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Customs, Rites, and Popular Traditions: Domestic Sphere and Family Life Among Women of the Portuguese Nation

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Abstract

The domestic sphere and its relationship with communal authority in the Portuguese Nation of Hamburg is the main point under analysis in this study. The article analyses how certain customs, rites, and popular traditions were progressively transferred from the private sphere to the scope of communal authority and, correspondingly, how this expropriation was granted and even negotiated by members of the community. This work will seek to understand the real extent of central power in the various parties involved, and in particular among women, as well as how it was justified and applied and, above all, its long-term socio-political consequences.

Keywords

Domestic life, Women, Jewish community, Portuguese nation, Hamburg

Resumo

A esfera doméstica e a sua relação com a autoridade comunitária na Nação Portuguesa de Hamburgo são o principal objeto de análise deste estudo. O artigo analisa a forma como certos costumes, ritos e tradições populares foram progressivamente transferidos da esfera privada para o âmbito da autoridade comunitária e, correspondentemente, como essa expropriação foi concedida e até negociada pelos membros da comunidade. Este estudo procurará compreender a real dimensão do poder central nas várias partes envolvidas e em particular entre as mulheres, bem como a forma como foi justificado, aplicado e, sobretudo, as suas consequências sociopolíticas a longo prazo.

Palavras-chave

Vida doméstica, Mulheres, Comunidade judaica, Nação portuguesa, Hamburgo

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Introduction

A recent study on the relationship between women and communal discipline in the Portuguese-Jewish community of Hamburg in the seventeenth century emphasized the absence of cases of excommunication and/or expulsion among women in that community (Martins 2021a). The ubiquity of this phenomenon (which can also be observed in other communities of the Portuguese Nation) seems to allude both to the specific social and cultural dynamics of Portuguese society and to a dominant attitude shared by the leaders of the Portuguese-Jewish communities of the time.[1] At the origin of this mentality was, according to the study's thesis, a distinction made by the Portuguese leadership based on gender, which idealised women as less fit to receive punishment, and punishment itself as something essentially not reserved for women. In this context, therefore, not only was there a complacent attitude towards the punishment of women in general, but when applied, these were milder than those generally reserved for men.[2]

In fact, contrary to what was the norm 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 contradicts an important historiographical current which denies any sort of widespread leniency towards female transgressive behaviour in early modern Western Europe (Rublack 1999; Walker 2003: 113). It remains, however, to be explained whether the considerations of the Portuguese leaders were based on the gentlemanly ideals of chivalrous virtue and honour, or whether, on the other hand, they revealed a sincere concern for the status and responsibilities of women within the community, namely regarding their parental and domestic duties as well as other forms of communal responsibilities traditionally performed by women.

With this in mind, the present study aims to pick up where the previous one left, that is, instead of focusing on the visible consequences of this phenomenon, namely, on matters of female transgressive behaviour, it seeks to understand the broader institutional basis on which these attitudes were founded by exploring essential aspects of the female communal

[1] On the Portuguese Nation of Hamburg, see Kellenbenz (1958); Whaley (1985); Studemund-Halévy (1994–97 & 2000); Kaplan (1994); Salomon and Leoni (2001); Braden (2001); Wallenborn (2003); Poettering (2013); and, more recently, Martins (2022).

[2] For an overview on female transgression in the community of Hamburg and the question of the gendered treatment of offenders see Martins (2022: part III, Ch. 1–2).

world, in particular questions of women's role in the domestic and family sphere as well as their condition in relation to the institution of marriage, divorce and other regulated issues. By doing so, the current study pretends to map or at least sketch the origin and development of these above-described gendered attitudes in order to analyse the mindset of the ruling elite towards women. While, for lack of documentary evidence, this is impossible to ascertain for the first years of the community, time during which the emergence of public institutions caused the transfer of crypto-Jewish female prerogatives to the domain of male and public authority (Melammed 1999; Frade 2009), it is however possible to achieve in the second key turning point of the community's history, the period that encapsulates its process of institutional centralization.[3] Taking off with the congregational merger of 1652 and lasting up to the 1680s approximately, the process of centralisation sought to legitimize a comprehensive orthodoxy for all community members by extending communal regulations into household life and curbing popular traditions, customs and rites generally. Given that the community continued to congregate in different places of worship after the merger, preserving, for all intents and matters, the physical, social and religious boundaries that separated the different congregations since its inception, centralisation was seen as the only way of ensuring the peaceful transition of congregational loyalties to a stable and lasting unification (Martins 2021b: 2–3). On the other hand, the development of distinct norms and practices, made possible by the parallel evolution of different congregations within the same community, meant that any efforts to homogenize religious practices encountered strong congregational opposition. In this light, the position, status, and fate of women depended, in great part, on these wider political and religious issues and it is precisely against this backdrop that the current article intends to frame its analysis, viewing the condition of women as a function of their own agency, but also, as a result of these wider social forces to which they were inextricably linked.[4]

Extension of Communal Regulation to Customs, Rites and Worship Places

Extreme vigilance on the part of the locals and the Lutheran clergy played a key role in the progressive transformation of the religious life of the Portuguese community in

[3] On this key period in the community's history and the various conflicts that characterised it, particularly at a political level, see Martins (2021b).

[4] For an introductory account on the cultural, social and economic roles of women in the communities of the Western Sephardic diaspora, see the edited volume by Lieberman (2011). Other important studies include Levie Bernfeld (2017 & 2019).

Hamburg, with ceremonies, rituals and the main public observances taking on an increasingly clandestine character. While regulation of popular customs and traditions became common place in the larger Jewish world during the early modern period (Kaplan and Carlebach 2021: 169–192), such restrictions were quite exceptional in the Western Sephardic diaspora. In no other community of former converts, apart from those located in France, were their leaders forced, for fear of reprisals or pressure from local authorities, to restrict aspects of custom and religious tradition.[5] While this situation represented a strong limitation on the religious aspirations of the Hamburg community, it allowed the *Mahamad*, its yearly elected secular government, greater leeway to pursue its centralising designs on the family sphere, and, in general, greater power to control the religious and social life of the community.

The extension of communal regulation to rites and customs belonging to the family sphere had on the other hand, the purpose of institutionalizing religious life at the communal level in the wake of the congregational unification of 1652. Such process affected women necessarily as the domestic space became increasingly regulated and the sacred shifted irrevocably from the private to the public realm. This fact did not, however, prevent the *Mahamad* from pursuing its centralising purpose over the community as a whole and legitimising, for the first time in the community's history, an all-encompassing religious orthodoxy.

Legislation on Religious Festivals: Simchat Torah and Purim

One of the first traditions to be transferred from the family sphere to the public domain was the custom of accompanying the bride and groom from their home to the synagogue. In order to avoid the alleged "scandal" caused among Christians by the "great entourage" accompanying the wedded couples in procession to the synagogue, the Portuguese leaders decreed a rather specific set of restrictions to be taken during Simchat Torah.[6] Henceforth, only the *hacham*—the appointed communal rabbi—and the *parnassim*[7] would be allowed to accompany the bride and groom, who would be in charge of picking them up from home and bringing them to the said congregation, with all calmness and discretion. The restrictions also aimed at keeping the sobriety of the sacred space during the

[5] For purposes of comparison, only communities comparable in size and importance are considered in the present case, excluding the Portuguese-Jewish communities in the south of France.

[6] Staatsarchiv Hamburg (StAHH), Jüdische Gemeinden 993, Protokollbuch (1652–1682), Band I: 79 (referred to hereafter as *Livro da Nação*). Unless otherwise noted, all translations are mine.

[7] *Parnassim* (sg. *parnas*): the elected members of the *Mahamad.*

festive period: some objects were prohibited in the congregations as were invitations from people from outside the Nation. In addition, myrtle arches were forbidden among the ornaments used to decorate the synagogue, and only "flower bouquets" were permitted. All houses of study (*midrassim*), without exception, would scrupulously observe the closing times of their *esnogas*,[8] which, in order not to result in greater disorder, would take place after the last recitation of the day, by the respective officials.[9]

The Purim festival was also not spared the rigorist impetus of the Portuguese *parnassim*. The widespread custom among the Jewish world of drumming during the reading of the "Megillah of Esther," both on Purim and on Shabbat Mi Chamocha, was heavily restricted by the *Mahamad* of Hamburg, eventually being banned entirely on 2 March 1659 (*Livro da Nação*, I: 134). Although the custom was also banned in the Amsterdam community around the same time, evidence suggests that different reasons prompted both communities to take the same decision. Indeed, according to Yosef Kaplan (1999: 58), the banning of the custom in Amsterdam was motivated mainly by aesthetic and cultural considerations, in particular the widespread belief among the *parnassim* that it represented an archaic and barbaric vestige of the past, a tradition unworthy of "civilised people." In Hamburg, however, the situation proved to be considerably different. Rather than a choice freely determined by communal leaders, the banning of the tradition seems to stem from constraints external to the community, coming in the wake of several warnings from the Senate regarding the major "scandals" and "excesses" caused by the feast. As the entry in question in the protocol book shows:

> And because the mahamad has been warned of the scandal that can result from the excesses that are used in the drumming which can harm our quietness as well with the feet as with hammers or in any other form, and because there is no obligation in this, as the hahamim informed us, it seemed convenient and necessary, that this custom be totally extinguished and that no one be allowed to drum on such occasions, neither on Purim nor on Sabat Micamocha, with an instrument nor without it and that the parnasim and rubisim of talmud tora be ordered to be very careful that the boys observe this and be as quiet as possible. (*Livro da Nação*, I: 134)

[8] *Esnogas*: synagogues. Due to Lutheran opposition, the Portuguese continued to congregate in separate sites following the congregational merger. These *midrassim*, as they were called, were later dissolved as part of the centralisation process. See Martins 2021b.

[9] *Livro da Nação*, I: 79.

On the other hand, the Portuguese leaders considered that the humorous and subversive tone of the Purim festivities could easily slide into conflict with the local Christian population. Thus, and because "everything was contrary to our preservation and good government," the leadership ordered, on 8 March 1656, the publication of a new decree that aimed precisely at regulating the excessive behaviour of the festivities during the festival, alluding to the many "inconveniences" that could result from it. It was thus forbidden "to all kinds of people . . . on these days and nights, before and after [the festival]" to wear masks and "disguised" costumes, as well as to walk through the streets "with loud noises and banging" (*Livro da Nação*, I: 51). Furthermore, the Portuguese leaders asked all the heads of household, to make sure that these laws were observed and kept as well "for their servants," so that "by behaving modestly there would be no occasion for complaint [but] rather for some to achieve praise" (*Livro da Nação*, I: 51).

The transgressions of this decree were not long in coming. Less than a week later the *Mahamad* was forced to fine the many who had violated the newly introduced order, causing great "scandal" by taking to the streets in disguise. Apparently even some of the *Mahamad*'s members were at fault and were obliged, out of due respect, to pay the double fine (*Livro da Nação*, I: 53). Renewed subpoenas in 1657, 1659, and 1660 to the masks and instruments decree offer interesting evidence of the high level of resistance offered by communal members (*Livro da Nação,* I: 87, 133, 178). The curtailment of customs and traditions strongly rooted in the cultural heritage of the Portuguese, first as New Christians and finally as Jews, was clearly more difficult to impose in practice than on paper. Despite this fact, the *Mahamad* continued its determined and unflappable fight against all forms of popular expression which it believed could threaten the conservation and good governance of the community.

The Ceremonies of the Jewish Life Cycle: The Naming of the Newborn Child, Circumcision, and Marriage

One of the most heavily legislated ceremonies in Hamburg was the ceremony of naming the newborn child. An essential part of the religious life cycle, in which the father had the honour of performing *shurah*, that is, of distributing *misvot*[10] to family and friends in a festive celebration, this tradition was progressively displaced from the family sphere to the public realm, its institutionalisation consisting in one of the most obvious cases of delegitimization of family power and consequently of women's centrality in the domestic

[10] *Misvot* (lit: commandments) were the various charitable works carried out by the members of the community.

ritualistic domain. In a decree passed on 21 March 1655, the *Mahamad* expressly forbade holding the *shurah* in private homes, which henceforth could only be held in the general congregation or, with rare exceptions, in the *midrassim*.[11] The freedom of parents or "shurot owners" (*donos de surot*) to call for a speech as many guests as they wished during the ceremony was also subjected to scrutiny. Reversing its previous position, the *Mahamad* now ordered that "any person who is to go up to give a speech in the general congregation must identify himself to the lords of the government so that they give him license for such one day before the shura and without it he will not be admitted."[12] With this the *Mahamad* sought to limit the public exposure of marginal elements to the community, proceeding to a scrupulous discrimination between deserving and underserving individuals for the honour of performing the speech (*darsa*). On the other hand, and as mentioned above, only parents of boys were entitled to perform the *shurah*. Although, at least during an early stage, the naming ceremony extended equally to girls, such practice was eventually banned from the public and sacred space of the synagogue and relegated to the domestic sphere of the private home.[13]

Another tradition strongly associated with the family sphere, marriage, was also subject to restrictions by the central authority, which sought from the outset to implement various provisions to restrict both the number of participants and the public display of the ceremony. At the heart of the *Mahamad*'s concerns was reportedly the "great scandal caused in the land by the excesses of public gatherings," which forced communal leaders to take restrictive measures to prevent any confrontations with the Christian population (*Livro da Nação*, I: 153). Thus, it was stipulated that no more than 20 men and 12 women should be present at weddings, a decree that also applied to circumcisions or *beretiot*, as they were known. The interconfessional nature of the ceremony was also called into question, with the *Mahamad* expressing indignation that "on occasion of weddings single men went out dancing with strange women" (*Livro da Nação*, I: 91). A new statute (*escama*) implemented months later would effectively prevent these more intimate contacts from taking place and claiming in its defence the "disturbances" caused by dancing at weddings, the *Mahamad* decreed that

[11] "(…) It is ordained and declared that all persons who have occasion of circumcision or marriage are obliged to come and make their suroth to the general congregation, without there being anyone who can exempt himself from this, except in the case of urgent reasons that, in consultation with the lords of the government, are found sufficient to be exempted from this obligation." *Livro da Nação*, I: 40.

[12] "(…) hordenão agora os senhores do governo que coalquer pessoa que aya de subir a darsar na congregação geral se nomee aos senhores do governo para que lhe deem lisenssa pera o daras hum dia antes da sura e sem ela não sera admitido." *Livro da Nação*, I: 45.

[13] In Livorno, the naming ceremony for girls was also subject to restrictions by the *Mahamad*, who limited the number of guests to just seven people. If it coincided with male ceremonies, such as the naming of boys or the groom's feast, no guest would be allowed to ascend the *teba*. See Liberman (2011: 147–148).

henceforth "no man or woman of any quality whatsoever may go out dancing," under the heavy penalty of 50 marks (*Livro da Nação*, I: 94).

The circumcision ceremony, like marriage and the naming of the newborn child, was heavily regulated by the government. Restrictions on gatherings followed the same style as those imposed in the context of weddings—no more than 20 men and 12 women—with restrictions being placed on the popular custom practised by families of accompanying the ceremonial entourage to the house of the *mohel*.[14] Thus, the government ordered that, "if circumcision is not to take place in the same house and if the child is taken to another, it should be as modestly as possible without any accompaniment or following of men or women" (*Livro da Nação,* I: 153–154). The presence of Christians, although modest, was regularly felt in some festivities, leading the *Mahamad* to forbid, for fear of "scandals" and other inconveniences, the attendance of *goym* in the homes of the Portuguese, especially during "the act of berit."[15] The *mohelim* were also warned not to perform any circumcisions in the presence of Christians. All transgressions of the new rules would be strictly repressed, as demonstrated by the 200 marks penalty applied to Dr. Jeosuah da Fonseca, for the "excesses" committed "at his son's shurah against the good government of the nation" (*Livro da Nação*, I: 40). In addition to these restrictions, a new ruling enacted on 30 November 1665 aimed to exclude the blessing of *miseberach*[16] from all "wedding meals or beretiot," reserving its performance only by authorised persons and within the appropriate space: the main synagogue.[17]

Various indications lead one to believe that the degree of observance of such regulations was anything but ideal, both among the population and in the more restricted circles of secular and religious authority. Among the transgressors of some of these decrees was, for example, the Nation's *hacham*, Izaque Jessurun, who would have exceeded the restrictions on the number of people invited for his daughter's wedding.[18] Others used more

[14] *Mohel* (pl. *mohelim*): the individual who performs the ritual of circumcision.

[15] The invitation of a *goym* for the circumcision of Jehosua Habilho's son leads the *Mahamad* to enact a new statute: "as the Mahamad has been warned of the great inconvenience and harm to our nation resulting from the presence of Goym in circumcisions, it orders that all those who conduct this misva in their house to not consent any Goy, and if anyone is found . . . he will pay 30 marks . . . and the Moelim are also warned not to make any circumcision with the above-mentioned prohibited persons, and in contravention of this order they will be punished." *Livro da Nação*, I: 251.

[16] *Miseberach*: prayer recited in a variety of contexts to request blessing.

[17] "It has been decided and it remains for statute that in wedding meals or circumcisions one may not say a miseberach to offer contributions to the hazanim or other persons and it is noted in the book of statutes." *Livro da Nação*, I: 303.

[18] On Izaque Jessurun transgression during his daughter's wedding see *Livro da Nação*, I: 272. On Izaque Jessurun's mandate as *hacham* of the Portuguese community of Hamburg see Martins (2019a: 210–115).

creative ways around communal restrictions, such as Abraham Benveniste, who proposed to dispense with women entirely in order to invite 32 men to his wedding party instead of the 20 allowed (*Livro da Nação*, I: 21); or even Selomoh Cohen, who requested to call 40 people to the wedding of his two sons, which, in view of the fact that there were two grooms, it seemed to him "not to be against the escama" (*Livro da Nação*, I: 102). These and other attempts, all rebuffed by the *Mahamad*, demonstrate the extent to which families were ready to circumvent communal interference in traditionally private matters.

These transgressions also included other delimitations of a more specific nature concerning the noise levels allowed in such gatherings, as well as the activities practised. Thus, the practice of any activities involving dancing, music and instruments, even if performed in the quietness and privacy of home, would be forbidden (*Livro da Nação*, I: 146). Several indications suggest that, at least in this aspect, the motivations of the Portuguese leaders were not restricted merely to external considerations, that is, concerns with the possible popular repercussions of such festivals. In fact, dancing as a route to moral debauchery and sexual libertinism among Portuguese young men, especially towards women of other religious denominations, seems to have been a much more compelling and fundamental reason behind the authorities' decision to ban this form of activity.

The policing of courtship practices, as were often the dances in festivities, and the limitation of intimacy and physical contact, allowed not only the restriction of erotic impulses among young unmarried people, but also illicit sexual activity such as adultery, which in turn led to other serious problems such as marital instability and illegitimate conception. It was perhaps these concerns that motivated the Portuguese *parnassim* to implement, on 28 April 1658, a new law stipulating specifically who could dance with whom on such occasions. In fact, the new decree ordered that, henceforth, on occasions of "feasts and holydays" all kinds of dancing between men and women were forbidden, except those performed in first-degree kinship, that is, "father with daughter, son with mother and brother with sister" (*Livro da Nação*, I: 108). Evidently, such decree did not imply dances of same-sex couples, which, for all intents and purposes, continued to be licensed as long as they remained properly segregated (*licenceão toda aquela que seja de homens aparte ou mulheres aparte*).[19]

On the other hand, the shows performed by German Jews or *tudescos* in Portuguese homes involving music, dance and traditional forms of cultural expression were, in the opinion of the Portuguese leaders, a true attack on modesty, tarnishing the good name of the

[19] "All those [dances] are licensed provided they are segregated between men only and women only". *Livro da Nação*, I: 108.

Nation. A new *escama* decreed on June 26, 1659, prohibited any member of the Nation to consent in his house "tudesco dances with instruments or without them and if someone exceeds this statute they are immediately condemned in 12 Reichsthaler" (*Livro da Nação*, I: 147). An interesting aspect of the present case is the way it reveals, implicitly, some of the fears nurtured by the Portuguese leaders regarding the growing social and cultural proximity between the *tudescos* and the Portuguese Nation. Apparently, the dissolution of the barriers of coexistence between the two groups was perceived by the Portuguese syndics as harmful to the image of the Nation, and as a potential factor of corruption of the "aristocratic" ways and of the "noble" manners recognized to the members of the Portuguese community. In this context, prohibition was thus viewed as necessary to impede the progress of this relationship, placing social barriers in order to reinforce the feeling of distinction among the Portuguese and thus avoid their "mixing" with a perceived inferior culture.

Regulations on Conduct, Dress, and Other Aspects in Sacred Spaces

One of the first concerns of the communal leadership was the need to control popular tempers during religious celebrations. The festive atmosphere that characterised many of the ceremonies of the Jewish calendar were particularly propitious moments for the manifestation of riotous acts within the synagogue space. Not conducive to the solemnity of the place of worship, such activity would lead the *Mahamad* to implement a long list of statutory changes aimed at regulating behaviour, dress, liturgical service, and other essential aspects of synagogue life. These were aimed precisely at reinforcing the sanctity of the community's main sacred space, an objective to which the main religious and secular authorities were committed, as we shall have the opportunity to analyse in greater detail in the next few lines.

In order to prevent future scandals or riots, the two rabbis of the community—Izaque Jessurun and Mose Israel—proposed to the *Mahamad* some suggestions to promote good conduct and solemnity on the holy days. Thus, they recommended that for the eve of Yom Kippur, as well as on Rosh Hashanah and Pesach, only "persons decent to the holiness" of such days be permitted to read the Torah (*Livro da Nação*, I: 213). They also suggested that the distribution of the *misvot* should be carried out more scrupulously, and only by worthy people of the Nation, in order to avoid some of the "inconveniences" registered in past years. Clothing within the synagogue was also invoked by the *hachamim* as an aspect to be considered. Concurrently, the first sumptuary laws were enacted, strongly restricting the

dress of women and children, as well as to a lesser extent, those of men (*Livro da Nação*, I: 301, 389).[20] Finally, and "to avoid scandal," the rabbis recommended that no "Christian girl came to blow out the candles" on the night of Kippur, an activity that would be replaced from then on by a man, preferably a local Christian (*Livro da Nação*, I: 213).

The *kadish* prayer,[21] usually accompanied by the going to the *teba* of countless congregants—both to make donations and to recite their own *kadish*—often resulted in an uncoordinated and chaotic atmosphere.[22] Although, contrary to what happened in the Livorno community, no decree or regulation specifically prohibited women from reciting the *kadish*, the mourning prayer nevertheless remained strongly supervised by the *Mahamad* of Hamburg.[23] By forbidding its recitation to people who died in the "lands of idolatry," that is, in Spain and Portugal, the *Mahamad* effectively restricted the influence of the family over sacred matters, exerting control over who did or did not have the right to be remembered within the community (*Livro da Nação*, I: 104).

The confusion generated by the many members who went to the place of the bride and groom in order to congratulate them also merited the attention of the syndics. On 15 August 1666, a new communal decree stipulated that, from then on, no one should come "from their seats to the bride and groom's and to the baale beritiot to congratulate them because of the great uproar and confusion this causes in the congregation" (*Livro da Nação*, I: 325). Furthermore, the decree stressed that whoever intended to make *promessas*[24] or any type of alms to the bride and groom, should do so "outside the synagogue or in their own homes" (*Livro da Nação*, I: 325). The custom of escorting the *noivos de lei*[25] to their seats in the synagogue had previously been restricted by the *Mahamad*, which had legislated years earlier that only relatives "to the degree of nephew and cousin," together with "their respective godparents, the parnas president and the hazan" would be allowed to escort the bride and groom to their seats (*Livro da Nação*, I: 218). Excluded, due to the inconvenience caused, would be the "accompaniment that relatives and friends usually do to the bride and groom

[20] On similar dress restrictions in the community of Amsterdam see Bernfeld (2017: 94). On the history of sumptuary laws more generally see Riello and Rublack (2019).

[21] A hymn recited by the relatives of recently deceased individuals.

[22] See the disagreement between Mordochai Chilão and Jeosuah Habillo in *Livro da Nação*, I: 322.

[23] At no point throughout the thirty years considered is there any mention of prohibiting the recitation of *kadish* by women. Such a situation differed considerably from the case of Livorno, where communal statutes prevented it. See Galasso (2011: 112–113).

[24] *Promessas*: voluntary donations.

[25] The *noivos de lei* ("bridegrooms of the law") were tasked with reading the final and initial sections of each annual cycle of Torah reading. Numbering two—*hatan tora* and *hatan beresit*—the *noivos de lei* were appointed only to the general congregation Bet Israel.

and Abelim, taking themselves out of their seats and disturbing those who occupied them" (*Livro da Nação*, I: 218).

The disorderly movement of congregants would reach such a point that the *Mahamad* was forced to legislate on the *promessas* made in the synagogue, restricting the number of people allowed to ascend the *teba*. On 15 January 1660, a new statute provided that at all "general and particular occasions" such as those for *shurot*, *beritot*, betrothal, Simchat Torah, Bar Misvah, rogation for the sick and *escava*, permission was only granted to parents, children and siblings to ascend the *sefer torah* (*Livro da Nação*, I: 176). Such a statute was intended to prevent several problems simultaneously. On the one hand, it avoided the chaotic movement of congregants during the *promessas*, which caused and facilitated the departure of many *jechidim*[26] from the synagogue, "without waiting as they should the end of the prayer" (*Livro da Nação*, I: 176). On the other hand, by considerably limiting the number of *promessas*, they put greater pressure on those called to *sefer torah*, encouraging larger individual contributions and penalising those who, for one reason or another, refrained from contributing.[27] In short, as mentioned by the Portuguese leaders, the new decree aimed to remedy, at a stroke, the "great inconvenience, little cause and limited benefit that results from the ordinary promessas that are made in this K. K. [Kahal Kadosh]" (*Livro da Nação*, I: 176).

Extension of Communal Regulation to the Domestic Sphere

Apart from addressing specific imperatives of centralisation, the extension of communal regulation was also observed in traditionally domestic areas such as marriage, divorce, married life, inheritance, and wills. Unlike the previous cases, in which the Hamburg community represented an exception to the rule concerning restrictions on popular customs and traditions, all Portuguese-Jewish communities in the Western diaspora passed legislation to regulate various matters concerning the marital and domestic sphere. In general, the trend towards an increasing involvement of the *Mahamad* in family affairs resulted not only as a matter of mere religious motivation, but also as a counterpoint to the political power increasingly assumed and claimed by families following congregational unification (Martins 2021). While, in effect, the new laws produced a significant shift in the balance of power

[26] *Jachid* (pl. *Jechidim*): full members of the Nation (generally those who pay the regular annual taxes).

[27] Ishack da Fonseca would cause the *Mahamad*'s anger by refusing, "out of spite," to make a *promessa* to the congregation on occasion of his call to sefer Torah, as well as to contribute with oil for the *escava* of his dead relatives. As punishment, the *Mahamad* forbade Fonseca from being called to the Torah again for the rest of the year. *Livro da Nação*, I: 504.

between families and the *Mahamad*, the latter nevertheless often proved limited in their law enforcement abilities. In this regard, the following lines will seek to explore some of the key features between the increasing political ambitions of the central government on family affairs and, in turn, how these were received by communal households throughout the period under review.

The Control of Marriage: Regulations on Matrimonial Matters

As the most important family institution, marriage was particularly targeted by the *Mahamad*, and was heavily supervised by the central administration from its formation to dissolution. Undoubtedly, such supervision obeyed not only the interests of the ruling families and clans—which, through property management preserved their dominant position in the hierarchical structure of the community—but also served an important social and cultural function, by preventing the infiltration of elements alien to the body of the Portuguese Nation, namely, Ashkenazi Jews and Christians.[28] In this way, institutional control over marriages and their instrumentalisation for political purposes was an essential aspect of communal life, exerting an undeniable influence on preserving the eminently "Portuguese" character of the community and preventing its cultural dissolution through contact with the surrounding society.

Indeed, to become effectively recognised by the Nation, all marriages had to receive the *Mahamad*'s prior permission. David Oeff, for example, had to wait some time before he was granted permission to marry (*Livro da Nação*, I: 477). Izaque Habilho, a protracted absentee in the "lands of idolatry," was subjected to a lengthy process of penance (*teshuvah*) before he was finally granted permission to perform his *shurah* (*Livro da Nação*, II: 57). In other cases, the *Mahamad* expressly prohibited marriages whenever they involved doubtful or problematic elements. Sara Abarbanel, for example, was prevented from marrying Heliao Aboafe and threatened, in case of non-compliance, with "the slashing of subsidies" and, in addition, with the obligation "to take her daughter to Amsterdam" (*Livro da Nação*, I: 409).

[28] In Hamburg, this supervision became even more important in the context of the influx of *tudescos* in the early 1650s. In order to preserve the social, cultural and economic barriers to coexistence between the two groups, as well as more generally in relation to the surrounding society, Hamburg's Portuguese leaders felt the need to impose restrictions on marriage and other aspects of family life. Such restrictions also existed in other communities of the Portuguese Nation. In Surinam and Curaçao, for example, marriages with Ashkenazi Jews were strictly forbidden by the *Mahamad*. In Amsterdam in 1671, the *tudesco* spouse of a Portuguese woman would be refused burial in the Nation's cemetery and barred from the community. Years later, in 1697, a new law stipulated that any man who married a woman from outside the Nation would be deprived of his *jachid* rights. See Arbell (2002: 335) and Bell (2008: 118).

The reason for the *Mahamad*'s opposition in this case is not clear, although it can be assumed that, at some point, Aboafe had fallen out of favour with communal leaders, becoming an undesirable element.

The politicization of the family sphere becomes especially important through the implementation of statutes concerning parental consent to marriage. The recurrent phenomenon of clandestine marriages, performed illicitly without the endorsement of communal authorities or parental consent, constituted a factor of social disruption in the eyes of the leadership, which sought by all means to prevent the normalization of this practice. According to rabbinic tradition, to be considered valid and effective, the marital bond required the presence of at least two witnesses during the betrothal ceremony, the *kidussin* (Wigoder 1996: 632–638). This simple institutionalisation of betrothal often lent itself to abuse by some *jechidim*, who took advantage of the naivety of the bride and her family to establish bonds without the consent of one of the parents or legal guardians.

Although the need to control and supervise marriage goes back, as Kaplan explains, to the medieval Iberian-Jewish tradition, it took on new and more urgent connotations following the Iberian expulsion (Kaplan 1993: 139). The profound social and religious ruptures brought about by the Sephardic diaspora, which included geographic dispersion, religious ambiguity, and promiscuity with the Christian world, caused a real "moral panic" among the established and wealthy families of the Nation, who, more than ever, saw matrimony as a path to patrimonial dissolution and cultural disintegration (Kaplan 1993: 141). In this sense, all Portuguese communities in the diaspora passed provisions restricting the freedom of single men and women to freely choose their fiancées, with marriage now depending exclusively on parental consent in order to be considered valid.[29]

In Amsterdam, one of the first communities to apply this law, all marriages performed without the consent of the bride's parents and close relatives, as well as the *hachamim*, were forbidden under penalty of excommunication (Kaplan 1993: 141–142). In Livorno, the law required the presence of at least 10 people at the betrothal ceremony (*kidussin*), among which the main *hacham* of the community or, in his absence, the presence and consent of at least one parent, close relative, or guardian. In London, as in Amsterdam, it was the bride's parents who had the last word in the marriage, as can be seen in the decree in question: "It is forbidden for any person to give Quidusin to any daughter of Israel without the consent of her parents" (Kaplan 1993: 143, 145–146).

[29] In line with contemporary Iberian tradition, a son was only free to choose his wife from the age of 25, when he became of legal age. It is also from this age that inheritances were traditionally entrusted if the recipients remained unmarried. See Lieberman (2011: 6) and Kaplan (1993: 133–134).

Although in the case of Hamburg the statutes concerning the regulation of marriage have not reached us, it is possible to deduce, according to the cases presented in the protocol book, that the law required the parental consent of both parties to the union in order to be considered valid by the community (*Livro da Nação*, I: 425–426; II: 56). As Yosef Kaplan states, the model practised in Hamburg responded not only to the demographic characteristics of the community, which because of its small size attached special importance to the economic and social needs of the families involved, but also and above all, to a more pressing need to preserve the existing relations between the different clans of the community (Kaplan 1993: 144–145). Although in all communities the nuptial bond was strongly regulated, the particular emphasis on the consent of both families expressed, in the case of Hamburg, a more rigid and scrupulous supervision of marriage as an institution, both on the part of the families and the central authority.

Wills, Inheritances, and *Quetubot*

The interest in preserving the family heritage within an explicitly Jewish line of continuity also marked many of the decisions made by families and the *Mahamad* in cases of wills, inheritances, and *quetubot* (marriage contracts). In wills, for example, in addition to the evident emotional motivations that guided most decisions, there was a distinct concern to avoid the distribution of fortunes among family members whose loyalty to Judaism was assumedly ambiguous, with particular emphasis on those who lived in *terras de idolatria* ("lands of idolatry")[30] and who publicly presented themselves as Christians. Such reluctance is explicit, for example, in the will left by one of the women of the Portuguese Nation of Hamburg, Violante Correia, in which she asked her executors to refrain from handing over the proceeds of an estate to her nephew Izaque Naar, should he decide to return to Portugal:

> In the event that the estate in Portugal is not sold immediately, the revenues that come from it will be divided by my sisters Ines Correa and Franca Mendes, and by my niece Guiomar Mendes, wife of my nephew Franco Pardo and by my nephew Izaque Naar . . . on condition that he does not go to Portugal, and if he does, I leave the said estate to any daughter or grandson or granddaughter of my sister Gracia Manuel. (*Livro da Nação*, I: 148–151)

[30] Used by Portuguese Jews, such expression generally referred to Portugal and Spain, but could also apply to other Catholic countries where the practice of Judaism was forbidden. See Kaplan (2008: 34).

At the community level, this concern fell within the broader scope of the common interest or the so-called "preservation" of the Nation, a concept that referred generally to all questions of a financial, political, religious and cultural nature that were critical for the stability of the community and therefore required the intervention of the central authority. Since questions of inheritance, wills, and *quetubot* often involved several of these areas simultaneously, the *Mahamad* made it clear that it would always have the last word, claiming absolute and unquestionable authority in deciding such matters (*Livro da Nação*, I: 352, 523). The statute published on 10 July 1672, confirmed such an intention, by subjecting all disputes concerning inheritances, wills and *quetubot*, to the will of the Bet Din, who was to be duly appointed by the *Mahamad*.[31]

For wealthy communal members, political clout and legal access meant that communal justice was, in some sense, optional or inadequate to deal with the global reach of their business ventures. Such was the case for example in the suit brought before the Imperial Chamber Court by Francisco Faleiro and Nunes Mendes de Brito against Francisco Dias de Brito, for the seizure and confiscation of 200 bales of pepper worth 25,000 reichsthaler (StAHH, Reichskammergericht 211-2, F2). Such arrest corresponded to a dispute over the inheritance of the Lisbon merchant Heitor Mendes de Brito, deceased in Portugal, worth 726,000 ducats. The case it seems, was also being judged in Portuguese courts, leading the plaintiffs to claim legal rights over the seized property by means of *lis pendens*, a notice of claimed property backed by a pending lawsuit.

Another high-profile inheritance dispute that escaped communal jurisdiction was the one brought by Jacques Budier, businessman of Altona, against the Portuguese communal leader Duarte Nunes da Costa, Silvio Delmonte as executor of the will of João da Rocha Pinto and Judite de Prado as heiress of the latter. The suit concerned the enforcement of a judgement on the restitution to the joint defendants of an inheritance in Wallstraße and two farms in Lesigfeld in Lesigfeld (near Glückstadt), which had been awarded to the joint defendants in the lower instance (StAHH, Reichskammergericht 211-2, F34). While, similarly to other early modern Jewish communities, Hamburg Jews had to adapt to the existing laws of their host society, we know that in the present case, the Imperial court had to resort to Jewish inheritance law, as it used a German translation of a Spanish-written *ketubah* as probative evidence, a document specifying the details of Judite's dowry and the assets she

[31] "That no Jachid of this K[ahal] K[adosh] who has a question with another may go before the judge of the land and all questions of inheritances, wills and quetubot will be judged by the bet din that the lords of the *Mahamad* will choose with the consent of the parties involved, and they shall give a judgment and execute it with all the force permitted by our holy law." *Livro da Nação*, I: 523-24.

was entitled to as her husband's rightful heiress.[32] Such document was vital as, according to Hamburg law, widows were liable to the outstanding debts left their late husbands, a situation that lent itself to greater nuance in the case of Jewish law, which stipulated the right of precedence for dowries and other matrimonial guarantees over claims of debt by third parties.[33]

Despite the limitations imposed by Hamburg's family law, according to which Judite had no legal standing as a woman, needing the intermediation of a legal guardian,[34] her enhanced legal position inside the community as a widowed Jewish woman granted her by comparison not only legal agency equal to that of men, but also a tacitly recognized centrality in patrimonial matters, one that guaranteed the protection of her assets by the community against all types of external threats.[35] This enhanced role as transmitters of wealth through dowries appears to have been a dominant feature of Portuguese women's involvement in local justice everywhere they settled, as shown by court records in the French cities of Rouen and Nantes, where most cases deal with property and inheritance issues (Brunelle 2012: 180–181). All in all, the extensive lobbying carried out by the *Mahamad* over more than one decade bore its fruits and demonstrated before the Hamburg Senate and the city courts that Budier's claims, in seeking to take advantage of the legal discrimination against Jews in the real estate market (namely in their prohibition of holding property), were worthless.[36]

As recently demonstrated by Sarah Nalle (2016: 87–89), the high literacy rate among Portuguese-Jewish women cannot be underestimated as one of the determining factors driving the high participation of women in Portuguese communal justice and their active role also in local courts, as evidenced by the case of Judite seen above. This cultural capital was not the prerogative of rich women alone. With literacy rates among Portuguese women

[32] See the Spanish-written *ketubah* enclosed in the documentation of the corresponding Reichskammergericht lawsuit: StAHH, Reichskammergericht 211-2, F34.

[33] On debt repayment law in Hamburg, see the case brought by Pavel Veder to the Portuguese communal court: *Livro da Nação*, I: 96. On the liability of Jewish widows before their late husband's outstanding debts, according to Jewish Law, see Berkovitz (2014: 168).

[34] On gender tutelage (*Geschlechtsvormundschaft*) in Hamburg see Holthöfer (1997: 421).

[35] On the equitable status granted to women before communal courts in the Western Sephardic diaspora see Kerner (2018: 62–66). On the extensive property rights enjoyed by the women of the *Nação* as a result of their Portuguese and Jewish sociocultural background and kinship structures see Abreu-Ferreira (2007: 287–303), Sperling (2007: 28–29; 2020: 86–87), and Trivellato (2012: 133–139).

[36] The litigious businessman Jacques Budier was involved in other proceedings against Portuguese Jews besides this one. See for example his lawsuit against Duarte de Lima, brought in 1649 before the territorial court of Holstein (Landesgericht Holstein) and referred in 1650 to the Imperial Chamber Court. See Stein-Stegemann (1986: 72–73). The debt dispute at the centre of Budier's claim on the inherited property of João da Rocha Pereira can be discerned in one of the legal cases that make up the bundle of proceedings brought against João da Rocha Pereira, Duarte Nunes da Costa, and others. See Landesarchiv Shleswig-Holstein (LASH), Abt. 390 Reichskammergericht, Nr. 80.

hovering around 70% during most of the 17th century, the inclusive and democratic nature of communal courts (Kerner 2018: 61–66; Martins 2019b), as well as—by virtue of the autonomy granted by the city magistrates—their role as instances of first appeal, most middle- and lower-class women of the Hamburg community could aspire to assume traditionally male economic roles acting as borrowers, lenders, litigants, witnesses and financial agents.[37] Given the community's authority in trying cases according to local law and serving, alternatively, as an interconfessional venue for dispute resolution among local merchants—Portuguese and non-Portuguese alike—women could, on the other hand, use communal justice as a forum to pursue claims not enshrined in the law of the land, such as female custodies, and thereby exploit to their advantage a loophole in local statutory law (Martins 2019b; Martins 2022: 217).[38]

It seems clear, thus, that in addition to serving legitimate issues of common interest involving the legal and religious autonomy of the community as well as the preservation of its social and cultural character, the authority claimed by the *parnassim* in patrimonial matters also served as an opportunity on the part of the community elite to defend their position as protectors of family and particularly, of women's wealth, against the unchecked depredations of the external world.

Clandestine Marriages

Despite the profound restrictions applied to the institution of marriage and its transition as a family prerogative to the scope of communal supervision, the phenomenon of clandestine marriages continued to be a very present reality in the daily life of the Portuguese community. In parallel to the universe of marriages that were formally performed under the aegis of communal legality, a whole market emerged that offered, in a clandestine manner, the provision of matrimonial services in breach of both communal institutions and their religious laws.[39] As pointed out by Matt Goldish, such phenomena were not limited to

[37] Although these numbers concern the Portuguese community of Amsterdam, it is safe to assume a similar figure for the other two northernmost communities of the Western Sephardic diaspora during the seventeenth century, London and Hamburg.

[38] For a reference to the settlement of a communal claim with the "laws of the city," see *Livro da Nação*, II: 58. The articulation of Portuguese communal justice with local courts and law has been the subject of several studies in recent years. A good starting point for a theoretical and methodological discussion on the subject is the study of Oliel-Grausz (2019). Other studies include: Martins (2019b); Kerner (2017, 2018, & 2019); Oliel-Grausz (2020); and, more recently, Filer (2022).

[39] On clandestine marriages in the early modern Christian world, see the classic work by Outhwaite (1995) and also Sperling (2004: 67–108). For the same phenomenon in Jewish communities, see Adelman (2001: 285–287) and Kaplan (2002 & 2011).

the Portuguese-Jewish world but, in fact, represented an increasingly identifiable trend during the early modern period in various communities and urban centres across Europe (Goldish 2001: 127).[40]

In line with some of these illicit activities carried out by the *jechidim* of Hamburg, one can find, by way of example, the *kidussin* clandestinely passed by Manoel Mendes in the company of two witnesses from the community—Abraham de Casseres and Izaque de Lião—in December 1674 (*Livro da Nação*, II: 56). Manoel is reported to have bribed the latter two in order to buy their silence and thus escape communal supervision. Promptly declared null and void by the Nation's *hacham*, Manoel's illegal recourse to *kidussin* suggests in the present case that the union transgressed the matrimonial norms currently in force in the Portuguese community of Hamburg, namely prior notification to the *Mahamad* and the consent of the two families involved in the matrimonial union.

A typical case of betrothal carried out without parental consent is the one that takes place between the son of Aron Senior, an influential member of the Portuguese community, and a maiden of the community, the daughter of Esther Messia. Determined to prevent the marriage of his son, Aron Senior asked the *parnassim* of the community to persuade Esther not to proceed with the said union (*Livro da Nação*, I: 425-26). Sent to Esther's home to report the fact, the community rabbi, *hacham* Mose Israel, was faced with opposition from the said lady, who argued in her defence that she was free to make such a decision, since she believed the *escama* had been "lifted." Esther was referring to a communal statute which stipulated that, whenever requested, the parents of the bride and groom were obliged to obey the *Mahamad*'s resolutions in cases of unwanted marriages and unions. Informing her that she was "misinformed" and that the said statute "was in place," the *Mahamad* made a point of bending Esther's obstinacy by threatening her, under penalty of *beracha*, to obey communal will and give up the said marriage (*Livro da Nação*, I: 425-26). Although the outcome of the case is not known to us, it can be assumed that Esther eventually bowed to the will of the government, ultimately renouncing her earlier claims.

In general, we can safely assume that the interaction between parents and children regarding matrimonial decisions was marked more by the use of persuasion than coercion. However, since these were choices of fundamental importance that decided the economic and social fate of entire families, occasional disagreements had the power to cause irreparable damage to the family, resulting in considerable psychological violence and threats of disinheritance. One of the most paradigmatic cases in this regard is that of Jacob da Fonseca,

[40] On the issue of secret marriages in the Portuguese community of London, see Kaplan (2018).

who sought, against his mother's wishes and over the course of four long years, to marry his cousin, the daughter of Izaque Machorro (*Livro da Nação*, I: 242, 270–271, 277–279). Although the *Mahamad* initially sided with his mother, forcing Jacob to give up his intentions, the affair eventually took on tragic proportions, forcing the syndics to reconsider their initial position. The tribulations suffered by Fonseca during the period are described by himself in an anguished and emotional plea addressed to the *Mahamad*, four years after the initial schism:

> Jacob da Fonseca pleaded with the mamad in which he manifested that he had always been an obedient son of his mother and siblings, being that, since the death his blessed father, he had always helped her more than his obligations and that only to his sister Esther Cabesao he had acceded with an amount of 4500 marks for her dowry and that the payment that he received for this was the mistreatment of his mother and siblings . . . and for wanting to please his mother he went to Amsterdam where he was almost 1 year and proved having spent around 1500 marks and that having been offered various marriages they all resulted in nothing due to the knowledge that he was in debt and because this had reached such limits without any perspective of betterment that one ought to have love and respect for him for risk of causing more grievances; for all this he asked the maamad to compel his mother by all means to concede him this permission, which despite the statute not being directed to him but to men of younger age, he would prove through witnesses that his late father would support this marriage. (*Livro da* Nação, I: 277)

Moved by the family and personal drama described by Fonseca in his plea, the *Mahamad* felt impelled to convene a *junta grande*[41] to take advice on the best alternative to follow. Although it remained unyielding on the age of majority argument raised by Fonseca, this fact did not prevent the *Mahamad* from seeking his side, applying pressure on his mother "to see if this moved her" (*Livro da Nação*, I: 278-79). Thus, through the two *hachamim* and the presiding *parnas*, the *Mahamad* let it be known to Angela da Fonseca that "it would be good [for her] to take another resolution" about the case, since "they [the *Mahamad*] had power to do so" (*Livro da Nação*, I: 278).

Exploring in an interesting way some of the main particularities that characterised the relationship between families, the *Mahamad*, and the expectations of celibates in the

[41] *Junta grande*: deliberative council comprising the incumbent *Mahamad* and its antecedent.

community, this case shows us that the experience of marriage and the contingencies associated with its success were not socially uniform in the Portuguese Nation. The generational conflict which marked the Fonseca case, characterised by divergent expectations, economic difficulties and emigration, seems at first sight to confirm the pattern of greater intra-family conflict suggested by Sandra Cavallo (2010: 22) among the most destitute classes. As she notes, the economic independence that was expected of children—particularly in families that depended on work for a living—and the development of a premature duty of self-reliance, led many young people to claim the freedom to make their own decisions autonomously, many without parental consent (Cavallo 2010: 22).

In the case of the Fonseca family, the premature death of the *paterfamilias* would have left a vacuum of authority which could have motivated the polarisation between Jacob and his mother. The unilateral decision to endow his sister with 4500 marks, possibly most of the inheritance left by their late father, would have been the final straw in the family conflict. As a way of punishing her son for his previous history of insubordination, as well as reaffirming her authority as *materfamilias*, Angela threw her son out of the house after repudiating his marriage to his cousin, thus forcing him to earn his living in Amsterdam amidst severe financial need. Although the present case is not representative of most family experiences related to marriage, it still allows for a deep look around the complex dramas that took place in some households.

The *Acunhadar* in Livorno, Amsterdam, and Hamburg: Three Attitudes Before the Law and Religious Customs

While attitudes towards marriage tended, in some Portuguese communities, to preserve traditional Halachic prescriptions, favouring a more conservative view of the law and restricting progressive practices, in Hamburg a more flexible conception of the law seems to have prevailed, adjusting undesirable norms to the taste of more particular cultural and social circumstances. In this respect, the institution of levirate marriage and its distinctive practice in the different communities of the Portuguese Nation offer a perfect example for analysis and comparison.

According to Jewish law, when a woman loses her husband without a child, she is obliged to marry her brother-in-law. If both parties agree not to marry, they are obliged by law to perform a ceremony called *halizah*, by which the man releases his wife from her

obligation to marry him.[42] While in the Portuguese Sephardic communities, the tradition was to perform the levirate marriage (*yibum*) instead of the *halizah*, this situation nevertheless provided the trigger for strong disagreements between the concerned man and woman, often requiring the mediation of communal authorities.[43]

In Livorno, communal leaders were forced to protect the integrity of the levirate institution against the abuses committed by some less zealous members. In a decree dated 1659, the *massari* went so far as to pass new legislation threatening potential transgressors with penalty of *herem*, as already pointed out by Cristina Galasso (2011: 111). The religious zeal shown by the Livorno community and its concern to follow rabbinic prescription contrasts with the more flexible stance adopted by the syndics of Hamburg, who deliberately sought a way to circumvent the obligation to perform the levirate or to *accunhadar*, as called by the Portuguese.[44] Summoning the rabbis of the community and confessing before them the many "nuisances, disputes, and demands" that *acunhadar* brought about, the *Mahamad* demonstrated its willingness to make a change to "exclude" the said commandment, especially in cases where women are past the age of conception (*Livro da Nação*, I: 80). It additionally requested prudent advice from the community rabbis around the legitimacy of such a decision, encouraging them to seek, if necessary, legal opinion from the *tudesco* rabbis of the neighbouring community of Altona.

Indeed, this case is interesting for several reasons. Not only because of the permissive attitude shown by the Portuguese *Mahamad* towards a central issue of matrimonial law, but also because of the curious recommendation for the Portuguese rabbis to seek advice from the nearby community of Altona rather than from Amsterdam or Venice as would indeed be the norm. In addition to having no recognised influence or authority in the wider Jewish world, the Portuguese community was soliciting religious opinion from a community recognisably distinct from its own, both in custom, tradition, and in the application of religious law. Indeed, perhaps this was precisely their motivation, given that, contrary to Sephardic tradition, Ashkenazi Jews gave priority to *halizah* over levirate, a fact which, the Portuguese thought, would predispose them favourably to their willingness to be free of the said obligation (Zimmels 1996: 336). On the other hand, by anchoring the legitimacy of a

[42] On levirate marriage in Judaism, see Wigoder (1996: 583–584).

[43] Regarding the Hamburg community, two cases involving levirate marriage are mentioned: the already referred case of the physician Rodrigo de Castro and the decision taken in November 1656 to change the law on *acunhadar* due to the many "nuisances, pleas, and demands" caused. *Livro da Nação*, I: 80. On the case of Rodrigo de Castro see the chapter "Reaction to religious dissent" in the first part of this study.

[44] On the view of the Venetian rabbi Leon da Modena about this practice among the Sephardim of Venice and Ferrara see Adelman (2001: 160)

controversial decision in the *tudesco* community of Altona, the Portuguese leaders were effectively transferring the burden of responsibility to a body outside the community, thus freeing themselves from possible repercussions vis-à-vis other more influential Portuguese communities (namely Amsterdam).

Although the outcome of this case is not known, it seems that the Hamburg *Mahamad* was considerably more pragmatic in this regard than its counterpart in Amsterdam, for whom the custom of levirate was also an inexhaustible source of problems. As Levie Bernfeld (2017: 68–69) points out, in a community particularly marked by emigration, where so many men were away on trips or in unknown whereabouts, such problems became even more pressing, making it impossible for the woman to remarry for long periods of time. If the late husband's brother resided in Spain or Portugal as a Christian and did not intend to move to Amsterdam, the implications would be even more drastic. Although there are sporadic cases in Amsterdam of individuals seeking to circumvent the law in order to free themselves of these dilemmas, at no point did the community leadership attempt to take the issue as seriously as their counterparts in Hamburg. Above all, it shows that, although both communities were afflicted by the same problems, a more conservative approach to tradition and religious law seems to have predisposed the *Mahamad* of Amsterdam not to even consider the possibility of reform in this area.

Marriage of a Black Man with a Portuguese Woman

The condition of blacks and mulattos in relation to marriage was, like much of their experience within the Nation, pervaded by exclusion and discrimination (Swetschinski 2000: 188).[45] Their lower status within the congregation made them less likely to find a viable partner, and even when prospects of settlement did emerge, the honours and privileges associated with grooms of Portuguese origin did not apply to their counterparts of African descent. When Abraham Preto arrived in Hamburg with prospects of marrying the daughter of the late Gabriel Luria, he was immediately confronted with news from Amsterdam of his bride-to-be's relatives' opposition to the marriage (*Livro da Nação*, II: 25). Additionally, Abraham faced resistance from the *Mahamad* of Hamburg who, in an attempt to dissuade the union, sought to restrict his freedom within the city by preventing his registration as a resident. It was only when the bride's brother, Ishack Luria, intervened before the *junta* to

[45] On the relationship between Portuguese Jews and blacks in the early modern period, both real and imagined, see Schorsch (2004, 2005, & 2019).

plead on his behalf for the sake of the marriage, that the Portuguese leadership was inclined to find a compromise (*Livro da Nação*, II: 27). The *Mahamad* made it clear, however, that such an arrangement would only have the seal of communal approval with the satisfaction of some specific conditions: namely, that the congregation would not allow the *hazacka* (right of membership) of Abraham as *jachid* of the *kahal*, nor any celebration of *shurah* made in his honour—"at no time shall he be admitted by jachid of this kaal nor shall he make a sura" (*Livro da Nação*, II: 27). Indeed, such treatment was not the prerogative of the leadership in the Hamburg community. In Amsterdam, discrimination against blacks even had the force of law, as evidenced by the decree published on 24 June 1644 stipulating, in contravention of Jewish religious law, that all "circumcised black Jews" would be excluded from any honours performed in the synagogue or from being called to the Torah (Kaplan 1989: 58). According to the leaders of that community such a statute was intended above all to preserve "the reputation of the kaal" and its "good government."

Communal Regulations on Divorce

Despite the relative similarity of the statutory frameworks in the communities of the Portuguese-Jewish diaspora, the *escamot*, however, do not hide significant differences in certain areas of regulation. In Hamburg these distinctions are explicit above all at the level of the statutes regarding the *get* (divorce document), which from a certain moment on, and contrary to the other communities, seems to have been largely limited as a legal possibility. The motivations for this "new escama which forbids giving get," as suggested *en passant* in a register of 9 January 1661, indicate strong fears on the part of the Hamburg leadership as to the socially destabilizing role caused by the vulgarization of divorce within the Portuguese community (*Livro da Nação*, I: 200). By placing divorce under the tutelage of communal supervision, the Portuguese leaders aimed above all to contain the growing fragmentation of the family nucleus, which was considered the basis on which the very stability of the community rested.

The pursuit of an uncompromising divorce policy had its consequences, however. The strict regulation of divorce was responsible for the flourishing in Hamburg of an entire clandestine network designed to meet the needs of dozens of individuals for whom the restriction did not dissuade the practical possibility. The vacuum created by the law thus left no other possibility than to resort to intermediaries, many of whom acted on the edge of the law, as a way of ensuring the satisfaction of the most pressing desires. Thus, for example,

Samuel Mendes was fined two Reichsthaler by the *Mahamad*, for "having been the Saliach[46] of a Get without the knowledge of the Mahamad or the hacham" (*Livro da Nação*, II: 98). In another more flagrant case, involving a *get* passed in the presence of several intervening parties, the *Mahamad* proceeded to sanction the accused peremptorily: Gideon Abudiente with two Reichsthaler, "for being the sopher" (the clerk who writes the *get*); Jacob Habilho Fidanque with one Reichsthaler, "for being present at the sopher"; and, finally, Jacob Israel with half Reichsthaler, "for also having been present" (*Livro da Nação*, II: 90).

In view of what had happened, and the various transgressions carried out in this area, the *Mahamad* thought it convenient to remind the congregation of the regulations surrounding divorce, publishing on the door of the synagogue the decree relating to the *get* and its incorrect application:

> Considering the Mahamad the great scandal caused by the writing of the Guet and the fact that there are people who do this without the express order or knowledge, it seemed necessary to recall once again the renewal of the escama in which it is forbidden for any person of our nation residing in this city to intervene in this matter and therefore it is warned that in addition to the penalties that have been laid down, should there be from now on any person who transgresses this order, there shall be used against that person all the punishments and rigours that befit the Mahamad then serving. (*Livro da Nação*, II: 90)

On the other hand, certain situations imposed a more sensitive approach on the part of the *Mahamad*. When David Ulhoa filed a plea to exempt himself from the new *escama* which prohibited giving *get*, allegedly because "his case predated the decree," the *parnassim* acceded to his request, licensing him a divorce (*Livro da Nação*, I: 200). We would come to learn, however, that this decision was motivated by well-founded concerns on the part of the *Mahamad* that Ulhoa intended to take his case to local justice. Setting an precedent, the *Mahamad* nevertheless issued serious summonses, threatening Ulhoa with penalties that could extend to his direct relatives, as we can see from the following passage in the protocol book: "David Ulhoa's business with Mrs. Linda was dealt with, and considering that he was prohibited from giving get until now based on the false assumptions that the maamad could steer his case to a different path, the maamad now gives him liberty to give his get to Ms

[46] *Saliach*: messenger or agent who acts on behalf of the husband and transmits the *get* to his wife.

linda as he understands with the condition that he does not use land justice under penalty of 200 Reichsthaler and other sanctions that might apply to him as well as to his father Jacob Ulhoa" (*Livro da Nação*, I: 206).

Divorce: Process and Consequences

Divorce was often one of the most controversial and polemic processes affecting family life. Disagreements over the sharing of the couple's property, as well as the return of the dowry, often led to a painful separation, which marked each of the parties involved differently. In a society strongly shaped by the culture of honour, such as the Portuguese, divorce meant for the woman first and foremost the lowering of her social status, a dishonour from which she had great difficulty in escaping, especially if she belonged to the economically less privileged strata. In most of the cases dealt with in the protocol book, it is the men who seek divorce, often against their own wives' wishes. When a woman refused to accept the amicable outcome of the separation, Jewish law provided a set of legal possibilities that greatly favoured the men's position, ranging from depriving her of part of the proceeds of the marriage contract to authorising the male spouse to take a second wife (Wigoder 1996: 289–291). Fitting in with the patriarchalism prevailing in both Portuguese society and Jewish culture, these measures emphasised, more than anything else, the condition of women's complete subjugation to the will of their husbands.

There were frequent cases of divorces that ended up resulting in violent conflicts, often ending in physical aggressions or even in death threats. In this respect the case of David Ulhoa, already mentioned in the previous section, is significant because of what it reveals about the importance attributed to marriages and especially to the effects of divorce on the condition and perception of women. Months after having been authorised by the *Mahamad* to proceed with his *get*, thus put an end to his marriage to his wife Linda, Ulhoa is attacked on his way to the stock exchange by her nephew and threatened with death under calls to maintain his marriage (*Livro da Nação*, I: 261–262). Witnessed by some Portuguese who were in the place, the incident quickly reached the ears of the *Mahamad*, who immediately tried to find out the facts and summon the instigator. Discharging himself with little consideration before the *Mahamad*, the latter revealed that "he came from Misraim [Egypt] only for this affair" and that with "his honour" at stake, he would do "everything he could [and] should" to force Ulhoa to accept his aunt (*Livro da Nação*, I: 261–262).

The radical attitude of Linda's nephew was not at all unique as far as the aftermath triggered by this particular case is concerned. In fact, the very *saliach* responsible for writing the *get* at the behest of David Ulhoa would end up being beaten by some members of the Portuguese Nation, in an incident meticulously planned by Jacob Oeb, a possible relative of Linda (*Livro da Nação*, I: 253–255). The gravity of the situation and the particularly perverse contours of its orchestration would demonstrate to the *Mahamad* that, despite its authority in domestic matters, it remained powerless to stop acts of personal revenge and retributive justice. This case thus presents itself as a more than paradigmatic example of the strong stigma attached to the repudiated woman and the dishonour that befell her relatives as a result of her new condition.

Final Considerations

The curtailment of customs and traditions that were strongly rooted in the cultural heritage of the Portuguese, first as New Christians, and eventually as Jews, proved more difficult to enforce in practice than on paper. Despite this, the *Mahamad* fought resolutely against all forms of popular expression which it felt might jeopardise the preservation and good administration of the community. Although such measures were not new in the Western Sephardic diaspora, in no other community were they as deep and far-reaching as in Hamburg. Indeed, the long-standing development of different norms and practices within the same community (made possible by the parallel development of different congregations), meant that any attempt to homogenise religious practices would be met with strong communal resistance from the outset.

In this sense, various indications suggest that the level of compliance, both among the population and in the narrower circles of secular and religious authority, was far from ideal. Guided by a strategic balance between communal "dissimulation" and periods of greater disciplinary rigour, the *Mahamad* always sought to be guided by a firm practical guideline: to pursue at all costs the goal of centralising the community as a whole and legitimising, for the first time in its history, an orthodoxy extending to all its members. Predictably, within a short period of time, areas such as education, marriage, divorce, conjugal life and family inheritance would become especially contentious as their legal and rhetorical scope shifted irretrievably from the family to the community. Social, cultural, and sexual barriers were erected at some of the most important holidays and traditions such as folk dances, music and gatherings. Other celebrations such as circumcision, marriage, naming of

the newborn child, Purim and Simchat Torah were subjected to severe restrictions and stripped of their excessive, turbulent and subversive elements.

In this context, the importance of female power and influence lied chiefly in the pervasiveness of their role in family and communal wealth planning, specifically in the protection and transmission of their prized financial assets, both at the crucial moment of marriage and in the event of divorce or widowhood. Because of this the community and its leaders took great pains to defend female wealth against external threats, lobbying before local magistrates and providing the necessary financial and legal resources to enable the success of their initiatives. Women's enhanced economic agency and legal participation was, on the other hand, explained by their high rate of literacy, one that granted them comparative advantage over their Christian female contemporaries wherever they settled and particularly in Hamburg. As a result, this protection raised the legal status of Portuguese women to a level close to that enjoyed by local men in a social environment where their rights were, *de jure*, not even recognised.

While, clearly, the extension of communal regulation almost always resulted in the diminution of the social and religious role of women within the community, they maintained, with respect to legal participation, a set of rights practically identical to those of Portuguese men and far superior to those of local Christian women. In this context, Portuguese women turned to communal 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, or even in reclaiming their role as rightful heads of household in the absence or death of the *paterfamilias*. Whereas aggressive and forceful behaviour was a prominent feature among men in their relationship before the law, women showed instead a remarkable tendency for compromise and cooperation, qualities that compensated for their inferior social status, broadening the range of options available to them in their dealings with communal authorities.

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