'This country is "ladies first" always': Russian Jewish Women & Divorce in New York Civil Courts

In an affidavit submitted to the New York Supreme Court in 1899, Max Minzer explained that his friend Max Zimmer was unjustly sued by his wife, Rose. According to Rose's own narrative, her husband had committed adultery, thus prompting her to sue for divorce in civil court. By contrast, Max Minzer, supporting the views of Rose's husband, suggested that Rose was after her husband's money. He recounted having the following dialogue with the plaintiff. "If you make all this money, having your own business, could you have your husband arrested for support, could this be done in this country?," he asked. She replied: "Yes, that I can do in this country, that is the reason I love this country, it is "ladies first" always." To Max's remark that "she must have proof that her husband had committed adultery," Rose answered: "In this country you can have everything for money. Even if I do make money enough, I'll take some of his too. Since I left him, I have bought about $350.00 worth of new dresses, a diamond bracelet for $125.00 cash, and I go out carriage riding, twice a week, which I did not when I was with him. The money I will get out of him for support will pay for my carriage riding anyway."

"If there is such a law, I pity the man who marries," Max concluded.

As with all legal sources, this account is questionable—it sounds grossly exaggerated, if not entirely fabricated. Assuming that this dialogue did take place, it would suggest that civil divorce proceedings could be singularly empowering for female immigrants: by manipulating the civil legal system to their own advantage, they could potentially get money at the expense of their husbands. But I think that this tale gets even more fascinating if we assume its

1 This paper is based on research conducted at the Center for Jewish History (Hershkowitz Collection of Court Cases) and the John Jay College of Criminal Justice (Collection of Trial Transcripts 1883-1927, Court of General Sessions of the Peace). For full bibliographical and archival references, see my forthcoming dissertation.
improbability: Max Minzer's affidavit undoubtedly reveals more about male immigrants' fears about female power than about his friend's marital life.

To what extent did Eastern European Jewish women believe that they could manipulate the legal system to obtain financial gains? What do we know about their legal strategies and their relationship to American civil courts at the turn of the twentieth century? And how widespread were Jewish men's insecurities about the power that their female counterpart could gain from litigation in civil courts? These are some of the questions that I examine in my forthcoming dissertation, which explores the multifaceted relationship between Jewish immigration, civil law, and changing gender relations in the Jewish immigrant community.

As numerous historians have shown, the mass immigration of Eastern European Jews in New York at the turn of the century profoundly changed the city. Conversely, Jewish immigrants themselves were radically transformed by their encounters with this vibrant metropolis. Although there exists a rich literature on these reciprocal influences, very little has been written about the relationship between the newly arrived Jewish immigrants and New York law—even though both the Jewish community and state laws were drastically transformed through their mutual encounters. In this paper, I reconstruct the lived experiences of Russian Jewish women in civil courts, while examining the possibilities and limits of the new legal frameworks available to them in New York.

Owing to the legal and cultural constructions of gender and marriage prevalent in the early twentieth century, male and female immigrants experienced legal procedures quite differently. Moreover, civil proceedings produced divergent effects on Jewish women and men. It was typically Russian Jewish women who sued their husbands in civil courts, rather than the reverse. It is important to recall that civil marital proceedings did not exist in Russia until the
Revolution of 1917. Balancing the state's confessional nature with the realities of a multiconfessional empire, the Tsars had left the marital sphere under the control of each religious confession. For Jews in the Russian Empire, this meant that they married and divorced according to Jewish law and customs, and did so with the state's approval. By contrast, marital institutions in the United States were secularized.

In an era when Jewish religious institutions were becoming increasingly impotent (especially in the United States, where religion functioned on a voluntary basis), the civil legal system seemed more likely than its religious counterpart to ensure financial support to women confronted with abusive or deserting husbands: in the minds of many Jewish female immigrants, the powers of the civil state could be deployed to enforce on their husbands the financial obligations that rabbinical courts could no longer impose. Additionally, several accounts of Russian Jewish women suggest that they resorted to New York civil courts to counter the power imbalance inherent in Jewish divorce proceedings. For instance, in a case from 1898, Abram Epstein threatened to divorce his wife Celia against her will: "I have been tired of you for a long while and from now on you and your brat can go to the devil for all I care; I am tired of this country any way and I'll go back to my folks in Europe; I can't get a divorce here from you, but it's easy enough to get it there and I'll send you one when I get there and get through with you forever". For myriad Jewish women, like Celia, the thought that their husbands could return to Russia and send them a religious divorce from there must have been dreadful: if their husbands refused to fulfill their financial obligations towards them, how could these women press financial claims against spouses living across the ocean? These threats prompted some women to turn to the state in the hopes of being granted spousal support.
The case of Bassy Rosenberg is particularly enlightening in this regard. Bassy and Morris Rosenberg, respectively a dressmaker and the owner of a barbershop, were married in Odessa, Russia, in 1880. Consistent with a practice widespread among Russian Jews, Morris moved to the United States before his wife. Bassy joined him five years later, only to discover that in her absence, her husband had pretended to be divorced, and remarried. After Bassy had uncovered his secret, Morris convinced her to accept a religious divorce, in exchange for $100 and additional money to fund her journey back to Russia. Things however became more complicated when they brought their case to a rabbi in New York: the latter agreed to divorce the Rosenbergs only if Morris divorced his second wife as well —this, Morris refused. Being denied a divorce, Bassy then decided to turn to the civil courts in New York. In 1896, she sued Morris for bigamy at the Court of General Sessions, but lost her case (she would later argue that the jury's verdict of "not guilty" resulted from her husband's false testimony). Two years later, Bassy commenced a lawsuit to obtain divorce and alimony. She got Morris arrested by the Sheriff, on an order of arrest granted by the Court of General Sessions, and Morris was sent to the County Jail for the duration of the proceedings, his friends having failed to procure the $500 bail necessary for his release. Although the existing record fails to indicate the outcome of the case, it nonetheless sheds light on Bassy Rosenberg's remarkable persistence. According to her husband, she had launched six legal proceedings against him prior to his arrest by the Sheriff. What prompted Bassy's legal combativeness? If we are to believe her own account, and that of the witnesses testifying in her favor, she was genuinely driven by the need to obtain financial support from her husband. According to the owner of the boarding house in which Bassy and her 15 year old son resided, his boarder was not able to pay rent owing to her low salary; when he contacted Morris
in the hopes that he would contribute to his wife's and child's maintenance, the latter flatly refused. This left Bassy with no choice but to seek redress in civil court.

Bassy's strategy was not unique, as numerous other affidavits submitted to the New York courts at the turn of the twentieth century attest. Many other Russian Jewish women were able to get their husbands arrested by the Sheriff on the ground of non-support, and even temporarily incarcerated in cases when they threatened to leave the country to dodge their financial duties. This suggests that the existence of civil courts offered great opportunities for women, who sought to maximize the power of the state to enforce financial obligations on their negligent husbands. Notwithstanding the possibilities opened up by the civil legal system, it is important to note that litigation was fraught with countless difficulties: linguistic, cultural and financial. The vast majority of Russian Jewish female litigants were Yiddish-speaking, and their knowledge of English was low, if not inexistent. To compound matters further, most of them, it seems, were illiterate. To understand legal documentation originating from the courts, they had to go around their neighborhood until they found someone who could translate the official documentation for them. And try to imagine how overwhelming it must have been to testify in court, in a language that they could neither understand or speak. In court, their testimonies were mediated by the presence of interpreters. Aside from the language barrier, Russian Jewish women faced cultural challenges as well: many of the questions asked by the judges made little sense to them because they had no cultural relevancy. (This is particularly true of dates: for instance, judges failed to understand how Jewish litigants could ignore their own age, while litigants failed to appreciate the importance of what seemed to them a trivial piece of information.)

A rare transcript of a bigamy case from the Court of General Sessions provides insights into the combined impact of these linguistic and cultural challenges on the behavior of Jewish female
litigants in the courtroom. In 1909, the trial for bigamy of a Russian Jew named Ike Lipschitz brought his two wives to the courtroom. The attitude of Fannie and Mollie, respectively Ike's first and second wives, reflect their feeling of disempowerment in the face of countless interrogations by and in front of a purely male audience (consisting of the court, the District Attorney, the defense attorney and members of the jury). Particularly offensive to Fannie was the strategy of the defense attorney, who attempted to claim that Ike's first marriage, performed in Russia, was invalid because the bride was under 18 at the time of the marriage. After being repeatedly asked about her age, and her siblings' age, Fannie rebelled, stating to Ike's lawyer, Mr. Palmer: "I don't want to say anything to you. Arrest me. I don't want to talk to you. I won't talk to you. Have me arrested." While insisting that "nobody will do you any harm", the court nonetheless told Fannie that she needed to answer Palmer's questions. Subsequently, when asked about whether she had been married by a "crown rabbi" or a "spiritual rabbi," Fannie responded: "Oh, I can't answer so many questions"—thus prompting the court to command her to "keep her temper." The proceedings ultimately brought Fannie Lipschitz to tears, which caused her husband's attorney to argue for a mistrial of the case "because the witness has so comported herself on the stand as to appeal to the manly side of all of us by her tears." Palmer judged "this exhibition of grief, either stimulated or real" incompatible with a fair trial for his client.

Mollie Lipschitz, Ike's second wife, proved an even more difficult witness—the court called her an "unwilling", even ""hostile witness." When asked why she refused to answer one of the District Attorney's questions, Mollie stated: "I refuse to answer, because it will disgrace me"..."Who told you that?" "Nobody; just friends of mine. They took me to a lawyer, and he said I have a right to take my own part, and I needn't disgrace myself by answering the questions." Persistence failure to answer the DA's questions ultimately landed Mollie in the House of
Detention for "willful perjury." Thus, the legal advice that Mollie had received through her acquaintances created more legal hurdles and distress than it helped her case.

The cost of legal proceedings created an additional burden for Russian Jewish women seeking redress in New York civil courts—a fact that was most clearly expounded by Bernard Rabbino, a Russian-born rabbi turned lawyer in the United States, who fathered the Domestic Relations Court in New York. In 1909, Rabbino drew a crucial distinction between rich and poor litigants seeking justice in cases of desertion: only rich women could bring an action for limited divorce in the New York Supreme Court, since such legal action necessitated the costly services of an attorney. The cheapest remedy available to a deserted wife consisted in bringing her case to the Police Court; if she was able to prove desertion, the city magistrate ordered her husband to pay a weekly allowance for her maintenance (for a year at most). Additionally, the husband was arrested for non-support upon a warrant of the Police Court and required to give a bond to ensure his compliance with the order; those unable to provide said bond were jailed at the Workhouse on Blackwell's Island for a period of up to six months. Jewish charities (particularly the Legal Aid Bureau of the Educational Alliance, the Hebrew Sheltering and Immigrant Aid Society, and United Hebrew Charities of the City of New York) provided direct legal assistance to women seeking their husbands' arrest for non-support—by inducing men to come back to New York in order to secure their arrest, providing free counsel, appearing in court on behalf of the deserted women, etc.

Although Rabbino considered proceedings at the Police Court a remedy "within reach of even the humblest and poorest woman," he also noted that Jewish women dreaded the Police Court which, in addition to being often ineffective, was crowded with undesirable characters: in Police Court, the poor woman, Rabbino observed, "is very often subjected to humiliations and
indignities against which every self-respecting person, especially a woman, revolts, and which she would resent if she only could. Against her wishes she is brought in contact with thieves, pickpockets, robbers, drunkards, women of low standing and criminals of all descriptions.” The creation of a Domestic Relations Court in 1910 helped improve the lot of deserted women, by allowing them to bring their cases to a non-criminal tribunal that was solely devoted to marital matters. Yet, it did not facilitate their access to civil divorce proceedings since the Domestic Relations Court had no power to grant divorces or separations.

Finally, and maybe contrary to the expectations of Russian Jewish women, there were also limits on the power that the civil legal system could have on husbands: when men preferred jail to paying alimony, there was little that the state could do. As an example of the struggle to enforce alimony payment, consider the case of Annie Lipscher. Annie obtained a decree of separation in New York, and the court granted her a weekly alimony of $5. However, her husband, Herman, pretending to go back to Europe, moved to Jersey City instead, with the goal of avoiding alimony payment. Upon finding out where he was, Annie brought several suits to ensure his financial support: in Jersey City, and then again in New York. Confronted with husbands or ex-husbands who paid alimony at irregular intervals or refused to pay alimony altogether, women had no recourse for permanent redress. As the case of Harris Moskowitz further testifies, for some men, jail did not prove a deterrent for dodging their financial responsibilities. In 1889, four years after moving to New York from Warsaw, Harris abandoned his wife Anna and their children for the first time. He then came back and deserted her again several times. Around 1895, Anna secured her husband's arrest for non-support, and Harris was ordered to give her $3/week; after failing to pay, Harris got sent to jail for five weeks. Three years later, he was arrested again, and ordered to pay $3/week—this time, his refusal to pay
landed him in the work-house for a much longer period of time: six months. The following year (and that is ten years after he had deserted his family for the first time), Harris served four months in the work-house by reason of his repeated desertions. In May of 1899, Anna finally brought a suit for divorce from bed and board. All in all, Harris had spent over a year in jail but Anna's efforts had proven vain: "My husband has now been in jail since March 4th, 1899 and an order of the court requiring him to pay me any sum for my support is entirely ineffectual, as my husband would rather remain in jail than pay me, as is shown by the fact that he once spent six months in jail and has now been there for over two months rather than pay the sum of three dollars per week. He is not able to give any security for the payment of any sum ordered to be paid."

While litigation in civil courts did not necessarily yield the results hoped by Russian Jewish women, I invite you to think beyond the legal outcomes of these cases. What were the broader reverberations of these legal proceedings—for Jewish women, men, and the Jewish immigrant community at large? How did they shape gender relations anew? It is easy to imagine that many men were traumatized by their arrest and subsequent incarceration. Many of the men who repeatedly failed to provide for their families were often impoverished themselves and struggling to make ends meet. (For instance, Harris Moscowitz, whom I just mentioned, was a 75 year old peddler by the time his wife brought a suit for divorce against him.) Until the establishment of the Domestic Relations Courts in 1910, the men who were arrested for non-support were treated like criminals—a situation that they must have experienced as highly degrading and humiliating.

In the account of his experiences as the head of the Legal Aid Bureau of the Educational Alliance, a Jewish settlement house, Bernhard Rabbino alluded to "cases where the woman
acting hastily and under the influence of strangers, made complaint against her husband and sent him over to Blackwell's Island only to regret her actions when too late." Rabbino further recounted: "I remember one specific case where the man served six months on Blackwell's Island. After he had left there his wife, not having received support all this time, came to me and applied for aid. I sent for him and he came. I made an attempt to get him to live with his wife and children again. He made a favorable impression on me. He was a hard working man, simple and inclined to do what is right if he only understood how. He cried bitterly and said that he would feel happy if he could live with his family. But since his wife has the hardiwood to keep him six months in jail, he had lost all feeling for her and could not live with her even if he wanted to."

Yiddish newspapers also alluded to the violence such arrests did to the Jewish family. In 1906, Ziviah Beile submitted a letter to the Bintel Brief, the advice column of the Forward. In it, she lamented her decision to move from the United States to Russia to locate her deserting husband—a decision that led a rabbi in New York to get her husband arrested for non-support. Far from causing her happiness, the choice to come to America and the subsequent arrest of her husband destroyed him and his new family, thus bringing Ziviah misery and thoughts of suicide:

"What have I done? Why did I let the Rabbi persuade me and allowed them to send away a man, who has no business with me, who does not love me...? The thought troubles me and tortures me and I cannot rest. I do not enjoy living, eating, drinking, reading, the meetings—an arrested man in prison garb constantly stands before my eyes... The curses he directs at me in his dark cell ring in my ears. In my dreams I see his wife, who certainly loves him and whom he no doubt loves too, as she cries her eyes out... I imagine how she may be begging for a crumb of bread for her and for her child, not having a provider.... And I, I am the guilty one." Although this confession was most likely drafted by the Forward's editor, its very existence suggests the ways in which
arrests for non-support impacted the lives of Russian Jewish immigrants, male and female—causing humiliation, further discord and a feeling of powerlessness, even for women acting in the guise of their newfound power.