*Jewish History* **16:** 73–106, 2002.



# Division of the dowry on the death of the daughter: An instance in the negotiation of laws and Jewish customs in early modern Tuscany *

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**Abstract.** Tuscan notarial acts permit the exploration of the often elusive relationship of Jewish practice, Jewish law and the corresponding laws of the state. One issue in early modern Italian Jewish marriage negotiations was the eventual disposition of the dowry of a childless wife who predeceased her husband. Jewish law on the succession of the childless woman was complicated by traditional or regional customs and communal ordinances. Moreover, in sixteenth-century Tuscany there was no official code, court or arbiter of Jewish law. Nonetheless, Christian notaries who wrote prenuptial stipulations or pacts for Jews worked with the assumption that Jews were allowed to live according to their own law. This essay argues that individual Jews used to advantage the state's assumption that they could follow Jewish law (despite the absence of any universally-acknowledged or applicable law on this specific subject) by employing notaries to write contracts in disregard of both local statutes and well-known Jewish customs. In the second part of this essay I locate the stipulations in the Jewish marriage system and suggest that the process of negotiation over the fate of the dowry was integrally related to the system's emphasis – in contrast to that of contemporary Christians – on universal marriage and procreation.

> "If the Bride should chance to die, after the Marriage, without having brought forth any Children, the Dowrie which she brought, her husband must in this case be disposed of, according to the Agreements before made betwixt both Parties: which are very different, according as the Customes, and Usages, of the several Countries are."[1]

In the Tuscan city of Prato in June 1570, members of two Jewish families contemplated the possible future death of a woman married so recently that the transfer of her dowry had not yet been recorded. Indeed, it was the transfer of the hundred and thirty scudi of Perla's

* This paper is a revision of a paper written for a panel at a conference of the American Historical Association (1999) with the papers of Elka Klein and Rebecca Weiner; an earlier version was presented at the meeting of the Social Science History Association (1998) and a later version at the Berkshire Conference on Women's History (1999). I thank Jodi Bilinkoff, Todd Endelman and especially Kenneth Stow for helpful comments on versions or drafts of this paper.

dowry from her father Salamone di Ioab of Castronovo to her newly wed husband Dattero, son of Prospero di Angelo of Candia, that prompted the notarial act that provides our window onto the scene. The notary who drew up the document called the *confessio dotis*, which certified that the dowry had been paid, at the same time added a pact with various stipulations.[2] Among these was the specification that if the bride, Perla, should chance to die childless, her husband Dattero would return to her father Salamone or his heirs half the dowry that she had brought into the marriage.

In Jewish and Christian practice alike, marriage arrangements were governed both by written legal traditions and by unwritten and sometimes flexible customs. The complicated interplay of written law, custom and familial strategies may be teased out of the notarial documents in which Jews, like Christians, expressed to each other their financial obligations and, to interested governing officials, their conformity with the law. This essay focuses on the notarial stipulation concerning the division of the dowry on the death of the childless daughter as a point of entry into a larger discussion about the relationship of some sixteenth-century Jews to Jewish law and to ethnicity, on the one hand, and, on the other hand, about the relationship between these Jews and the early modern Florentine state.

The first part of this essay analyzes the marital pact and its provisions in the context of the history of common law and Jewish law on the subject. This review of legal history is necessary to establish that such notarial pacts, though they make no explicit reference to Jewish law, depend on the understanding that Jews were entitled to live in accordance with the laws of their religion. This assumption, with its own presumption of the existence of a coherent and known body of Jewish law – or its lack of interest in the content and procedures of Jewish law – is integrally related to the specific way that the Christian world, and in particular the Medici state, saw the Jews as "other". The second part of this essay places the dowry stipulation in the context of the Jewish marriage system in which it played a role, drawing attention to some of the differences between that system and the Christian marriage pattern. [3]

## The division of the dowry: Legal status and customary practices of the Jews

It is in the nature of the notarial art to standardize language, but to do so as though recording agreements spontaneously spoken during a dramatic meeting of actors. The scene in Prato presented above is that

of a business transaction common to Jewish and Christian marriages in sixteenth-century Tuscany. It is likely that the bride's father and his new son-in-law had written a betrothal document earlier and that the transaction before us – the "confession" of the dowry payment – took place shortly before or after the religious ceremony called "*nissuin*," the wedding.[4] That ceremony most probably also included the preparation of a Hebrew marriage contract (*ketubbah*) and culminated in the symbolic procession of the bride to her husband under the *huppah* (the canopy which represented the house of the husband) and then of the bride to her husband's actual house (the "leading" – *ductio*).[5]

The sums involved, the notarial language, and the constellation of persons said to be present at the signing were all typical for a Tuscan marriage negotiation in the sixteenth century. Samuel Cohn Jr. has recently demonstrated that "even the most impoverished of rural [Christian] Florentine families sought out the official sanctions of notaries and paid their fees to formalize their marital ties in writing."[6] Tuscan Jews also participated in this culture, validating their marriages with specifically Jewish rituals and within this notary-facilitated and document-based culture.

There were also more specific reasons to hire a notary. The notary's formal legal language promised the validity and enforceability of the provisions. Then too, the notarial document registered the compliance of these Jews with local law: after Dattero acknowledged his receipt of the dowry from Perla's father, he in turn gave her fifty lire as *donationem*, the counter-gift, "in accordance with the statutes of Prato."[7] Yet for all the similarity and conformity of these Jews in Tuscany to standard practices, there were ways that this scene was specifically Jewish. The groom, who gave his age as eighteen, was far younger and presumably closer in age to his bride than Christian men in Tuscany usually were when they married.[8] A second difference, upon which this essay will focus, was the dotal pact (*patto*) that the two families in Prato added to their record of the 1570 receipt of dowry. This pact stipulated that in the event that Perla should predecease her husband Dattero without leaving him children (*sine liberis)*, the widowed Dattero must return half the dowry to his father-in-law, Salamone, or to Salamone's heirs.[9] Perla might face the dangers of pregnancy and childbirth, but this premarital stipulation meant that her parents would not risk "both the daughter and the money" when they turned over the girl and the 130 scudi to Dattero.[10] The assumption behind the language of this stipulation would seem to be that without it, the husband would not

have had to return, but would rather have kept the dowry of his wife upon her death.

This pact and its stipulation were not part of the standard notarial procedure and were not attached to Christian confessions of the dowry at this time. The disposal of the dowry in the event that the wife died childless was not a question that was ordinarily negotiated by Christian families in the sixteenth century: the issue had been decided and was the subject of municipal statutes in many Italian cities, as we shall see. The fact that the laws on this issue varied regionally was not irrelevant to the families of Perla and Dattero. It was probably not yet clear to them where the newlywed couple would settle. For political and economic reasons, relocation was a regular feature of Italian Jewish life in the sixteenth century, if not of every individual's experience. The city states, duchies and republics of the politically-fragmented peninsula in the sixteenth century alternately and in fits and starts expelled their small Jewish populations or threatened to do so, invited Jewish bankers or merchants to settle and privileged them, created restrictive ghettos, or tolerated Jewish refugee immigration.[11] Some Jews were pushed out or invited in; others just migrated. The *condotta*, or charter, was still the basis for much of Jewish settlement, so young Jewish members of the banking elite and a larger set of agents, servants and other economic dependents might move to a new location for economic opportunity. Jewish men traveled and moved in order to study, and Jewish women and men as well might relocate in order to marry. It is presumably in light of this high mobility that the notary added, after the main provisions of the pact, that the terms of the pact were to be considered valid in Prato, Florence, Rome, Siena, Pisa, Bologna, Modigliana, Ferrara and other places.[12]

The specification that the contract should be valid in these various cities deserves some consideration since Florence, Ferrara and Rome (to consider just three of these places) were the seats, in 1570, of three distinct political states, each with its own legal system and complicated relationship to the Jews who resided there. For whose eyes, then, was the pact – notarized by an official, licensed notary – written? By whom was it to be considered binding and valid in all these places? To what kind of court or officials or informal authorities did the notary address his instruction? And, because it is not so obvious as it seems, by what authority did this notary write a pact for two Jews that conflicted explicitly with local laws and customs?

Our first effort to understand the stipulations in the pact made between Dattero and Perla's father should be made in the context of

the law of succession which operated in the Florentine dominion, the "Maritus lucretur dotem uxoris sue premortue." The complex history of this law has been studied by Julius Kirshner; the relevant pieces of that story are presented here briefly.

Roman law, operative in medieval Florence, had granted the woman's family of origin the return of her dowry when she predeceased her husband.[13] It also allowed the use of dotal pacts to individualize many aspects of the agreement.[14] The Roman law was modified in many Italian cities in the thirteenth century by statutes which gave the husband the right to retain from one-third to all of the dowry if there were no surviving children. In territories closest to Florence, Kirshner found that in Pisa, Siena, Arezzo and Pistoia a widower was granted half of the dowry of a wife who predeceased him with no surviving children.[15] In Florence, where such statutes were not instituted in the fourteenth century, individual Christians began to include stipulations to the documents that recorded the receipt of dowry. These stipulations overturned Roman law completely, granting the whole dowry to the husband if the wife predeceased him.[16] Justinianic law was eventually fully reversed officially in Florence and in her possessions by a statute in the mid-fourteenth century which granted the husband full possession of his wife's dowry and property upon her death if she had no surviving children.[17] In reversing Roman law, Kirshner argues, the city formalized what had already become a customary practice in order to encourage men to contract marriages and to see them through from betrothal. Low marriage rates and birth rates were of concern after the demographic devastation of the Black Death. By removing the bride's father's claim to the dowry, the modified law addressed the concern of marriageable but hesitant men that they might be required to return the dowry soon after expensive marriage festivities should the wife become ill and die before or as a result of pregnancy or childbirth. On the other hand, the failure of some men to consummate a marriage after betrothal was of great concern to the families of many betrothed women. The statute therefore also intended to satisfy them, in an effort to protect the honor and reputations of the women and their families, and therefore abbreviated the period between betrothal and marriage by making a husband's claim on the dowry contingent upon his having actually brought his wife to his home – "ductio." This law was reaffirmed in 1355 and 1415, and was, according to Kirshner, still in effect in the sixteenth century in Florence and its now much larger territory.[18]

In other locations in the sixteenth century there was what amounted to more of a compromise with Roman law. In Siena in 1545, for example,

before its capitulation to Medici control, the last statutes of the independent republic confirmed the thirteenth-century rule that returned one-half of the dowry to the family and left one half with the widowed husband.[19] The same division of property also was found in the mid- and late-sixteenth century statutes of Rovereto, a Venetian city.[20] Amid this regional and local diversity, Dattero, located in Prato, agreed to keep only half the dowry and to return half to his wife's father if she died childless.

As the notarial acted noted with reference to the size of the countergift, this *confessio-dotis* was written at least partly in conformity with the statutes of Prato.[21] But on the issue of succession of the wife, Prato was without special statutes and was subject to the laws of Florence. Florentine law specified that if a woman predeceased her husband without leaving children, the entire dowry remained with the husband.[22] This stipulation specified in Dattero's pact is not found in notarial marriage documents drawn up for Christians by the same notary, nor does it seem to be commonly known to scholars who have studied sixteenth-century Christian marriages in this region.[23] In sum, Dattero's pact did not conform to local statutory law. It is reasonable to proceed, then, by testing the possibility that the stipulation in this dotal pact was written in response to or in conformity with Jewish legal tradition or custom.

It is important to recall that the dotal pact under discussion was written with the expectation of broad validity, in a geographical and political sense. People who employed notaries to draw up contracts or compacts certainly believed that these legal documents were effective and enforceable. As we have seen, in this case the clients and the notaries aspired to write a civil contract that would be considered valid even if the person in possession of the document moved to a new political territory. The stipulation of pan-geographic applicability was not standard in notarial documents pertaining to marriage in Tuscany. This suggests one of two possibilities. The first is that Jews, but not Christians, were taking advantage of a general legal right (available also to Christians) to render civil contracts at will, even in contravention of local statutory law. This does not seem to have been the case in the sixteenth century. In theory, under Roman law, pacts undertaken freely by two parties had legal status. But, as Walter Ullman noted, the Roman emperor Constantine had ruled that customary law could not override statutory law, for "if customary law had been credited with derogating powers, all doors would have been opened up to the gradual elimination of all statute law."[24] In the matter of the return of

the dowry, pacts and stipulations were common practice (representing "customary law") in the fourteenth and fifteenth century. But once statutory law was written on the subject, the pacts and stipulations ceased as a normal notarial practice. (This seems to have been true even though, as Thomas Kuehn has warned, once a given case was being contested, statutes were not actually interpreted without reference to *ius comune* and did not always override it.[25]) Notaries apparently did not draft documents for Christians that freely contradicted local statutory law or that claimed to have pan-geographic applicability. In particular, Christian notaries in sixteenth-century Tuscany did not write pacts for Christians that determined the assignation of the dowry in the event that the daughter should die childless.[26]

Since it was not standard practice, it is not likely that the notary prompted the Jews to write the pact. Rather, the impetus to write it must have come from the Jews themselves, and the notary's willingness to oblige is explained by his knowledge that they were Jews. As such, they assumed – and their notary assumed with them – a right to be governed by a law that was independent of locale.[27]

The inclusion of a statement of broad geographic applicability was not standard for notarial acts in Tuscany, but Hebrew formularies for business contracts, written by Italian Jews, did sometimes include this type of language. An example of this may be seen in a mid-sixteenth century formulary-book, in a document that was used to show that a debt had been satisfied.[28] Here the scribe explicitly described his intention to write a document that would be considered valid and usable for judgment "in every court [before which] it is brought, whether by the laws of Israel or by the laws of the Nations of the World,[29] whether in the courts of Perugia, Arezzo, Cortona, Florence, Foligno, Spoleto, Camerino, Rome, Toscana, Le Marche, the Duchy, Patrimonio, or in all the rest of the established courts . . . "[30] It is hard to imagine that any court would dispute a duly-witnessed document stating simply that a debt had been satisfied, but the concern of this Hebrew formulary note was to ensure exactly this, that it would be considered valid (once translated) in any court. It is that much easier to imagine that a personal contract concerning the division of the dowry upon the death of the daughter could be contested in court.

It is not certain whether a sixteenth-century Florentine notary operated on the understanding that Jews were allowed to follow another law under the principle of "personal law" (*ius proprium*),[31] or perhaps under the principle of "the law of the nations" (*ius gentium*), a concept refined by the fourteenth century jurist and law professor Baldus de

Ubaldis.[32] Jews had the complex status of Roman citizens, of members of the civic body where they lived, and of a people permitted to observe their own religious rites, as a notary would have easily seen in the *De Iudaeis*, a major codification of Jewry law published by the jurist Marquardus de Susannis in Venice in 1558 and reprinted in 1568.[33] Consequently, as De Susannis had argued, Jews were subject to canon law, Roman law, and local statutory law, and were entitled to observe Jewish law when it impinged on none of these.[34] But the specific issue of the division of the dowry was not discussed by De Susannis, which leaves open the question of Jewish law on this matter and whether it impinged on any other law.

On a practical level, it seems that the notary who wrote the stipulation for the Jews based his act on the most basic principle (within *ius commune* and confirmed in canon law) that Jews, as *cives romani*, are permitted to observe their religion without undue interference.[35] Yet the distinction between the religious rites and customs of the Jews – protected for many centuries by papal policy – and their other "laws" was not clearly defined. Papal edicts often referred only to the protection of Jews' right to observe their "customs" and ceremonies, but sometimes referred explicitly to the right of Jews to live according to their "laws."[36]

The implication of all this for notarial practice, it seems, was that Jews were considered entitled to live according to something probably thought of by administrators and officials of the Tuscan state (such as notaries) simply as "their law." This, at least, is exactly how it is referred to in charters granted to Jewish bankers in Tuscany at this time. Privileges granted by Cosimo I de' Medici to these families included the provision that the Jews who held the privileges should not suffer any impediment to the observance of their Sabbath, festivals or "their laws".[37]

What might "their law" have meant to Jews in Tuscany and the notaries they employed? On the one hand, if "their law" is understood to mean simply "Jewish law," it is arguable that Jewish law would in this particular case say that the dowry should be disposed of according to (local Jewish) custom or usage. This was the opinion of Italian and Polish rabbis of the sixteenth and early seventeenth century, and it was made known widely even in vernacular languages by Leone Modena, whose *History of the Rites and Customs of the Jews* is quoted at the beginning of this essay.[38] In the absence of "custom" one could learn from the Jewish law codes in print by the mid-sixteenth century that rabbinic law permitted a husband to stipulate against his right to in-

herit his wife, and that in the absence of such a stipulation the husband inherits the dowry of his wife.[39]

At this point we have established only that our notarial document does not conform to statutory laws in Tuscany: it does not specify that its stipulations are written in accordance with "Jewish law." Indeed, we would not expect to find such an explicit claim in a notarial document in Tuscany, for there could be no consensus on what that would mean. Some Jews of Tuscany – and Christian jurists – may have had access to copies of the relevant volumes of Maimonides' law code, the *Mishneh torah*, to Jacob ben Asher's law code, the late medieval *Arba'ah turim*, or even possibly to the code of Joseph Karo, the *Shulhan 'arukh*, printed in Venice in 1564–1565.[40] But Jews had no "official" law code, and Medici state authorities did not choose one for them. The state did not appoint for the Jews of Tuscany a court that would base its rulings on Jewish law, nor was there an appointed or acknowledged rabbi or rabbinical board for the Jews of Tuscany as a whole in the mid- or late-sixteenth century.[41] For specific families of Jewish bankers who had privileges, there was written affirmation of their right to observe their holidays and laws. Other Jews residing in Tuscany, Jews who had no special privileges and were not "covered" by the privileges of the bankers nonetheless appear to have made silent reference to this presumed right when they wrote pacts such as the one before us.

The opacity of the pact and the ineffability of "their law" is, I am arguing, key to the power of the text to capture the Jews' right to observe "Jewish law." The notary does not refer directly to the Jewish law on this matter or to Jewish custom; the Jews in this marital negotiation are rendering allegiance to a more abstract law – and not only a specific legal practice – a detail of which is ultimately being articulated and thus made in the very process of its notarization.

As Robert Bonfil has described the situation, Jewish communal leaders in most Italian territories up until this time attempted to persuade their coreligionists to settle civil suits by arbitration rather than in formal courts of law.[42] Jews were in some places formally privileged to avoid local state court systems, but a formal, permanent Jewish court system was established in only a few places. There was, in 1570, no officially sanctioned rabbinic court in any of the cities mentioned by our notary in the special clause that detailed the validity of the pact outside of Prato.[43] The absence of a permanent court system meant that in some places where there were active rabbis they competed with each other for influence and litigants convened competing "courts" during a dispute or turned initially or in appeal to non-Jewish courts. Thus,

in Rome Jews might resolve a conflict over a dowry or inheritance in front of an assembly of rabbis and community officials.[44] In Bologna a Jew might have to choose allegiance from among several rabbis who held court.[45] But in all of these places a Jew might also turn to a non-Jewish court, as was done frequently in Florence and most of her subject Tuscan towns in the sixteenth century. In the Medici state, Jews were subject specifically to the Florentine court of the Otto di Guardia e Balià, a court comprised of eight Christian laymen, citizens of Florence who served in four-month rotations.[46] Little is yet known about the practical resolution in Tuscany of ordinary cases that involved Jewish arbitration, which left no formal record, or of cases tried and settled in court. Even less is understood about what may have happened in cases where disputants forced a confrontation between "Jewish law" and common law.[47]

The authority of rabbis to adjudicate and the existence of Jewish courts are, of course, separate from the question of the content of rabbinic law on our subject and its influence. Rabbinic law existed as written text (available for study) and in some cases was part of the common knowledge and practice of the Jewish population. Indeed, the fate of the dowry in the event that a woman died childless had long been of interest to Jews as well as to Christians.

As noted above, the basic rabbinic law of succession was that a man inherited his wife's possessions – including her dowry – if she had no male children at the time of her death. Meanwhile, Florentine statutes had reversed Roman law, which returned the dowry and possessions to her father's house. Thus, local Florentine statutory law and rabbinic law agreed that the widower inherits the dowry. It might therefore seem that Tuscan Jews, when they wrote the stipulations in their premarital contracts, intended to avoid the standard of local law, of rabbinic law, or of the laws of both legal systems.[48]

But the above-stated rabbinic law was hardly the end of the matter. As in the Roman legal system, there was the possibility of customary law in the absence of specific statutory law and there was the possibility of statutory law. That is, there was precedent for the modification of marriage contracts by stipulation and there was an extant body of the equivalent of statutory law, known in the Jewish context as *takkanot* – ordinances – decided upon by local or regional gatherings of rabbis and/or magnates.[49]

The legal device of adding stipulations to an engagement or marriage contract had probably emerged as soon as the Jewish marriage contract itself began to be standardized. Stipulations that alter the law of suc-

cession are first seen in use among Jews of Syria and Palestine under Roman rule, and the practice was accepted as valid by rabbis cited in the Palestinian Talmud.[50] The customary restriction of the husband's right of succession subsequently appeared with many variations and modifications in Jewish marriage practice wherever Jewish diaspora communities took root, and especially wherever the Palestinian tradition – or Roman law – had influence.[51] The variants differed mainly on what part of the dowry should be returned to the father's house, on what types of property this included,[52] and on whether the return of the dowry applied only if the bride died childless within the first year of marriage, or even if she died more than one year later.

In some Jewish communities, as we shall see, these pre-nuptial stipulations and others pertaining to marriage and divorce became standardized as *takkanot*.[53] Where they had been adopted by communal ordinance, stipulations were often no longer written into the marriage contract.[54] This is exactly the process that had occurred in Christian Tuscany, but in reverse. Standardizing a customary usage, Florentine statutes had moved *away* from Roman law, allowing the widower to keep the dowry; various Jewish communal ordinances had moved *toward* Roman law, forcing the widower to return part of the dowry.

The important version of the ruling that was adopted among French and German Jews in the thirteenth century returned to the parents or the donors of the dowry either all or half the dowry of a bride who died childless in the first year of her marriage, and half the dowry if she died during the second year. This Ashkenazic custom and its variants (generally referred to as one of the *takkanot* of Shu"m – the acronym for Speyer, Worms and Mainz – or of Rabbenu Tam) were followed by Jews in Poland and Lithuania into the early modern period and were widely known in rabbinic literature.[55] Another important tradition, codified in the sixteenth-century *Shulhan 'arukh* but based on the fourteenth century *takkanot* of Toledo, ordained that if the wife predeceased her husband without children, her family took back a third or one half of her dowry regardless of how many years the marriage had lasted.[56]

The Jews of central and northern Italy were a population whose ancestors came from Sicily and southern Italy, from German and French lands, from Spain and Portugal, from the Ottoman Empire and from regions of North Africa. As the Italian Jewish population grew and communities developed during the late middle ages, leaders gathered and decreed several sets of ordinances in the fifteenth and sixteenth centuries, but none concerned the specific subject of the succession of wives who died childless.[57] These councils were infrequent and tended

to deal with pressing concerns, so we need not be surprised that the issue was not legislated.

In this silence it might be imagined that Italian Jews lived according to the customs of their lands of origin. Some contemporary rabbis described their world in these terms. For example, Rabbi Azriel Diena (d. 1536) referred clearly to the custom of "French and Ashkenazic" Jews that the whole dowry is returned to the father's house if his daughter died childless within a year of the marriage.[58] For Diena, this custom was relevant to a case involving Italian Jews of French or Ashkenazic loyalty in which his opinion was sought. About a century later the Venetian rabbi Leone Modena wrote in his vernacular, polemical autoethnography of the Jews that on this issue Jews rule according to the "Customes, and Usages, of the several Countries," as one early English translation had it, or according to the "pacts that are customary in [that] country, which are diverse."[59] Here Modena casually commented that the difference was *regional*, whereas in the introduction to his work he had explained that the customs of the Jews varied according to three, less geographically-specific, *national* groups: Levantine, Dutch (German), and Italian.[60] It is not clear in the case of our inheritance question whether Modena had in mind an "Italian" custom, or referred to other national customs that might be used by Italian Jews who were bound by them. In any event, it is noteworthy that despite their presumably divergent motivations, two Italian rabbis whose life-times frame the period we are discussing both refer to inheritance traditions that invoke attachment to locale or loyalty to place of origin.

But it is not at all clear that all Jews in the Italian states had either a new "Italian" tradition or knew of or chose to adhere closely to the specific customs that written tradition associated with their lands of origin. We shall see that in fact, the Jews of Tuscany cannot easily be divided into Jews who followed the "Ashkenazic" tradition and those who followed the "Toledan" or Spanish tradition. Moreover, that there was no distinctive "Italian tradition" is clear: no one particular custom was in use – or had yet been established – in Tuscany in the second half of the sixteenth century. To exemplify this, we shall compare the terms of the pact written by Dattero and Salamone in 1570 with those used in marriage documents drawn up for a couple exactly three years later, after the Jews of Prato and the other towns in the Florentine dominion had been expelled from their towns and had resettled in Florence.

In October 1573 in the new Florentine ghetto, Iudit, the daughter of Ioseph Ursi, was to be married to Gratiadio di Ventura Leucci. Ursi, sometimes known as a German Jew, was from Perugia, and the Leucci, a

long-established Italian Jewish family of perfume-merchants, were from Pisa.[61] This was a high status marriage in Tuscany, probably the most costly Jewish marriage arranged in Florence since the establishment of the ghetto there in 1571.[62] The dowry was five hundred florins, a small sum for a member of the Florentine patrician elite or nobility at court, but a respectable dowry for members of most of the guilds, and more than most other Jewish families in the ghetto could afford. According to the betrothal agreement, Iudit's father Ursi would have one year to turn over the dowry in gold to Gratiadio Leucci, and after its transfer the young man was to give Iudit a ring, and gifts, and conduct her to his house "in Florence or elsewhere."[63]

The notarized contract included a number of stipulations, the first of which dealt with the possibility of the bride's death. If, *deus avertat* (God forbid)[64] Iudit should die without sons or daughters, the dowry – all of it, not just half – was to be returned to her father Ioseph, if he were still alive, within a year of her death.[65] Despite the similarity to the pact in Prato, Dattero and Gratiadio committed themselves to their fathers-in-law differently. The former referred to the possibility that his wife would die without children [*sine liberis*]; the latter specified sons or daughters. The one promised to return half the dowry; the other the whole. One would return it to the father-in-law or his heirs; the other only to the father-in-law, but promptly, within a year of his wife's death.

Though Florentine law granted that the widower kept all the dowry if his wife predeceased him, we have now seen two Jewish contracts written in Tuscany only three years apart, one which would have the widower return half the dowry to her family, and one which would have the widower return the whole to the family. These Jews were not observing Florentine law, but what law were they following? Given the diversity of the origins of these Tuscan Jews and more generally of Jews of the northern and central Italian states and the extent of Jewish mobility and intermarriage, what was "Jewish custom" in Tuscany, when Jews marrying did not always obviously belong to the same (or to any) clearly defined Jewish ethnic group? Did they divide themselves into clear categories: Italian Jews of French and German origin following the Ashkenazi tradition (*takkanot* Shu"m/ Rabbenu Tam) and Italian Jews of Spanish, Portuguese and Levantine origin following *takkanot* Toledo?[66]

It could be surmised that Perla and Dattero's stipulation conforms to the rule of Toledo (one-third or one half back to her family, regardless of how many years after the marriage her death). Though neither

family used a Spanish eponym or epithet, the groom's family came from Venetian Crete, which did have a Spanish refugee population as well as a long-established Jewish population. But it could as readily be thought that they had adopted the stipulation from the custom of Siena where the rule was to divide the dowry evenly, perhaps under the guidance of the Da Pisa family who had lived there for some time, to whose house the notary had come for the signing of the papers, and who may have been the young couple's patrons.[67] Meanwhile, the stipulation written by German-Perugian Jew Ursi and his Pisan son-in-law Leucci (that her father gets back all of it within a year of her death) conforms neither to Toledo, nor to the standard formulations of the Ashkenazi takkanah, nor to Florentine statutory or the earlier Pisan statute, and certainly not to the Talmud, but rather hearkens directly back to Roman law. If these families intended to invoke a specific Jewish tradition, perhaps it was a creative adaptation of Rabbenu Tam's tradition. Instead of agreeing that the father gets back all if the daughter dies *within a year of her marriage*, the tradition is revised in favor of Ursi, who demands to receive back her whole dowry *within a year of her death*, even if she dies *after* one year of marriage.

Although there were subdivisions within Italian Jewish communities in some Italian cities, especially for the purpose of political representation or public worship, it would be difficult to support the claim that all early modern Italian Jews clearly identified with or expressed any attachment to a place of origin (i.e. had "ethnic identity") or to specific religious-legal traditions associated in rabbinic literature with that place. Where the overall numbers of Jews were small, marriage ties that united families who were likely to have come from places that observed different traditions further weakened any such allegiances. In our two Tuscan marriages we encounter couples living in Prato and Florence whose fathers came most recently from Crete, Castronovo in the dominion of Ferrara, Pisa and Perugia.[68]

Even if we imagine that what we are seeing here is adherence to, or an effort to follow, specific Jewish traditions (that of Toledo in the first case, or that of an Italian version of the Ashkenazi custom in the second), the final product, the stipulation, was not determined by any identifiable reference to ethnicity, neither was it justified by allusion to that Jewish custom nor by reference to law. Rather, the stipulations resulted from a process of negotiation in the course of which words and options were sifted and selected from a large set of available customs. The uniqueness of each document reflects but does not reveal this process as Jews creatively negotiated the main sets of traditions

and influences to which they were exposed: rabbinic law, Jewish custom (itself complex and regional), and the influence of the laws and practices of the Christians among whom they lived.[69]

The state's unarticulated assumption of the existence, and observability, of Jewish law served as a useful fiction for the Jews of Tuscany. There was a vast and still-growing body of Jewish law and commentary, and there were many rabbis who engaged in the interpretation of Jewish law and ordinary Jews who were concerned to live in accord with it. However, on the specific issue of the return of the dowry, "Jewish law" was not so clearly established that the Jews of Tuscany could have "known" it, or how it applied specifically to them. These Jews worked with the legal framework, colluding with their own representation as "other" and enjoying the flexibility that status afforded them as individuals at a time and in a place where there was no official interpreter or arbiter of Jewish law, and no one authorized to police its application. In other words, the state allowed Jews to observe their own laws and this allowed them a great deal of freedom as individuals, at least in the case before us and perhaps in other cases when there was no authority actively involved in the enforcement of a particular interpretation of Jewish law.

Because of the way Jews used Christian notaries in Tuscany, it has proven futile to undertake a comprehensive analysis of Jewish marriage contracts in this period. But a similarly complex picture arises from the much more extensive data available from the Roman archives, where Jews consistently used a few notaries – Jewish notaries. These documents reveal that during a formative period from the 1530s to the 1550s no universal rule of succession was being followed.[70] There was some variety, though it was certainly limited, in the details of the stipulations concerning the property of a woman who predeceased her husband.

The Jewish notarial documents in Rome that contain stipulations state most often that if a wife predeceases her husband within the first year of marriage and leaves no living children, one-third or one-half of the dowry is to be returned. These contracts are close to the Ashkenazic custom or its close variants. But even here there are modifications to the very feature that characterizes this custom – the restriction that the property is returned only if her death occurred during the first year of marriage. (This restriction is not mentioned in the Tuscan pacts.) Sometimes in the Roman contracts it is stipulated that the dowry or part of it is returned even if the wife dies after the first year: in the second year, in the first four years, within ten years or without a year limitation.[71] In one case, the contract stipulates that if she dies,

the husband retains the entire dowry.[72] Sometimes the dowry is to be returned or partially returned even if the marriage produced children who survived. The heterogeneity of details here is evidence that at least some small number of these Jews in sixteenth century Rome, like the Jews in Tuscany, were not routinely following the takkanah of Rabbenu Tam, Takkanot Toledo, or any other definitive custom.[73]

In Rome the rabbis who served as the ghetto's notaries were in time able to amalgamate the various traditions formulaically and help bond the community in the process.[74] Within decades, under the skilled hand of the rabbi-notaries in the Roman ghetto, a new Roman-Jewish tradition was created. Stow explains that the notarial development of legal forms, language, and new customs such as this one regarding the division of the dowry were an important part of the process by which the ethnic groups in Rome were successfully forged into a more united community. The evidence from later marriage contracts of Livorno, Venice and Ancona suggests that by the seventeenth century it was not only in Rome that a high level of standardization had been adopted.[75]

The Roman example presents a situation in which at first, distinct customs which were known by their place of origin were practiced by Jews of corresponding origin. Further analysis of Tuscan notarial documents pertaining to Jewish marriages may eventually reveal whether distinct religious traditions and customs also coexisted in Tuscany until a new Italian or Florentine tradition was created by some process similar to that described by Stow for Rome. But if there were ever distinct ethnic customs in Tuscany (which may be less likely because of the smaller population and the more diffuse immigration into the region), we should still not expect to see the same process at work in sixteenth-century Florence or in Tuscany as a whole. Here, Jews were living in more than twenty towns and villages until 1571. These Jews were neither united by any Jewish governing body, nor judged by a Jewish court; they were neither subject to the rulings of any one particular rabbinical authority nor apparently wont to turn consistently to the guidance of any one such rabbi. And, in contrast to Rome, there were no Jewish notaries or other official authorized Jewish communal functionaries who could have taken an active role in creating a new Jewish custom. Even after ghettoization in 1571, it would be decades before any Jewish institutional voice in Florence was strong enough to attempt to influence or set marital practices.[76]

In sum, the legal codes and responsa literature of rabbis throughout the medieval and early modern diaspora show a familiarity with the *takkanot* of Shu"m, of Toledo, and of other regions. The Jews of Italy

– or various ethnic sub-communities – might, and may, have aligned themselves with one or another of the traditions. But the contracts found in the Florentine and the Roman archives suggest a more complex picture: Jews in Christian lands continued to practice a great variety of customs long after and despite the enactment of ordinances. Italian Jews living in Tuscany and in Rome apparently did not consider these enactments automatically binding, nor did they seek, as a Jewish community, to enact statutes for their own locale. And no one, at least in Tuscany in the period before ghettoization or in the early decades of the ghetto, had the power or authority to demand or enforce uniformity of practice among Jews.

The stipulations we see in the notarial documents are also evidence that notaries worked with the assumption that Jews could be exempted from local statutory law and, as I have argued, that this assumption was grounded in the general principle that Jews were allowed to live according to their own laws. The details of these agreements, however, though they distinguish Jewish practice from the legal and social practices of local Christians, nonetheless do not appear to correspond to or to conform to one particular Jewish legal tradition or well-observed Jewish customary tradition.

Perhaps the situation can be analogized to sartorial choice in the early modern Italian states. Consumers could costume themselves with elements from several national styles, modeling themselves after resident or visiting foreigners – merchants, nobility and ambassadors – or simply choosing from exotic silks and damasks in the retail shops and the second-hand market.[77] So too, Italian Jews in the sixteenth century, a highly mobile society, were exposed to Jews and Christians from distant regions and foreign lands. In their marital and legal culture, a somewhat loose identity fit better than strict adherence to the cut of a specific "ethnic" identity and its attendant traditions. A large set of customs and models of succession provided by non-Jewish and Jewish traditions was available. Jews used to advantage both their status as semi-outsiders to the local legal system and the flexibility of the prenuptial pact (*patto*, in Roman law) or stipulated condition (*tenai'*, in Jewish law), selecting and cutting the best fabrics and tailoring their engagement and marriage contracts to specification.

The variation we see in the details of the pacts and stipulations is the work of a Jewish population that was not bound or united by any clear standard for laws regarding marriage and inheritance, the work of a population of individuals who adopted and adapted customs selectively and innovated strategically. This instance in the negotiation over the

dowry provides us a glimpse of the way that individual Jewish families and Jews as a minority group played to advantage their own amorphous identity and the official notarial system to tailor their marriage agreements to meet their specific financial and, perhaps, emotional needs. It affords a glimpse of the work done together by Jews and, unwittingly, by notaries to fortify the ambiguity of the legal autonomy of the Jews who were assumed, on the one hand, to be subject to local legislation and who were, on the other hand, permitted to live according to their own laws.

The data I have considered are only suggestive of the picture that might emerge from a full analysis of notarized Jewish marriage contracts over a longer period. Nonetheless, the division of the dowry stipulation must be understood in the context of the larger marriage system in which it played its role, as one element of a marriage system that differed radically from that (or those) of the surrounding Christian culture.

Jewish patterns differed from Christian patterns in two basic elements: Jewish men married earlier than did Christian men – generally in their early twenties, if not earlier – and a higher percentage of Jewish men and Jewish women married.[78] The almost universal marriage rate was undoubtedly more an ideal than a reality, but as an ideal it differed dramatically from the Christian model which accepted male bachelorhood until well into the fourth decade of life as the norm and not only tolerated but sanctified the celibate life through monacation, Christian "marriage" to Christ or to the Church.[79]

In Tuscany a great percentage of Christians remained unmarried either permanently or for extended periods of their adulthood. One factor that contributed to this phenomenon in the fifteenth and sixteenth centuries was dowry-inflation. Jewish rabbinic, lay and cultural leaders who also felt this economic and cultural pressure made allusion to, criticized, or sought to inhibit dowry-inflation with words reminiscent of those used by Christian moralists and governors.[80] Yet there is no indication that Jews were responding to these pressures by deliberately limiting the marriages of their offspring in order to provide appropriate sums for the marriages of a select number, as Christians did. This was true even (or especially) in the wealthiest of the Jewish families.[81] Jews continued to live with a traditional religious system and its cultural norms: all men and all women were expected to marry, and men were encouraged to marry young instead of waiting to inherit from their fathers. Families that had many daughters had difficulty raising dowries; consequently there was opportunity for new wealth to join old

status in marriage, as occurred in the Ursi-Leucci union. In brief, then, Christians experienced a system of dowry inflation, big age-differentials in marriage, and high levels of monastic confession by women and of extended or permanent single-hood, if not always celibacy, of men.[82] In contrast, the Jewish marital system seems to have produced smaller age-differentials in marriage and higher rates of marriage for both men and women.[83]

Whether, in fact, Jews of all classes attained the cultural goal of universal marriage is not known. However, the evidence does suggest that Jewish parents considered themselves obliged to arrange marriages for all their children and not for only one or two. They had to be resourceful in order to provide all the dowries, thereby attracting partners for their daughters, protecting them in widowhood and perhaps against divorce, and, not least, devolving their own wealth, potentially protecting it from creditors and taxes.[84]

The Jews of sixteenth century Tuscany adopted a variety of familial strategies to enhance their ability to arrange matches for their daughters. They limited family size, tolerated first marriage of girls at ages both below and far above the prevailing ideal of sixteen,[85] borrowed from and invested with relatives, and made arrangements whereby the father of the bride invested his daughter's promised dowry rather than turning it over to his son-in-law.[86] The inclusion of special legal stipulations or pacts that overruled the statutory laws of inheritance and succession in betrothal and marital contracts or in the *confessio dotis* documents like the one written by Dattero in Prato might be seen as evidence of anxiety that parents felt when preparing to disburse their daughters' dowries. But it may also be seen, if we dare to venture further into the realm of emotion, as a pro-marital strategy to add to those listed above.[87] My point here is that stipulating the return of the dowry – even though it anticipated the untimely death of a daughter – may have facilitated the marriage deal by allowing a young woman's parents to think of the dowry not as wealth they were about to lose to the control of a son-in-law, but rather as a partially-secured investment in their future grandchildren.[88] For the dowry would be returned only if there no children survived their daughter's death. With grandchildren firmly in mind and referred to explicitly on paper, the bride's parents could release the dowry to their son-in-law.

Historians have often commented on the role the dowry played in enhancing the status of Jewish women, protecting them from impulsive divorce and sheltering them (and sometimes empowering them) in widowhood.[89] It has also been argued that in the rabbinic tradition,

stipulations returning the dowry to the parents had long been permitted "for the good of the daughter." That is, the tradition acknowledged that without such stipulations parents might inadvertently ruin a girl's opportunity to marry, or marry well, if, in fear that she might die childless and her husband would inherit the whole dowry, they promised her a dowry that was too small.[90] But in the context of the marital negotiation represented in the Tuscan notarial acts, it becomes clear that the stipulation itself is written not primarily in order to protect or help the daughter. Rather, the stipulation is made specifically to seal and effect a marriage deal, which is desired by the bride's parents not only for the good of the daughter but, inseparably coupled to that goal, for its intended production of (grand-) children.[91]

The link between dowries and grandchildren was acknowledged by a female character created by the Italian Jewish playwright Leone Sommo of Mantua in the mid-sixteenth century. In an opening scene of Sommo's "comedy of betrothal," two parents are discussing the engagement of their daughter and the preparation of her dowry. Amon, the husband and father, grumbles against what seem to him the exaggerated expenditures:

> "It is a bad path that all the women of this bad generation have chosen, dropping gold from the[ir] pocket[s] to no end; and jewels for empty trifles like these, to no help and to no avail."

Deborah, his wife and the mother of the engaged daughter rejoins:

> "I will not conceal from my master that we are eager to increase the dowry and to expand the gift to the *daughters of our daughters* [my emphasis]; indeed it is the sin-offering of all the women!"[92]

The general theme here, of course, is ostentation, a great subject of Italian sumptuary legislation.[93] Sommo's pun may poke fun at the devotion of women (their gift-giving is "sin" or "sin-offering") to their daughters' dowries, the symbol of their status. But the playwright's female character reveals her genealogical mode of thought as she informs her husband and intended audience that the gifts (and status) assigned to daughters on their marriage will be passed on to granddaughters.

Let us return from the play to the notarial act: the dotal compacts indicate that with the dowry, a woman's parents made a partially-secured investment of capital in her marriage, and the interest or profits it should bear are grandchildren. If the marriage bore no fruit and no grandchildren were produced before the daughter died, the careful investors who had written such a pact had reserved the right to the

(partial) return of their capital. The inclusion of stipulations about the return of the dowry in Jewish marriage documents may thus be seen as a residual mark of three parental fears or concerns about the transfer of the daughter and the dowry: loss of life, loss of assets, and loss of lineage.

One lesson of these notarial documents and their individualized stipulations is, clearly, that we cannot assume that Jews followed or observed "Jewish law" or local statutes, or that they limited their options to these choices. Even when notarized contracts do seem to conform to Jewish law or *takkanot*, it is impossible to say whether the Jews who had them drawn up were intended to follow Jewish law, and if so whether they did so because they considered themselves obliged to observe "it" or because they preferred its provisions to those of local laws which would otherwise apply. In every instance, their practices must be examined. This approach is most clearly relevant in a territory such as Tuscany, before the institution of the ghetto, where there was no state-supported or communally-elected rabbinic or Jewish lay authority.

Shifting our attention from centers to peripheries often results in new insights and questions concerning the center – that is, concerning central or operative scholarly paradigms, small or grand. Thus, as questions arising from Jewish women's history have implications for the study of Jewish communal history, so questions arising from Jewish history have implications for the study of Italian history. It may be that a consideration of the strategies Jews used to pursue marriages for all their offspring will help to complicate the view that dowry inflation was the leading cause of lower nuptiality among Christians. Recent studies have already pointed out some of the limitations of this still very important model, including the critique that research on rates of nuptiality has focused almost exclusively on patrician elites in Florence and Venice.[94] Future research will likely continue to focus on new ways of explaining the burgeoning numbers of non-marrying Christians in the fifteenth and sixteenth centuries and the very late age at first marriage for Christian men, but the explanation of these trends should take into consideration the alternative marriage model of Jews as well as of the Christian middle and lower classes.

The differences we see between the Jewish practice of marriage and the Christian practice brings us back to consider the fact examined at the outset that Christians of this period no longer negotiated the return of the dowry in the event that the daughter died before leaving an heir, being content (or forced) to accept municipal legislation on

this issue, which in Tuscany granted the husband the right to keep the dowry on condition that he had consummated the marriage. But for Jews, the focus on universal marriage and procreation created different concerns from those that drove the Catholic system.[95] A primary goal of the marriage, from the perspective of parents arranging it, was the production of children. It was in light of this as much as anything else that parents reserved the right to reclaim a dowry if that goal was not met before their daughter died.

By accepting a level of ambiguity in their legal documents which made it unnecessary for the Jews to specify whether they were modifying Roman law, local statutes, or Jewish law or conforming to a specific Jewish custom, Jews were able to keep their options open when they negotiated contracts for betrothals. Stipulations, with their long history in both Jewish and Christian practice, allowed each pair of families to balance their goals, maximizing the dowry that the brides' parents were willing to promise and minimizing the risks they would face. Seen and left on their own as a rather homogenous "other" by the state in which they lived, individual Jews in sixteenth-century Tuscany appear to have picked their way through diverse laws and regional or ethnic customs, taking an elastic approach to the law of succession. Without attaching themselves firmly to any of the well-known Jewish traditions, these Jews of sixteenth-century Tuscany used notarial procedure to help define the rules according to which they would live, taking full advantage of the principle that as Jews they were entitled to live according to their own law.

## Notes

1. Leo Modena, *The History of the Rites, Customes, and Manner of Life of the Present Jews throughout the World*, trans. Edmund Chilead (London, 1650), 180. In the more straightforward Italian, "Se morisse la sposa doppo le nozze senza figliuoli, si reggono secondo li patti, che usano nel paese, che sono assai differenti." (*Historia de riti hebraici*, Venice, 1678 [1638]). The first printed edition of Modena's manuscript was a French translation in 1637.
2. Archivio di Stato di Firenze (ASF), Notarile Moderno (NM) 76, 81r–82r, dated 9 June 1570.
3. This essay develops from material in chapter eight of my dissertation on the process of ghettoization of the Jews in Florence (*From Tuscan Households to Urban Ghetto: The Construction of a Jewish Community in Florence, 1570–1611*, Jewish Theological Seminary of America, 1995). Important works on the marriage patterns of early modern Italian Jewry include Ariel Toaff, *Love, Work and Death: Jewish Life in Medieval Umbria* (London and Portland: Littman Library, 1996; translated from *Il vino e la carne*, Bologna, 1989), 4–34; Luciano

Allegra, "A model of Jewish devolution: Turin in the eighteenth century" in *Jewish History* 7 (Fall 1993), 29–58; and Kenneth R. Stow, "Marriages are Made in Heaven: Marriage and the Individual in the Roman Jewish Ghetto" in *Renaissance Quarterly* 48, n. 3 (1995), 445–491.

4. In Tuscany in the period 1550–1600, Jews with dowries of one hundred or more scudi registered their contracts with notaries; there do not seem to be notarized dowries for smaller sums. Stipulations are found in both the promise to marry and in the "confession" of dowry which records the actual transfer of the dowry. Jews also formalized their engagements before a notary elsewhere (for Umbria, see Toaff, *Love, Work and Death*, 15; for Rome, see Stow, "Marriages are Made in Heaven," 464). Although the situation may not have been the same for Jews, it is interesting to note that in a study of 506 (Christian) marriage acts in the mountain regions of Tuscany, Samuel Kline Cohn, Jr. found that in almost half the cases marriage and dowry contracts were drawn up within a few days of each other. See Cohn, "Marriage in the Mountains, 1348–1500" in Trevor Dean and K. J. P. Lowe, eds., *Marriage in Italy, 1300–1650* (New York: Cambridge University Press, 1998), 177.
5. Stow, "Marriages are Made in Heaven," 453; while Stow marks the symbolic parallel of *huppah* and *ductio*, there must also have been a physical transfer of the bride and, either simultaneously or later, her dowry to the house of the groom, and I am supposing that the *confessio dotis* was written and signed in anticipation of that last element in the transfer.
6. Ibid., 196.
7. ASF, NM 76, 81r–82r.
8. For the age at marriage of Jews in Tuscany see *From Tuscan Households to Urban Ghetto*, 331–342.
9. ASF, NM 76, 81v. He was not obliged to return the fifty lire that were his gift (*in donationem*) to the marriage, as per the custom of Prato.
10. It should be noted that this phrase, familiar from the *takkanah* of R. Jacob Tam, was used in explanation of the same point of Roman law cited in note 13 below. See Louis M. Epstein, *The Jewish Marriage Contract: A Study in the Status of the Woman in Jewish Law* (New York: The Jewish Theological Seminary, 1927), 139, on the appearance of this phrase and construct in the Yalqut Shim'oni.
11. On the history of the Jews of the Italian states generally and for an overview of recent research in the field, see the collection of essays in *Storia d'Italia* Annali 11: *Gli ebrei in Italia, dall' alto Medioevo all'età dei ghetti* (Turin: G. Einaudi, 1996).
12. ASF, NM 76, 81v.
13. Thus, within the *Digest of Justinian*, Roman lawyers would have read in Book 23, chapter 3 (The Law of Dowry) under section 6: "Pomponius, Sabinus book 114: The law assists a father who has lost his daughter by returning the dowry which he provided so as to comfort him and not let him suffer the loss of his daughter and his money" (*The Digest of Justinian*, Vol. 1, ed., Theodor Mommsen and Alan Watson [Philadelphia: University of Pennsylvania, 1985). The next chapter of the *Digest* (23: 4, Dotal Pacts) presumes that by default or because of commonly used pacts the father receives half the dowry in the case where no children survive the death of his daughter.

14. Julius Kirshner, "Maritus lucretur dotem uxoris sue premortue in late medieval Florence" in *Zeitschrift der Savigny-Stiftung fur Rechtgeschichte – kanonistichse Abteilung LXXVII* (Weimar: H. Böhlaus Nachfolger, 1991), 111–155.
15. Ibid., 112.
16. Ibid., 115 and note 8 ("stipulations granting the surviving spouse the right to acquire the whole dowry were common throughout the fourteenth and early fifteenth centuries").
17. The statute of 1325 was concerned – as were the rabbis who discussed the laws of the Ketubbah – to specify the devolution of non-dotal property that she had left. Kirshner ("Maritus Lucretur," 116) should be consulted for these concerns which do not arise in the notarial documents at hand. In Montepulciano (1337) statutes allotted the widower two-thirds of the dowry; Kirshner, 114–115, and see his notes for citation of the fourteenth-century statutes of several other Italian cities.
18. Kirshner, "Maritus lucretur," 115–116, 133–134. However, it should be noted that the statutes of Siena continued to grant the husband only one half of the dowry should the wife predecease him without heirs (see note 19 below). Perhaps it will be found that the statutes of Perugia, Ursi's town of origin, have similar rules. Meanwhile, the *source* of the exact stipulation is not as important to this paper as the variety of customs used and their divergence from the Florentine statutes.
19. Statutum reipublicae Senensis A.D. 1545, Distinctio II, 138, "Quae pars lucri cedat viro soluto matrimonium superviventi." *L'ultimo statuto della Repubblica di Siena*, ed. Mario Ascheri (Siena, 1993), 244.
20. "De lucro dotis per maritum" Libro I: Civilia, capitulum LXVIII. *Statuti di Rovereto del 1570 e del 1610 con la ristampa anastatica dell'edizione del 1617*, ed. Silvano Groff (Venice: Il Cardo, 1995), 92. The statute was apparently reconfirmed in statutes published in 1550, 1564, 1570 and 1610 (see appendix I, 31).
21. As noted above, the *confessio dotis* notes that the payment of fifty lire as "donationem" – a gift from the groom to the bride – is in accordance with the laws of Prato (ASF, NM 76, 51v).
22. Julius Kirshner, "Materials for a Gilded Cage: Non-dotal Assets in Florence, 1300–1500", in David I. Kertzer and Richard P. Saller, eds., *The Family in Italy from Antiquity to the Present* (New Haven: Yale University, 1991), 185.
23. Parents in the fifteenth century did, however, use stipulations to protect a gift made to a daughter from coming under the control of her husband; for an example of this see Thomas Kuehn, "Women, Marriage, and Patria Potestas in Late Medieval Florence" in *Law, Family and Women: Toward a Legal Anthropology of Renaissance Italy* (Chicago: University of Chicago, 1991), 206, reprinted from *Tidjschrift voor* Rechtsgeschiedenis 49 (1981), 127–147. Given the creativity of families in taking advantage of the *patria potestas* which was in effect even after the marriage of daughters, as documented by Kuehn, it is likely that the archives contain similar stipulations even from the sixteenth century.
24. Walter Ullmann, *Principles of Government and Politics in the Middle Ages* (London: Methuen, 1961), 281.
25. Thomas Kuehn, "Some ambiguities of female inheritance ideology in the Renaissance" in *Law, Family and Women: Toward a Legal Anthropology of Renaissance*

*Italy* (Chicago: University of Chicago, 1991), 240, repr. from *Continuity and Change* 2 (1987), 11–36. On the complexity of the law in practice in Florence see also Kuehn's "Law and Arbitration in Renaissance Florence" in *Law, Family and Women*, 19–36.

26. Kirshner, "Maritus Lucretur," 115–116. Kirshner brings examples of pacts and stipulations attached to *confessio dotis* documents in the late thirteenth and fourteenth centuries, but these pacts modified Roman law and the tradition seems to have ended when statutory law on the issues was adopted.
27. Through arbitration, Italian Jews could, in theory, render opinions according to Jewish law, although they were not able to require other Jews to submit to Jewish arbitration. On the wide use of arbitration by Christians in Florence after 1350 see Thomas Kuehn, "Law and Arbitration in Renaissance Florence," cited above; on the Jewish use of arbitration in lieu of (prohibited) rabbinical courts, see Robert Bonfil, *Rabbis and Jewish Communities in Renaissance Italy*, trans. Jonathan Chipman (London: Littman Library, 1993; originally published as *Ha-Rabanut be-Italyah bi-tekufat ha-Renesans*, 1989), 207–230. On the codification of the right of Jews to choose either Jewish law or *ius commune* in their internal disputes, see the discussion of De Susannis's *De Iudeis* (II, 4) by Kenneth R. Stow, *Catholic Thought and Papal Jewry Policy* (New York: Jewish Theological Seminary, 1977), 107 and *passim*. However, the present study deals not with a case in arbitration but rather with an (as yet) uncontested notarial act and the reconstruction of the legal and cultural assumptions of the notary and the parties to the contract. Arbitration is separate issue: it is not at all obvious in Italian jurisprudence that Jews were allowed to follow "Jewish law" in matters pertaining to dowry and inheritance; Stow, *Catholic Thought and Papal Jewry Policy*, 102–122.
28. Ms. Warsaw 255, f. 110r-v, edited as Document 19 (74–75) of Igron B in *Letters of Jews in Italy: Selected Letters from the Sixteenth Century*, ed., Yacov Boksenboim, in Hebrew (Jerusalem: Ben Zvi Institute of Hebrew University, 1994). The Warsaw manuscript is described by Boksenboim, though without reference to this particular document, in his introduction, 13–16.
29. The Hebrew phrase used here, "dinei umot ha-'olam," simply contrasted with "dinei Yisra'el," refers generally to laws that are not biblical or rabbinic in origin. But it is worth noting that the reference is not to "gentile courts"; see note 32 below.
30. *Letters of Jews in Italy*, 75.
31. Bonfil cites the fourteenth century jurist Calderini (citing Vittore Colorni, *Legge ebraica e legge locali* [Milan: University of Rome, 1945], 61) as an example of a jurist who considered Jews eligible to be judged "according to their own personal law" (*Rabbis and Jewish Communities*, 207–208). Perhaps the right to be *judged* by a personal law was synonymous with the right to write contracts defined by this personal law?
32. Walter Ullman, "Baldus' Conception of Law" in *Law Quarterly Review LVIII* (1942), reprinted in *Law and Jurisdiction in the Middle Ages*, ed., George Garnett (London: Variorum Reprints, 1988), 386–399.
33. Kenneth R. Stow, *Catholic Thought and Papal Jewry Policy*, 63.
34. Stow, ibid., 121; see also more broadly Stow's summary of De Susannis' presentation of the legal status of Jews on 102–107 and his analysis on 116ff.

35. Simonsohn, *The Apostolic See and the Jews*, Vol. 7, *History* (Toronto: Pontifical Institute of Mediaeval Studies, 1991), 101; Vittore Colorni, *Gli ebrei nel sistema del diritto comune final alla prima emacipazione* (Milan: A. Giuffrè, 1956), 2, 18; see also 8–9 for a concise definition of the terms.
36. For example, Innocent III (in *Constitutio pro Judeis*, September 15, 1199), marks the Jews' right to celebrate their festivals and customs; but Gregory IX in *Etsi Judeorum* (April 6, 1233) instructed the Archbishop and bishops of the kingdom of France to warn Christians there not to harm Jews (or to "drive them from their lands without due cause"), and rather that they should permit them "to live according to their law" ("sed secundum legem suam vivere in solitu statu permittant"). Innocent IV, however, responded positively to the Jewish complaint in the wake of the (papally-initiated) burning of copies of the Talmud in Paris that if the Jews were not permitted to have their Talmud, they were being denied the right to follow their "law" (*Ad instar animalium*, August 12, 1247). The texts of these papal bulls are all found most conveniently in Shlomo Simohsohn, *The Apostolic See and the Jews. Documents: 492–1404* (Toronto: Pontifical Institute of Mediaeval Studies, 1988).
37. For example, in the charter granted to Laudadio Rieti in Colle, "ipsi hebreo et eius heredibus liceat sabbata eorum et eorum leges, festas et sinagogas facere et custodire" (ASF, Magistrato Supremo 4449, f. 10v, capitula 17). The sense of the Latin (that the Jews should be allowed to "make and keep their Sabbath, laws, festivals and synagogues") is not that these Jews were allowed to "make-up" their own laws, but rather that they should be allowed to live by them. The same words are used in the charter for Monterchi granted to Laudadio Isac Simoni Abrami de Citerna (f. 51r), and in other privileges.
38. See on and, for Poland, note 55 below.
39. The main Jewish law codes in print by mid-sixteenth century in Italy were Maimonides' *Mishneh torah*, Jacob ben Asher's *Arba'ah turim*, and, with its first printing in Venice in 1564–1565, Yosef Karo's *Shulhan 'arukh*. (For a very readable overview of the law codes in English see Stephen M. Passamaneck, "Toward Sunrise in the East, 1300–1565" in N. S. Hecht, B. S. Jackson et al., eds., *An Introduction to the History and Sources of Jewish Law* [New York: Oxford University Press, 1996], 323–358.) As stated in the *Mishneh torah* (Book of Women, Marriage 22: 1): "The husband precedes all others in inheriting his wife." But there were also accepted procedures that allowed a man to write a condition at the time of his marriage that he will not inherit his wife (ibid., 23: 5–7). For Italian Jews, the most important code was Jacob ben Asher's *Arba'ah turim*. Many objections are raised here, but in the end this jurist concurred since "Rav Alfas ruled that a tenai (stipulation) is effective in the matter of inheritance, and my father z"l (the Rosh) agreed with this as well" (*Tur*, Even ha-'ezer, hilkhot ketubbot 69: 6–7). Karo, in his commentary (*Beit yosef*, ibid.) which led to his ruling in the Shulhan '*arukh*, concluded that "this is indeed the rule since the Rif and the Rambam and the Rosh and Rashba z"l agree that if a man stipulates *before* the marriage ceremony that he will not inherit her, his stipulation is valid." The principle that a man inherits his wife was initially established in the Mishnah, which discusses the situation of a man who wishes to stipulate that he gives up his right to inherit his wife's estate. Mishnah, Women: Ketubot, 9: 1 "He who writes for his wife 'I have no right nor claim to your property' ... if she dies, he inherits ... If he wrote for her 'I have no

right nor claim to your property, to its usufruct, to the usufruct of its usufruct, during your lifetime and after your death', he has neither the usufruct in her lifetime nor if she dies, does he inherit her ... "

40. It is interesting to note that De Susannis made use of the *Mishneh torah* (Stow, *Catholic Thought*, 161 was known; the relevant volume of the *Arba'ah turim* of Jacob ben Asher (Even ha-Ezer; see note 39 above) had been printed in 1553 in Sabbionetta.
41. A court of lay-judges, the Otto di Guardia e Balià, was assigned to handle all civil and criminal cases involving Jews of Tuscany (see note 46 below). There were rabbis and even small yeshivot in Tuscany, for example, in Siena; see Robert Bonfil, *Rabbis and Jewish Communities*, 199.
42. *Rabbis and Jewish Communities*, 213–220.
43. In Ferrara, such a communal court was created just a few years later, in 1574. See Bonfil, *Rabbis and Jewish Communities*, 235–236 (Ferrara) and 239–244.
44. Ibid., 177–186. At the time of submission of this article I have not yet been able to obtain a copy of Kenneth R. Stow's *Theater of Acculturation: The Roman Ghetto in the Sixteenth Century* (Seattle: University of Washington, 2000), which provides an important new analysis of the arbitration of cases and administration of justice in the Roman ghetto.
45. Bonfil, *Rabbis and Jewish Communities*, 195.
46. Giovanni Antonelli, "La magistratura degli Otto di Guardia a Firenze," *Archivio Storico Italiano* 112: 1 (1954), 3–39. Both cases between Jews and between Jews and Christians were processed in this court; examples are given in *From Tuscan Households*, *passim*. It does seem that Pisa and Siena may be exceptions to this rule, in that there may have been a sufficient number of rabbinically-educated Jews present in these cities that the Jews on some occasions settled matters among themselves using arbitration, perhaps under the guidance of rabbinical advisors. I thank Kenneth Stow for his reminder that even where there was "Jewish arbitration," we cannot assume that that arbitration was based in or required a knowledge of Jewish law.
47. In theory the Otto would serve as a court of appeal to any lower court or arbitration. The *consilia* of jurists, lawyers and other experts filed in court cases are a difficult source few scholars have explored; there is still much work to be done on the relationship between the Jews' right to observe their own laws under the principle of Personal Law and the Jews' obligation to follow common law under the principle that they are *cives romani*.
48. Christian engagement contracts, according to Julius Kirshner, employed stipulations in *confessio dotis* documents of the thirteenth and early fourteenth century in Tuscany to revise Roman law in favor of the husband, though they were worded to give the *dotem et donationem* to whichever marriage partner survived ("Maritus lucretur," 115). It seems that once the Roman law had been officially changed to grant the dowry to the widower (in the 1325 statutes of the Podestà), such stipulations fell into disuse and reverse stipulations were not commonly used.
49. *Takkanot* are rules ordained by men who lay claim to status as leaders and rabbis and elders of a city or region. These same spokesmen invariably declared that when communal ordinances were passed, Jews in that locale were obliged to abide by them. The main customs are described in brief below; a convenient

discussion of these laws is now found in Joseph Rivlin, *Inheritance and Wills in Jewish Law* (Ramat Gan: Bar-Ilan University, 1999), 60–65 with the texts of the relevant communal ordinances, 96–102 (in Hebrew).

50. A very early custom, probably influenced by Roman law, was found among Jews in Roman Palestine that if a woman predeceased her husband without having borne children, the possessions she had brought into the marriage (the *neduniyyah*) were to be returned to her father's house. For a summary discussion of the husband's right of succession in early rabbinic law, see Epstein, *The Jewish Marriage Contract*, 121–143. The Palestinian custom of inserting a clause into the ketubbah is found in the Palestinian Talmud (Jerusalem Talmud, Ketubbot 33a and Bava Batra 16b, as cited by Epstein, 138, n. 28). This passage is also cited by Louis Finkelstein in notes to his discussion of the *takkanot* of Rabbenu Tam (*Jewish Self Government in the Middle Ages* [1924], 166, n. 1) and is cited independently by Yedidiyah Cohen in "Takkanot ha-qahal be-yerushat ha ba'al et ishto," *Shenaton ha-mishpat ha-'ivri*, 6–7 (1979–1980). According to Epstein, Babylonian rabbis disapproved this custom, arguing that the husband would not invest and guard his wife's property well if he thought he would not inherit it, and that this would result in damaging the eventual children; in addition, they argued it would cause a rift between husband and wife, for her family would actively interfere in the administration of the couples' household, to the displeasure of the husband. [Justinian's law code ordained that if she had no living children, a woman's dowry was returned to her *paterfamilias* if he was the donor, and if he was alive, or to any other she has specifically stipulated; and if not, then to her heirs. If she had living children, her dowry is given to them, but her husband has the usufruct of it during his lifetime. See above, n. 13.]
51. In addition to the question of the inheritance of the dowry, many other aspects of marriage were modified or determined by other stipulations which cannot be addressed here.
52. Rabbinic law distinguished between moveable property and real property, but the fine points related to this distinction do not arise in the notarized documents discussed here.
53. For a recent overview of the *takkanot* in English, see Menahem Elon, *Jewish Law: History, Sources, Principles*, trans. Bernard Auerbach and Melvin J. Sykes (Philadelphia: Jewish Publication Society, 1994) 2, 787 and 835–840. An enactment in Troyes which returned the whole dowry the first year, half the dowry the second year, was adopted in thirteenth century as one of the Enactments of Shu"m. Enactments in Toledo, Molina, Algeria, and Fez also were concerned with the division of the deceased woman's estate. The most comprehensive study of these variations is Simha Assaf, "The various enactments and customs in a man's inheritance of his wife" (in Hebrew) in *Mada'e ha-Yahadut* 12 (1926), 79–94. Assaf focuses on the differences between the takkanot of Toledo, Damascus, and those adopted in twelfth century France and from there Germany, Hungary, Bohemia, Moravia, Poland, Lithuania and Russia. For Italy he notes (93) only that Ashkenazic Jews in Italy and the Balkans followed the takkanot known as Takkanot Shu"m (i.e., ordinances from the Rhenish communities of *S*peyer, *W*orms and *M*ainz), which themselves had two variants: that the husband must return everything she brought to the marriage if she dies in the first year of marriage without leaving a viable child, and that he returns half of what she brought if she died in the second year without children. The variant said simply

that he returns half if she dies without children during the first two years (92). Otherwise, if there are children, the husband inherits her fully (not sharing with her children, as per the takkanot of Toledo) (93). Earlier Italian tradition followed the Palestinian tradition, whether it was determined by exposure to Palestinian traditions or was a response to the use of Roman law in various locations.

54. Alternately, they might also become a set of standard stipulations which were always included on the marriage contract or which were appended on a separate contract. Sabar points out that it may be that in some medieval European Jewish communities, stipulations were sometimes written on separate deeds rather than on the marriage contracts, or *ketubbot*. See Shalom Sabar, *Ketubbah: Jewish Marriage Contracts of Hebrew Union College Skirball Museum and Klau Library* (Philadelphia: Jewish Publication Society, 1990), 290 and notes on 291.
55. Communal ordinances were the more common technique for effecting changes: other famous bans included the prohibition of a man taking a second wife without his wife's permission, and the ban requiring a woman's consent to being divorced. However, the history of the ordinance becomes complicated and at times confused: a responsum of Rabbi Yosef Karo refers to the *takkanah* of Rabbenu Tam as the full return of the *neduniyyah* if she dies within a year of marriage (Responsa of Beit Yosef, Ketubbot, 10, as found in Rivlin, *Inheritances and Wills in Jewish Law*, 61). A responsum of the sixteenth century Polish rabbi Benjamin Skolnic (Vilna, 1894, no. 11) refers to the custom of returning half the dowry to the husband and concludes that there is debate as to whether the other half is returned to the heirs of the deceased woman or to those who originally provided the dowry. Responsa of Rabbi Benjamin Skolnic are accessible also in an English translation in Nisson E. Shulman, ed., *Authority and Community, Polish Jewry in the Sixteenth Century* (New York: Yeshivah University, 1986).
56. Even ha-Ezer, hilkhot ketubbot 118. The Takkanot of Toledo printed here are nineteen paragraphs, the last of which states that "Who stipulates with the husband [of a woman] at the time of *nissuin* that if she should die (under his authority) without living issue, one third of her *neduniyyah* [goes to] her heirs . . . " Here the "heirs" refers to children by a previous marriage, but the tradition was also interpreted to refer to the family that provided the dowry. In a responsum Karo refers to the *takkanah* of Toledo as requiring an equal division of the dowry (Responsa of Beit Yosef, Ketubbot, 10, cited in Rivlin, *Inheritances and Wills in Jewish Law*, 61.) The one-third version may be a variant that was accepted in Algiers, while the one-half division is mentioned in the responsa of the R. Solomon ben Adret (on these variant "Toledan" traditions see Assaf, cited in note 3; Rivlin, 61, 97–98; Epstein, 141). A stipulation that overrides the principle that the husband inherits his wife is invalid unless it is made during or after the betrothal but before the marriage); see Even ha-Ezer, hilkhot ketubbot, 69: 7.
57. Most of the known ordinances are edited in Louis Finkelstein, *Jewish Self-Government in the Middle Ages* (New York: P. Feldheim, 1964 [1924]).
58. *Responsa of R. Azriel Diena* (in Hebrew), no. 130, edited by Yakov Boksenboim, Vol. 1 (Tel Aviv, 1977), 503. He called this custom a *takkanah* of Rabbenu Tam.

59. See note 1, above. I have borrowed the useful term "auto-ethnography" from the work of Mary Louise Pratt, *Imperial Eyes: Travel Writing and Transculturation* (New York: Routledge, 1992).
60. According to Modena the first group includes not only Levantines but also Jews of Barbary, Moors, Greeks and "those called Spaniards"; the second group includes Jews of Bohemia, Moravia, Poland and Russia and "others." He does not clarify "Italians" (London, 1650, 3; Venice, 1678, 2). It is not clear in the case of our inheritance question whether there is in Modena's opinion also an "Italian" custom or only other national customs which might be used by Italian Jews who were bound by them.
61. The Ursi and Leucci families appear frequently as Tuscan Jews in my dissertation (*From Tuscan Households*, 1995) and forthcoming book; they also appear in the documentary collections that have been edited from the archives of neighboring regions as well as in the scholarship of Michele Luzzati, Ariel Toaff, and Kenneth Stow.
62. ASF, NM 604, 24r–26r, dated 14 October 1573. This is an engagement agreement, not a "confession" of having received the dowry.
63. NM 604, 24r–25r.
64. Literally, "may God avert [it]," i.e., the evil decree.
65. NM 604, 24v. It is interesting also to note that this pact reflects the work of a more cautious and precise legal mind, specifying that it apply if she dies after *he has been given the dowry* and there are no sons or daughters.
66. When R. Azriel Diena in the responsum cited above refers to the "French and Ashkenazic" custom he assumes that there is a self-evident ethnic identity (identity based on attachment to land of origin) that corresponds to that *minhag.* And in some cities there were clearly distinguishable Jewish subcommunities – at least for the purpose of communal prayer – based on ethnic origin or attachment. But even these ethnic identities were flexible, as is argued effectively in K. R. Stow, "Ethnic Rivalry or Melting Pot: The "Edot" in the Roman Ghetto," *Judaism* 41(1992), 286–296.
67. The notation that the pact was notarized in the house of the heirs of the Da Pisa is found in the notary's closing formula (ASF NM 76, 82r). The exact relationship between the young couple and the Da Pisa family is not clear, but it is fair to assume that it entailed some degree of patronage, if not direct employment.
68. I have not identified the origins of the mothers. Gratiadio's mother Ricca was present (along with his brothers) when the pact was signed. Generally the documents do not reveal the place of origin of the mothers of the young brides and grooms even when they do record their names. Ursi (or sometimes Orsi), from Perugia, is known from other documentation to have been called "Tedesco."
69. An important focus of recent Jewish historical scholarship has been to understand how this interaction led to synthesis of Jewish and Christian cultural forms, or to the explicit rejection of contemporary norms. See for example David Malkiel's study of a Jewish testament in which he describes the "judaification" of that Italian literary and legal form, "Jews and Wills in Renaissance Italy: A case Study in the Jewish-Christian Encounter" in *Italia* 12 (1996), 7–69.
70. I base this statement on the summaries of dozens of contracts found among the more than two thousand notarial documents identified and summarized for

those two decades by Kenneth R. Stow in *The Jews in Rome*, 2 vols. (Leiden and New York, 1995; Tel Aviv, 1997). A comprehensive study would require thorough analysis of the documents themselves, which I have not had the opportunity to see.

71. See document 1058 (October 1550, 436), document 1185 (January 1552, 493) and document 1317 (February 1553, 558).
72. Document 836 (21 May 1544).
73. In his comments on the documents Stow notes that the engagement contracts that appear in Rome are increasingly formulaic, and that the stipulation that will become standard is that one-third of the dowry is returned to the family of the bride if she dies within a year. The formulary of the Jewish notary Piattelli appears as document 640 (Vol. 1, 257); it includes stipulations forbidding the husband to take a second wife, and it grants the widow the full ketubbah payment, dowry and *tosefet*; it requires her consent for divorce and conditional divorces, and it facilitates her release from a levirate obligation. As late as 1556, however, there are still engagement contracts written that have stipulations giving her family back one half or one quarter of the dowry. See document 1828 (February 1556, 797) and document 1871 (June 1556, 829).
74. I thank Kenneth Stow for the information that he presents this argument in *Theater of Acculturation: The Roman Ghetto in the Sixteenth Century*, chap. 3, *passim*. The book was not available from the press at the time of submission of this article; for my understanding of the argument I have relied on an earlier draft of his essay written for this issue which he was kind enough to let me read.
75. Further research on this point is necessary. Standardized stipulations can be seen in Sabar, *Ketubbah: Jewish Marriage Contracts of Hebrew Union College*, which includes reproductions of over one hundred Italian examples from the seventeenth and eighteenth centuries. However, a study of these ketubbot reveals that stipulations were customary only in some towns, especially in towns with the largest Hispano-Jewish and Portuguese merchant populations; the two Florentine examples (dated 1722 and 1737) did not include them. See also *Ketubbot italiane: antichi contratti nuziali ebraici*, ed. Liliana Grassi (Milan, 1984). The color reproductions of sixty illustrated ketubbot from the seventeenth to nineteenth centuries included here suggest that stipulations were used in contracts in Venice and Livorno and Corfu, but not in Turin or Mantua. See also Shalom Sabar, "The Golden Age of The Ketubbah Decoration in Lugo" in *Ebrei a Lugo: I contratti matrimoniali* (Lugo, 1994), 112, where he notes that the ketubbot of eighteenth-century Lugo do not include stipulations. The stipulations in the contracts from Livorno conform to the *takkanot* of Toledo, which were adopted by the Iberian exiles who settled in Livorno, and from there also settled in Tunisia. Robert Attal and Joseph Avivi, *Registres Matrimoniaux de la communaute juive portugaise de Tuni aux XVIIIe e XIXe siecles* (Jerusalem, 1989), 5–6. See the Hebrew edition (Jerusalem, 1991), 11 for the exact text of the stipulations that appear in these Livornese/Tunisian marriage contracts.
76. These statements draw on my dissertation and forthcoming book on the Jews of Florence, where the development of Jewish communal institutions in the late sixteenth century and early seventeenth century is discussed and documented at length.

77. The new interest of early modern studies in consumerism seems not to have led to a flourishing scholarship on sartorial fashion in sixteenth century Florence, but the statutes and regulations of the Florentine guilds (Arte della Lana, dei Linaiuoli and della Seta) in the mid- and late-sixteenth century are awash with references to foreign items, as the streets and palaces were flooded with soldiers, merchants and ambassadors. This is certainly not the same as the compulsion for change, which Braudel says did not really occur until c. 1700. However, the influence of Spanish style is well known, and there is evidence too of Dutch costumes (in Venice, where one would have seen turbaned Turkish costumes as well). See Fernand Braudel, *The Structures of Everyday Life*, trans. and rev. Sian Reynolds [Berkeley, 1992], 315–321. The influence of Spanish and German styles is noted in Carl Kohler, *A History of Costume* (New York, 1963 [1928]), 275–285. Meanwhile, Italians were focused on the effort to *export* their clothes; see Carlo Marco Belafanti, "Fashion and innovation: the origins of the Italian hosiery industry in the sixteenth and seventeenth centuries," *Textile History* 27, 2 (1996), 132–147.
78. In contrast, the ideal age for female marriage did not differ clearly for Jews and Christians; sixteen was the age that Christian patricians considered appropriate: families who after married their daughters after age sixteen sometimes reported them to be 16 years old. See Anthony Molho, "Deception and marriage strategy in Renaissance Florence: the case of women's ages" *Renaissance Quarterly* 41 (Summer 1988), 193–217; within rabbinic tradition the ideal age is even younger (twelve or thirteen), but marriage this young was not the norm for Renaissance or early modern Italian Jews.
79. For the high rate of monacation among Florentines, see R. Burr Litchfield, "Demographic characteristics of Florentine patrician families, sixteenth to nineteenth centuries," *Journal of Economic History* 29, no. 2 (June 1969), 191–205. Female monacation was in part a response to the dearth of marriageable men under a system of primogeniture which prevailed among Catholics (but not among Jews) by the middle of the sixteenth century. See Judith C. Brown, "Monache a Firenze all'inizio dell'età moderna: un analisi demografica," *Quaderni storici* 29, no. 1 (April 1994), 119.
80. See, for example, the remarks of Amon (Act I, Scene I) of Leone de' Sommi's Hebrew play *Tsahot be-dichuta' di-kiddushin*, ed., J. Schirmann (Jerusalem, 1965). Jewish sumptuary legislation continues to be discussed by many historians. Diverse opinions include that of Bonfil (*Jewish Life in Renaissance Italy* [Berkeley: University of California, 1994; trans. Anthony Oldcorn, *Gli ebrei in Italia nell'epoca del Rinascimento*, Florence 1991], 104–111), who focused not on dowry inflation but on the Jewish adoption of a model of austerity and that of Ariel Toaff (*Love, Work and Death*, 15–19), who discussed these laws in the context of social mobility and fear of ostentation but also gave one example of a rabbinic effort in Padua (in 1506) to limit the total spent on dowries.
81. Luciano Allegra has found that the dowry system in the eighteenth century ghetto of Turin, far from pushing women toward conversion, had the opposite effect. The dowry firmly assured Jewish women a future; it was who were more financially at risk, and this difference reveals itself in conversion rates for Jewish men which were much higher than those for Jewish women. L. Allegra, *Identità in bilico: il ghetto ebraico di Torino nel Settecento* (Turin, 1996), 115 and 110–162 *passim*.

82. On the non-celibacy of unmarried men, see Stanley Chojnacki, "Nobility, women and the state: marriage regulation in Venice, 1420–1535" in Dean and Lowe, eds. *Marriage in Italy*, 141 (citing Guido Ruggiero, *Boundaries of Eros*) on Venetian men of the ruling class having children out of wedlock; see also Michael Rocke, *Forbidden Friendships: Homosexuality and Male Culture in Renaissance Florence* (New York: Oxford University Press, 1996).
83. Siegmund, *From Tuscan Households*, chap. 8.
84. Luciano Allegra has argued that the dowry of Jews of eighteenth-century Turin should be seen as the primary strategy for devolving wealth and protecting it from taxes and creditors. See "A model of Jewish devolution: Turin in the eighteenth century" in *Jewish History* 7 (Fall 1993), 29–58. It is not clear, however, that the taxes on estates were always higher than the tax on dowries.
85. See note 78 above.
86. Some examples of these strategies are discussed in Siegmund, *From Tuscan Households*, chap. 8.
87. In sixteenth century Tuscany it was quite ordinary to include stipulations in *engagement contracts* which were notarized and preserved in the notarial archives: Jews, like Christians, often formalized their engagements with a notarized deed which generally established the size of the dowry and the date by which the wedding should occur. This was also occasionally the case in Umbria (Toaff, *Love, Work and Death*, 15) and was the general rule in Rome (Stow, "Marriages are Made in Heaven," 464).
88. It also resulted in a benefit to the family of origin that makes for an interesting comparison with the benefits Kuehn identified in his study of the effect of the "residual patria potestas" that endured past marriage. See "Marriage and Patria Potestas," 206.
89. See, for example, Judith R. Baskin, "Jewish Women in the Middle Ages," in Judith R. Baskin, ed. *Jewish Women in Historical Perspective*, second edition (Detroit: Wayne State University, 1998), 104, 109. The dowry was useful to women in widowhood only when they could collect it; see Cheryl Tallan, "Opportunities for Medieval Northern European Jewish Widows in the Public and Domestic Spheres" in Louise Mirrer, ed., *Upon My Husband's Death* (Ann Arbor: University of Michigan, 1992), 115–130.
90. Rivlin, for example, introduces this material under the heading "Takkanot hakehillot li-tovat ha-bat" (ordinances of the communities for the benefit of the daughter) with the comment that these ordinances had as their purpose "to encourage the father to give a large dowry to his daughter" (*Inheritance and Wills in Jewish Law*, 60).
91. The dowry system was of course also fundamental to the maintenance of class structure, as it "facilitated the circulation of brides among men of similar rank and status" (Jutta Gisela Sperling, *Convents and the Body Politic in Late Renaissance Venice* [Chicago: Chicago University, 1999], 11) although class endogamy has a different look within the small Jewish populations.
92. Act 1, scene 1, *Tsahot be-dichuta' di-kiddushin*, 31. In this scene the purchase of finery is not presented as necessary to increase the size of the dowry in order to make the match, but rather to ensure that this only daughter has the best of everything. An enjoyable but rather free English translation is available as *A Comedy of Betrothal* by Alfred S. Golding (Ottowa: Carleton Renaissance

Plays in Translation, 1988) but it misses many of the nuances of the Hebrew. For example, Golding translates "Now if I differ from you, its a difference that is peculiar to our sex", avoiding Sommo's use of the phrase "*h*ata' " (ve-hu *h*ata' prati 'el kal ha-nashim bikhlal"), which creates a pun because of its triple meaning as "sin," "sin-offering" (= sacrifice and temple-gift) and "goal/target."

93. There is a great body of literature on sumptuary legislation which I cannot summarize here. Much of it is referred to in an essay which gives a particularly vivid description of the material culture, Patricia Allerston's "Wedding finery in sixteenth-century Venice," in Dean and Lowe, eds., *Marriage in Italy*, 25–40.
94. Carol Lansing makes this point effectively in her essay "Concubines, Amaxie, Prostitutes: Femal Identity in Medieval Bologna," in *Beyond Florence: Rethinking Early Modern Italy*, ed., Paula Findlen, Duane Osheim and Michelle Fontaine (Stanford: Stanford University Press, forthcoming). Other challenges arise in Sperling, *Convents and the Body Politic*, 5; and in Maria Fubini Leuzzi, "Protezione del matrimonio e assistenza femminile," *Archivio Storico Italiano* 156 (1998), 479–501. Other challenges arise in Sperling, *Convents and the Body Politic*, 5; and in Maria Fubini Leuzzi, "Protezione del matrimonio e assistenza femminile," *Archivio Storico Italiano* 156 (1998), 479–501.
95. Concerns that played a role in the history of the Florentine statutory law described by Kirshner (see note 14, above) included protecting family honor and avoiding shame as well as the desire to preserve the wealth and the integrity of the real property of families while ensuring for the continuation of their lineage.