stipulated that an orphan should not be entrusted to those who were likely to inherit him, since in the case of an orphan who had inherited abundant assets, there was liable

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<sup>4</sup> Lamdan, *Separate People*, 2–3, 13–23, 28; Rozen, *Jewish Community in Istanbul*, 111–125, 187.

<sup>5</sup> Lamdan, *Separate People*, 171–195; Rozen, *Jewish Community in Istanbul*, 162–179.

<sup>6</sup> Lamdan, *Separate People*, 88–95; Rozen, *Jewish Community in Istanbul*, 179–185.

<sup>7</sup> Rozen, *Jewish Community in Istanbul*, 120–129.

<sup>8</sup> *Ibid.*, 124–127.

to be a temptation not to care for him properly. The reality of orphans being raised by the father's family (his immediate heirs), which contradicted the *halakha*, indicates how firmly entrenched patrilineage was in this society.<sup>9</sup> If the orphan was raised by his mother's family, on the other hand, he was subject to extreme pressure to marry a woman from that family, especially if he stood to inherit substantial assets.<sup>10</sup>

In all societies, orphans, in particular daughters without a father, were low in status, both physically and legally.<sup>11</sup> To address this disadvantage, Jewish communities everywhere decided that the *beit din* (Jewish religious court) would serve as the "father" of orphans.<sup>12</sup> As a rule, fathers left wills that named a guardian for their children in the event of their death. But if such a guardian was not determined by the father during his lifetime, the religious courts saw that one was appointed. In any case, the *beit din* took it upon itself to oversee the guardian, whether appointed by the father or by the court.<sup>13</sup> The manner in which the *beit din* of Istanbul served as

<sup>9</sup> *Ibid.*, 183–184.

<sup>10</sup> On these points in general, see Rozen, *Jewish Community in Istanbul*, 99–196.

<sup>11</sup> On this subject in the Jewish communities of the Middle East during the sixteenth century, see: Lamdan, *Separate People*, 51–57.

<sup>12</sup> BT Gittin 37a.

<sup>13</sup> R. Ya'aqov ben Asher, *Tur Hoshen Mishpat*, Hilkhot Apotropsut (The Laws Concerning Guardianship), sec. 290: "If one dies and leaves behind heirs who are minors or a pregnant wife or he leaves behind [a number of heirs, including] minors and those who have attained majority, he must appoint a guardian who will look after the minors' affairs until they attain majority; if he did not appoint him (a guardian), the court must appoint a guardian, as the court is considered responsible for the welfare of orphans (literally, 'the father of orphans'): if the bequeather ordered that the minor's portion be given to him, so that he may do with it as he likes, he may do so: the court may not appoint as guardians women or slaves or minors or unlearned people ('*amei ha-aretz*), who are presumed to transgress, nor [may it appoint] a relative, who is fit to inherit with the minor, even if he is merely related on his mother's side, if any argument can be made for his right to retain possession of the inheritance, as I have explained regarding the captive who has been taken, in Section 285; however, if the father appointed them, he may do so. And the Rambam (R. Moses ben Maimon) wrote, 'they should seek out a trustworthy and capable individual who knows how to turn things to the orphans' advantage and make their claims for them, one who is skilled in worldly matters, so that he can preserve their assets and make a profit for them. Such a person is appointed a guardian over the minors whether or not he is related to them; however, if he is a relative, he should not take control of the landed property.' And when the court appoints him, it must make an accounting with him and write down a tally of the movable and landed property and the debts and everything that is being transferred into his keeping, for he must take an oath if the heirs [later] make a positive, though unsupported, claim (*ta'anat bari*) against him; therefore, they must know what he is going to receive and what he must return; And the Raabad (R. Abraham ben David) wrote that two identical deeds—to the very letter—are written, one for the guardian and one for the relatives, and the guardian may wear handsome clothes purchased with the orphans' assets when this is to their benefit, as his words will

guardian of orphans in the 15th and 16th centuries has already been presented in my study of this period;<sup>14</sup> but its function in this regard from the 17th through the 19th centuries has been accorded only scant attention to date.<sup>15</sup> The cases that I have selected deal exclusively with the betrothal of orphans, all but one of them female.

For every couple, marriage is a fateful moment affecting the course of their lives—all the more so for a woman in the pre-modern world whose options were so narrow, let alone a female orphan, and especially, a daughter orphaned of her father, so that the person who was ostensibly her greatest advocate and defender, with the legal power to put this protection into practice, was no longer alive.

In writing this article, I examined two registries of the rabbinic court of Istanbul for the period from 1833 to 1847 to see the changes that occurred in the Jewish family during the 250 years from the death of Süleyman the Magnificent (1566) to the early decades of the nineteenth century. The first record book includes deliberations that took place between 1833 and 1841. In the second book, covering the years 1841–1847, several earlier deliberations were entered, some of them even predating those of the first book. This was because these were theoretical discussions that were intended to serve as a model for future generations.

The Jewish marriage ritual is actually made up of two ceremonies that were combined into one over the years. The first was the *qidushin* or *erusin*, wherein the groom would give his bride or her representative a ring or any object of a certain value and recite the formula: “Behold, you are consecrated unto me according to the laws of Moses and Israel.” Acceptance of the object, and the recitation of the formula in the presence

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be granted a fairer hearing because the clothes [he is wearing] look better. And even if he eats and drinks beyond his means, we do not suspect him, saying that he is eating and drinking the orphans' assets, unless witnesses testify that he is despoiling their assets. Then they remove him [from his post] and make him take an oath that he did not cause an even greater loss, and not only is this obviously the case when the loss was incurred through his negligence but even when, though he was not negligent, the precautions he took were not really adequate (*shemirah pehutah*); however, if the loss was incurred due to forces beyond his control (*oness*), he is not removed from his post. And the Rambam, of blessed memory, wrote that when the orphans' father appointed him guardian, he is not to be removed [from his post] for merely falling under suspicion—without the testimony of witnesses, but if he was court-appointed, the court removes him even if he merely falls under suspicion.”

<sup>14</sup> Rozen, *Jewish Community in Istanbul*, 122–124, 180–181.

<sup>15</sup> With the exception of Leah Bornstein-Makovetsky, “The Jewish Family in 18th through 19th Century Istanbul as an Economic Unit,” in I. Bartal and V. Gafni (eds.), *Sexuality and the Family in History* [in Hebrew] (Jerusalem: Zalman Shazar Center, 1998), 330–331.

of two adult male witnesses, created the legal bond between the two. But for the legal process to be complete, the *nisu'in* had to take place, that is, the couple were required to stand beneath the wedding canopy before a quorum of ten male adults (some of whom had to be relatives of the bride, according to local community practice); the marriage blessings had to be recited; and the *ketubah*, or marriage contract, read aloud and handed to the bride. Among the Sephardic community and the few Ashkenazim living in Istanbul, both ceremonies were held together under the *huppah* (canopy), as they are conducted today. But among the Romaniots (Greek-speaking Jews) in Istanbul and other parts of the Ottoman Empire, several months and even years would sometimes elapse between the *qidushin* and *nisu'in*. During the period between the two rituals, the bride was prohibited to her groom and to all others. A betrothed woman who wished to extricate herself from this commitment required a *get* (bill of divorce) with all that that implied. The separation between *qidushin* and *nisu'in* in the Romaniot community continued throughout the period from the mid-16th century to the mid-19th century, and apparently had a considerable impact on the fate of young girls orphaned of their fathers.<sup>16</sup> Several of the deliberations in the 1833–1847 records dealt with the rejection by minor female orphans of *qidushin* agreements that were accepted by others on their behalf. According to Jewish law, a father could not accept *qidushin* in the name of his son, but he could do so on behalf of his minor daughter if she was not yet twelve years plus one day of age.<sup>17</sup> When she reached the age of twelve years and six months, she achieved majority status and her consent was required for *qidushin*. Between the age of twelve years and twelve years plus six months, she was considered a *na'arah*, or young girl. Within this six-month “window,” the marriage could be consummated if women who were competent to do so testified to the presence of two pubic hairs.<sup>18</sup> A minor female or young girl whose father had accepted *qidushin* on her behalf could refuse it, but she required a bill of divorce and only her father could accept this *get* for her—a fact that greatly restricted her (already negligible) ability to reject the arrangement.

<sup>16</sup> On the procedure as practiced in the 16th century, see Rozen, *Jewish Community in Istanbul*, 111–112. Regarding its continuation into the 19th century, see for example, *Istanbul Rabbinical Court Records*, no. 2 (1841–1847), p. 42, sec. 3. The deliberation took place on 19 August 1843 (23 Elul 5603), long after the *qidushin*; the *nisu'in* was set for 1 December 1843 (25 Kislev 5604). See further below, pp. 169–170.

<sup>17</sup> M Qidushin 3:8.

<sup>18</sup> BT Qidushin 64a; Ketubot 22a; Maimonides, *Mishneh Torah*, Hilkhot Ishut 2:2–3; *Shulhan 'Arukh*, Even ha-'Ezer, Hilkhot Me'n 155:12.



Nonetheless, if a girl's father accepted *qidushin* on her behalf when she was a minor and he died before she reached the age of six, or her family member or guardian accepted *qidushin* in her name after she was orphaned but before she turned six, the *qidushin* was considered null and void and she was free to marry anyone else without a bill of divorcement from the man to whom she had been betrothed. Between the ages of six and ten, if she wished to reject a prospective groom, she was obligated to explicitly refuse the *qidushin* entered into in her name, but did not yet require a *get*. From the age of ten and above, she required a bill of divorcement under such circumstances, but could receive it directly even if she was not yet twelve years and six months of age.<sup>19</sup> Cases of *qidushin* accepted by fathers or guardians on behalf of minor females were very common during the formative period of Jewish society in Istanbul, that is, until roughly the mid-16th century, since fathers considered themselves free to betroth their underage daughters without their consent, both for financial/business reasons and because they wished to safeguard their daughters' future in the event that they themselves died before seeing them wed.<sup>20</sup> This last reason indicates that the notion of refusal on the part of the daughter in the event that her father died before she reached maturity did not carry any real weight with the father. A father who betrothed his minor daughter did not consider the possibility that she might refuse to marry the groom he had chosen for her.<sup>21</sup>

In the two registries that we examined, which cover a period of fourteen years during which Western ideas were already beginning to make themselves felt on the streets of Istanbul, we found among the rabbinic court's deliberations seventeen cases dealing with disputes at the stage of *qidushin* but prior to *nisu'in*; some were aimed at bridging differences of opinion, while others focused on determining the legal status of the parties to the agreement, that is, whether the woman required a bill of divorcement before she could marry someone else, and whether the man was free to marry another. Virtually all of them related to minor-age brides.

Some of the discussions, however, took place slightly before the period covered by the registries, and were brought as representative cases to show later generations of religious court judges how to handle similar situations. Thus, four of the seventeen deliberations belong in this category,

<sup>19</sup> BT Gittin 64b; Yevamot 107a, b; Maimonides, *Hilkhot Gerushin*, 11: 1–4.

<sup>20</sup> Rozen, *Jewish Community in Istanbul*, 120–124.

<sup>21</sup> On this matter in Christianity and Islam from a multicultural perspective, see *ibid.*, 113–120.

in addition to several standard formulas relating to annulment of marriages. Of these four cases, one was from late 1816, another from 1827, and the two remaining ones are undated, although it is possible to establish a time frame for them: One of the undated cases concerns the refusal of marriage by Dona bat Avraham, who was betrothed as a minor to a man who went bankrupt.<sup>22</sup> The ruling is signed by Avraham Gabbai,<sup>23</sup> Hayyim 'Anavi, and Yehuda Benvenisti, as the judges responsible for matters of *issur ve-heter* (Jewish ritual law) in Istanbul. This particular panel of judges is also referred to in a court case from the summer of 1824.<sup>24</sup> Hence we can safely state that the discussion in our possession took place between 1808 and 1824, or slightly later. This time frame is further substantiated by a reference to the person who was supposed to carry the ruling with him to Edirne, where the prospective groom resided. This individual, whose name was Turunca, had business dealings with an unnamed *şafıcı* (holder of the sultan's monopoly in the trading of *şaf*, or alum, in the city of Edirne). At the same time, the head lessee (*şafıcı başı*) of this monopoly for the Empire as a whole was an extremely powerful man and a leader of the Istanbul Jewish community by the name of Çelebi Bekhor Carmona, who was executed by Sultan Mahmud II (1808–1839) on 11 July 1826. The alum monopoly was removed that year from Jewish control, so that the earliest plausible date for this ruling is 1808, Gabbai's first year as a judge, and the latest date is the summer of 1826.<sup>25</sup>

The second undated ruling deals with a young Istanbuli girl who was betrothed to a boy from Bursa. A rumor was spread that she had actually accepted *qidushin* earlier from a different young man from the

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<sup>22</sup> *Istanbul Rabbinical Court Records*, no. 2 (1841–1847), p. 56, sec. 1 (The approximate date can be inferred from the last dated entry on the same register, no. 2. p. 54, sec. 1, issued in Tammuz 5584[July 1824]).

<sup>23</sup> He was responsible for matters of *issur ve-heter* in Heshvan 5569 (October 1808) and Shevat 5580 (February 1820). In Tevet 5569 (January 1809), and in 5598 (1838) and 5602 (1842), he served as head of Istanbul Rabbinical Court (Leah Bornstein-Makovetsky, *The Istanbul Court Record in Matters of Ritual and Ethics, 1710–1903* [in Hebrew] [Lod: Orot Yahadut Hamagreb, 1999], 69, 163, 178, 229). In the list of Istanbul rabbis in the city's Rabbinical Court Records of 15 Av 5651 (19 August 1891), it is noted that he was the head of Istanbul's *kollel* from 1840 to 1841 and died in 1841 (5601) (*Istanbul Rabbinical Court Records*, No. 4 [5651–5652 (1871–1894)], 187). He is listed as a judge on the High Rabbinical Court of Istanbul in 1827 (R. Eli'ezer de Toledo, *Mishnat R. Eli'ezer*, pt. 2, Hoshen Mishpat [Izmir, 5625 (1865)]), pp. 73–74; R. Yosef Alfandari, *Responsa Porat Yosef* [Izmir, 5628 (1868)], Hoshen Mishpat, section 30).

<sup>24</sup> *Istanbul Rabbinical Court Records*, no. 2 (1841–1847), p. 54 (Tammuz 5584).

<sup>25</sup> Minna Rozen, *The Last Ottoman Century and Beyond: The Jews in Turkey and the Balkans, 1808–1945* (Tel Aviv: Goldstein-Goren Diaspora Research Institute, Tel Aviv University, 2005), 1: 56–57.

cities of the Morea (Peloponnese).<sup>26</sup> The ruling was signed by the *dayyanim* (religious court judges) Yosef David Kamhi, Yosef Hakohen, and Nissim Yerushalmi sitting as a court for matters of *issur ve-heter*, and confirmed by R. Elijah 'Anav, Ha-Rav Ha-Kollel<sup>27</sup> of the city at the time. The ruling as written appears also in the records of Balat, from where it was apparently copied.<sup>28</sup> Nissim Shemaryah Yerushalmi appears as a *dayyan* in 1818, and as the judge in charge of *issur ve-heter* in 1823–4, in addition to which he is listed as a member of the same panel of judges as in the ruling before us (along with Rafael Yosef HaKohen and Yosef David Kamhi) in a ruling of the court of *issur ve-heter* from that year.<sup>29</sup> R. Elijah 'Anav was appointed Rav Ha-Kollel in 1825, and died in 1831.<sup>30</sup> The ruling was therefore issued at some point between 1825 and 1831.

Thus these four rulings expand the time frame of the deliberations to the period between 1817 and 1847—thirty years in which Western ideas were sweeping Istanbul's homes and palaces. Of the seventeen cases dealing with annulment of betrothals during these thirty years, five involved orphans, and four of these were due to a change of heart on the part of the orphans. Four of the five dealt with nullifying the *qidushin* of young female orphans. It should be noted that not all *qidushin* of minor females in general, and not all those of young female orphans, culminated in a dispute of some sort, and there were certainly many betrothals of this type that never reached the rabbinical courts. Seventeen deliberations over the course of thirty years means two such cases each year that ended up before the *beit din*.

#### a. *Rivqah Does Not Want Her Cousin*

The first case was that of Rivqah, daughter of the late Menahem Zalman aka Mercado. During his lifetime, he had apparently accepted *qidushin* on her behalf from the son of his brother. The prospective groom, Matatyah Zalman, went by the name Bekhor ben David. On 25 December 1816

<sup>26</sup> *Istanbul Rabbinical Court Records*, no. 2 (1841–1847), p. 56, sec. 2.

<sup>27</sup> Head of the central *beit midrash* (house of study) of the Istanbul community, and second to the Chief Rabbi.

<sup>28</sup> Bornstein-Makovetsky, *Istanbul Court Records*, p. 52, n. 246; idem, "Remnants of the Balat Court Register—Istanbul 1839," *Sefunot*, New Series, 4 (19) (1989), 96, document. No. 8 [in Hebrew].

<sup>29</sup> *Ibid.*, 77, 231.

<sup>30</sup> Chronological listing of Istanbul rabbis as presented in the *Istanbul Rabbinical Court Records*, no. 4 (5631–5654 [1871–1894]), p. 187.

(6 Tevet 5577), she came before the religious court and publicly declared in the language of Judeo-Spanish: “*Yo, non lo quiero por novio lo ditto Bekhor, non lo quiero, non lo quiero!*” [I do not want him as a groom, this Bekhor, I do not want him, I do not want him!]. Two witnesses testified that Rivqah was still a minor, that is, she was less than twelve years of age. The court therefore decided that her *qidushin* was not valid and she was permitted to marry anyone her heart desired.<sup>31</sup> But Rivqah’s case calls for closer scrutiny, beyond the simple facts of the story. We do not know precisely how old this orphan was, although we do know that she was a minor aged less than twelve. Her concerned father, foreseeing what might happen, wished to safeguard her future by marrying her to her cousin, so that if her parents died before their time, she would grow up in the home of her aunt/mother-in-law and not in the home of a stranger who might not be favorably disposed toward her. But Rivqah, young as she was, did not want this security, and we do not know why. Since her erstwhile groom was her cousin, she certainly knew him; his good and bad traits alike would not be foreign to her, and may have been at the heart of her refusal. The young girl’s rejection of the *qidushin* that her late father had accepted in her name, along with the financial security that might have gone along with it, are not the whole story. For her refusal to be valid, she was required to appear before the religious court with two admissible witnesses who could testify that she was still a minor. In other words, she could not execute this refusal without the help of adults, both male and female. There are two possibilities in this case: one, that some adult in the family decided that this marriage was not good for her—either because of the character of the prospective husband or because he or she had a better match in hand—and this person persuaded her of such and arranged her appeal to the court. Although this is the more logical possibility, we must not reject outright the second alternative, namely, that little Rivqah did not love her cousin; stated plainly, she simply did not want him. So she turned to one of the older women in her family—certainly not her aunt (the mother of the intended groom) but perhaps her mother or her grandmother—and recounted her distress, and they produced witnesses who could corroborate the girl’s claim that she was still a minor.

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<sup>31</sup> *Istanbul Rabbinical Court Records*, no. 2 (1841–1847), p. 54.

b. *The Minor Orphan Miriam is Faced with an Underage Brother-in-law*

The mother of the orphaned Miriam persuaded her to marry a certain boy. In the description of the case, it was stated that Miriam “was married,” i.e., that both *qidushin* and *nisu'in* had taken place, although it was not recorded whether the marriage had been consummated. Very soon after the marriage, the groom died suddenly, before producing any offspring, and the young bride was faced with the obligation of waiting until her husband’s minor-age brother grew up and either entered into levirate marriage with her (*yibbum*) or freed her of this obligation through the ritual of *halitsah*, as mandated by Jewish law.<sup>32</sup> On 20 May 1835 (21 Iyyar 5595), Miriam came to the religious court with expert witnesses who testified that she was a minor, and she herself informed the court, just as Rivqah had before her, that she did not want the young brother-in-law as her groom, and that her mother had misled her by marrying her off before she had reached majority. The court accepted her arguments and freed her to marry whomever she chose.<sup>33</sup>

This case has several puzzling aspects. One is the fact that it was the mother who arranged the marriage, and not a male family member—a grandfather, brother, uncle or guardian. This leads us to conclude that such a man was not to be found, and that the two were too poor for anyone to take an interest. Moreover, as opposed to a father, a mother could not accept *qidushin* on behalf of her minor daughter; it therefore follows that what took place was a *qidushin* for all intents and purposes, that is, a groom gave the minor Miriam a ring or other object by which he betrothed her, and she accepted the object. For this to be the case, she had to have been a twelve year old with two visible pubic hairs or have reached the age of twelve years and six months. But can it be that a mother does not know the age of her own daughter? Thus, either the mother gave a false age for her daughter and pretended that she was of

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<sup>32</sup> If a woman’s late husband left no viable offspring, but had a brother, Jewish law called for levirate marriage (from the Latin *levir*, husband’s brother); the widow and her brother-in-law were obligated to marry (in Hebrew, *yibbum*) so that she could bear a male child to carry on the name of the deceased—unless the widow could persuade the brother to annul his obligation to marry her (*halitsah*). The Hebrew root H.L.TS., meaning “to remove a shoe,” gave the act of *halitsah* its name (as part of the ritual, the widow removes the levir’s sandal and casts it to the ground). On the procedure of *halitsah*, with comments referring to Istanbul practice compiled by Rabbi Shemu’el Yafeh Ashkenazi at the end of the 16th century, see *Tiqqun Sofrim* (Izmir, 1673), 14a–15a. On the obligation of *yibbum*, and its execution in the 16th century, see Rozen, *Jewish Community in Istanbul*, 155–162.

<sup>33</sup> *Istanbul Rabbinical Court Records*, no. 2 (1841–1847), p. 55.

marriageable age, or, following the death of the groom, when it became clear to the mother and daughter that the latter would have to wait many years until her brother-in-law fulfilled his obligation of levirate marriage or released her from said obligation via the *halitsah* ritual, they both deceived the court—the daughter, by stating that her mother had misled her, and the mother, by feigning confusion. The court, for its part, did not want an *'agunah* (a “chained” woman, who was not free to marry another man) in its precincts, a situation guaranteed to undermine the social and moral order; hence it accepted the web of falsehoods. The entire affair raises serious questions: If Miriam was a defenseless minor orphan, where were the guardians appointed by the rabbinic court? In the 16th, 17th, and even 18th centuries, it is hard to imagine a male or female orphan, rich or poor, without a guardian. The fiction accepted by the court is also curious: On the one hand, it indicates a healthy dose of common sense, in that it is better to free the young bride from the ties that bind her to the minor brother-in-law than to create a situation of a young lower-class girl, unable to marry, who will be easy prey for men. But if we compare this attitude with the stringent practices of the 16th-century rabbis, the difference is highly conspicuous.<sup>34</sup>

c. *A Match between a Young Man and the Daughter of His Father's Widow from Her First Marriage*

In this case, a dispute arose following the death of a man by the name of Yisrael Gabbai, who had married twice. He left two adult sons from his youthful marriage, one of them named Yitshaq, as well as a minor son by the name of Mosheh. After the death of his first wife, Yisrael married a widow who had a daughter named Luna from her previous marriage. By the time of his death, his second wife had given birth to another daughter

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<sup>34</sup> In *Responsa of R. Elyahu ibn Hayyim* (Venice, 1657), section 26, the same question was discussed on 12 July 1577; however in that case, the groom was alive and well. The bride claimed, exactly like our Miriam, that her mother had misled her. The rabbinical court did not release her from her betrothal. In *Responsa Maharit* [R. Yosef Mitrani] (Lvov, 1861), pt. 1, sec. 51 (end of 16th century), a case was deliberated in Safed involving “the *qidu-shin* of a minor female orphan [who rejected a betrothal], in which R. [Mosheh] Galante ruled that she should be freed [from her obligation] and the Maharit wrote that she was obligated. And all the scholars of the city agreed with his opinion that she was obligated, with the exception of R. Mosheh Castelatz, and R. Shem-Tov Atlas z”l even recanted his opinion and signed that she should be obligated.”

and was pregnant with a third child.<sup>35</sup> The widow had no intention of continuing to live with the adult sons of her deceased husband, and she produced her *ketubah* (marriage contract) in the amount of 7,102 *kuruş* and demanded that this sum be paid to her. The amount of money cited in this *ketubah* was very high. At the time, the cost of renting a flat in the Hasköy district ranged between 13.5 *kuruş* a month for a small flat on a middle floor in Kalaycı Bahçe,<sup>36</sup> to 37.5 *kuruş* a month for a flat with glass windows on the top floor in the Piri Paşa neighborhood,<sup>37</sup> to forty-four *kuruş* a month for a house in the Ma'alem neighborhood.<sup>38</sup> This suit was likely not welcomed by the guardians of the orphans, since executing it entailed selling off substantial assets of the deceased that could have provided a livelihood for them; but they did not have much choice, and they were compelled to come to some sort of agreement with her. In the midst of the negotiations, it emerged that while her second husband was still alive, she had betrothed Luna, the daughter from her first marriage, to Yitshaq, the adult son of her second husband from his first marriage, and had even paid the prospective groom a considerable amount of money as a *mohar* (bride-price). The classification of the money as a *mohar* is somewhat confusing, since the bride-price was generally the sum that the groom paid to the family of the bride for exclusive rights to her as his wife. The significance of its definition as a *mohar* in this case is that it was his future mother-in-law who had given him the money, which, according to custom, he was then expected to bring into the marriage. In any event, the intended groom claimed that she still owed him 700 *kuruş* on account, and that this should be deducted from the sum of the *ketubah*. Later in the negotiations, the first-born son waived the amount that his stepmother still owed him, and she, for her part, waived the bulk of the *ketubah* money that was due her. She agreed to accept only 1,000 *kuruş* in

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<sup>35</sup> *Istanbul Rabbinical Court Records*, no. 1 (1833–1841), p. 12, section 10–11, last third of Kislev 5595 (between 22 December 1834 and 1 January 1835). It should be noted that in these sections of the Rabbinical Court Records, which discussed the appointment of guardians for the minor orphans, and representatives for the widow in her claim, it is stated that Yisrael Gabbai had two adult sons and a minor son from his first marriage, whereas in the discussion of the widow's claim, which took place several months earlier (see note 41), it was noted that the deceased had only one adult son and one minor son. It is possible that there was a scribal error in one of the sections, or that one of the adult sons of Yisrael Gabbai died between the appointment of the guardians and the discussion of the widow's claim.

<sup>36</sup> *Istanbul Rabbinical Court Records*, no. 1.3, section 4, from 8 Heshvan 5594 (21 October 1833).

<sup>37</sup> *Ibid.*, p. 5, section 6, from 12 Kislev 5594 (24 November 1833).

<sup>38</sup> *Ibid.*, p. 2, section 2, from 4 Av 5594 (9 August 1834).

cash and a full wardrobe, the cost of which was estimated at 300 *kuruş*. In exchange for her relinquishing the remainder of the *ketubah*, the heirs of her late husband and the guardians of the orphans waived her obligation to take a “widow’s oath,” which she would normally have been obliged to swear if she wished to collect the sum of her *ketubah*. The “widow’s oath” was required of every widow who demanded her *ketubah* money in place of the right to live off her late husband’s estate; in it, the widow pledged that she had not taken any of her late husband’s assets and had not concealed any object or money of his.<sup>39</sup>

In addition to forgoing the sum in the *ketubah*, the widow in question undertook to provide for her daughter Luna, the intended bride of the son of her first husband, until she was old enough to marry. Sums for her support were enumerated in the agreement for a considerable period: three years with precise amounts of money, and unspecified sums of money for an indefinite number of years, with the time and amount to be determined by the court. The prospective bride was apparently nine years of age at the time, for the assumption was that within three years she would be of marriageable age. In addition, the widow Sarah undertook to nurse the baby about to be born to her, a commitment that she was not obligated to assume under Jewish law, since, with the death of her husband, all his rights to his wife’s body were terminated; if his heirs wished to have her nurse his son or daughter, they were expected to pay her as if she were a wet nurse from outside the family, and even then, only if she consented to such an arrangement.<sup>40</sup> In any event, the woman committed to nursing the infant for a period of two years. In practical terms, this meant that she could not remarry for two years following the birth. Moreover, she pledged that if she were to marry a third time, her daughter from the second marriage, that is the stepsister of her husband’s son, would be raised by her in her new home.<sup>41</sup>

Like the previous cases, this saga contains a wealth of information about the Istanbul Jewish family of the early 19th century. The most interesting insight is that the widowhood of a young woman was considered undesirable for society. The woman in this case was a widow when she married Yisrael Gabbai, and after his death it was likely that she would marry a

<sup>39</sup> Maimonides, *Mishneh Torah*, Hilkhot Ishut, 17:15, and chap. 18; *Shulhan ’Arukh*, Even ha-’Ezer, Hilkhot Ketubot, section 96, subsections a–b.

<sup>40</sup> See on this matter, Rozen, *Jewish Community in Istanbul*, 181–183; Lamdan, *Separate People*, 87–88.

<sup>41</sup> *Istanbul Rabbinical Court Records*, no. 1 (1833–1841), p. 15, section 6 (3 Adar 5595 [9 March 1835]).



third time. The logic in such circumstances is threefold: (a) a young widow of child-bearing age undermines the social order, and the situation invites sexual relations outside of wedlock; (b) if the widow leaves the marriage with a comfortable financial arrangement, she immediately becomes a desirable match, thereby increasing the pressure on her to remarry; (c) if the widow leaves the marriage penniless, her own interests will push her to seek a new marriage. The sums of money invested by the mother in arranging the marriage of her daughter Luna, and likewise, the sum of her own *ketubah*, suggest eminent social and economic standing.

In the case before us, the widow needed to resolve a number of problematic issues. The first was one that she brought with her into the marriage, her first-born daughter Luna from her first marriage. To ensure her future, she hastened to match her with the first-born son of her second husband, and even invested a considerable sum of money in arranging that marriage. Her calculations were quite simple: in the event of her death, this daughter would have a home and family to look out for her. At the same time, it is obvious from the details of her own *ketubah* agreement following the death of her second husband that the aforementioned Luna was only a young girl at the time of her stepfather's death. The agreement included amounts of money that were to change from year to year, which her mother undertook to set aside for her livelihood until she reached marriageable age, twelve years at the earliest. The arrangement implies that Luna would live during this period in the home of her future husband; otherwise, there is no reason to enumerate the sums that her mother undertook to pay for her support. However, the minor child born to the widow from her second husband would go with the mother wherever she went, and she pledged that if she remarried it would be on condition that her third husband agree to have this daughter live with them.

The fate of these two daughters is worthy of consideration. Upon the death of her father, a minor daughter became an unwanted burden, and her future was assured only if she could be betrothed into a family that was likely to look out for her, or alternatively, if the new husband of her mother would allow her to be raised in his home. Obviously, her wishes—or objections—with regard to a future marriage were not considered by any of the parties involved.

A further aspect of this case is the widow's set of concerns. Widowed a second time, with two daughters and a baby about to be born, she preferred to come to an agreement that would allow her to stand on her own two feet and not remain in the same house where she had been living—and where her eldest daughter would one day be the lady of the house.

So anxious was she to avoid remaining in this house that she agreed to waive the bulk of her *ketubah*, to nurse the baby about to be born without compensation, to remain unmarried for at least two years, and to make her third marriage contingent on the second daughter's living with her and her new husband. It is interesting that, apart from the subject of nursing, there is no discussion in the *ketubah* arrangement of the sex of the unborn child, his/her future, or who would raise him or her. If the baby would be a boy, we can assume that the husband's family would allow the woman to raise him until he reached the "age of education," six years at the most, and then they would claim him as an heir of Yisrael Gabbai, just like his two stepbrothers from the first wife of the deceased. And if it would be a girl, there is reason to believe that, as with the first-born daughter of Yisrael Gabbai, his heirs would be happy to leave her in her mother's care. In any event, the arrangement indicates that the widow felt it would be better for her to relinquish most of her *ketubah* money and go her own way, with all that that implies in terms of the care of two small children.

Did the factors that she considered stem from the situation in which she found herself? Her relationship with her prospective son-in-law? Or the belief that she could marry a third time? We can only speculate, not having been there; but it is possible to construct various scenarios, all of which are plausible. One might have expected that a widow would be happy to remain in the same home where her first-born daughter resided, but this was not the case. Instead, she abandons her for reasons unknown, whether to serve her own interests or those of her younger children. Her own interest is in having a possible third marriage, and the best interests of her children from her second marriage are to distance them from an older stepbrother who will be none too happy to share with them the inheritance of their common father, and may even conspire against them. Perhaps the reasoning behind her decision is that a nine-year-old girl can survive without her, but the young babies in her care cannot, and it would be better for them to be far from the family of her late husband.

d. *The Tale of an Orphaned Minor, Her Grandmother, and Her Uncles*<sup>42</sup>

Orphanhood is also the central theme of our next case of arranged marriage. This particular tale involved an orphaned girl of minor age, that is, less than twelve years old, whose mother died in Istanbul and whose

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<sup>42</sup> *Istanbul Rabbinical Court Records*, no. 2 (1841–1847), pp. 18–20, sec. 27.

father, Avraham Ha-Kohen, and her maternal grandmother, a woman by the name of Khursi, took her with them and settled in the Land of Israel. But luck was not with the young orphan, and shortly after their arrival in Jerusalem her father died as well, leaving her dependent on her grandmother. The latter, who was concerned about the child's fate if she too were to die, returned with the girl to Istanbul and moved into the home of her son-in-law, 'Ezra Motola (hereafter referred to as 'Ezra the elder), who was married to her second daughter. Appointed as guardians of the girl were Yisrael Motola and Avraham Motola, respectively the brother and son of 'Ezra the elder. At the time of the rabbinic court deliberations, 'Ezra the elder was no longer alive. The fact that he had been married to the daughter of Khursi, and that his son was already of an age that the court considered fitting to serve as a guardian, could indicate that this Khursi, mother-in-law of the late 'Ezra and grandmother of the guardian Avraham, was already quite advanced in years, which explains her fears concerning her granddaughter's future. In any event, when she arrived in Istanbul, "the aforementioned grandmother and all her relatives concluded an agreement" to match the minor orphaned girl with the son of one of her guardians (Avraham Motola); the son bore the name of his grandfather, 'Ezra Motola (and will hence be referred to as 'Ezra the younger). The reason for their decision was that they believed such an arrangement would be highly advantageous on several counts: first, the groom and all his relatives were family members of the girl; second, the groom in question was very well-to-do; and lastly, the match would ensure that the orphan would find refuge there and not be forced to wander hither and yon. Thus, everyone approved of the match.

But the matter did not end there. The second guardian, Yisrael Motola, who was the brother of 'Ezra the elder and great-uncle of the prospective groom, disagreed with the match and wanted the girl to be betrothed to his (unnamed) grandson, the son of his own son, Hayyim Motola. His demand turned the entire family against him, as they sided with the grandmother Khursi. The Istanbul rabbinical court, which deliberated the issue in the first third of the month of Tevet in the year 5602 (between 14 and 24 December 1841), ruled that, although the grandson of the second guardian was also a fitting match, they preferred the first arrangement. The esteemed rabbis Raphael 'Ali, Hayyim ibn Yaqar, and Yehoshu'a Misha'el Bitran did not give the reasons for their decision.

The matter of the orphaned minor, daughter of Avraham Ha-Kohen, raises several questions, some of them similar to those we have already encountered and some of them new. Here, as in the previous case, the intended bride is "absent" from the proceedings: she has no name, no

preference; no one considers the possibility of waiting until she grows up and says “this is the man of my choosing.” The grandmother Khursi needed to ensure her granddaughter’s future, and it seemed obvious to all involved that to simply raise her in the bosom of the Motola family until she matured and married was not a possibility worth considering. The status of her aunt, wife of ‘Ezra Motola the elder, was not enough to protect her; safeguarding her future depended on a marriage within the family. The question that arises is what impelled the two branches of the family to fight over her welfare. After all, she was merely a young girl who was not yet ready for marriage. The answer can be found between the lines. It is not stated explicitly, but there is no other explanation that is feasible. Her father, Avraham Ha-Kohen, had apparently been a wealthy man, and this was the reason for the quarrel over her fate. Perhaps the grandmother Khursi also possessed assets that she wished to bestow on her granddaughter. The grandmother, who feared leaving her wealthy granddaughter prey to guardians from outside the family, sought a solution in the form of marriage within the family of her second daughter, who were also affluent—a fact that perhaps lessened the temptation to exploit the young girl’s riches.

A few words on the grandmother’s wishes would not be out of place: Why did she prefer the grandson of her son-in-law ‘Ezra Motola the elder over the grandson of his brother? In the end, isn’t it all the same family? Well, not exactly. The grandson, ‘Ezra Motola the younger, was a blood relative. And further, just as the boy was the grandson of ‘Ezra Motola the elder, he was also her great-grandson by her second daughter, meaning that he was the first cousin once removed of her granddaughter, the prospective bride. Thus she was joining two of her grandchildren in marriage. By contrast, the great-grandson, son of Hayyim ben Yisrael Motola, did not share any blood ties with her. He was a member of the Motola family, and her lineage had no connection with his. The young girl’s marriage to her cousin meant that her aunt, the sister of her mother—and not some unknown woman—would raise the tender bride. Moreover, upon her death, the grandmother Khursi would leave her assets to her two flesh-and-blood grandchildren and not to someone from the Motola line, in which case if her granddaughter died without offspring, the descendants of another woman would enjoy this inheritance.<sup>43</sup>

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<sup>43</sup> See on this point, Bornstein-Makovetsky, “Istanbul Regulations of Inheritance,” 3–24; Rozen, *Jewish Community in Istanbul*, 124–127.

While it is difficult to follow the fortunes of the Ha-Kohen family because the name is so common, the Motola family has left us several traces of its status and affluence. In the rabbinical court records, Yisrael Motola, the brother of the bride's uncle, is referred to by the Turkish honorific *çelebi* (meaning "distinguished gentleman"). This title attests to high social and financial standing as well as connections with the ruling powers.

An additional piece of information about the family emerges from the rabbinic court deliberations on an entirely different matter, involving the heirs of Yisrael Danon, a resident of Ortaköy. Several properties in that village were enumerated at the hearing, among them "the Motola houses," located in an area of large, well-appointed homes. In other words, we are speaking not of one home but of a group of houses belonging to the same family, in an area associated with the affluent and distinguished residents of the village.<sup>44</sup>

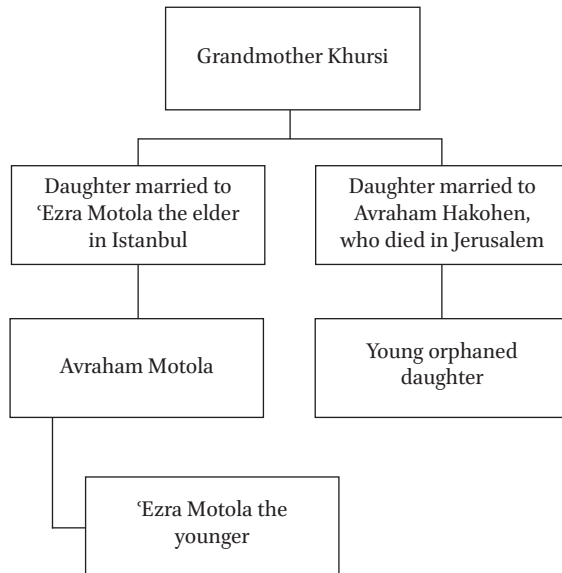


Table 1. Family Ties of Grandmother Khursi

<sup>44</sup> *Istanbul Rabbinical Court Records*, no. 4 (1871–1894), pp. 18–75, sec. 7, from 27 Shevat 5638 (31 January 1878).

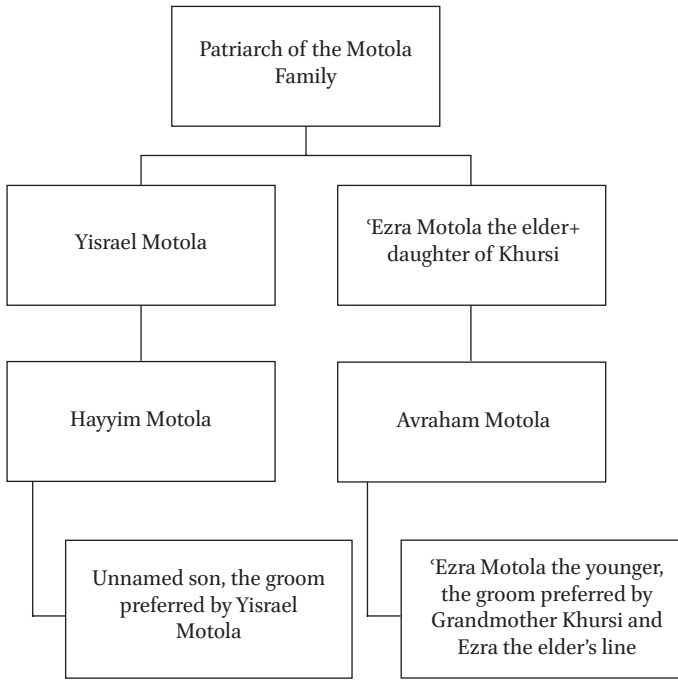


Table 2. The Motola Family

e. *An Orphan, His Mother, and His Uncle*

The final case involves, unlike the above, a male orphan by the name of Mordekhai ben Mikhael Matias, and his mother Clara, a widow. A dispute erupted between them and the boy's uncle, Mosheh Matias (his mother's brother), over the dissolution of a match between Mordekhai and his cousin, "the bride Sarah, may she be blessed among women."<sup>45</sup> This is their story: Following the death of his father, the boy lived in the home of his uncle, his mother's brother. The reason for this will soon be clear. In any event, when he grew up, he began to work in his uncle's business, but not before his uncle had matched him with his daughter. From the correspondence between the age at the match and the age when he began working, and also from the involvement of the groom's mother in the match, there is reason to assume that this took place not long after the boy had reached the age of *mitzvot* (that is, thirteen). To secure the

<sup>45</sup> *Istanbul Rabbinical Court Records*, no. 2 (1841–1847), p. 41, sec. 1, first third of Sivan 5609 (between 19 and 29 May 1844).

match, it was agreed that any party that violated the betrothal agreement would pay the other side 10,000 *kuruş*—an almost unimaginable sum in the eyes of ordinary folk.

It was customary that at the time of the match, monetary matters between the two families were formally arranged. The father of the bride would state the size of the dowry that she would receive, to which he added a sum of money in cash, known as *medodim*, that would generally be given to the groom for business purposes. Under normal circumstances, the young couple would continue to live in the home of the groom's father and be supported by him for several years. In cases where the bride was the only daughter of a wealthy man, her father would grant the couple (with the agreement of the groom's family) the right to *mesa franca* ("free table," in Judeo-Spanish), meaning he would support them for a certain period following their marriage, generally three years, during which time they would live in his home.

In the case before us, the groom had already been living for several years in the home of his uncle and future father-in-law. When they were about to formalize the financial arrangements, the "deal" fell apart. It transpired that the young groom had assets that he had inherited from his father from which the uncle had borrowed 300 *kuruş*. The groom and his mother tried to get back this loan money as part of the financial agreement arranged in connection with the match. The uncle claimed that he had supported the young man for several years and hence was not obliged to return the loan, while the groom argued that the uncle had provided for him out of love, and moreover, he had worked for the uncle for several months without pay. Either way, the "flames of discord were fanned" between the parties, to the point where the marriage was called off. In the compromise agreement between them, the groom waived the debt of 300 *kuruş*, the uncle renounced his claim to a sizeable penalty from the groom, and each of the parties went on his way.

This episode is fraught with implications. The fact that the widow shared the same family name as her brother, with whom she had the dispute, shows that her late husband, Mikhael Matias, had been her cousin on her father's side. In other words, the entire tale unfolded within the male line of the family, and the intended marriage within the family was not the first of its kind, meaning that the custom of endogamy was still widely practiced even in the mid-19th century. Moreover, just as in the 16th century, the widow was not seen as capable of raising her son alone. To do so, she required male patronage, and when such was not found in the home of her late husband, her brother became the guardian.

The fact that the orphan had grown up in the home of his uncle is not unrelated to the matter of the money that the widow and her son had loaned him. In fact, he had made use of a portion of the estate of his brother-in-law for his own dealings, as fitting compensation for having raised his son. If he had succeeded in marrying off his nephew to his daughter, the uncle would have killed several proverbial birds with one stone: To his way of thinking, his debt would have been covered, since the money that he would have invested in the marriage of his daughter would have at least partially offset this debt. Likewise, all monies expended on the marriage would have remained on the “right” side of the family even if the girl had died without leaving any progeny. And last but not least, the fact that he had raised the boy in his home, and the latter had begun to work in his business without pay, only increased the value of the match, for in this way the uncle did away with the need to pay any wages to his future son-in-law. The high penalty imposed for breaking the marriage agreement is also significant: At least one of the parties was very interested in preventing the dissolution of this match, and it is not hard to guess which one.

It should be understood that this was not a case of exploiting a helpless orphan. It was a very common marriage arrangement in several respects: the financial considerations, the fact that the prospective groom had worked for his future father-in-law without pay, and the use of the orphan’s money by the uncle/father-in-law. The only thing that was not customary in this case was the refusal of the uncle to acknowledge his debt to the widow and her son.

The bride does not make any appearance in this discussion, either physically or in terms of her wishes. Her father manages all dealings with the groom and his mother, despite the fact that they doubtless know each other well, having lived in the same house for a number of years. This may suggest that she was less than twelve years and one day of age, and thus her father could accept *qidushin* on her behalf as he saw fit. One further detail is missing from the story: the betrothal of a young Jewish girl from Istanbul carried much greater legal significance than that of a Jewish maiden elsewhere in the Diaspora. This is because in Istanbul the betrothal gifts, known as *sivlonot*, were considered legally binding on the young woman in the same manner as the actual *qidushin*.

From ancient times, it was customary in Istanbul, as in other Jewish communities, that when families concluded the financial arrangements of a marriage, the groom bestowed various gifts on his bride-to-be, and he received gifts from her family. In the Ottoman Empire at the time, typical



gifts included a hand-crafted belt, made of plaited gold threads or a combination of gold and silver strands woven together, or perhaps a band of silver inlaid with precious or semi-precious stones—depending on the wealth of the groom. The groom generally received from the bride's family a *kalemdar*, or as Sephardic Jews called it, an *escrivania*. This writing case, holding a quill and ink, was fashioned from copper, silver or gold (according to the wealth of the bride's family), with an artistic inscription, and in special cases, was even inlaid with semi-precious stones.

While the gifts given to the groom held only social and ceremonial significance, those accepted by the bride-to-be were a source of serious problems, since according to ancient Jewish custom, a woman is “acquired” in three ways: through money, bill of purchase, or intercourse. In the 16th century it was already the practice that *qinyan* (“acquisition”) was only through money. As stated above, a marriage involved two ceremonies (*qidushin* and *nisu'in*), which among the Romaniots were two completely separate rituals. Due to the time that elapsed between the two, which could be months or even years, and the chance that the couple might engage in sexual relations before the marriage, the Romaniots considered the gifts received by the bride-to-be after the *shidukhin* (agreement of future betrothal) as implied consent on her part to accept them for the purpose of *qidushin*, meaning that they in effect combined the *shidukhin* and the *qidushin*, without the elements required for the latter, namely, recitation of the formula, witnesses, etc. Thus, in practice an Istanbuli bride-to-be who accepted gifts from her future betrothed legally bound herself to him as if she had accepted *qidushin*; to be free to marry another man, she required a bill of divorcement from him as if they were actually betrothed, despite the fact that the marriage had not been concluded. Due to the large Romaniot population in Istanbul, intermarriage between them and members of other Jewish congregations was a frequent occurrence; for this reason, the Sephardim took upon themselves the practice of *sivlonot* as an additional stringency, though they did not have the same fear of intimacy between betrothed couples since their *qidushin* and *nisu'in* were held at the same time. Hence, an Istanbuli bride from a Sephardi community who accepted a gift from her intended—for example, an ivory comb or a silk scarf—was as bound to him as if *qidushin* had actually taken place, since the assumption was that she understood this as a form of *qidushin* and, by accepting the gift, declared that she was his alone.<sup>46</sup> On 5 December 1725, the city's rabbinical court in fact ruled that

<sup>46</sup> See on this issue, Rozen, *Jewish Community in Istanbul*, 132–139.

a girl could only accept *sivlonot* in the presence of one of the city's learned men.<sup>47</sup> This practice prevailed in Istanbul for hundreds of years, including the period under discussion.

In the case of the Matias family, the prospective couple lived under the same roof after an agreement had been reached regarding their future betrothal. This raises the question of *sivlonot*, that is, did the prospective groom give his bride-to-be gifts that consecrated her to him? This was a natural concern for the father of a young woman, since in the event of the dissolution of a match where *sivlonot* were given and accepted, she required a bill of divorcement, leaving her family vulnerable to extortion; and if she received a *get*, this reduced the choice of potential husbands to those who were not a *kohen*. (By contrast, there were several ways for the man to marry according to Jewish law.) The case before us is different, however: It was stated expressly in the rabbinical court ruling that the rabbis had studied the matter and had found that there was no concern that *sivlonot* had been accepted, that is, the young man had not given anything to his prospective bride and there was thus no reason to think that *qidushin* had taken place. Consequently, the rabbis ruled, he was entitled to marry whomever he pleased.

This last ruling is of particular interest, as it indicates two things: one, that it was the boy who wished to dissolve the *shidukh* (agreement of future betrothal); and two, that in the mid-19th century (as opposed to the mid-16th)—even in a society that was still unquestionably patriarchal—it was difficult for a Jewish man who had betrothed a woman through *qidushin* to marry another woman without giving his first wife a bill of divorcement. Stated otherwise, over the course of the generations between the mid-16th and mid-19th centuries, monogamy had become a binding norm even in Istanbul society, which was not subject to the *herem* of Rabbenu Gershom (the prohibition against polygamy enacted c. 1000 CE and accepted by the Ashkenazi communities).

In the case under discussion, the future groom, and not the future bride, was vulnerable to extortion. Based on the agreement between them, her father could demand of the erstwhile groom payment of the 10,000 *kurus* to which the latter had committed himself as a deterrent penalty; for this reason, the prospective groom required a ruling stating that he was permitted to marry another woman as part of the compromise agreement concluded between him and his uncle, the father of the future bride.

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<sup>47</sup> *Istanbul Rabbinical Court Records*, no. 2 (1841–1847), p. 4, sec. 4, decision from 1 Tevet 5486 copied from an old register into register no. 2.

The salient point in this discussion is that although the uncle raised Mordekhai Matias like a son, he did so in a calculated way and with the understanding that the boy would marry his daughter. The young man nonetheless had the right to decide if he wished to marry his uncle's daughter, and he chose not to. As stated, this right was not available to the bride-to-be.

### *Conclusion*

Before summarizing our findings, it is important to recall that the cases examined here comprise several aspects, only one of which is the betrothal of male and female orphans within the family where they found refuge. Over the thirty-year period studied, we found five such instances that developed into disputes so bitter that they ended up before a religious court at the stage between the *qidushin* and the *nisu'in*. There is reason to assume that other cases, of which we are unaware, ended in marriage.

From the above cases, it would appear that the institution of marriage, at least in the Istanbul Jewish community, looked much the same in the 19th century as it had at the start of the Ottoman era. To all intents and purposes, it was a business transaction in which the emotional component—the relationship of the prospective couple; their wishes and desires—was utterly ignored. Throughout the process, which culminated in the creation of a new family, it was the financial factors that were paramount. This was especially true with regard to first marriages, which were almost always arranged before the intended bride was capable of forming an opinion. In second or third marriages, the woman had a greater voice and more decision-making power, but the constraints imposed on her by her first marriage often led to a situation where it was financial considerations that dictated her course of action. The difference between first and subsequent marriages, from the woman's perspective, was that in a first marriage her fate was determined by her father or grandfather, in much the same way they would sell an object, whereas in subsequent marriages, she was the one offering herself for sale.

The business aspect of marriage was not the only element that persisted into the first half of the 19th century. The *sivlonot* were still a factor binding the prospective bride and groom and requiring a bill of divorcement to dissolve the relationship despite the fact that they had not yet married. Child-rearing agreements following the death of a father, including nursing arrangements, also continued to be common. The other important

insight that emerges from these sources is that male and female orphans who lost their father at a young age faced an uncertain fate, perhaps even more so than earlier generations. No matter the circumstances, they were always in a position of weakness: if their father had older heirs, the children presented an obstacle to them since the inheritance had to be shared with them; and if their father did not have such heirs, and the young orphans had assets, these posed a temptation to their guardians. Being motherless could also be critical, but a good grandmother was sometimes an adequate substitute for the security provided by a mother.

The hundreds of years between the death of Süleyman the Magnificent and the start of the Tanzimat reforms (1566–1808) are considered the most stable period in the social history of the Ottoman Empire—a time that saw the continuation of patterns that had taken shape during the early centuries of its existence. From the deliberations concerning the betrothal of orphans that we studied, it is apparent that in the first third of the 19th century, the perceptions that held sway in the Jewish community were still the same ones that had prevailed in Istanbul Jewish society in the mid-16th century. Yet alongside these well-established conventions, some signs of change were beginning to emerge. The first and most conspicuous of these can be found in the dispute between the widow Matias and her son, on one side, and her brother-in-law, on the other. It is clear from the deliberations that by 1841, polygamy—a common occurrence in the 16th and even 17th centuries—was no longer considered a feasible choice if it could be avoided.

In fact, the conservative portrait presented above is incomplete without the wealth of material concerning other marriage-related disputes and differences of opinion during the period in question. Along with the image of traditionalism and continuity, we find discussions that indicate alliances for purposes of marriage initiated and concluded by young people themselves. A case in point is the young girl who was betrothed to a boy from Bursa, after which word spread that she had already accepted *qidushin* from a different boy from the Morea region. There is no evidence of a “responsible adult” who managed her affairs or those of the young men involved, and she appears to have handled the situation entirely by herself.<sup>48</sup>

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<sup>48</sup> See above, n. 26.

The matter of the young girl's refusal to wait for the underage brother of her late husband to enter into a levirate marriage with her is likewise a sign of change. If the orphaned bride had indeed been a minor at the time of her marriage, where was the guardian provided by the religious court? Apparently, there wasn't one, and her mother handled the entire affair. If we assume that the bride was of marriageable age, then the entire tale that she presented to the court was based on falsehoods that the court knowingly accepted in order to free her from the obligation of *yibbum* (levirate marriage). All of this would have been unthinkable during the community's formative years. At the start of the 16th century, the Sephardi rabbis let "chained" widows wait until they were old and gray for their brother-in-law to release them, without freeing them to wed another.

In trying to comprehend the backdrop against which these changes took place, it is important to bear in mind that while these are isolated cases and the larger reality may well have been different, they did occur and, as such, demand our attention. The social developments that set the stage for these cases happened very slowly, but based on what we know of events in the latter half of the 19th century, there is no question that they eventually gathered momentum, leading in turn to growing changes in the Jewish family. The reasons for these shifts were both social and political. The social transformation was far-reaching, and seemingly unrelated to the family conflicts described above—but only at first glance. Starting in the second half of the 16th century, the process of social-economic polarization of the community intensified. The bulk of available capital became concentrated in the hands of a few, whose numbers became even smaller over time. Control of the community remained within this limited group and their coterie. What this meant in practice was the shrinking of the community's mutual support network and the weakening of social control mechanisms, which were no longer reinforced by society. This process can explain how a young girl could accept *qidushin* from a man in the Morea region and subsequently become betrothed to a man from Bursa, with only gossip ultimately bringing the situation to light. If the network of mutual support had been tighter, the girl would not have been betrothed to the first partner without the presence of a rabbi and family members—which would have prevented her betrothal to the second man. This may also help explain how the mother of the young *yevamah* married off her daughter without the involvement of a male guardian.

Yet social-economic changes are not the most important factor here. In the period under discussion, there were also major political changes in the community. Between 1819 and 1827, all heads of Jewish families

involved in business dealings with the Sultan were executed. These affluent families—Farhi, Carmona, Ajiman, and Gabbai—exerted absolute control over the Jewish communities of the Ottoman Empire: Farhi, in the communities of Syria, Palestine, and Lebanon; Carmona, Ajiman, and Gabbai, in Baghdad and Istanbul. Istanbul was of course the nucleus of these families' control, as the economic and political nerve center of the Empire. The fall of the families is tied up with Ottoman politics and the Empire's standing vis-à-vis Christian Europe, subjects that have already been dealt with at length; but the social significance of their collapse takes on a new dimension when viewed through the prism of the deliberations cited here. As long as these families ruled the community with an iron fist, deviations from the norm, the accepted, the honorable, were inconceivable. Those who did not comply with the rulings of the religious courts were taken with due respect by the community's police (*yasakçılar*, in Turkish) and placed under lock and key in the *casa negra* (Judeo-Spanish for "black house") adjacent to the Chief Rabbi's residence in Balat. The support for all this came from these major businessmen whose connections in the corridors of power allowed them to maintain the upper hand in the community. Upon their fall, the constraints of all sorts that had held the impoverished Jewish masses of Istanbul in check suddenly fell away, leading to improper sexual conduct, the consumption of meat without rabbinic certification, and threats by individuals to leave the faith if the community would not help support their families.<sup>49</sup> The social upheaval that rocked the Jewish community of Istanbul during these years also explains the changes that are evident in some of the deliberations cited here, which, on the face of it, deal with very personal matters.

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<sup>49</sup> Rozen, *Last Ottoman Century*, 1: 53–63.