

# **‘Agunot and Converts to Islam: Jews and Muslims in Yemen from 1950 to 1962<sup>1</sup>**

*by Menashe Anzi*

## **Zusammenfassung**

Nach der Massenemigration der jemenitischen Juden nach Israel zwischen 1948 und 1950 sind ca. 2000 Juden im Jemen zurückgeblieben. Viele sind danach mit Hilfe der Jewish Agency und des JDC nach Israel eingewandert. Die wenigen Zurückgebliebenen lebten in kleinen Gemeinden, behielten jedoch ihre religiösen Bräuche bei. Deren Verteilung unter der muslimischen Bevölkerung führte jedoch zur Annäherung zwischen Juden und Muslimen. Rund zehn Prozent sind zum Islam übergetreten, teils als Einzelpersonen, teils als Gruppen. Dabei gab es etwa zwanzig Fälle von Männern, die zum Islam übertraten, deren Frauen aber nach Israel auswanderten und das Judentum beihielten. Aufgrund des Abbruchs der ehelichen Beziehung nach islamischem Recht haben sich einige Konvertiten geweigert ihren Frauen die Scheidung zu gewähren. Dieser Beitrag geht den Bemühungen zur Befreiung der ‘Agunot nach. Es wird gezeigt, wie jüdische und muslimische Gelehrte gemeinsam nach Lösungen suchten und Brücken zwischen ihren Religionsgemeinschaften schlugen.

## **Abstract**

After the mass immigration to Israel from 1948 to 1950, about 2000 Jews remained in Yemen. These Jews lived in small communities and continued to maintain their religious environment as it was. In the years that followed, many of them, however,

<sup>1</sup> I did this research project as a postdoc fellow at Bar-Ilan University with the support of the *Sh'arey Teman* (Yemen Gates) Foundation. In December 2013, I gave a lecture on this research project called “The Family: Cultural Dynamics and Dialogues between Jews, Christians, Muslims”, at the International Conference, Open University, Ra’anana. During my stay in Berlin as a research fellow of the EUME programme, I wrote a draft version of this article. I would like to thank the institutions for providing me with their material and spiritual support.

moved from Yemen to Israel with the assistance of the Jewish Agency and the Joint Distribution Committee (JDC). The community was of a small size and the fact that it was dispersed throughout the predominantly Muslim areas, created a certain closeness between the two groups. About ten percent of the Jews chose to convert to Islam, many of them in groups. In about twenty cases, the husbands chose to convert to Islam while their wives emigrated to preserve their Judaism. Some of the converts refused to grant their wives a divorce, because, according to Muslim law, conversion is enough to sever the marital relationship. This procedure is called *'Agunot*. Meaning, women bound in marriage to a husband and they no longer lived together, but the husband didn't formally 'released' her from marriage union. The article follows the efforts undertaken to release the *'Agunot*, and shows that Jewish and Muslim scholars were able to find solutions to the *'Agunot* problem and, at times, managed to bridge the gap between the two religions.

## 1. Introduction

During the last several years, Israeli courts dealt with some cases concerning the situation of Yemenite women, who immigrated to Israel, while their husbands remained in Yemen, refusing to grant them a *Get*, a divorce paper.<sup>2</sup> An *'Aguna* "was literally an 'anchored' woman, that is, someone bound in marriage to a husband with whom she no longer lived but who, for a variety of reasons, had not formally 'released' her from marital union".<sup>3</sup> *'Agunot*, today, usually results from a troubled relationship and not from the disappearance of a husband or wife. Nevertheless, both the distance between the different countries where both parties reside and the different legal systems governing each country make finding a resolution difficult.

The complications, caused by the connection of immigration and the *'Agunot* imposed on Yemenite women, were not recognized until recently. The widespread phenomenon of internal migration, in which husbands moved from place to place both seasonally and permanently in order to find

<sup>2</sup> This is a painful episode in history that several organizations have tried to solve, and I hope that it will be resolved soon.

<sup>3</sup> See: ChaeRan Y. Freeze: *Jewish Marriage and Divorce in Imperial Russia*, Brandeis University Press 2002, p. 230.

work, was a common practice in Yemen; inevitably, this was further intensified by the difficulties experienced in communicating between one place and another.<sup>4</sup>

In Europe, the nineteenth and twentieth century migrations created a similar problem, when thousands of men moved to the New World (e. g. USA and Africa), abandoning their wives who then also became an ‘*Agunot*.<sup>5</sup> Likewise, in the eighteenth century, Jewish men began to emigrate from Yemen to various locations around the Indian Ocean.<sup>6</sup>

It is important to note that there were a few cases of men, who intentionally refused to divorce their wives, probably because they were subjected to pressure coming from the community itself. It is also significant to mention that many Yemenite Jews followed Maimonides’ halakhic ruling, according to which a woman, who claimed that she is “fed up” with her husband, could legally force her husband to grant her a divorce.<sup>7</sup> Consequently, the problem of ‘*Agunot* emerged only when the husband disappeared.

Cases of husbands, who converted to Islam, without granting their wives a divorce, were exceptional. In such cases, the husband was no longer committed to the Jewish community and the new community did not require him to divorce his Jewish wife.<sup>8</sup>

In this article I will discuss instances where these two problems, immigration and Islamization, converge: cases in which the husband converted to Islam yet remained in Yemen, while his wife remained Jewish and immigrated to Israel. It has to be noted that the fear of forced Islamization often encouraged women, sometimes with their children, to immigrate to the State of Israel.

<sup>4</sup> See for example: Aharon Gimani: פרשת אישות והצעות לפתרוניהבין – (Between the Yemenite Sages and the Tiberias Sages - Marital Affair and Proposals its Solution), in: *Tehudah*, 25 (2008), pp. 36–42.

<sup>5</sup> See for example: Freeze, *Jewish Marriage and Divorce*, pp. 230–235.

<sup>6</sup> See: Menashe Anzi: *Yemenite Jews in the Red Sea Trade and the Development of a New Diaspora*, submitted for publication.

<sup>7</sup> See: Menashe Anzi: מהכיבוש העת'מאני ועד: דיון היסטורי במרחב הציבורי: היהודי צנעא בעידן של תמורות, *העיתון 'הארץ'*, 1950–1872 על ייתם ארצה, (The Jews of *San 'ā*, in the End of the Nineteenth Century and the First Half of the Twentieth Century. An Historical Discussion in the Public Domain (1872–1950) (=Unpublished Ph. D.), Jerusalem 2011, pp. 259–260.

<sup>8</sup> About converted spouses in Europe see: Freeze, *Jewish Marriage and Divorce*, pp. 237–238 and Tamar Shalom-Mack: 1800–1650 ליטא פוילין ביהדות פוילין-ליטא (On Marriage and Crises in Early Modern Polish and Lithuanian Jewry), *Beney Brak* 2012, pp. 241–257.

Some Yemenite Jews converted for a variety of reasons to Islam already in the nineteenth and twentieth century.<sup>9</sup> The Jewish community considered the converts as still being Jewish and demanded that they grant a *Get* to their deserted wives.<sup>10</sup> Despite this request, a married man who converted to Islam and moved away was not obliged to divorce his wife. The phenomenon intensified in the years after the establishment of the State of Israel (1948) when most of the Yemenite Jews emigrated, leaving behind a small Jewish community in Yemen.

This article, which introduces the story of the Yemenite Jewish community after the mass immigration of 1948–1950,<sup>11</sup> illustrates the tension between Jewish and Muslim communities in Yemen, and demonstrates their ability to conduct a dialogue in order to bridge religious differences and find solutions to this and other problems.

## 2. Historical Background

After the *‘aliya* (immigration) of the Jews from Yemen to Israel was completed in September 1950, between 1000 and 3000 Jews remained in Imāmic Yemen, scattered throughout the country they lived in a few small communities under the rule of *Imām Aḥmad Ḥamid al-Dīn* (reigned 1948–1962). Likewise, there were about 1,000 Jews remaining in Aden under British rule until 1967.<sup>12</sup> The reasons for staying in Yemen varied, but the major factors were the local economic situation and the difficulties immigrations entailed. For example, Mōri Yihye<sup>‘</sup>Umeyṣī wrote in a letter to his friend Shim‘on Nūnī that they were delayed because Arabs owed them money.<sup>13</sup>

<sup>9</sup> For general background information on conversion of Jews in Yemen see: Yosef Tobi: התאסלמות בקרב יהודי תימן תחת השלטון הזידי. עמדות ההלכה היודית, השלטון האמאמי והחברה המוסלמית (Conversion among the Jews of Yemen under the Zaydī Regime: Zaydī Law Positions, *Imāmic* Regime and Muslim society), in: *Pe‘amim*, 42 (1990), pp. 105–126. About conversion in modern times see: Bat-Zion Eraqi Kloran: Muslim Society as an Alternative: Jews Converting to Islam, in: *Jewish Social Studies*, New Series, 14.1 (2007), pp. 89–118.

<sup>10</sup> See: Eraqi Kloran, *Muslim Society as an Alternative*, p. 106.

<sup>11</sup> See: Reuben Ahroni: *Jewish Emigration from the Yemen: 1951–98. Carpet without Magic*, Richmond 2001.

<sup>12</sup> About the history of Yemen see: Paul Dresch: *A History of Modern Yemen*, Cambridge 2000. About the Jews of Yemen see for example: Tudor Parfitt: *The Road to Redemption. The Jews of the Yemen, 1900–1950*, Leiden 1996.

<sup>13</sup> Shevah Collection, Israel.

To resolve some of the travel-related difficulties, wealthier Jews often lent money to their brothers in order to cover their travel expenses. For example, Shim'on Ksār from *Manākhah*, a town near *Ṣan'ā'*,<sup>14</sup> lent substantial amounts of money to different people on the eve of the mass immigration. In a letter from Ksar to the Prime Minister of Israel, David Ben-Gurion, he argued that he lent people money in the amount of 6000 *riyāls*.<sup>15</sup> Just to explain the value of this sum: a Yemenite worker's wages for a few days were worth about one *riyāl*. In some cases, wealthy people refused to lend money to the poor in order to keep the community intact and to guarantee that some people would remain in Yemen.<sup>16</sup>

Others were opposed to the idea of immigrating due to ideological reasons: forcing the end (of the exile), *Deḥikat Ha-Kets*, or because of rumours coming from Israel, which claimed that damage was done to women and children or that the religious observance of immigrants was poor.<sup>17</sup>

The remaining Jews were concentrated in five regions – South Yemen, near *Ta'iz* and *Yarīm*, Central Yemen – West of *Ṣan'ā'*, and three regions in the North: *Ḥidān*, *Barat* and *Ṣ'adah*. Most of them lived in small communities; yet, sometimes an individual or an entire family chose to stay in an Arab village.<sup>18</sup>

In general, the communal and religious autonomy of Jews as well as the patronage relations, *Dhimmah*, were maintained in the 1950s.<sup>19</sup> Jews continued

<sup>14</sup> See: Ibrahim al-Maqhafi: معجم البلدان والقبائل اليمنية (Lexicon of Yemeni countries and tribes), vol. 3, *Ṣan'ā'* 2011, pp. 1999–2000; Thomas Gerholm: Market, Mosque, and Mofraj. Social Inequality in a Yemeni Town, Stockholm 1977. About the Jews of *Manākhah* see: Menashe Anzi: יהודי מנאכה. מסחר ותרומות כלכלה, (Manākhah Jews. Economy, Trade and Donations), in: Tema, 11 (2010), pp. 123–155.

<sup>15</sup> From Shim'on Ksār and Sälem Yusef Avraham to David Ben-Gurion, 12.6.1949, in: Private collection.

<sup>16</sup> A letter from Möri Wahab al-Shā'er to the Jewish Agency. See: אגרות משרדי היהודים בתימן (Fees from the remains of Jews in Yemen), in: Dapey 'Aliya, 1950, pp. 22–24.

<sup>17</sup> See: Ḥaim Zadok: 1951–1946 משא תימן. (A Freight of Yemen), Tel-Aviv 1985, pp. 223–224.

<sup>18</sup> For example, the Qaravani family lived as the only Jewish family in *Shāhdiyyah* and in *Bet 'Idhāqeh*. Interview with Batyah Daḥōḥ, December 2015.

<sup>19</sup> About the patronage relations, *Dhimmah*, and the relationship between Jews and Muslims in Yemen see for example: Kāmīlā Abū-Jabel: دراسة السياسية والاقتصادية والاجتماعية منذ نهاية القرن التاسع عشر وحتى منتصف القرن العشرين (Jews of Yemen: Political, Economic and Social Study since the end of the Nineteenth Century until the Mid-Twentieth Century), Damascus 1999, Isaac Hollander: Jews and Muslims in Lower Yemen: A Study in Protection and Restraint, 1918–1949, Leiden and Boston 2005, Anzi, יהודי צנעה, Kerstin Hünefeld: Niẓām al-Yahūd ("The Statute of the Jews"), Imām Yahyā's writing to the Jews of *Ṣan'ā'* from 1323/1905, in: Chroniques du manuscrit au Yémen, 16 (2013), pp. 26–76, and Mark S. Wagner: Jews and Islamic Law in Early 20th-Century Yemen, Indiana 2015.

to observe religious laws and were able to pray and study in a few remaining synagogues. They paid the head tax, *jizyah*, to the regime and trade relations were generally normal. However, the decrease in the Jewish population in Yemen resulted in an increase of social rapprochement between Jews and Muslims. Muslims moved into the homes of the Jews who had left, which meant that Jews and Muslims lived together. Alongside displays of friendship, there were also manifestations of economic, religious and social conflicts.<sup>20</sup>

The most prominent example of the complex relationship was the Jewish occupation in liquor trade. According to Islamic law, Jews are allowed to prepare and consume alcoholic beverages, but not to sell these to Muslims. In fact, however, in many cases, Jews did sell alcohol to Muslims in Yemen.<sup>21</sup> In the 1950s, the remaining small Jewish community continued to provide alcohol to Muslims, although some Muslims prepared their own alcohol, while others imported drinks from Aden.<sup>22</sup> Thus, on the one hand, trade relations brought both communities closer together, and on the other, caused great tensions between the government and the Jews. Se'adyah Daḥōḥ told me that in *Jabel 'Amr* selling alcohol to Muslims was a profitable business and a person could earn five *riyāl* for one bottle. In one case in *Jabel 'Amr*, however, authorities arrested and imprisoned Jews for nine months for the sale of alcohol.<sup>23</sup> In a similar case in *Banī Shamsān*, authorities also imprisoned Jews for nine months and then forced them to leave the country.<sup>24</sup> Records show that other similar cases exist where Jews were forced to leave the community, leave for Israel or had to convert to Islam.<sup>25</sup>

In the years that followed, a few hundred more Jews decided to immigrate to Israel. The Jewish Agency, the Joint Distribution Committee (JDC)

<sup>20</sup> Interview with Se'adyah and Yonah Daḥōḥ, December 2015.

<sup>21</sup> About this issue see: Anzi, יהודי צנעא, pp. 38–40, 224–236.

<sup>22</sup> See Hārūn Daḥyānī testimony, in: Goitein collection, Ben-Zvi Institute, box 14, notebook 91 and notebook 95 and Wahab al-Shā'er testimony, in: Goitein collection, Ben-Zvi Institute, box 14, notebook 95.

<sup>23</sup> Interview with Se'adyah Daḥōḥ, December 2015 and Hārūn Daḥyānī testimony, in: Goitein collection, Ben-Zvi Institute, box 14, notebook 90.

<sup>24</sup> See: A letter from Solomon Schmidt to the Immigration Department of the Jewish Agency, 2.1.1951, CZA (The Central Zionist Archives), S30/468 and Wahab al-Shā'er testimony, in: Goitein collection, Ben-Zvi Institute, box 14, notebook 95.

<sup>25</sup> See for example: Yeshu'ah MahāṢarī testimony, in: Goitein collection, Ben-Zvi Institute, box 14, notebook 91, and Pninah Hizamī testimony, in: Moshe Gavra, העלייה הגדולה מתירן (The Mass 'Aliya from Yemen), vol. 1, Beney Braq 2015, p. 202.

and members of the Jewish community in Aden assisted those who wished to immigrate to Israel. Letters, emissaries and money were sent to remote communities in order to facilitate this complex immigration project. Consequently, immigrants travelled to Aden, which at that time was under British control, and were then flown out to Israel.

### 3. Conversion to Islam

Bat-Zion Eraqi Klorman claimed the majority of conversions to Islam occurred prior to the mass immigration.<sup>26</sup> My research, on the other hand, reveals the opposite. The increase in the conversions did not happen until after the mass immigration was completed; in fact, documents and other evidence suggest that the conversions to Islam for Jews remaining in Yemen were rather substantial. It is estimated that more than one hundred Jews converted to Islam during this period.<sup>27</sup> Although in the time before the mass immigration, it was mainly individuals who converted, after 1949–1950 entire families and even entire communities followed. The reasons for individuals to convert to Islam prior to the great immigration were often personal: improving one’s social and economic situation, etc.<sup>28</sup> Even after the mass immigration, some Jews converted to Islam for personal reasons. For example, Saleem I. converted to Islam after killing a Jew in *Banī ‘Awwām* and so managed to cancel and avoid his prison sentence.<sup>29</sup> Still, most of the converts at this time converted to Islam as a group. Once the large communities were eliminated as a result of immigration, Jewish autonomy became severely undermined.<sup>30</sup> Nevertheless, there were also positive ties between Jews and Muslims which also contributed to the phenomenon of Jews converting to Islam.<sup>31</sup>

Here are some examples: At the beginning of 1954, a group of Jews led by Rabbi Wahab al-Shā‘er came to Israel from South Yemen. Shortly after the rabbi’s arrival, he provided Yūsef Şiyoni, the assistant to Professor Shelomo Dov

<sup>26</sup> See: Eraqi Klorman, *Muslim Society as an Alternative*.

<sup>27</sup> See: Zadok, *משא תימ*, pp. 228–230. In the course of my research, the same facts were found.

<sup>28</sup> See: Eraqi Klorman, *Muslim Society as an Alternative*, pp. 94–101.

<sup>29</sup> Interview with Se’adyah Daḥōḥ, and Avraham Daḥōḥ, December 2015 and Aḥmad al-Shāmi, *رياح التغير في اليمن* (Winds of the change in Yemen), *Şan‘ā’* 2009 (2), pp. 401–402.

<sup>30</sup> I will elaborate upon this issue elsewhere.

<sup>31</sup> See above.

Goitein, with important information:<sup>32</sup> in *Manḥim*, near *Yarīm*,<sup>33</sup> one family of thirty-one members converted to Islam in 1952. Two years later, another family of four members also converted. The reason for this can be traced back to the absence of a *Mōrī*, a rabbi, which meant that there were no longer any differences between the Jews and the Arabs, and thus, they chose to convert. In 1954, the Jews of *Banī Shamsān*, near *Yarīm*,<sup>34</sup> were arrested for selling alcohol to Muslims. *Imām* emissaries visited Jews of the region and informed them that they must leave immediately or convert to Islam. As a consequence, dozens of Jews from the region chose to convert to Islam.<sup>35</sup> According to other sources, the rabbi of the region told the community members that it is better to convert to Islam than to immigrate to Israel where many infidels live. Thus, the Muslim governor of the region sent an explanatory telegram to *Imām Aḥmad*, who would not give his approval until it was confirmed that the Jews converted voluntarily – *biridhāum wa-ikhtiyārohom*. During the mass conversion a procession was held, Muslims assembled the converts on horses, fired shots in the air, and held a feast.<sup>36</sup> In another case, the Arab emissaries of the Jewish Agency implored Jews of *Anis*, near *Dhamār*, to hurry and leave the country. Some Jews were preparing to leave, but decided to remain and about 75 of them converted to Islam.<sup>37</sup>

#### 4. Converts and ‘*Agnot*

At the end of 1952, a young boy, Sleyḡmān Tan‘emī, from *Manḥim*, the before-mentioned village, arrived in Aden. He said that his brother-in-law, Ḥaim, left his wife three months earlier, took the two small children with him and

<sup>32</sup> The late Prof. Shlomo Dov Goitein initiated a project of immense importance in which Goitein and his assistants documented dozens of immigrants from Yemen. They recounted their lives in Yemen in great detail; it is their testimony, which is very important to expand the knowledge of the Yemeni Jews. See: Hollander, *Jews and Muslims*, and Anzi: יהודי צנצנא.

<sup>33</sup> See: Moshe Gavra: אנציקלופדיה לקהילות היהודיות ברומן (Encyclopedia of Jewish communities in Yemen), vol. 2, Beney Braq 2005, p. 336.

<sup>34</sup> See: Gavra, אנציקלופדיה לקהילות, vol. 2, p. 72.

<sup>35</sup> See: Goitein collection, Ben-Zvi Institute, box 14, notebook 95.

<sup>36</sup> See: Goitein collection, Ben-Zvi Institute, box 14, notebook 95. About the conversion ceremony see: Eraqi Klorman, *Muslim Society as an Alternative*, pp. 101–102.

<sup>37</sup> For now see: Ahroni, *Emigration*, pp. 12, and Nabil Sayf al-Kumaym: مهندس ترحيل يهود اليمن إلى إسرائيل يكشف الأسرار لأول مرة (Engineer of deportation of Yemenite Jews to Israel reveals the secrets for the first time), *الرأية*, NabaNews, 19.12.2006 (<http://www.nabanews.net/2009/6690.html>), and Ibrahim al-Maqhafi: معجم البلدان والقبائل اليمنية: I intend to devote a separate article to *Anis* Community and their unique story.

had them converted to Islam. He did not want to divorce his wife, *Na‘amah*, unless he was paid 150 *riyāls*.<sup>38</sup>

This was only one out of twenty cases; men, who chose to remain in Yemen, converted to Islam and abandoned their wives. As previously mentioned, according to Islamic law, someone who converted severed all ties with his former family. Hence, women became ‘*Agunot*, which meant that they could not marry again until they were given a *Get*. Accordingly, the fear grew, because some women eventually gave up, returned to Yemen, and joined the converts.<sup>39</sup>

## 5. Religious scholars and ‘*Agunot*

Reuben Ahroni discussed this affair in his research and suggested that religious differences and the gap between the religious communities created a major obstacle in order to find a solution to the ‘*Agunot* problem. The converts in many cases no longer felt any commitment to the Jewish community. The Muslim courts no longer had any interest in dealing with the issue, since according to them, Jews who had become Muslims should no longer concern themselves with Jewish matters such as granting a *Get*.<sup>40</sup> Ahroni spoke out against the rabbinate in Israel, which did not attempt to find creative halachic solutions to release these women, whose now Muslim husbands were reluctant to grant them a *Get*.<sup>41</sup>

I would like to argue that the picture is far more complex and that the conversion to Islam did not necessarily create insurmountable obstacles for the majority, or the cooperative part of Jews and Muslims. In reality, although it was not legally required for a Jewish man who had converted to Islam to end his marriage to his Jewish wife, Muslim courts and the Islamic government allowed and sometimes even encouraged the converts to sever these ties with their families through a Muslim legal process (and sometimes even in Jewish courts). In some cases rabbis also found creative ways to release these women.

<sup>38</sup> See: A letter to Yisrael Yesha‘ayahu, Rosh Hodesh Tevet TSHY”G (18 or 19.12.1952), in: Haim Zadok: אגרות תעודות ומכתבים: מן המיצר: (From the Strait: Fees Documents and Letters), Tel-Aviv 1989, p. 480.

<sup>39</sup> See: Zadok, משא תימן, p. 234.

<sup>40</sup> Reuben Ahroni: Addressing the Plight of the Yemeni ‘*Agunot*, in: Avshalom Mizrahi (ed.): בדרך לא סלולה. עובדיה בן-שלום, משעול חיים ומפעל חיים (Unpaved Road. ‘*Ovadyah Ben-Shalom, a Path of life and a Lifetime Achievement*), Netanya 2000, pp. 272–273.

<sup>41</sup> Ahroni, ‘*Agunot*, pp. 272–275.

This argument is consistent with the idea that Jewish and Muslim courts were not always in conflict with each other. They often operated as two parallel yet cooperating legal systems.<sup>42</sup>

Officially, Jewish law forbade a Jew from entering a foreign court. In practice, however, many Jews did not adhere to this law because of the Jewish judiciary system's limited power and their desire to receive financial rewards, which they would not be granted in a Jewish court. Even Muslim judges were pleased with the Jewish requests and saw this as further proof of Islam's superiority. Although they were aware of the fact that in order to address the problems posed by Jews, they sometimes also had to cooperate with Jewish courts. Judges as well as their clients were aware that there was always the possibility of approaching another court, if their case was not solved to their satisfaction; and, in practice, people did make use of this. In fact, judges knew that they had to take into account the other court's rulings. As a result, in practice, Jewish courts often confirmed the divorce proceedings which were already prescribed in Islamic courts. In some cases, Muslim judges even sent the parties involved to Jewish courts to end the religious dispute. Shlomo Dov Goitein mentioned documents from the nineteenth century and early twentieth century that describe cases of Jewish court rulings that were consequently brought before a Muslim court and approved.<sup>43</sup> Yosef Tobi describes cases in which Muslim courts referred Jewish claimants to *Ṣan'ā'* in order to appeal in the Jewish court.<sup>44</sup> In other cases, Jewish and Muslim representatives respectively reached joint compromises. For example, the trial about the Levy Busanī family's inheritance, which took place in *Ṣan'ā'*, probably in the 1920s: Rabbi Yiḥye' Yitṣḥak Halevi, the chief rabbi, and Muhammad al-Sarḥī, a Muslim merchant, put together a joint a ruling on the matter. Imām Yaḥyā, the king of Yemen (reigned 1918–1948) was forced to implement the ruling despite the older Busanī brother's opposition.<sup>45</sup>

<sup>42</sup> See: Anzi, יהודי צנעא, Ch. 3.

<sup>43</sup> See: Shlomo Dov Goitein: על החיים הציבוריים בארץ תימן, in: Menahem Ben-Sasson (ed.): התמימים: היסטוריה, סדרי חברה, חיי הרוח- מבהר מחקרים, Jerusalem 1983, p. 206.

<sup>44</sup> See: Yosef Tobi: סמכותו הארצית של בית הדין בצנעא בעיני השלטונות המוסלמים, in: Mikedem Umiyam, 2 (1986), pp. 56–57, 65–67.

<sup>45</sup> See: Yeḥiel Ḥibḥūsh: שני המאורות, vol. 1, Jerusalem 1987, pp. 53–54.

## 6. The government, Arab emissaries and the emigration of the Jews

Cooperation between Jewish and Islamic authorities can also be observed in the Jewish mass exodus from Yemen. It would have been impossible to accomplish this complex emigration without the assistance and support of Yemenite authorities. As long as *Imām Yaḥyā* opposed the Jewish exodus from Yemen, mass immigration was not possible. It was not until 1943 when the *Imām* allowed Jews to leave, resulting in thousands of Jews to leave for Aden. Furthermore, it was the consent given by *Imām Aḥmad*, the son of the *Imām Yaḥyā*, who came to power after his father's assassination in February 1948, which enabled the mass emigration of the Jews of Yemen.

Thus, the organization of the 1950's immigration was partly based on *Imām Aḥmad*'s permission to grant Jews the *‘aliya* in order for them leave for Israel. Solomon Schmidt, a representative of the Jewish Agency in Aden, wrote in a letter: “The King of Yemen has not prevented in any way the exodus of Jews ... On the contrary, I have the impression, that he does everything in order [to] let them leave”.<sup>46</sup>

In another letter, he wrote that he had visited Yemen, stating: “... and I was received there with great respect and with outstanding attitude”.<sup>47</sup> His letter shows that he spent two weeks in Yemen where met with government leaders. It seems that during his visit he met Markus Danziger, a Jewish engineer who worked for *Imām Yaḥyā* and *Imām Aḥmad*.<sup>48</sup> After the visit, Danziger wrote a letter in Yiddish to Solomon Schmidt, which stated that *Imām Aḥmad* gave his approval for the immigration and the Jews who wish to leave would be able to travel in trucks provided by the government.<sup>49</sup>

The most prominent cases involved the employment of Muslim emissaries in encouraging the *‘aliya* and solving the *‘Agunot* problems.<sup>50</sup> The distance

<sup>46</sup> A letter in Hebrew from Solomon Schmidt to the Immigration Department of the Jewish Agency, 2.1.1951, in: CZA, S30/4681. להיפך ... כל היהודים של את יציאתם של כל היהודים ... להיפך  
מתקבל הרושם, אילו הוא עושה הכל ע"מ [על מנת] שיצאו.”

<sup>47</sup> A letter from Solomon Schmidt to leaders of religious Zionism in Israel, 7.8.1951 in: The Archive of the Institute for the Research of the Religion of Zionism, unit 007, container 28, case 298.

<sup>48</sup> I am currently preparing an article on him.

<sup>49</sup> A letter from Markus Danziger to Solomon Schmidt, 27.7.1951, the National Library of Israel archive, collection of Bar-Giora, 4<sup>o</sup> 1867 Series 3, case 6. I thank Dr. Susie Gross for her translation of the letter.

<sup>50</sup> Reuben Ahroni himself discussed this phenomenon in his book, see: Ahroni, Emigration.

between the Jews living in Yemen and those in Aden, and the lack of direct communication made it very difficult to help those who wished to immigrate to Israel. To a great extent, the success of the *‘aliya* of the Jewish communities from Yemen was dependent on the ability to correspond and meet in person.<sup>51</sup>

As mentioned, at the time Jews were forbidden from entering Yemen. Reuben Ahroni described the employment of Arab emissaries in Zionist activity in detail.<sup>52</sup>

I will now outline one episode of a messenger, Hāj Aḥmad Ben Aḥmad al-Qarīṭī. It became apparent that by 1953, the representatives of the Jewish Agency had contacted al-Sheikh Ḥamūd Muḥammad Al-Rubeydī, an owner of a transportation company based in Aden. The Jewish Agency signed an agreement with al-Rubeydī’s company to bring Yemenite Jews to Aden for a substantial fee; and it was Rubeydī’s assistants, al-Hāj al-Qarīṭī and Mānī<sup>‘</sup> al-<sup>‘</sup>Awdī, who attempted to convince and assist Jews, who wanted to leave Yemen. These business relations continued until 1958.

Recently, I discovered that Aḥmad al-Qarīṭī had been interviewed at length where described his activities in detail. The interview, however, took place sixty years after the events took place, and al-Qarīṭī described some situations inaccurately; for example, he argued that he assisted twelve thousand Jews, a number that is totally unrealistic. He also expressed the well-known phrase “*al-yahūdī yahūdī wlaw a‘atak zināroh*” meaning the Jew stays Jew even if he removed his side-locks.<sup>53</sup>

Nevertheless, it seems that there are a number of important details in the interview that are of interest and contribute to our understanding of the events. It became clear that this campaign received the approval of *Imām* Aḥmad and that he consequently provided al-Qarīṭī with guards to accompany him in the campaign.

In light of both insights we can now return to the problems of divorces, and try to understand how different scholars attempted to bridge the gaps between the various points of view.

<sup>51</sup> Batyah Daḥōḥ and Se‘adyah Daḥōḥ, for instance, remembered the letters, which came from Israel to *Jabel ‘Amr*. The correspondence made it possible for them to eventually leave Yemen. Interviews with Batyah Daḥōḥ, and Se‘adyah Daḥōḥ, December 2015.

<sup>52</sup> I will expand on this issue in light of new discoveries elsewhere.

<sup>53</sup> See: al-Kumaym, مهندس ترحيل يهود اليمن.

The journalist Baruch Winitzki wrote: “The Rabbinical Court in Petah Tikva had a reputation in this area [i. e., handling of ‘*Agunot*]. The Secretary, Mr. Simon Katz, took it upon himself – as a ‘hobby’ – to find lost husbands – a situation made more difficult when dealing with Arab countries”.<sup>54</sup> His description indicates that the rabbis spared no effort and were eventually able to act on behalf of the ‘*Agunot*’.

Assistance to women was provided in three ways:

First, as I already noted, Arab emissaries were employed to persuade recalcitrant husbands to divorce their wives. Rabbis and other Jews in Yemen invested money and time to secure the release of these women. Rabbi Katz emphasized that the ‘*Agunot*’ issue was important to them and that Rabbi Herzog, Chief Rabbi of Israel, was very interested in these cases.<sup>55</sup> In one case, the matter was deemed successful. Rabbi Shim‘on Katz contacted Jewish Agency officials in Aden. Max Lapidès and Rabbi Sāleḥ ‘Umeysī, thus, indirectly contacted the convert ‘Imrān Sa‘īd Yūsef and sent him money.<sup>56</sup> In the end, the husband came to Aden and gave his wife Ḥabībah, the daughter of Yefeth (Ḥasan), a *Get*.<sup>57</sup>

Secondly, when efforts to convince the convert to grant a divorce and come to the court of Aden failed, rabbis made use of the *Harsha’a*, a power of attorney. Ahroni described the process of *Harsha’a*, but I believe he did not give the rabbinical authorities enough credit for their efforts.<sup>58</sup> It became clear that imposing the *Harsha’a*, without having witnesses present, who could read the Hebrew Letter of Authorization, is not simple but questionable according to the perspective of the Jewish law. Still, Rabbi Zvi Pesah Frank, the Rabbi of

<sup>54</sup> Baruch Winitzky: כיצד מתיירים עגונות (How to release ‘*Agunot*’), 11.6.1954, Ha-Ḥerut, p. 4. Rabbi Shim‘on Katz (1904–1985) was secretary of the rabbinical court in Petah Tikva known „a permitting ‘*Agunot*’, and treated these cases in 1950s and 1960s.

<sup>55</sup> See: a letter from Rabbi Shim‘on Katz to Max Lapidès 02.05.1958, in: CZA S6/6976.

<sup>56</sup> In many cases people collected funds to save the ‘*agunot*’ family, immigrants from Yemen in Israel, institutions, and individuals. See, for example, Zvi Pesah Frank: שרית [שאלות ותשובות] הר [Mount Deer Responsa], Jerusalem 2004, p. 25.

<sup>57</sup> See: a letter from Rabbi Shim‘on Katz to Max Lapidès, 9.2.1958, and a letter from Max Lapidès to Rabbi Shim‘on Katz, 25.2.1958, in: CZA S6/6976. Robin Gilbert’s testimony probably is about this case, see: Ahroni, ‘*Agunot*’, pp. 268–269.

<sup>58</sup> See: Ahroni, ‘*Agunot*’.

Jerusalem, allowed for the use of it in order to facilitate the release of women from the *‘Agunot*.<sup>59</sup>

When all efforts failed, rabbis acted courageously to free women by cancelling their marriage certificate, the *Ketubah*. Naftali Bar-Giora, the Jewish Agency emissary, was made aware of the situation of these women when he visited Aden in 1954. After he returned to Jerusalem, he consulted Rabbi Zvi Pesah Frank, who, then, eventually secured the divorces for these women by overruling the status of the witnesses, who signed the marriage contract. The publication of Bar-Giora's testimony led to an argument in which Rabbi Frank's students claimed it is impossible that their rabbi would have granted permission for it.<sup>60</sup>

Although the Muslim law, the Shari‘ah, argues that a Jew who converted to Islam is no longer bound to his wife, and thus there is no need to dissolve the marriage, in practice, however, the Yemenite government officials recognized the human need to complete the Jewish divorce proceedings. We should be aware that in Islam, too, the concept of *‘Agunot* exists, and Muslim judges are therefore aware of the practical and emotional price a woman has to pay. They, thus, take a sensitive approach to the phenomenon.<sup>61</sup> As previously stated, the Muslim courts recognized the authority of the Jewish legal system.

The case of ‘Imrān Sa‘id Yūsef, who came to Aden in order to divorce his wife, Ḥabibah, accompanied by representatives of the government of Yemen, successfully shows that the procedure was done with the support and encouragement of the Yemenite government. The Yemenite authorities wanted to end the protracted saga and supported the divorce in the Jewish court of Aden. Moreover, scholars of the Islamic jurisprudence thought that granting a divorce would cancel any contact with the Jewish family thereby preventing the convert from returning to his Jewish family, a phenomenon that had occurred in Yemen several times.

<sup>59</sup> See: Zvi Pesah Frank: סימן קסב, אבן העזר ב, סימן קסב (Mount Deer Responsa), Jerusalem 2004, pp. 124–125.

<sup>60</sup> See: Naftali Bar-Giora: "כנגד המקטרגים" (Against the detractors), *‘Amudim*, 332 (Tamuz Tashl"ag), p. 463, and the reaction of Rabbi Shmuel Dvir, *‘Amudim* 335 (Tishrey Tashl"ad), p. 42.

<sup>61</sup> See: Bernard Haykel: Dissembling Descent, or How the Barber Lost His Turban. Identity and Evidence in Eighteenth-Century Zaydi Yemen, in: *Islamic Law and Society*, vol. 9.2, Evidence in Islamic Law (2002), pp. 209–211.

For example, in the case of Na‘amah Tan‘emī, mentioned earlier, her husband’s family, the Hajbi family (31 members), converted to Islam in Manḥim in 1952. Na‘amah refused to convert. She left her husband and her two children in Manḥim and went to Aden. Na‘amah came to Israel in 1954, where she applied to the court for help. In the years that followed, the story remained on the public agenda in Israel. In fact, it became a personal project for Rabbi Shim‘on Katz to solve.

Jewish religious leaders tried to convince the husband to grant his wife a *Get* through Rabbi Brody, at the time, the Chief Rabbi of the United Kingdom.<sup>62</sup> They even promised him a large sum of money, but he refused and the rabbis decided solve the issue by adopting the *Harsha’a*. The man chose not to sign a written authorization for the divorce, yet he did sign a declaration of the Muslim court, which agreed on making ‘Amr Muḥammad Muḥsin his messenger. The document was sent to Israel, where in consultation with Rabbi Yūsef Qāfiḥ of the rabbinical court, an expert on Jewish and Muslim religious law in Yemen, it was decided that this document did not fill the halachic criteria.<sup>63</sup>

## 7. Conclusion

This article traces the Aliya of Yemenite Jews to Israel and the complex issues of divorces that resulted from the separation of married couples and in some cases, the conversion of husbands to Islam and the immigration of their wives to Israel. The often positive results in resolving these issues were achieved by the creative efforts taken by rabbis in Israel, along with the public efforts made on behalf of the ‘*Agunot* as well as the cooperation of Muslim leaders and the Islamic judicial system in Yemen.

The immigration of the Jews of Yemen to Israel in the early 1950s could not have been achieved without the cooperation and assistance of the local authorities in Yemen. Likewise, the combined efforts of the Jewish and Muslim judicial systems facilitated solutions to the complex problems of divorce, which otherwise could not have been solved.

<sup>62</sup> See: Vinitzky, release ‘Agunot, pp. 267–268.

<sup>63</sup> See: Ahroni, ‘Agunot, p. 278 and a letter from Max Lapidés to Rabbi Shim‘on Katz, 10.7.1958, CZA S6/6976.