

Women and Communal Discipline in the Portuguese Nation of Hamburg during the Seventeenth Century

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Abstract

Transgressions and their related punishments are among the most important tools for analyzing the values that have been imprinted within a given community. In addition to identifying the norm and the relative deviations therefrom, they also make it possible to interpret the occurrence of these phenomena in a specific place, reflecting a reality in constant evolution over time. In this article, I focus on the discipline exercised by the governing council of the Portuguese community of Hamburg between 1652 and 1682, in order to understand what this reveals to us about the social, cultural and religious history of that community in one of the most important periods of its history. My research focuses specifically on the role of women as the agents and targets of transgressive and disciplinary practices, respectively, in order to understand what these cases reveal to us about the attitudes and perceptions shared by the ruling class about women and their condition in the Portuguese-Jewish communities of Western Europe during the early modern period.

Keywords

Sephardic diaspora, Portuguese nation, Communal discipline, Women, Hamburg

Resumo

Matérias de transgressão e disciplina constituem uma das ferramentas mais importantes para analisar os valores impressos numa determinada comunidade. Além de indicar a norma e seu desvio relativo, possibilitam também uma interpretação situada desses fenómenos, reflectindo uma realidade em constante evolução ao longo do tempo. O presente artigo debruça-se sobre a disciplina exercida pelo conselho executivo na comunidade portuguesa de Hamburgo entre 1652 e 1682 para compreender o que revela sobre a história social, cultural e religiosa dessa comunidade num dos períodos mais importantes da sua história. A investigação incidirá especificamente sobre o papel das mulheres como agentes e alvos de práticas transgressoras e disciplinares, respectivamente, de modo a compreender o que estes casos nos revelam sobre as atitudes e percepções partilhadas pela classe dominante acerca das mulheres e da sua condição nas comunidades judaico-portuguesas da Europa Ocidental, durante o período moderno.

Palavras-Chave

Diáspora sefardita, Nação portuguesa, Disciplina comunitária, Mulheres, Hamburgo

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Introduction

Recent studies in Sephardic history have emphasized the important role played by Iberian-Jewish women in the functional, economic, and institutional dynamics of community life, both in Iberia and beyond (Melammed 1998 and 1999; Roitman 2005; Lieberman 2011; Galasso 2011; Bernfeld 2012 and 2017; Brunelle 2012). These contributions have enabled us to discover a whole range of opportunities and career choices hidden behind the roles traditionally assigned to women in the early modern period, and the ways in which their identities were negotiated partly through their social rank, economic situation, and family constraints. When considering some of the studies already produced in this field, we are immediately struck by the fact that there is one area that, somewhat surprisingly, few historians of women have sought to investigate—namely the gendered attitudes and perceptions shared by the ruling elite in relation to deviant behavior, and the type and severity of the disciplinary measures that they imposed in accordance with their worldview. In assessing this theme, I will concentrate specifically on the Portuguese Jewish community of Hamburg and the attitudes that its leaders displayed towards women in general when dealing with different cases of female deviance between 1652 and 1682.

The study of female deviance thus calls for a more profound investigation of the institutional dynamics of congregational life and the way in which these reflected the political, cultural, and social aspects of a given community, in this case, the Portuguese-Jewish community of Hamburg in the second half of the seventeenth century.² Founded by Portuguese immigrants from the metropolis and, to a lesser extent, by exiles from Antwerp, following the blockade of the port in 1594, the Portuguese-Jewish community of Hamburg came to administer one of the main trading posts for Iberian, Levantine, and American products in Northern Europe. The rapid development of this tight-knit community, bound together by commercial relations and ties of kinship, was truly remarkable. From a maximum of 100 members in 1610, the community had grown to around 800 individuals by 1670, a date that roughly coincided with the peak of its economic and cultural development.

As is to be expected, most of the cases related to female deviance in the Portuguese community of Hamburg were situations in which females had already been assigned specific roles, whether professional or domestic. Moreover, there were considerable differences in

² On the subject of the Portuguese-Jewish community of Hamburg, see Kellenbenz (1958), Whaley (1985), Studemund-Halévy (1994-97 and 2000), Kaplan (1994), Salomon and Leoni (2001), Braden (2001), Wallenborn (2003), Poettering (2013), and, more recently, Martins (2018, 2019a, 2019b, 2019c, 2020, 2021, forthcoming).

relation to the violence of their transgressions, with women generally being less likely than men to be involved in acts of deliberately aggressive behavior. According to the current historiography on early modern female deviance (Rublack 2001; Walker 2003; King 2006; Sharpe 2013; Heijden, Pluskota, and Muurling 2019), there were considerably fewer instances of transgression among women than among men, with the proportion of cases measured in terms of gender, over the thirty-year period considered here, amounting to roughly ten cases of male transgression for each female transgression (Martins 2018: 220-229).³ It could easily be argued that both the less aggressive nature of such cases and the relative rarity of their occurrence could account for the more tolerant stance adopted by the governing council towards instances of female insubordination. Based on the many cases of transgressive behavior presented in the protocol book of the Portuguese community of Hamburg,⁴ this article will argue that, quite to the contrary, although these differences were conspicuous, they did not in any way influence the different attitude that was displayed by the community's leaders towards female transgressive behavior, nor in the latter's potential legal accountability.

Transgressions were judged by the *Mahamad*, the elected leadership of the Portuguese community of Hamburg, which was vested with the power to punish and expel wrongdoers from its midst. Such cases were usually brought to the *Mahamad* by word of mouth, denunciation, or complaint, and followed a predetermined procedural path characterized by witness testimonies or confessions of guilt, steps that were then followed by an assessment of guilt and then the communication of the final sentence or punishment.⁵ The right to judge these cases internally in accordance with Jewish law and customs was unofficially recognized by the city authorities, who counted upon the Portuguese leaders to maintain order and peace within their community in exchange for logistical support in the control and discipline of recalcitrant members.⁶

Dating back to the medieval Iberian model of Jewish communal administration, the *Mahamad* was the basic institution of leadership in the Portuguese communities of the

³ Considering only serious cases of transgression, or transgressions that were punishable by expulsion. A somewhat different picture seems to emerge in relation to Holland, where the rates of female deviance were particularly high (Heijden 2016: 160).

⁴ Staatsarchiv Hamburg (StAHH), Jüdische Gemeinden 993, Protokollbuch (1652-1682), Band I-II (referred to hereafter as *Livro da Nação*).

⁵ Determining accountability in cases of transgression was often a lengthy and complex process. The offenders were frequently protected by their peers, forcing the *Mahamad* to employ a variety of methods in order to obtain the desired information. These included, for example, maintaining secrecy about the identity of the witness, threats of expulsion, or even financial incentives for cooperating members (*Livro da Nação*, I: 18, 380, 523).

⁶ These privileges were regularly renewed and formed the basis of the collaboration between the Portuguese community and the Senate in matters pertaining to discipline (*Livro da Nação*, I: 39, 297, 434).

Western Sephardic diaspora, characterized by its oligarchical nature and an autocratic orientation in the exercise of its power (Ferro 1979: 29-30; Tavares 1982: 120, 122, 125).⁷ The *Mahamad's* functions were diverse and wide-ranging, including most notably the promulgation of communal statutes, the hiring of officials, the external representation of the community and its financial administration, as well as matters relating to discipline and justice (Martins 2018: 83-88). Among the families most frequently represented in the *Mahamad* of the Portuguese community of Hamburg between 1652 and 1682 were the Curiels (alias Nunes da Costa)⁸ and the Senior Teixeiras (Teixeira Sampaio),⁹ two notable New Christian families, sharing between them no less than thirty-six appointments for the post of *parnas*, a lay syndic or warden (Martins 2018: 90). These were by far the most important clans in the community during the period, playing a key role in the control and management of its religious, social, and political life.

Adultery, Squabbles, and Promiscuous Behavior

One of the most notable cases of female transgression in the ledgers of the Portuguese community of Hamburg relates to the story of a married Portuguese woman named Esther, who, when visiting Glückstadt during her trip from Amsterdam to Hamburg, was exposed to the “bad influence” of Jacob Meatob, ultimately resulting in her becoming pregnant (*Livro da Nação*, I: 201-202). Having heard of the case, the governing council of the community, the *Mahamad*, attempted to gather all possible information from witnesses, even calling upon Esther to testify. At first denying any of the accusations made against her, Esther then contrived to confess, in tears, that it was Jacob Meatob who had put her through this “unfortunate situation” (*Livro da Nação*, I: 201). When asked by the *Mahamad* if she was married, she answered affirmatively but stressed that she had previously asked her husband for a divorce, which he ultimately didn't wish to grant her. To avoid the news of this transgression being leaked and eventually entering the realm of state justice, the main preoccupation of the *Mahamad* was to ensure that the case remained secret, preventing it from spreading throughout the community as well as within Christian circles. The moral

⁷ According to Maria José Ferro Tavares, the Portuguese-Jewish communities of the fourteenth and fifteenth centuries were administered by a body of lay leaders elected annually by the members of the community (Ferro 1979: 29-30; Tavares 1982: 120, 122, 125).

⁸ About the most prominent member of this family in Hamburg, Duarte Nunes da Costa (alias Jacob Curiel), see Israel (1990:333-353).

⁹ About its most notable member, Diego Teixeira Sampaio (alias Abraham Senior Teixeira), see Studemund-Halévy (2000:790-795)

implications of Jewish female adultery could be most harmful for the image of the community, not only fueling Christian resentment, but also involving the concrete danger of imprisonment (*temores de prisão*), as mentioned by the *Mahamad* (*Livro da Nação*, I: 201). Consequently, Meatob was ordered to send Esther as far away as possible, more precisely to the Danish city of Glückstadt, and to fund her stay there. In deciding upon the appropriate punishment for the case, the *Mahamad* stressed the need to pass an exemplary sentence, not only due to the overt “offense to God and his laws,” but also because of its unprecedented and “abominable” nature (*Livro da Nação*, I: 201). Surprisingly, Meatob was, in fact, the one to be punished, since he was obliged to follow a long list of strict penances and religious duties for a long period of time, as well as to pay a hefty fine.

In assessing the rationale behind the *Mahamad*'s decision, we must necessarily ask why it was that the responsibility for the crime rested entirely upon Meatob's shoulders, when it was Esther who, being married, had not only committed the crime of adultery, but who had ended up, as a result, giving birth to an illegitimate child. In fact, there is no indication to suggest that this was a case of non-consensual relations or that Esther had, in any way, been forced to engage with Meatob against her will. Yet, through their legal decision, the Portuguese leaders unequivocally expressed their wish that only the man should be stigmatized, carrying the guilt and culpability of the act of “illicit communication.” In no way was Esther punished by the Portuguese authorities, and much less did they attempt to make her repent for her sins. Instead, the tone adopted by the *Mahamad* reveals a complacent attitude towards Esther, as if she were, in fact, more of a victim than an accomplice.¹⁰ In their study of adultery among the Portuguese Sephardim in the Caribbean, Ben-Ur and Roitman (2014: 202) justified the lack of female accountability in one particular case of adultery as a way of protecting the honor of the cuckolded husband, who was a well-respected and wealthy member of the community. Given Esther's low status within the Portuguese community,¹¹ and, concomitantly, that of her husband too, it is unlikely that such a scenario would have applied in this particular case. Also, in view of the unequivocal condemnation of female adultery in Iberian law and practice at the time (Abreu-Ferreira 2015: 103-118), it is similarly unlikely that this apparent leniency would have derived from Portuguese and Spanish mores.

¹⁰ In fact, this situation seems to have recreated the norm that prevailed until the end of the fourteenth century in Western Europe, according to which it was men, and not women, who were the main culprits in crimes of adultery. See Hacke (2004: Chapter 9) and Molina (2001: 171). On female adultery in Portugal and the interaction between law and social mores, see Abreu-Ferreira (2015: 103-118).

¹¹ As revealed in the protocol book, Esther worked as a maid in the house of a Portuguese woman (*Livro da Nação*, I: 201).

Instances of transgressions that resulted in squabbles and altercations were a common feature of the everyday life of the Portuguese Jewish congregation of Hamburg, especially during the community's main festivities, which were times of great emotional and religious fervor (Swetschinski 2000: Chapter 5; Martins 2018: 281-283). The cause of these disagreements is still a heavily understudied phenomenon, and although their origin is multifaceted and varied from one community to another, many factors such as inter-family rifts, political and diplomatic affiliations, and religious and spiritual beliefs conflated to create a general state of anxiety and communal unrest at specific times of the year. Much of the vast and complex repertoire of violent transgressive behavior, such as personal vendettas, verbal and gestural insults, and outright aggressions, seems to have followed a pattern that was more or less defined by the religious calendar.

Unlike many of the predominantly male transgressions registered in the protocol books, cases of altercations between men and women, or exclusively between women, were relatively rare in the Portuguese community of Hamburg. Despite their small number, it would be appropriate to ask whether, in fact, the same level of vigilance and seriousness was demonstrated in cases in which only women were involved. Such was the case, for example, with the widow Sara Naar Pardo, who, after causing a great scandal in her aunt's house by threatening and insulting everyone present, was acquitted by the *Mahamad* of the need to perform any form of penance (*Livro da Nação*, I: 304). In fact, her violation of the community ordinance concerning verbal abuse does not seem to have been considered particularly disturbing by the *Mahamad*, who merely prohibited the widow from entering her aunt's house thereafter without the latter's consent.

Another similar case involving verbal insults and affronts was the altercation between the wives of Gresco Ysrael and Izaque Gadelha (*Livro da Nação*, II: 331). Initially attempting to appease both parties, the *Mahamad* immediately sought to ensure that neither of the women would bring the case to local justice, dissuading them from doing so through the threat of expulsion. Indeed, the incident was resolved without any further inquiries or any kind of penalty for the "major disturbance" caused, and the women were effectively cleared of their transgressions without ever having to justify themselves to the communal authorities. Interestingly, it was a man, most likely a relative of one of the quarrelling women, who ended up being sanctioned in this case, for vehemently challenging the *Mahamad's* prohibition (*Livro da Nação*, II: 331).

Much has been written about the sexual mores of Portuguese male Jews in their nightly escapades to local brothels and their sexual encounters with Christian or German-

Jewish women as well as other transgressions (Bodian 1997: 65-66; Kaplan 2018).¹² Yet, despite this abundance of male transgressive behavior, little has been written on the recreational activities of Portuguese women and the way in which their often less welcome lifestyles were viewed by communal leaders, especially with regard to their communal control and discipline. By way of example, the prohibition of any activities involving dancing, music, and instruments, even if practiced in the privacy and quiet of people's own homes, leads us to believe that, at least in this regard, the motivations of the Portuguese leaders were not merely restricted to male considerations. Despite the most immediate concerns about the external repercussions of such festivals, dancing as a practice that led to moral depravity and sexual licentiousness—especially with women of other religious faiths—seems to have been a much more fundamental reason behind the decision of the secular authorities to ban this form of activity.

Similarly, the fact that the *Mahamad* felt compelled to install grilles inside the synagogue in order to prevent women from becoming “lecherous” (*devassas*), is indeed clear evidence of what was considered to be improper and promiscuous female behavior (*Livro da Nação*, I: 91).¹³ Such practices were treated with the utmost severity by the leaders of the Portuguese community, especially during religious celebrations, when casual companionship and physical contact were deemed inevitable. Greatly disturbed by rumors about the behavior of “harmful *Tudesca*”¹⁴ on festive occasions and their negative influence on the community, the *Mahamad* called for these to be temporarily banned from the city during times of religious celebration (*Livro da Nação*, I: 98). Whether this measure was in fact enforced is not known, although it remains clear from the stated examples that the wardens and protectors of the Portuguese community had serious reservations about the unbridled effects of female attraction on the overall decorum of the community, both in moral and behavioral terms. Here too, no names were ever mentioned, nor does it appear that any such behavior actually resulted in punishment. It would seem as if, when women were involved, the *Mahamad*'s perception of the situation was collective rather than individual in nature, taking the whole for the part, and ending by providing a gendered account of legal accountability.

¹² Examples of these attitudes in the Portuguese community of Hamburg can be found in *Livro da Nação*, I: 200, 264; II: 49.

¹³ Unlike men, women were not allocated seats in any predetermined order; they had to make do with the few seats available behind the synagogue complex, in a specially reserved gallery. In accordance with the prevailing segregationist practice in the wider Jewish world, this arrangement reflected the inferior status granted to women in Jewish law and tradition (Wigoder 1996: 363-365).

¹⁴ *Tudesco* (pl. *tudesco*) were Jews of German Ashkenazi origin.

Women Defying Communal Statutes

In assessing more closely what might be considered a different treatment towards women with regard to communal discipline, we must also consider cases in which the transgression took place within a statutory frame of reference; that is to say, cases in which previous laws prescribed a putative incrimination for either men or women suspected of having committed transgressions. Sephardic historians know full well that failing to comply with the appropriate ordinances was almost invariably followed, in the case of men, by a punishment resulting in a pecuniary fine, expulsion, or some form of religious penance intended to alleviate the burden of sin (Kaplan 1994; Swetschinski 2000). In fact, it would be extremely difficult to find an instance of male transgression that did not result in some kind of punishment. In some of the examples now presented, I shall display several instances in which women failed to comply with communal ordinances, revealing the *Mahamad's* attitudes towards female transgressive behavior. Ultimately, we seek to understand what these cases may tell us regarding the possibility of women being held accountable for their actions, but also, more generally, how these same attitudes reflected the ways in which women were perceived and regarded in the Portuguese community of Hamburg.

Instances of women disobeying the ordinances relating to the correct use of the *mikveh*¹⁵ were commonplace in the first years of the Bet Israel community.¹⁶ The *Mahamad* was constantly reminding them of the appropriate use of such baths, especially with regard to the ritual practices of bodily hygiene and the supervision of undesirable guests.¹⁷ On September 2, 1657, the *Mahamad* accused Maria Mendes of not complying with the accepted bathing prescriptions, therefore appointing a new woman—“of complete satisfaction and good Judaism” (“de toda a satisfação e bom judesmo”)—who would thereafter join Mendes in the task of assisting women in their bathing, but in strict compliance with communal regulations (*Livro da Nação*, I: 99). Despite her transgressive behavior, Mendes was not expelled, nor did her misdeed result in any form of punishment. Instead, she continued to work in the *mikveh* just as before, with her role as supervisor now being shared with a new assistant. In another more illustrative case, also related to the *mikveh*, Hana Penso was severely reprimanded by the *Mahamad* for allowing some *Tudescas* into the ritual bath even though she had previously been advised not to do so (*Livro da Nação*, I: 215). After careful

¹⁵ Jewish ritual bath.

¹⁶ *Kahal Kadosh Bet Israel* (“Holy Congregation of the House of Israel”) was the name given to the general congregation of Hamburg, founded in 1652.

¹⁷ Namely German-Jewish women or *Tudescas* (*Livro da Nação*, I: 99, 215, 257).

deliberation, the *parnassim*¹⁸ considered dismissing the *mikveh* supervisor, but revised their initial position in view of the apologies presented to them by Penso and her promise to mend her ways. In the end, Penso was allowed to stay and continued to serve at the *mikveh*, merely being given a deadline of fifteen days, during which time all Ashkenazi women would have to find another bath.¹⁹

Despite these transgressions, the women in charge of supervising these institutions were not expelled by the community, nor did their misdeeds give rise to any notable punishment. Conversely, in analogous situations, in which the supervisory duties fell within the purview of men, the latter's negligence incurred a penalty, albeit a pecuniary one. Such was the case, for example, with the legislation prohibiting the entry of women into the synagogue after the end of evening prayers (*Livro da Nação*, I: 120). Ultimately, after careful assessment of the incident by the *parnassim*, the responsibility for the act rested entirely with two men, *Hazan*²⁰ Joseph Palache and Izaque Nahamias de Crasto, who, by being in the company of the said women, had failed to prevent the transgression from occurring. Effectively, although the *escama* (communal statute) specifically applied to female behavior, the responsibility for this transgression was attributed exclusively to men.

Another piece of legislation, which, understandably, did not receive much approval from the women of the community, related to the ban on all women from entering the congregation's synagogue, allegedly for reasons of space (*Livro da Nação*, I: 472; II: 34). There is evidence that the *Mahamad* was forced to renew the initial ban on several occasions, suggesting that there was a high level of non-compliance with the newly implemented law, one which unwittingly called for drastic changes in female religious routines and communal worship.²¹ In all certainty, these pious women who transgressed the communal provision would rather accept the punishment than neglect what they considered to be a fundamental pillar of their religious life. In so doing, they argued not so much on the basis of moral certainty, nor due to any kind of legal claim, but on the basis of a personal decision that legitimized the preservation of their religious habits and practices. At one point, two of these women, the wives of Jacob Coen Lobato and Daniel de Lemos, were each condemned to pay one *Reichtaler*, after having been sighted inside the synagogue (*Livro da Nação*, I: 473). It

¹⁸ Elected members of the *Mahamad* whose role was to govern the community.

¹⁹ Hana Penso was to commit the same transgression at least twice more, without ever being sanctioned by the *Mahamad* (*Livro da Nação*, II: 257).

²⁰ Also known as the *Cantor*, the religious official who led the synagogal service.

²¹ Two of these instances were consecutive, as shown by the protocol book (*Livro da Nação*, I: 472).

was only after repeated warnings that the *Mahamad* was finally forced to fine these women, with the penalties being essentially more symbolic than preventive.

Bad Faith and Deceitful Female Transgression

Almost all of the cases presented make no suggestion of ill-intentioned transgressive behavior. They are instead, so to speak, transgressions in which the element of hypocrisy or bad faith is entirely absent. The question still remains as to whether instances of deceitful female transgression met with the kind of impetuous response that typically characterized the punishments reserved for men. The next case presents us with a situation in which a woman was involved in a fraudulent scheme, falsifying prescriptions from a communal institution in order to avoid having to pay for medicines intended for her own use (*Livro da Nação*, I: 450). In fact, the “recklessness and audacity” demonstrated by Ms. Queiroz earned her the disapproval of the *parnassim*, who did not hesitate to show their great indignation, acknowledging that she had demonstrated “tremendous insolence, in times of hardship, in seeking to take from the *Hebra*²² what did not belong to her.” However, despite the great scandal caused by the episode, the *Mahamad* refrained from imposing an exemplary punishment, instead producing the following curious statement: “Although her actions deserved greater punishment, we respect the fact that *she is a woman*, as well as a maiden in need, her and the rest of her house.”²³

Needless to say, no fine was imposed on the young girl, and although similar cases involving young men resulted in severe penalties and the performance of a harsh public penance, there was, in this case, no desire to oblige the young woman to atone for her sins. On the contrary, an important distinction was made by the *Mahamad*, based not only on the fact that the offender was poor, but, more tellingly, that she was a woman. This apparently served as a mitigating factor in the final assessment of the case, considerably reducing her chances of being held criminally responsible for her offenses and transgressions. Highlighting through punishment a crucial distinction between men and women in terms of communal discipline and, perhaps most importantly, in their capacity for moral and religious

²² The *Hebra* (*Hebra de Bikur Holim*) was a charitable institution of the Portuguese community of Hamburg, responsible for providing assistance to the poor, sick, and dying.

²³ “se bem isto meresia maior castigo *se respeita o [facto de] ser mulher* y donselas necessitada ella y os mais de casa” (emphasis mine) (*Livro da Nação*, I: 450).

judgment, the terminology used by the *Mahamad* was, in this case, particularly significant for what it implied about the highly submissive role of women within the community.²⁴

In fact, together with most of the examples analyzed so far, this last case seems to suggest that, contrary to what was commonly found in early modern Christian society, women in the communities of the western Sephardic Diaspora were not called upon to take part in the culture of public penance. The consequences of such an attitude, which granted the women of these communities a high degree of leniency when compared to men, effectively contradict an important historiographical current of thought which denies that there was any sort of widespread leniency displayed towards female transgressive behavior in early modern Western Europe (Ulinka Rublack 1999; Garthine Walker 2003: 113).²⁵ It remains, however, to be explained whether the considerations of the Portuguese leaders were based on the gentlemanly ideals of chivalrous virtue and honor, or whether, on the other hand, they revealed a sincere concern for the status and responsibilities of women within the community, namely in regard to their parental and domestic duties as well as other forms of communal responsibilities traditionally performed by women.

Banning and Excommunication of Women

Besides the aforementioned factors, one of the most notable differences between the instances of male and female deviance is the almost complete absence of cases in which women were excommunicated or banned from the community, whether temporarily or permanently.²⁶ As shown by a recent study (Martins 2018: 226), of a total of roughly seventy individuals expelled from the Hamburg community over a thirty-year period, only five were women: Mosa Rata, Hana Tudesca, Ribca Antonia Ladra, Sara Coen de Berberian, and a woman indiscriminately referred to as a “Portuguese female.”²⁷ In general, their offenses belonged to the group of transgressions typically committed by individual women during the modern period, i.e., the purchase of stolen goods, petty theft, and property offenses (Wiesner 2008: 123; Fairchilds 2007: 162). In this context, the most serious offenses committed within

²⁴ The historian Yosef Kaplan (2018: 137) goes so far as to use the term “radical paternalism” to describe the patriarchal model that was prevalent in the communities of the Western Sephardic Diaspora.

²⁵ The counterargument, which supports the thesis of greater benevolence towards female transgression, is defended by Mclynn (2015: 128-129) and Wiener (1975: 39-40). A more conciliatory position can be found in Anne-Marie Kilday (2013: 56-57) and James Sharpe (2015: 169-171).

²⁶ In using the term “excommunication,” I am referring here explicitly to the *herem*, which was a form of expulsion that had a sacred component. Removal from the community without this sacred component is simply referred to as a “ban” and was generally considered to be less severe.

²⁷ The cases mentioned can be found here: *Livro da Nação*, I: 284, 527; II: 121, 162, 186.

the Portuguese community were all, without exception, perpetrated by males. In fact, men were the exclusive perpetrators of most of the serious transgressions recorded in the protocol books, among which were crimes such as vandalism, blackmail, fraud, assault (with or without weapons), whistleblowing (*malsinaria*), all sorts of religious transgressions, acts of disobedience, and even acts of piracy.²⁸ Other male-dominated offenses, such as leading a “low life” (*ma vida*), “idleness” (*ociosidade*), and “depraved vices” (*vícios depravados*), seem to point to a set of attitudes and behaviors collectively perceived as harmful to the moral and ethical standards shared by the community.²⁹

Although their lower share of overall transgressive behavior may account for part of the observed discrepancy, this fact alone fails to paint an accurate picture of the underlying reasons behind the low expulsion rate of women. This is seemingly a feature found in all communities of the Western Sephardic Diaspora and not merely in Hamburg, as confirmed by the records of the Portuguese community of Amsterdam and, to some extent, by those of the London and Livorno communities.³⁰ Beyond the confines of a particular community, the commonality of this feature is partly explained by the specific dynamics of social, cultural, and religious life, but it is also due to the prevailing attitude or mindset shared by the leaders of the Portuguese-Jewish communities of the time. Yet, like all shared aspects, this feature had its own particular patterns and specific moral values. Not all women were viewed in the same way through the eyes of the Portuguese leaders, just as not all men were considered to be alike in their behavior. The Portuguese seemed to clearly differentiate between what they considered to be the legal accountability of women of Portuguese-Jewish descent and that of women of German-Jewish origin, or *Tudescas*, with the latter being more prone to being condemned by the *Mahamad*. This was the case with a number of Ashkenazi women whose lewd or improper behavior prompted the Portuguese leaders to bar them from their masters’ houses (*Livro da Nação*, I: 109, 216).

²⁸ *Livro da Nação*, I: 206, 239, 253, 261-262, 378, 383; II: 49, 165. A detailed account of some of these cases can be found in Martins (2018: 258-283).

²⁹ *Livro da Nação*, I: 45, 120, 384.

³⁰ See the Archives of the Portuguese-Jewish Community of Amsterdam, in the City Archives of Amsterdam (GAA, 334 PIG, Escamoth A; B; C), as well as those of the London community (Ascamoto 5437-5488 of the Spanish and Portuguese Congregation of London, Archives of the Congregation). For Livorno, see Toaff 1990.

The *Mahamad* as a Center of Power

While it is clear from some of the above-mentioned examples that women were treated differently in terms of their transgressive behavior and criminal accountability, this does not mean that they were unable to make use of communal institutions to enhance their own legal power, whether this was symbolic or effective. Women were able to use the communal authority to make themselves heard and to draw attention to the problems related to the domestic sphere in which they operated. This was the case, for example, with David Abendana, who was called before the *junta*³¹ at the request of his wife—Esther Abendana—and severely rebuked for “following an undesirable path” and giving a “bad life” (*ma vida*) to his spouse. Not satisfied with calling Abendana to attention, the *Mahamad* also warned him to change his “lifestyle” or he would be harshly punished in the future (*Livro da Nação*, I: 280). In the same way, women could call the attention of the communal leadership to cases of verbal insults or even domestic violence and make sure that the prevaricator would receive the appropriate punishment, as in the case of Daniel Habilho, who, after verbally insulting his sister-in-law, the wife of Jeosua Habilho, was promptly called before the *junta* and rebuked for his actions (*Livro da Nação*, I: 296).

The two above cases illustrate situations in which women were clearly not disregarded or ignored by the communal authority, nor was their power to intercede with the *Mahamad* any less than that of men, whether in personal or economic terms. Within the communal framework, the *Mahamad* provided a support for women in the handling of cases of domestic violence or in managing problems in the household. These institutions increasingly served as vehicles for women to effectively make use of their own rights and to enhance their power within both the domestic and public spheres, and, concomitantly, to test the boundaries of patriarchal authority in cases of domestic conflict. Such authority was thus restricted, not only on the basis of social rank (wealthy men would be less susceptible to the influence of their spouses when dealing with the communal authority), but also at the level of exposure attained by the female complainant and her ability to call the community’s attention to her specific needs. When cases in which particularly virtuous qualities relating to the patriarchal prerogatives were put to the test, such as the maintenance of a stable and harmonious family life, the *Mahamad* seemed to take charge of the matter, reserving for itself the right to decide in whatever way it considered to be more appropriate.

³¹ The board composed of the community’s elected leaders.

Family scandals and open displays of insubordination often attracted unwanted attention and, in the eyes of the community's leaders, led to a greater laxity in the moral standards upheld by households. The solution would then be to mediate between the two sides whenever possible, applying the appropriate level of severity and reminding the couple of their duties towards the community. Such was the case with Jacob de Tovar, who, for an unspecified reason, expelled his wife from the family home and left her with her mother (*Livro da Nação*, I: 309). His wife, Judica de Tovar, appeared before the *Mahamad*, complaining about the whole situation, stating that her husband ought to do what “honorable husbands do with their wives” and requesting the *Mahamad* to force him to “make his life with me” (*Livro da Nação*, I: 309).³² Appealing to the imperative of family duties, the *Mahamad* sought to convince Tovar to accept his wife, both with the incentive of financial benefits and with threats of severe penalties in the event of his refusal.

Some situations revealed a genuine concern with women's well-being, particularly when their safety was at risk. In cases where husbands exceeded their disciplinary prerogatives, wives had the right to turn to the communal authority in order to seek help and protection from their tribulations. Called upon to intervene, the *Mahamad* imposed its authority as the supreme arbiter in domestic matters, thereby reaffirming the rules of what was permissible and what was unacceptable behavior. In one of these cases, the arrival of Jacob de Matos in Hamburg, and his known tendency to abuse his wife, led the *Mahamad* to assist her in her escape to Amsterdam, guaranteeing funding for her trip as well as two years of *tamid*³³ through the community treasury (*Livro da Nação*, II: 38). Although a serious illness prevented her from ever leaving Hamburg, this case is indicative of the *Mahamad*'s concern with ensuring the protection of women in the community, whether in cases of known domestic violence or threats of imminent abuse by their husbands. By nipping the problem in the bud, the *Mahamad* also prevented domestic problems from slipping into the public domain and attracting the unwanted attention of local authorities.

Criminal prosecutions of men in cases of domestic violence are not known in the protocol book of Kahal Kadosh Bet Israel. At most, the men's power was curtailed through the intervention of the communal authority, requested by the women themselves or resulting from rumors of impending and serious household distress. The *Mahamad* could therefore counsel, advise, and give orders, but its capacity to actually punish domestic violence seems

³² On the issue of the family and its relationship with the *Mahamad* in the Portuguese community of Hamburg, see Martins 2018: 239-258.

³³ A monthly communal allowance granted to the poor.

to have been fairly limited. The vulnerability of women in this respect shows the ambivalence of communal involvement in instances of domestic conflict and the limitations of ill-defined communal injunctions with regard to family life—on the one hand, condemning domestic violence, while, on the other hand, failing to take action against the perpetrator of the violence. Such a contradictory attitude displayed by the *Mahamad* effectively blurred the boundaries of communal authority, especially when the prerogatives of male dominance and sovereignty within the household were involved. In the present case, we can only conjecture about the possible motivations for not intervening in what was certainly one of the few cases in which the behavior of the transgressor, or, more precisely, the male transgressor, went unpunished.

Although the scarcity of cases of female transgression does not permit an analysis of the different types of attitude displayed towards women of a lower class and those of an upper social rank, it is clear in the case of many male transgressions that wealth and social status heavily influenced the attribution of guilt and punishment, as well as the fact that those implicated in such transgressions may or may not have held some kind of communal office within the congregation (Martins 2018: 229-230). Other factors, such as age, a good reputation, education, and religious zeal, as well as proof of *modestia* and *bom judesmo* (modesty and “good Judaism”),³⁴ could be considered attenuating factors by the *Mahamad* in its dealings with transgressors. Another very important factor for the application of punishment was the space in which the transgression had taken place. If the transgression took place in a sacred space, then the possibility of a more punitive decision by the *Mahamad* would be considerably higher, as we saw earlier in the two cases involving a transgression in a synagogue. In both of these cases—the pious women being allowed into the synagogue and the men accompanying the women after the end of evening prayers—the *Mahamad* resorted to a punishment in the form of a pecuniary fine.

Cooperation, Negotiation, and Manipulation

The fact that women were less inclined to challenge the decisions made by the *Mahamad* or to enter into open disputes often served as a mitigating factor in their final condemnation. Far from surprisingly, their submission to the *Mahamad* was entirely predictable; due to the strong social and professional barriers that they faced, they would, unlike men, be less likely to secure a livelihood outside the community. In fact, the shared

³⁴ On the concept of *bom judesmo*, see Kaplan 2002.

assumptions of their dependence on the patriarchal organization of the community, both domestically and externally, helped to facilitate much of their relationship with the communal authorities. Rarely did women judge, comment, or otherwise publicly contradict the views expressed by the *Mahamad*. On the contrary, unlike men, they demonstrated a greater willingness to cooperate and negotiate in the face of adversity.

Such was the case, for example, with a Portuguese woman called Abarbanela, whose debt to the post office where she worked led the *Mahamad* to dismiss her, ordering the immediate payment of 24.15 *Reichtalers* (*Livro da Nação*, I: 131). Returning the next day to meet with the governing board, Abarbanela asked the *Mahamad* to reconsider their decision, arguing that she would not be able to support herself without her livelihood. Insensitive to her requests, the *Mahamad* refused the proposal outright, forcing Abarbanela to put forward an alternative solution: she undertook to show the receipts of the post office every fifteen days, pointing out that if she failed in her responsibilities, she would personally recognize the “fairness” of her dismissal before the *Mahamad* (*Livro da Nação*, I: 132). Her proposal was accepted by the syndics of the community, who negotiated the terms of the new contract with Abarbanela. From then on, all invoices were to be paid immediately, with the *Mahamad* reserving the right to determine what it considered to be the most appropriate procedure in her particular case. Four days later, an official statement issued by the *parnassim* granted Abarbanela the right to return to her post, provided that she fulfilled her financial obligations without fail (*Livro da Nação*, I: 132, 134). Indeed, no mention was made of her debts, from which we may easily assume that the community treasurer (or the *Mahamad* itself) would have assumed full responsibility for these, as was often the case.

In addition to cooperation, negotiation, or even discord, the dynamics of the relationship between women and the *parnassim* could be sporadically marked by manipulation in which women used the power of the communal authorities to their own personal advantage. In such cases, their roles were redefined according to their ability to turn an unfavorable situation into a more beneficial one, making use of their new condition to exert pressure and influence. The case of Raquel de Casseres is particularly elucidatory in this respect. When ordered by the *parnassim* to expel her son Abraham Selomoh de Casseres, Raquel expressed her strong reluctance to obey, arguing that, considering his youth, such a decision would only increase her son’s vices (*Livro da Nação*, I: 438). The *Mahamad* then sought to persuade her to act “for the good of the community,” going so far as to offer financial compensation for her to send her son away. Yet, despite having accepted this assistance from the community treasury, Raquel’s unwavering determination prevailed, and

she failed to comply with communal orders, even speaking freely to the *bacham*³⁵ of the community on one occasion.³⁶ What then followed made each side's position quite clear: the *Mahamad's* inability to secure a safe and satisfactory outcome for the case, and Raquel's manipulative endeavors to consciously postpone that decision whilst generating financial advantage from it.³⁷ In taking advantage of her parental responsibilities as a way of gaining financial benefit, Raquel's case provides a clear example of how parental authority could be manipulated to obtain a communal influence in relation to domestic affairs, and how some women used this dynamic to negotiate favorable outcomes.

Final Remarks

This study has demonstrated that gender did in fact play an important role in the prosecution and punishment of transgressive behavior in the Sephardic community of Hamburg. As shown through the analysis of the various cases presented, not only were decisions based on the sex of the transgressors but gender also constituted a key criterion for determining the guilt of the transgressor, the type of punishment attributed, and its level of severity. The fact that gender affected the nature of the punishment that was given is in itself significant. However, the fact that it was very much at the forefront of the *Mahamad's* decisions obliges historians to completely reconsider early modern Sephardic perceptions on gender beyond the restricted scope of transgression and punishment.

The fact that women were rarely held accountable for their transgressions—especially when compared to their male counterparts—reveals a reluctance that seems to have pervaded the attitudes of the *Mahamad* when judging such matters and that was based upon two more or less clear assumptions. On the one hand, it derived from the nature of the communal organization and its socio-political constraints: the widespread assumption that the community's statutes were addressed expressly towards men in their conception, observance, and supervisory responsibility, and that, as a consequence, the culpability of women was reduced, just as it was also considered that women were far less likely to commit transgressions or to have the capacity to understand the statutes themselves. This situation is demonstrated by the conciliatory and often condescending tone used by the Portuguese *Mahamad*, demonstrating a patronizing attitude towards women in general. Secondly, such

³⁵ The *bacham* (pl. *bachamim*) was the salaried rabbi of the community.

³⁶ *Livro da Nação*, I: 438.

³⁷ *Livro da Nação*, I: 447, 464, 465, 474; II: 26, 98, 99, 105, 105a, 157.

attitudes were based on sex: in principle, women were less likely to be incriminated due to the very fact that they were women (as clearly stated by the *Mahamad* itself, on one occasion). Lying at the origin of this mindset was a distinction conceived by the Portuguese leadership, which viewed women as less suited to receiving punishment and considered punishment itself as something that ought not to be applied to women (the absence of women performing acts of penance in public ceremonies attests to this fact). Therefore, not only was there leniency towards female punishment in general, but, when it was applied, the penalty was often less severe than that given to men.

On the other hand, despite their relative unaccountability in the case of deviant behavior, women were not reluctant to demand what they considered to be their rights. Women could still make use of the community's leaders to enhance their power within the domestic sphere, whether by receiving their support for a stable and orderly marital life, or in defending themselves against domestic violence and impending threats. Whereas disagreements and aggressive behavior seem to have been quite normal features among men, women showed a remarkable tendency for cooperation, negotiation, and even for manipulation, qualities that almost certainly compensated for their inferior social status, broadening the range of options available to them in their dealings with the *Mahamad*.

As this would have required the consideration of elements of continuity which the available sources are largely unable to provide due to their fragmentary nature, the origin and development of these above-described gendered attitudes were omitted from this study. Despite this, however, it would be instructive to compare the attitudes of the ruling elite towards women during the first years of the community's existence, a period in which the emergence of public institutions caused the transfer of crypto-Jewish female prerogatives to the domain of male and public authority. Given the practical impossibility of assessing this information in the case of Hamburg, its relevance nonetheless remains as crucial as ever, especially given the specific circumstances surrounding gender power relations in Sephardic history at that particular time.

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