

A HISTORY
OF THE MISHNAIC LAW
OF WOMEN

PART FIVE

STUDIES IN JUDAISM IN LATE ANTIQUITY

EDITED BY

JACOB NEUSNER

VOLUME THIRTY-THREE
A HISTORY
OF THE MISHNAIC LAW
OF WOMEN

PART FIVE



LEIDEN
E. J. BRILL
1980

A HISTORY OF THE MISHNAIC LAW OF WOMEN

BY

JACOB NEUSNER

University Professor
Professor of Religious Studies
The Ungerleider Distinguished Scholar of Judaic Studies
Brown University

PART FIVE

THE MISHNAIC SYSTEM OF WOMEN



LEIDEN
E. J. BRILL
1980

ISBN 90 04 06073 1
90 04 06079 0

Copyright 1980 by E. J. Brill, Leiden, The Netherlands

All rights reserved. No part of this book may be reproduced or translated in any form, by print, photoprint, microfilm, microfiche or any other means without written permission from the publisher

PRINTED IN THE NETHERLANDS

For

Professor Johann Maier

Professor Peter Schäfer

Professor Hermann Greive

University of Cologne

Professor Carsten Colpé

Free University of Berlin

Professor Graham Stanton

King's College, University of London

Dr. Philip Alexander

University of Manchester

Dr. Geza Vermes

Oxford University

*in thanks for cordial hospitality in
my lecture-tour of October, 1977.*

TABLE OF CONTENTS

| | |
|--------------------------------------|------|
| Preface | XIII |
| Abbreviations and Bibliography | XVII |
| Transliterations | XXIV |

| | |
|--------------------|---|
| Introduction | 1 |
|--------------------|---|

I. THE SYSTEM AS A WHOLE

| | |
|---|----|
| I. The Mishnaic System of Women | 13 |
| i. Mishnah's System | 13 |
| ii. Scripture's Rules and Systems | 21 |
| iii. The System of Mishnah in Relationship to the Systems and Rules of Scripture | 28 |
| iv. Conclusion | 40 |

II. THE FORMATION OF THE TRACTATES

| | |
|--|-----|
| II. Yebamot | 45 |
| i. Introduction | 45 |
| ii. Establishing the Marital Bond | 47 |
| iii. The Special Marital Bond: Marriage into the Priesthood | 64 |
| iv. Severing the Marital Bond | 69 |
| v. Conclusion | 83 |
| III. Ketubot | 86 |
| i. Introduction | 86 |
| ii. The Material Rights of the Parties to the Marital Union: | |
| (1) The Wife | 86 |
| iii. The Material Rights of the Parties to the Marital Union: | |
| (2) The Father and the Husband | 90 |
| iv. Reciprocal Responsibilities of Husband and Wife | 94 |
| v. Cessation of the Marriage: Collection of the Marriage Settlement | 99 |
| vi. Conclusion | 105 |

| | | |
|-------|---|-----|
| IV. | Nedarim | 107 |
| | i. Introduction | 107 |
| | ii. The Language of Vows | 108 |
| | iii. The Binding Effect of Vows | 113 |
| | iv. The Absolution of Vows | 118 |
| | v. Conclusion | 123 |
| V. | Nazir | 125 |
| | i. Introduction | 125 |
| | ii. The Vow to Become a Nazirite | 125 |
| | iii. The Nazirite's Offerings | 132 |
| | iv. Effects of the Nazirite's Vow: Restrictions | 135 |
| | v. Conclusion | 138 |
| VI. | Sotah | 140 |
| | i. Introduction | 140 |
| | ii. Rules of the Ordeal | 141 |
| | iii. Narrative of the Ordeal | 145 |
| | iv. Rites Conducted in Hebrew | 148 |
| | v. Conclusion | 149 |
| VII. | Gittin | 151 |
| | i. Introduction | 151 |
| | ii. Delivering and Preparing a Writ of Divorce | 151 |
| | iii. Agency in Writs of Divorce | 157 |
| | iv. Stipulations in Writs of Divorce | 159 |
| | v. Invalid Writs of Divorce | 161 |
| | vi. Conclusion | 165 |
| VIII. | Qiddushin | 167 |
| | i. Introduction | 167 |
| | ii. Betrothal | 167 |
| | iii. Caste | 173 |
| | iv. Conclusion | 175 |

III. THE UNFOLDING OF THE LAW

| | | |
|-----|--|-----|
| IX. | Before 70: Sectarian Rules in the Time of the Temple | 179 |
| | i. Introduction | 179 |
| | ii. Survey of the Law of Women before 70 | 182 |
| | 1. The Formation of a Marriage | 183 |
| | A. Levirate Marriage | 183 |

| | |
|--|-----|
| B. Marriage Effected by Man | 184 |
| C. Property Arrangements | 184 |
| 2. The Duration of a Marriage | 184 |
| A. Marital Relationships | 184 |
| B. Property Arrangements | 185 |
| C. The Ordeal of the Accused Wife | 185 |
| 3. The Severance of a Marriage | 185 |
| A. Dissolving the Levirate Connection: <i>Haliṣah</i> | 185 |
| B. The Right of Refusal | 186 |
| C. The Writ of Divorce | 186 |
| D. The Death of the Husband | 186 |
| E. Property Arrangements | 187 |
| 4. Vows | 187 |
| A. Vows in General | 187 |
| B. The Nazirite Vow | 187 |
| iii. Tractates before 70 | 187 |
| 1. Yebamot | 187 |
| iv. Conclusion | 188 |
| | |
| X. From 70 to 140: The Mishnaic System of Women in the Time of Yavneh | 193 |
| i. Introduction | 193 |
| ii. Survey of the Law of Women from 70 to 140 | 198 |
| 1. The Formation of a Marriage | 198 |
| A. Levirate Marriage | 198 |
| B. Marriage Effected by Man | 199 |
| C. Property Arrangements | 199 |
| 2. The Duration of a Marriage | 200 |
| A. Marital Relationships | 200 |
| B. Property Arrangements | 201 |
| C. The Ordeal of the Accused Wife | 202 |
| 3. The Severance of a Marriage | 202 |
| A. Dissolving the Levirate Connection: <i>Haliṣah</i> | 202 |
| B. The Right of Refusal | 203 |
| C. The Writ of Divorce | 203 |
| D. The Death of the Husband | 204 |
| E. Property Arrangements | 204 |
| 4. Vows | 205 |
| A. Vows in General | 205 |
| B. The Nazirite Vow | 206 |

| | | |
|---------------------------|--|-----|
| iii. | Tractates of Yavneh | 207 |
| 2. | Nedarim | 207 |
| 3. | Nazir | 207 |
| 4. | Sotah | 208 |
| 5. | Gittin | 208 |
| iv. | Conclusion | 208 |
| XI. | From 140 to 170: The Mishnaic System of Women in the Time of Usha | 214 |
| i. | Introduction | 214 |
| ii. | Survey of the Law of Women from 140 to 170 | 217 |
| 1. | The Formation of a Marriage | 217 |
| A. | Levirate Marriage | 218 |
| B. | Marriage Effected by Man | 218 |
| C. | Property Arrangements | 220 |
| 2. | The Duration of a Marriage | 221 |
| A. | Marital Relationships | 222 |
| B. | Property Arrangements | 223 |
| C. | The Ordeal of the Accused Wife | 224 |
| 3. | The Severance of a Marriage | 224 |
| A. | Dissolving the Levirate Connection: <i>Ḥaliṣah</i> | 224 |
| B. | The Right of Refusal | 225 |
| C. | The Writ of Divorce | 225 |
| D. | The Death of the Husband | 227 |
| E. | Property Arrangements | 228 |
| 4. | Vows | 229 |
| A. | Vows in General | 229 |
| B. | The Nazirite Vow | 230 |
| iii. | Tractates of Usha | 232 |
| 6. | Ketubot | 232 |
| 7. | Qiddushin | 232 |
| iv. | Conclusion | 232 |
| IV. THE SYSTEM IN CONTEXT | | |
| XII. | Contexts and Comparisons: The Quest for Meaning | 239 |
| i. | Introduction | 239 |
| ii. | Thematic Description and Interpretation | 244 |
| iii. | Systemic Description and Interpretation | 249 |
| iv. | Synchronic Comparisons of Systems | 251 |
| v. | Diachronic Comparisons of Systems | 255 |

TABLE OF CONTENTS

XI

| | |
|---|-----|
| vi. Extra-Contextual Contrasts: Ways Not Taken | 256 |
| vii. The Mishnaic System of Women in Particular: Its Context and its Meaning | 259 |
| 1. Context | 259 |
| 2. Character | 262 |
| 3. Meaning | 267 |
| Index | 273 |