

Marriage, Family, Religion, & Culture in Pre-Islamic & Early Islamic Iran & the Middle East
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ABSTRACTS

John W.I. Lee, UC Santa Barbara
Non-Persian “Concubines” and Persian Noblemen in the Achaemenid Period

This paper examines intimate relationships beyond marriage in the Achaemenid Empire (ca. 550-330 BC), with a particular focus on relationships between Greek women and élite Persian males. I investigate the meanings of terminology used to describe women in non-marital relationships, including the Greek terms *παλλακή* and *παλλακίς*, often translated as “concubine,” then explore the social, cultural, and political significance of such ties between Persian noblemen and non-Persian women. The paper combines close readings of ancient written sources, including Greek historical texts and Achaemenid documents, along with analysis of archaeological evidence for the presence of women in Achaemenid courts. Specific case studies may include: 1) the Coan Greek *pallakis* of Pharandates (Hdt. ; 2) the Babylonian women Alogune and Cosmartidene of Darius II (r. 424-404); 3) the two Greek *pallakides* of Cyrus the Younger (ca. 423-401), who accompanied him on his campaign to seize the throne from his brother Artaxerxes II (r. 404-359). While mixed marriages between Persians and non-Persians in the Achaemenid Empire have received a fair amount of scrutiny (see select bibliography below), less attention has been paid to relationships beyond marriage and to the roles and status of Greek “concubines” in the empire.

Cornelia Wunsch, SOAS, University of London
Caring for the bereaved: Bequests for widows and their implementation

This paper looks into one aspect of family law in the 6th cent. BC in Babylonia, on the basis of texts of practice from various family archives written in cuneiform. In family law customary rules apply in general but often prove to be insufficient to provide for the needs of widows and unmarried daughters. This paper focusses on the one hand on the contents and aims of documents of bequest in favour of female family members and, on the other hand, on their implementation and ensuing difficulties as they can be observed in records of litigation.

Bastian Still, Ludwig-Maximilians-Universität München
A Novel Approach to Babylonian Marriage in the 1st Millennium BCE

Since the emergence of Assyriology in the 19th century, cuneiform specialists have taken only limited interest in Babylonian marriage practice of the first millennium BCE. Most studies are products of an academic tradition that concentrates on philological aspects and legal implications. Scholars were in the first place “*Rechtshistoriker*” who analyzed Babylonian marriage for its legal implications, the particular contract types, and specific clauses used in these agreements [1]. Others were concerned primarily with the material aspects of the dowry, mostly from a philological perspective in trying to identify the semantic meaning of the various components of the marriage settlement [2]. Today cuneiform studies still suffer from a general

negligence of social and theoretical approaches and this is also apparent in the study of marriage. In this paper I will present a novel approach to marriage in Babylonian society of the mid-first millennium BCE based on a combination of social network analysis, sociological theory and anthropological studies – especially those concerned with Hindu-caste society, which exhibits interesting parallels with ancient Babylonia. I will focus, in particular, on the Babylonian priests and argue that they observed a complex marriage system known as *hypergamy* in sociological literature. This *hypergamous* practice involves, most characteristically, the marriage of lower-status brides to higher-status grooms. In the marriage system of the Babylonian priests, status was assigned according to the purity-based hierarchy of the temple. This shows that marriage was firmly rooted in the pecking order of the local community and deeply influenced by the institutionalized temple fabric. However, not without vengeance, for it will be revealed that the policies of marriage influenced the community as well as the temple organization in fundamental ways.

Hatoon Ajwad AL FASSI, Qatar University

Khuld, the Nabataean Queen: An Agent of Women Empowerment in Pre-Islamic Arabia

Research found that Nabataean women of ancient Arabia (1st century BCE-2nd century CE), were active agents for social change. Queen Khuld (9BCE-20CE) is considered one of the earliest known advocates of societal transformation as will be demonstrated in this paper. The case of the Nabataean queen and her relationship to the Nabataean woman's empowerment is related to a great extent, in my view, to the marital relations of the Royal house. In my paper, I am showing, using the epigraphic and numismatic evidence, that the influx of women status in the late Nabataean time is due to a marital arrangement and much more. That happened when the most important Nabataean king Harithah IV (9BCE-40CE) came to power, thanks to his marriage with the former Nabataean King's daughter, who gave him legitimacy against his rivals on the throne. The rise of King Harithah IV to power after his marriage gave the queen an unprecedented power in name and image. Her name was for the first time found inscribed clearly on coins, similarly was her image. I argue that Queen Khuld understood her authority and relationship to the state and power, extended her influence through mythical connection and synchronism with Allat/Isis the main Nabataean/Egyptian goddess. Furthermore, I argue that these changes in the queen's appearance and visibility have affected the status of the Nabataean woman in this kingdom, especially women of higher class and of economic welfare as was seen in Raqamu/Petra, the capital and Hegra, the southern second capital.

**Keynote: Kecia Ali, Boston University
Concubinage, and Consent in Early Islam**

In our imperfect world, rape happens frequently but nearly no one publicly defends the legitimacy of forcible or non-consensual sex. Those who do, like Daesh, are pariahs. Even some of its supporters who uphold the permissibility of enslaving women captured in war declare the necessity of obtaining their consent before engaging in sexual relationships with them. Thus, even some who laud slave concubinage anathematize rape. For premodern Muslim jurists, however, there was no question of applying the category of rape to sex with one's own female slave. Jurists—and contemporary scholarship—largely took for granted that *milk al-yamin* legitimized sexual access (Kecia Ali, *Marriage and Slavery in Early Islam* [Harvard 2010]; Jonathan Brockopp, *Early Maliki Law* [Brill 2000]). Legal discussions of illicit sex and

rape focus on women other than the offenders' wives or slaves (Hina Azam, *Sexual Violation in Islamic Law* [CUP 2014]). In other words, consent from slaves to sex with their masters was irrelevant for the jurists. Yet questions about the acceptability of such relationships seem to have been raised occasionally (Intisar Rabb, *Doubt in Islamic Law*, CUP 2014, p. 50 n. 6).

Using formative-period Sunni legal sources, with emphasis on the nascent Maliki, Hanafi, and Shafi'i schools, this paper searches for agreements, fissures, and fractures in the jurists' discussions of sex with unfree women, considering their treatment of purchased slaves as well as captives. The goal is to understand how increased systematization of the legal schools contributed to the strengthening of the notion of men's *milk* within sexual relationships. A closer reading of early debates—both disagreements and agreements—on issues surrounding sex with slaves can provide a fuller picture of the early Muslim legal tradition.

Eid Mohamed and Talaat Farouk Muhammad, Doha Institute for Graduate Studies (Un)Requited love in pre-Islamic/early Islamic Poetry

One of the major tropes in both pre-Islamic and Islamic Arabic *Qasidah* (Ode) is unrequited love, with the "lovelorn poet" wistfully "complaining of his desperate passion for an idealized woman" who lies beyond his reach and yet retain his unending faithfulness. (M. M. Badawi 1975, 4). This form of love trope is further entrenched through the established form of *Nasib* (amatory prelude), which involved nostalgic yearning for the unreachable beloved. However, two themes largely overlooked in both pre-Islamic and early Islamic Arabic poetry were, amatory conjugal relationship (sometimes dubbed as 'marriage poetry'), which involved wistful lamentation of willingly or unwillingly severed marital bond, and polygamy, which was a prevalent social practice at the time. This paper traces the articulations and deployment of love relationship between husband and wife. It aims to analyse selected pre-Islamic and early Islamic poems addressing conjugal relationship; a lacuna in pre-Islamic and early Islamic literature due to the sanctity of literary products addressing such tropes, as erotic love of one's wife and sorrowful mourning of the loss of a divorced wife. Shifting from common capitalization on the poet-lover, the paper discusses poetic dramatization of famous pre-Islamic marital narratives, including that of 'Abdullah ibn 'Ajlan al-Nahdi, 'Urwah ibn Al-Ward, al-Farazdaq, Qays ibn Dhurayh, al-Walid ibn Yazid ibn 'Abd al-Malik, 'Abdullah ibn Abu Bakr al-Saddi, and 'Ubaydullah ibn 'Abdullah. Elaboration on poetic dramatization of such narratives involves illustrating the intricacies of marital love and divorce, and their bearings on a mostly patriarchal Arab community. As for the absence of polygamy in early Arabic poetry, it is addressed in comparison to a daring representation of the issue in modern Arabic literature, such as Fawziya al-Salim's *The Sun is Slaughtered*.

Nijmeh Hajjar, Doha Institute for Graduate Studies Love, Power, and Marriage in Early Arab and Muslim Societies

This paper aims to discuss the dynamics of love, power, and marriage in early Arab and Muslim societies, as reflected in classical Arabic Literature. Based on a new reading of original literary and historical sources, including pre and early Islamic poetry, Al-Jahiz's *Rasa'il*, and Ibn 'Asakir's *Tarikh Dimashq*, I examine experiences of, and attitudes to love, gender relations, marriage, polygamy, concubinage, and divorce, women veiling and seclusion in the Arab Near East in the 6th and 11th centuries CE. While keeping in mind aspects of continuity and change,

and unity and diversity, I argue that the articulation of gender, race, and class was the main determinant of family dynamics throughout the period of study. Arabic literary traditions offer significant insights into love and sex relations between men and women from various socio-economic and racial backgrounds. Of the main questions I raise: what is the place of love, and how the social status of men and women affected their relations and married life? Why romantic love, almost always, ended in arranged marriage of the beloved woman to another man, frustration, and endless pain of the two lovers? What is the justification for men's preference of slave-girls (*Jawari*) over free women (*al-Hara'ir*)? Beauty or power? Is it as al-Jahiz explained it because the man would have the chance to carefully observe and check the slave-girl suitability before buying her; while he was not consulted about the free woman's beauty or suitability for his needs? Or is it as the Muslim feminist Fatima Mernissi argues: "the obvious reason for the *jariya*'s success ... is easily explained: with her the man was by definition superior. She was merely his slave"? In this paper, I attempt a new feminist reading of secular Arabic sources on the rights of the woman in the family.

Ahmad M. H. Shboul, The University of Sydney, Australia
On the Dynamics of Marriage, Concubinage and Family Life Between Pre-Islamic and Early Islamic Arab Societies

This paper examines aspects of continuities and discontinuities between pre-Islamic and early Islamic times (6th-11th centuries AD) as reflected in relevant Arabic sources: literary, juristic, historical. I attempt to raise sociological and anthropological questions, rather than theological ones. I seek to interrogate a range of texts as sources of insight into realistic situations and personal experiences of gender relations and family dynamics, to identify moments and examples of tension between forces of continuity and change, between the religious and the secular, to indicate aspects of regional and generational diversity. I believe it is important to ask new questions of such sources, as they can provide some correctives to certain conflicting theoretical notions current in our own times. It is important to critically consider the role and capacity of religion in general, and Islam in particular, in affecting change *in practice, as distinct from theory*. This is why I focus on certain descriptive literary and historical reports, as well as the earliest work of Muslim jurisprudence, Malik's *Muwatta'* – the latter providing not only texts of *hadith*, but more importantly evidence for the 'living practice of Medina' in Malik's time (8th century CE). A significant question, inspired by Claude Lévi-Strauss's work and raised in passing by the late Mohammed Arkoun, needs to be addressed in the present context. To what extent have Islamic teachings affected change in elementary kinship structures, the circulation of wealth and power in society, as well as in the concept of 'honour' attached to women, between pre-Islamic and early Islamic times? The impact of slavery and concubinage on social structures needs to be explored in the context of transition from tribal pastoral life to settled and eventually sophisticated urban living. I focus on how marriage and family dynamics, and the broader social and political dynamics and social life in general, were impacted by the prevalence of slave girls (*jawari*), particularly in caliphal and princely courts and among the middle classes. It is equally important to recognize diversity between regions, generations, and social classes during the first five centuries of Islamic history, and the different perceptions and representations reflected in different literary genres and sources. As a case study, I discuss the highlights of a marriage contract - in a middle-class context - from 10th-century Cordova, the capital of the Umayyad caliphate of al-Andalus.

Said Hassan, Al-Azhar University, Egypt

Women Between Divine Wisdom and Customary Practices: The Question of Definition of Marriage, *Qawamah* and Judgeship

It has been argued that the pre-Islamic patriarchal Mecca had little regard for women. Although such generalization is not to be taken unwarranted, it reflects the status of women at this time. Female infanticides were buried alive for fear of poverty or disgrace. Women were not only denied inheritance, but they were considered as part of the property of the diseased. Female slaves were forced to practice prostitution. These and many other misogynist practices prove the deteriorated conditions of pre-Islamic women. When Prophet Muhammad preached Islam, it was revolutionary for women. She has become an equal human being that had a saying in her affairs and participated effectively in her community concerns. She can do business, choose her husband, inherit her relatives, etc. However, my argument is that at the time where Islam liberated women from man-privileged customary practices of pre-Islamic Arabia, Muslim scholars, affected by their social-male oriented education and the patriarchal dominant patterns in Muslim communities, restricted women's participation in social and political life. The early Muslim scholar caused a setback of the position of women, sure not to the same position of pre-Islamic times. They provided somehow masculinized readings and patriarchal interpretations of legal texts that discuss women status. To argue for my point, I would make three points of comparison that reveal the impact of pre-Islam customary practices on the understanding of early Muslim jurists of the relationship between men and women. The first point is conceptual where a comparison of the definitions of marriage is to be provided. The second emphasizes identity and position. It tries to understand the question of "*qawamah*" and the superiority of men over women. The third point of comparison is a practical one where the research will focus on the question of women occupying government posts, such as judges. In this third case, the paper will explain how cultural practices that have no ground in the sacred teachings of religion dominate the discourse on women, not only in early Islam, but extends to present time.

Farideh Pourgiv, Shiraz University, Iran

Women and Marriage in Pre-Islamic Iran

In this paper I will discuss different types of marriages in Pre-Islamic Iran. I will first refer to the Shahnameh of Ferdowsi to discuss marriage in the three parts of this ancient epic; then Avesta, Shayest Nashayest and other books of ancient Iran will be analyzed to discuss different types of marriages and how women fared in such marriages. According to Avesta, the sacred text of Zoroastrian religion, family and marriage are of high importance. *A woman has certain rights and legal duties in each type of marriage.* There are several types of marriages in ancient Iran: padasha zani, the most common and legal marriage; chakar zani, marriage of a widowed woman; eyuk zani, satar zani, marriage with the spirit of a man; xodsar zani, the least accepted form of marriage, and *Xwēdōdah*, marriage with next of kin (Azizi 2003). *Xwēdōdah* is by far the most controversial of all these and has been the topic of many discussions by many scholars who have either rejected such a marriage existed (Jafarey 2005; Shahbazi 2002) or have put it in the context of pre-modern societies (Scheidel 2009). Prods Oktor Skjaervo (2013) in his long entry to Encyclopedia Iranica gives a historical background of different opposing views. This paper surveys the status of ancient Iranian women within the institution of marriage from Shahnameh to Zoroastrian legal and religious texts.

Ahmad Atif Ahmad, University of California at Santa Barbara
Transnational Family Laws in 8th century Iraq/Iran and After

Abu Hanifa (d. Kufa, 150/767) is reported to have allowed a Hanafi judge to apply Hanafi legal doctrines to adjudicate an alimony lawsuit by a mother against her son, who is also her former husband, because Zoroastrian laws allow the incestuous marriage. This 'mixed court' procedure was rejected one generation later; his student, Muhammad ibn al-Hasan al-Shaybani (d. Baghdad, 189/805), disagreed with the master, and his view carried on for the subsequent millennium as the standard Hanafi doctrine. The altering of doctrine within one generation is explained (later Hanafi authorities speak) by a shift in the conditions and customs of the times. Too many Zoroastrians, who lived in Kufa and sought judicial protection, could not be ignored by Muslim judges of the early times; later, this became a false problem not in need of a solution. The old view clearly complicated a useful doctrine Hanafis were on the verge of developing: Laws follow geography, and religious minorities must develop their own laws within a Muslim town or city, as long as these do not clash with public laws. Now that Shaybani's 13 volume treatise, *al-Asl* came out (2013) in an edited and authoritative edition, we could see from ample cases and legal scenarios beyond doubt that Shaybani was indeed the true founder of both the *two-abode theory of the law* and the '*legal death*' theory—stating that a person who emigrates from an abode of Islam to an abode of unbelief or vice versa loses his legal personality (hence, his marriages dissolve, his property is distributed among inheritors, among other applications). *Al-Asl*'s discussion of the marriages of those of the *unbelief abode* shows full abandonment of cases involving non-Muslims. A conversion of a Jew or Christian who is married to a Jew into Zoroastrianism is not contestable in a Muslim court, since marriages between Jews and Zoroastrians do occur (*Asl*, 4/463). This last explanation seems similar to what the teacher (Abu Hanifa) taught, but the conclusion is opposite in direction. In other words, the divergence between Islamic and non-Islamic family laws means non-Muslim communities must take care of their marital conflicts outside of Muslim courts, which would require developing the requisite legal and judicial practices independently of Islamic law. In my presentation, I want also to move farther in time, to another Shaybani, better known as al-Khassaf (d. Baghdad, 261/875) and subsequent glossators on the early Shaybani's law-abode theories and explore the theories' regional significance.

Juan E. Campo, University of California at Santa Barbara
Gendered Journeys: Narratives of Women, Marriage, and the Hajj in Early Islam

The hajj to Mecca is a formal requirement for all Muslims. Conventional accounts of its institution privilege the role of prominent male figures. These include, above all, Abraham, his son, and Muhammad. This paper turns instead to consider the roles played by women in the pilgrimage's foundation narratives. The foremost of these are Abraham's wife Hagar, Muhammad's wife Aisha, and, to a lesser extent, Adam's wife Eve. Each of these figures is connected to an important facet of the hajj, both as a communal ritual and as means of demarcating sacred place. Hagar is associated with demarcating the Zamzam well and the 'running' between Safa and Marwa; Aisha with hadiths about the hajj and with the participation of menstruating women in the 'standing' at Arafat and circumambulating the Ka'ba; Eve is also associated with Arafat. In all three instances, their relations with their husbands are also significant. How have these figures served as models for Muslim women to emulate in their

conduct during the hajj and more generally in early Islamic society? Since pilgrimage is a form of religious action that entails spatio-temporal flows of human subjects, it raises questions of boundary making and boundary crossing. In accordance with the narratives about Hagar, Aisha, and Eve, under what conditions are women allowed to engage in these flows and to what sorts of restrictions are they subjected? How are their relations to men defined and regulated therein? The paper will be based on a close reading of primary Arabic sources, which include the *sira*, hadith, *tafsir*, *qisas al-anbiya'*, and early historical literature.

Adam Sabra, UC Santa Barbara
Marriage Strategies in an Ottoman Egyptian Elite Lineage, 1500-1800

This paper will examine the marriage strategies of an elite lineage of Cairene 'ulama', known as al-Sada al-Bakriya, from the Ottoman conquest down to the end of the eighteenth century CE. It will focus on the ways in which the choices of marriage partners changed over this time, in response to social and political stimuli. The principal sources will be court registers from Cairo. They include Mahkamat al-Qisma al-'Askariya, a probate court used by the Muslim elite, Mahkamat al-Bab al-'Ali, court specializing in waqf transactions, and Mahkamat Bab al-Sha'riya, a neighborhood court near one of the lineage's residential compounds. These documents include marriage contracts, estate inventories, and a variety of other documents dealing with marriage, divorce, children, etc.

Building on the literature on Ottoman notable families, especially Margaret Merriweather's work on notable families of Ottoman Aleppo, the paper will show how the Bakriya shifted from a pattern of intermarriage with other 'ulama' lineages to a strategy of marriage alliances with Ottoman officials. This shift accompanied a rise in social status that turned a select group of Cairene 'ulama' lineages into a virtual nobility. Interestingly, the Bakriya rarely established marital ties with these other noble lineages. My paper will attempt to explain this phenomenon, examining the marriages of both male and female members of the lineage.