

Review of Melanie Landau, *Tradition and Equality: Beyond the Sanctification of Subordination* (Continuum Series in Jewish Thought), London/ New York: Continuum 2012, vii + 203 pp., ISBN 978-1-4411-3806-4

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In recent years, several scholars (such as Michael Satlow, Adiel Schremer, and myself) have addressed legal and sociological aspects of Jewish marriage in rabbinic literature and other sources of Late Antiquity. What remained a desideratum is work, written from a scholarly *and* feminist perspective, addressing the subsequent commentaries and legal sources that built on the rabbinic foundation and shaped Jewish marital law as it is practiced still among significant communities of Jews today. Melanie Landau's book is meant to fill such a gap. Landau writes not only as a scholar addressing other scholars, but identifies (at least part of) her audience and herself as 'people who are called by the traditions that bind them while simultaneously being grounded in ethical commitments (such as feminism) that they are not willing to abrogate' (2012: 2-3). That is, she openly acknowledges her personal commitment to Jewish law and practice, even as she subjects them to feminist critique, and the difficult balance this entails. As both an academic teaching and writing about rabbinic sources and as an ordained rabbi and practicing Jew, I identify with this stance, and believe Landau's approach could have the potential to speak to women beyond the Jewish context, in other traditions where women are confronting androcentric and sexist presumptions while also attempting to hold onto their loyalty to those same sources of belief and spiritual nourishment. This is a necessary project, and thus I deeply wish it better fulfilled its intent and promise.

The book opens with a chapter of 'Laying the Table', and in the first half of this chapter Landau discusses the issues, faced by many modern heirs of ancient traditions, of how authority is constructed in these traditions, and the role of subjectivity (and whether it will be recognised as such) in interpretation of the

tradition and its sources. A second section of the chapter turns to the Jewish context, reviewing prior works related to marriage and the status of women more generally in Jewish legal sources. What follows is guided by two primary and inter-related foci. The first of these is to lay out the material risks to Jewish women's lives that can and have been justified by religious authorities based on the inherent inequities in Jewish marriage. Key here is the act known as *kiddushin*, which legally creates a binding betrothal between bride and groom. As Landau argues in Chapter 2, from its earliest appearances in the classical rabbinic sources, *kiddushin* has been framed as an act of acquisition, in which a man takes possession of exclusive sexual access to a woman, or of the woman herself (in my own work, I have identified this as a cognitive metaphor and the dominant model by which rabbinic texts consider and understand marriage). The act is unilateral and non-reciprocal, and the husband does not have the same legal requirement of sexual exclusivity; his sexual acts outside of marriage (presuming his partner is unmarried) are not legally adulterous. Moreover, divorce in turn is guided by the same underlying model – the man must unilaterally and of his own free will relinquish his claim over the woman – thus granting him power to withhold divorce, and stymieing efforts to place external pressure on him to grant a divorce. In certain segments of the modern Jewish community (particularly among the Orthodox and those living in Israel), the phenomenon of 'chained wives' unable to attain a divorce except by capitulating to extortionary demands, and sometimes not at all, has become a significant social problem. Additionally, as Landau documents in Chapter 3, this model can have troubling repercussions in discussions of the husband's legal rights to sexual access to his wife during marriage.

Two additional chapters explore various proposals within Jewish law to resolve the most egregious problems (notably those related to men withholding divorces) either by foregoing *kiddushin* or (this appears to be Landau's preference) adapting/altering the nature of the act in ways that blunt the most dangerous aspects of its legal force. Chapter 4 takes up the possibility of conditional *kiddushin*, making the existence and binding force of the *kiddushin* conditional on the husband's pledge to grant a religious divorce in case of a civil divorce; if he fails to do so within a specified amount of time, the *kiddushin* is retroactively null and void. Chapter 5 analyses the proposal of Rabbi Meir Simha Feldblum for a kind of 'quasi-marriage', which resembles *kiddushin* but is not binding as such, as well as suggestions to revive/adapt the institution of concubinage in Jewish law as a relationship that is recognised as something other than licentiousness while also not meeting the criteria of binding *kiddushin*.

The difficulties in the work, unfortunately, are several. At the most basic level, the editing is sloppy, allowing errors such as repeating the same material, word for word, in both the main text and endnotes (see, for example, p. 11 and n. 6 thereto). Moreover, the writing too often lacks in clarity, both at the level of sentences and paragraphs, and in the larger organisation within and between chapters; consider a sentence such as: 'It is not that they are not allowed to uproot the Torah, that would be a normative claim, but it actually describes that they actually cannot do it, because they don't have the power to do it' (p. 113). There are several places in which Landau includes material that does not seem relevant to its location, or would better be placed elsewhere (her discussion of 'Other alternatives to marriage' at the end of Chapter 1, for example, seems more relevant to the topics of Chapters 4 and 5).

More significantly, however, I find the book ultimately both too specific to speak easily beyond the Jewish context, and yet not rigorous enough to speak as effectively as it could within the Jewish context. The legal and interpretive issues involved are complex, derived from primary sources that are typically written in Hebrew (or the Hebrew and Aramaic mix of Talmudic literature) and hence often difficult even for those immersed in their study. If one part of Landau's intended audience includes (Jewish or other) readers not already familiar with the issues and sources involved, her work often lacks sufficient explanatory infrastructure to make the sources and the flow of discussion from one to the next relatively comprehensible. Additional and related difficulties also derive from Landau's lack of clarity in the use of her primary sources. For a book of this sort to reach and be accepted by another element of the potential audience – an audience for whom, I would argue, it is most needed and with whom it could be most effective, that is, those who are actually in a position to affect the nature of Jewish marriage going forward (such as legal scholars and rabbis and members of Jewish communities who live by these laws) – its explication and application of the legal sources need to be precise and exacting, and this is often simply not the case.

I will highlight just one example to illustrate the point: On 88, Landau discusses a passage from the *Tosefta* (Nedarim 7:1), an early rabbinic compilation, regarding a husband's ability to annul his wife's vows (a power granted to him biblically in Numbers 30: 4–17). Part of this passage rules that if the wife makes certain vows refusing to perform tasks that a woman typically must perform for her husband, these vows do not need to be annulled, because they do not take effect in the first place; she has no right to deprive her husband of these services. Landau rightly notes that this is representative of the power of his acquisition over her, but then further concludes that, 'Since the *Tosefta* does not include sexual relations in this category...perhaps we can assume that the *Tosefta* does not include sexual intercourse as an assumed right of the husband through marriage.' Landau however overlooks a statement *just preceding* the cited section, which is explicitly on point: '[If she vows that]...*"I will not have sex with you"* – this [vow] he may annul, because it is between him and her.' That is, while the husband must make an affirmative statement annulling his wife's vow, nonetheless his sex-right is sufficient to override her agency in making the vow. An omission such as this (and there are other similar examples in the book) does not inspire confidence in Landau's own understanding of the relevant sources, and thus mars her ability to mount a convincing argument as to either the scope of the problem, or the need and means for change.

Let me reiterate that I am in sympathy with the aims of this book. I respect the conclusions Landau reaches regarding possible workable means of ameliorating the material harms while largely preserving Jewish marriage in its current form – even if my personal inclinations might be towards a more radical solution (that is finding alternatives rather than reforming *kiddushin* as the central act of Jewish marriage). For a reader who enters this book already both alert to the issues and legal concerns involved and open to a feminist critique and analysis, Landau's book can serve as a valuable collation of relevant sources and thought provoking discussion of possible ways forward. Indeed, I found important insights scattered throughout, such as when Landau challenges the focus in Jewish legal writings on male fears and male agency, asking instead 'what if the fear was addressed to worries about whether or not women were going to be

harmed and the Torah and the divine name would be profaned? What would legal decisions look like?’ (p. 85). Less clear though, given the concerns above, is whether Landau has either provided useful guidelines for those who might take her insights and methods to other spheres and other traditions, or (more importantly, in my opinion) made a case for reform – both of its necessity and the directions it might take – that could not be easily dismissed by those within the Jewish community in a position to advocate for it and/or bring it to fruition. A stronger work in this sphere remains a desideratum.