

Research Article / Araştırma Makalesi

The Agunah Question in Israel: Feminist Responses to Gender Inequality Caused by the Rabbinical Court System and Their Intersectionality

İsrail’de Agunah Sorunu: Haham Mahkemelerinin Yarattığı Toplumsal Cinsiyet Eşitsizliğine Feminist Tepkiler ve Bu Tepkilerin Kesişimselliği

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MANUSCRIPT INFO	ABSTRACT
Submitted: 26.05.2025 Accepted: 31.08.2026 Keywords Agunah Get Halakha İsrail’de Feminist Hareketler Haham Mahkemeleri Jel Codes K36, K38, J16, Z12	Israel’s legal system operates as a hybrid, blending secular laws with religious traditions, particularly evident in the domain of family law. This legal hybridity poses significant challenges, as the principle of equality before the law often remains theoretical, overshadowed by the rulings of Rabbinical Courts. Patriarchal interpretations embedded within Jewish religious tradition and Halakha place women at a disadvantage compared to men in matters such as divorce, property division, and child custody. Notably, in cases where a man withholds consent for divorce (the get), women are left in a state of agunah, trapped in marital limbo and socially ostracized. Feminist movements addressing this issue diverge into two main camps: secularists, who call for the removal of Halakha as a legal authority, and religious feminists, who argue that gender inequality arises not from Halakha itself but from its patriarchal interpretations. While these perspectives may seem oppositional, both groups inhabit an intersectional space shaped by the social, cultural, and political structures underpinning the problem they seek to resolve.
MAKALE BİLGİSİ	ÖZ
Başvuru: 26.05.2025 Kabul: 31.08.2026 Anahtar Kelimeler Agunah Get Halakha Feminist Movements in Israel Rabbinical Courts Jel Kodları K36, K38, J16, Z12	İsrail’in hukuk sistemi, özellikle aile hukuku alanında belirginleşen melez bir yapıya sahiptir; seküler yasalarla dinî geleneklerin iç içe geçtiği bu yapı, hukuk önünde eşitlik ilkesini çoğu zaman teorik bir iddia olarak bırakmaktadır. Haham Mahkemeleri’nin kararları, bu melez yapının en tartışmalı unsurlarından biridir. Yahudi dini geleneğinde ve Halakha’da yer alan ataerkil yorumlar, özellikle boşanma, mal paylaşımı ve velayet gibi konularda kadınları ciddi biçimde dezavantajlı duruma sokmaktadır. Özellikle erkeklerin boşanma iznini (get) vermeyi reddettiği durumlarda kadınlar "agunah" olarak tanımlanan bir statüde, ne evli ne de özgür sayıldıkları, toplumsal olarak dışlandıkları bir hukukî ve sembolik boşlukta sıkışıp kalmaktadır. Bu yapısal eşitsizliğe karşı gelişen feminist tepkiler iki ana hatta ayrılmaktadır: Seküler feministler, Halakha’nın hukuk sistemi içindeki belirleyiciliğinin tümüyle kaldırılmasını talep ederken; dindar feministler, sorunun Halakha’nın kendisinden değil, onun patriyarkal yorumlanış biçiminden kaynaklandığını savunmaktadır. Bu iki yaklaşım karşıt görünse de, kökeni aynı yapısal sorunda olan kesişimsel bir mücadelenin iki ayrı uğrağıdır. Sosyal, kültürel ve siyasal bağlamların iç içe geçtiği bu alanda, eşitlik talebi, hem hukukla hem gelenekle hem de toplumsal normlarla yeniden hesaplaşmayı zorunlu kılmaktadır.
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GENİŞLETİLMİŞ ÖZET

Giriş ve Araştırmının Amacı

Bu makale, İsrail’de aile hukukunu şekillendiren hibrit yapının, yani Halakha temelli dinî normlar ile seküler hukukun gerilimli birlikteliğinin kadınlar üzerinde yarattığı yapısal eşitsizliği çözümlmek amacıyla kaleme alınmıştır. Odak noktasını, erkeğin vermediği get nedeniyle kadınların “agunah” statüsünde ne evli ne bekar sayıldığı, hukukî boşluk oluşturan durumlar teşkil eder. Çalışma, bu sorunun bireysel anlaşmazlıklardan öte, İsrail’in kuruluşunda dinî meşruiyetin ulus-inşa sürecindeki merkezi rolünün bir uzantısı olduğunu savunur. Araştırma, seküler ve dindar feminist hareketlerin görünürde zıt fakat aslında kesişen mücadele patikalarını inceleyerek, eşitsizliğin yalnızca Yahudi kadınları değil, etnik ve dinî azınlıkları da kesen çok katmanlı bir ayrımcılık düzeni ürettiğini ortaya koymayı hedefler.

Metodoloji

Çalışma, nitel yaklaşım çerçevesinde tarihsel-kurumsal analiz ve eleştirel metin çözümlemesini birleştirir. İlk aşamada, Osmanlı millet sisteminden manda dönemi düzenlemelerine ve 1953 Haham Mahkemeleri Yetki Yasası’na uzanan yasal evrim kronolojik olarak incelenmiştir. İkinci aşamada, Talmud, Maimonides ve Rabbeinu Gershom gibi kaynaklardaki boşanma, miras ve velayet hükümleri karşılaştırmalı içerik analizine tâbi tutulmuş; ataerkil yorumların nasıl kurumsallaştığı gösterilmiştir. Üçüncü aşamada, Kolech, Women of the Wall, Israel Women’s Network ve Coalition of Women for Peace gibi seküler ve dindar feminist örgütlerin talepleri, hukukî stratejileri ve kamusal görünürlük biçimleri, bu örgütler üzerine üretilmiş ikincil literatür temelinde karşılaştırmalı olarak çözümlenmiştir. Son olarak elde edilen bulgular, kesişimsellik kuramı ışığında yorumlanarak ortak baskı mekanizmaları ile farklı eylem stratejileri arasındaki ilişki açıklığa kavuşturulmuştur.

Bulgular

Analiz, Halakha’nın aile hukuku üzerindeki belirleyiciliğinin üç düzeyde eşitsizlik ürettiğini göstermiştir: (i) Boşanma düzeyi: Get’in yalnızca erkek iradesine bağlanması, kadınları hem yeniden evlenmekten hem de mal paylaşımından mahrum bırakmaktadır; 1995 tarihli yasa ile onu tamamlayan 2001 tarihli düzenlemeler ise rabbanî mahkemelerin ataerkil tutumu yüzünden etkisiz kalmıştır. (ii) Mülkiyet-miras düzeyi: Halakha’nın erkek varislere öncelik tanıyan hükümleri, 1965 tarihli seküler eşit miras yasasını fiilen baypas eden vasiyet uygulamalarıyla sürmektedir. (iii) Vesayet-velayet düzeyi: Altı yaşını dolduran erkek çocukların babaya verilmesini öngören geleneksel yorum, modern çocuk refahı ilkeleriyle çatışarak kadınları pazarlık nesnesine indirgemektedir. Feminist tepkiler iki ana hatta yoğunlaşır: Seküler hareketler, din-devlet ayrımını keskinleştirmeyi savunurken, dindar feministler metin-içi dönüşümle patriyarkal yorumu kırmaya çalışır. Oysa iki hareketin de benzer araçlara başvurduğu görülmektedir: mahkeme yoluyla baskı, sokakta görünürlük ve uluslararası insan hakları diline yaslanma. Bu örtüşme, ayrı sanılan mücadelelerin aslında aynı yapısal kökten beslendiğini gösterir.

Sonuç ve Tartışma

Elde edilen bulgular, İsrail’de toplumsal cinsiyet eşitsizliğinin, aile hukukundaki dinî otoriteye indirgenemeyecek kadar derin bir kurumsal geçmişe dayandığını göstermektedir. Seküler-dindar feminist ayrımı, taktiksel farklılıklara karşın, patriyarkal düzenin farklı katmanlarına yönelik eşzamanlı bir kuşatmayı temsil eder. Dolayısıyla reform önerisi çift eksenlidir: Bir yandan, get uygulamasında eşitlik için dinî mahkemelerin kararlarına üst denetim getirecek bir “sivil temyiz” mekanizması; diğer yandan, Halakha’nın kadın aleyhine yorumlarını tashih edecek dinî-içtihat komisyonları oluşturulmalıdır. Bu iki yönlü baskı, kadınların hukukî statüsünü güçlendirirken kültürel meşruiyeti de muhafaza ederek daha kalıcı bir toplumsal dönüşüm olanağı sunar. Bununla birlikte, dinî partilerin neredeyse süreklilik arz eden koalisyon ortaklığı ve din-devlet ilişkisindeki statükonun kurucu bir uzlaşî niteliği taşıması nedeniyle, rabbanî özerkliğin her aşınması güçlü veto aktörlerince varoluşsal bir tehdit olarak görülmekte; bu da feminist mücadelenin tarihsel olarak Knesset’ten çok Yüksek Adalet Divanı eliyle ilerlemesini açıklamaktadır. Dolayısıyla önerilen mekanizmaların hayata geçmesi, anayasal hak temelli yargı içtihadı, din-içi yeniden yorum ve topluluklar arası koalisyon inşasının birbirini desteklediği bir siyasal stratejiye bağlıdır. Gelecek çalışmaların, Arap vatandaşlar ve dezavantajlı diğer bireyler gibi kesişen kimlikleri dâhil ederek ayrımcılık rejimini daha kapsamlı haritalandırması önerilmektedir.

Introduction

Although the 1948 Israeli Declaration of Independence explicitly rejected all forms of discrimination based on gender, race, and religion, Israel has refrained from granting Jewish women equal rights with Jewish men. Similarly, it has avoided adopting universal principles of equality before the law for its Muslim and Christian Arab citizens (Yuval-Davis, 1980, p. 16). This unequal system is legitimized by the state and society's rhetoric of preserving Jewish identity; however, it has itself created a significant portion of the problems it claims to solve. On one side, the framework reinforces the constructed image of external and internal enemies, invoked to "ensure the survival of the state." At the same time, it embeds systemic discrimination within state institutions, society, and the legal status of citizens, cutting across the very spaces shaped by these imagined adversaries. Notably, when the Jewish national movement first emerged in the 1880s, it was a secular movement (Ram, 2008, p. 70).

Zionism's transformation into a mass movement was not driven by the secular vision of political Zionists such as Theodor Herzl and Leo Pinsker (Hertzberg, 1996, pp. 149-150). Instead, it was religious Zionism that resonated more profoundly with poor and religious Eastern European Jews, offering a vision of not merely a state but one intrinsically tied to the religious and cultural codes of Judaism (Conforti, 2010, p. 206). Young intellectual leaders such as Haim Weizmann, Leo Mozkin, and Shmarya Levine, who were prominent figures at the third and fourth Zionist Congresses, were not adherents of Herzl's political Zionism but followers of the cultural Zionist Ahad Ha'am (Goldstein, 2010, p. 362). The state of Israel, founded in 1948 under the leadership of this new generation of activists, reflected this synthesis. Although secular in their daily lives, these leaders understood the crucial role of culture and religion in mobilizing the masses. From its inception, religion, religious communities, and the religious sphere have served as fundamental sources of legitimacy in Israel (England, 1968). Out of this arrangement emerged a hybrid legal system in which Jewish religious law (Halakha) and secular law coexist, with religious doctrines woven into the state's legal framework (Platsas, 2012, p. 15). Within this hybrid system, family law has been governed by Halakha since 1953, following the adoption of the Jurisdiction of Rabbinical Courts Law (Laufer, 1960, p. 325). This legislation formalized the authority of Halakha in matters of marriage and divorce, embedding religious principles into the legal regulation of family life (Amir, 2022, p. 10).

In Israel, family law has evolved through various legal frameworks, drawing on historical influences such as the millet system of the Ottoman Empire. Despite this evolution, there remains no uniform legal code governing marriage and divorce. Instead, each religious community operates autonomous courts with jurisdiction over the marriage and divorce of its members. Civil district courts are empowered to dissolve marriages only when the spouses belong to different religious communities (Shachar, 2001, p. 80). However, in Israel's diverse society, this legal hybridity generates significant social tensions, driven by gender inequalities inherent in Halakha and restrictions on religious freedom (Goldstein, 1991). One stark example is the plight of approximately 400,000 immigrants, primarily from the former Soviet Union, whose Jewish lineage through fathers or grandparents excludes them from being recognized as Jewish under Orthodox religious law. These individuals are barred from marrying Jewish citizens on religious grounds. When including Jews who converted through non-Orthodox authorities, LGBTQ+ individuals, and others excluded by religious law, the number of citizens unable to marry in Israel reaches 660,000 (Sharon, 2020). Secular Jews, though not formally excluded, also encounter significant challenges due to the stringent requirements of religious law in matters such as marriage, divorce, and inheritance. While a 2010 law introduced civil marriage for individuals registered as "persons without religious affiliation," the economic, social, and cultural privileges tied to being Jewish in Israel dissuade many from pursuing this option (Amir, 2022, p. 12). Consequently, many secular Jewish couples either cohabit without marriage or marry abroad (Fogiel-Bijaoui, 2013, p. 220).

A large part of the population, however, whether *dati* (religious) or *mesorati* (traditionalist) or *hiloni* (secular), faces problems arising from the strict rules of Halakha regarding family law. Chief among these is the problem of the religious divorce certificate, the *get*, which according to Halakha can only be given by the husband to his wife. A woman whose *get* is rejected by her husband cannot marry and start a new life and becomes an *agunah*² (Hacohen, 2004). These women who cannot obtain a divorce license from their husbands are called *agunot* as an expression of their deprivation of social and cultural rights. In 1995, the Knesset enacted a law that envisages coercive sanctions against husbands who refuse to grant divorce (Weiss & Gross-Horowitz, 2013). However, this legal regulation has been complicated and dysfunctional in practice. This is because the legal pressure to be exerted on the husband is only possible if the court orders the issuance of a divorce certificate. However, the rabbinical courts, adhering to the patriarchal logic of Halakha, have tended to avoid such coercion. The disadvantageous position of women before the law is not limited to the inability to obtain a *get*. Due to the patriarchal character inherent in social institutions such as religion and family, women in Israel also face problems and human rights violations in inheritance and child custody. This situation not only undermines women's personal freedoms, but is an expression of a patriarchal pattern that undermines human rights in general and manifests itself in rabbinical courts in particular.

This study aims to explain the tension between patriarchal norms in Israeli society and the new needs that are in the process of producing social norms, and to analyze the transformative role played by women's movements in this picture, with a special focus on the Rabbinical Court System and the problems of family law. Existing studies generally focus on these problems that cause social tensions, legal improvements to address them, and the efforts of women's movements in general. However, the system is also transformed by the efforts of women who position themselves within religious Zionism to reinterpret religious texts. The patriarchal-militarist status quo is reproduced through existing social norms and legal institutions; meanwhile, the changing material and immaterial culture sows the seeds of new social norms. In this framework, while analyzing gender inequality in Israel, the legal

² Literally, a woman in chains. Plural *agunot*.

problems created by this inequality, and the efforts of women's movements that struggle against these problems, the experiences of religious women should also be given importance, and the efforts of secular and religious women should not be examined in isolation, but on the axis of the collective struggle they represent. This study, which aims to evaluate this collective struggle within the same frame, in the context of a common and intersectional problem, will consist of two parts. The first part of the study deals with the religious interpretations that cause gender inequality in its historical context and discusses the effects of these interpretations on the Rabbinical Court system. The second part will focus on the reactions of secular and religious women's movements in Israel to the existing gender inequality and the possibilities of democratic interpretations of religious texts.

1. Historical Context: Overview of the Rabbinical Court System in Israel and Gender Inequality

The millet system granted some autonomy to religious communities living in the territories under the control of the Ottoman Empire, and Jewish communities living in the Middle East for millennia benefited from this autonomy granted to them by the millet system after the empire conquered the region in 1517. Like every other religious group recognized under the millet system, Jews had the right to live and manage their relations with each other, their internal affairs, and their daily lives according to their own religious laws and traditions (Barkey & Gavriliš, 2016, pp. 26-27). In this context, the Jewish subjects of the empire acted according to Halakha, that is, Jewish religious law, in matters such as marriage, divorce and inheritance, and the maintenance and reproduction of established social norms and the cohesion of the community were ensured through this autonomy and related practices (Yaman, 2013, pp. 210-213).

This system of religious autonomy persisted beyond the Ottoman era. After the British expelled the Ottomans from the region during the First World War and established the Palestine Mandate, they inherited the imperial logic of respecting religious autonomy. British administrators continued to avoid interference in the internal affairs of local religious groups under their rule (Shamir, 2000, pp. 63-64). This approach was institutionalized through the Palestine Constitution of 1922, officially known as the Palestine Order-in-Council, which preserved the jurisdiction of religious courts (Eliash, 1985, p. 46; Shamir, 2000, pp. 63-64). As a result, Jewish Rabbinical Courts retained authority over personal status matters and integrated new members of the expanding Yishuv into the framework of Halakha. This role became more decisive during periods of intensified Aliyah from Eastern Europe, as each wave brought distinct cultural and social practices into Jewish life in Palestine.

With the establishment of the State of Israel in 1948, the nascent government faced the formidable challenge of unifying the diverse components of Israeli Jewish society. The state, aiming to bolster its sustainability and population through various incentives, attracted Jewish immigrants from vastly different regions. These new arrivals brought with them varied languages, cultural practices, and interpretations of religious life, resulting in a heterogeneous society (Liebman & Don-Yehiya, 1983, p. 22). The newly established State of Israel faced a critical choice: how to integrate Ashkenazic, Sephardic, and Mizrahi Jews from different religious traditions, secular Jews, and non-Jewish minorities into its political order and unite them under a cohesive national identity. The state could either construct democratic social structures that respected diverse cultural and religious traditions or adopt a patriarchal, securitized, and majoritarian path that assimilated diversity into the framework of rabbinic interpretations of Jewish religious tradition. In practice, the emerging state increasingly moved toward a majoritarian and security-centered model of nation-building, shaped by war, displacement of approximately 700,000 Palestinians, demographic anxiety, and the institutionalization of Jewish collective sovereignty after 1948 (Morris, 2004; Anziska, 2019, p. 75; Shafir, 1989; Kimmerling, 2001). This inclination established Israel as a settler-colonialist state with a securitized relationship toward its Arab population, governed under a perpetual state of emergency. As a key component of this approach, the Rabbinical Courts Jurisdiction Law was enacted in 1953. By granting the rabbinical courts exclusive jurisdiction and requiring that these matters be decided under Jewish religious law, the statute turned religious belonging into a legal precondition for family status, making the private sphere one of the principal sites through which the state's Jewish character was reproduced (England, 1968). This law empowered religious authorities to govern marriage and divorce among Jewish citizens and integrated Halakha into one of society's most fundamental institutions: the family (Shiloh, 1970, p. 484). While this foundation strengthened state authority, it also produced enduring tensions over gender and human rights that would, in later years, bring together women from very different communities. Tellingly, the same logic was applied beyond the Jewish community: Shari'a courts, also inheriting Ottoman-era frameworks, were confirmed in jurisdiction over the personal status of Muslim citizens, so that Arab and Jewish women alike were placed under religiously administered family law from the outset (Layish, 1994; Sezgin, 2013).

This parallel jurisdiction matters because the subordination of Jewish women before the rabbinical courts is not a self-contained problem. It reflects a wider personal-status order through which the state governs intimate life by way of recognized religious communities. Arab women citizens, in particular, stand where two forms of power meet: the ethno-national hierarchy that marks Palestinians as a minority within a Jewish state, and the patriarchal authority of communal religious law over marriage, divorce, custody, and inheritance. Israel's reservation to Article 16 of CEDAW makes the pattern explicit, since it shields the personal-status laws binding on each religious community in precisely the field where they conflict with the Convention's equality provisions; tellingly, Article 16 is the provision most heavily reserved by states across the region (Sezgin, 2013).

Understood in these terms, intersectionality is not a catalogue of disadvantaged identities. It is a method for tracing how one institutional design generates distinct harms for differently situated groups: Jewish women through rabbinical control of divorce, Arab women through communal jurisdiction layered onto minority status, and Mizrahi or Ethiopian Jews through ethnicized hierarchies within Jewish society itself (Crenshaw, 1991; Yuval-Davis, 1980). The authority of the Rabbinical Courts and the application of Halakha derive from foundational Jewish religious texts, including the Torah (the Five Books of Moses), the Mishnah

(the codified oral tradition), and the Talmud³. These texts contain commandments (mitzvot), principles, and interpretations that govern Jewish daily life and the operation of social and cultural institutions. Matters of marriage and divorce are specifically regulated by the Talmud and the Tractate Kiddushin in the Mishnah, which focuses on family law. Tractate Kiddushin, the final tractate of Seder Nashim ("the order of women"), addresses betrothal, marriage, and divorce (Babylonian Talmud, Kiddushin 2a-82b). Divorce procedures are further detailed in Tractate Gittin, which emphasizes the necessity of the husband providing a divorce deed (get) to his wife (Babylonian Talmud, Gittin 85a-90b). The biblical basis for these discussions is found in Deuteronomy 24:1-4.

"If a man finds something unseemly in the woman he married, and he dislikes her, and he writes a divorce certificate and gives it to her and expels her from his house, and she leaves his house and marries another man, and her second husband dislikes her and writes a divorce certificate and gives it to her and expels her from his house, or the second man dies, the first husband who divorced her cannot remarry her. Because she has been defiled. This is an abomination in the sight of the Lord. Do not sin in the land that the Lord your God is giving you for a possession" (Tanakh, Deuteronomy 24:1-4).

This patriarchal framework places women in a subordinate position concerning personal rights, particularly in divorce. A woman whose husband refuses to grant her a get becomes an agunah, literally "a chained woman", unable to remarry or build a new life. Historical efforts to mitigate these injustices include the takkanot attributed to Gershom ben Judah (Rabbeinu Gershom), a Rhineland authority of the late tenth and early eleventh centuries, which prohibited polygamy and forbade men from arbitrarily divorcing their wives. These rulings, influential in the Ashkenazic tradition, introduced the necessity of mutual consent for dissolving a marriage. However, significant legal and cultural disparities persist, disadvantaging women relative to men. For instance, a husband denied a get by his wife may remarry through heter meah rabbinim (the approval of 100 rabbis), a privilege not extended to women except in exceedingly rare cases. A limited counterpart exists in the get zikui, a get executed on the husband's behalf on the reasoning that the divorce confers an unqualified benefit upon the wife; its application, however, remains exceptional and halakhically contested, and it offers no general remedy for women facing a simple refusal (Fishbayn Joffe, 2019, p. 41). Further disparities arise in cases of extramarital children: a child born to a man denied a get by his wife is not considered a mamzer (illegitimate), while a child born to a woman in a similar situation, such as one remarried in a secular ceremony abroad would be so classified (Babylonian Talmud, Yevamot 49a). A husband's private refusal becomes a lasting legal trap only because the state delegates binding authority to these courts. As a result, some women have turned to ad hoc rabbinical tribunals outside the state system, or to prenuptial agreements, in an effort to recover the leverage the official courts deny them (Fishbayn Joffe, 2019).

Although some mechanisms within Halakha and rabbinical court practices, such as community expulsion, theoretically compel husbands to grant a get, these measures often fail in practice due to entrenched patriarchal norms, exacerbating women's suffering. This tension has prompted extensive debate among Jewish theologians and philosophers since the Middle Ages. The concept of kefiya (physical coercion), which permits compelling a reluctant spouse to grant a divorce, has been particularly contentious. Maimonides, for instance, argued for coercion in certain cases, emphasizing principles of equity and compassion. He even suggested that the community could physically compel a husband to divorce his wife under appropriate circumstances (Knol, 2009, p. 29). However, Rabbeinu Tam rejected direct coercion and pointed instead to indirect communal sanctions, while later authorities such as Shlomo ben Avraham ibn Aderet (Rashba) developed the alternative route of annulment for mistaken betrothal (kiddushei ta'ut); together these positions produced divergent practices among Jewish communities (Bleich, 1998, pp. 110-113). The Shulchan Aruch, a pivotal text in Jewish law regulating religious and daily life during the Middle Ages and Early Modern period, reflects this diversity of interpretation. In its Even HaEzer section sets out the grounds on which a court may compel a husband to divorce, while Isserles' Ashkenazic gloss narrows recourse to direct coercion and points instead to the indirect communal measures known as the harhakot of Rabbeinu Tam (Shulchan Aruch, Even HaEzer 154, esp. 154:21). This divergence in interpretation underscores the complexity of gender inequality within Halakha and the enduring challenges it poses in modern legal and social contexts.

The question of the get and the plight of agunot remained a subject of theological debate even after the establishment of Israel. Modern scholar Abraham Isaac Kook, the Ashkenazi Chief Rabbi of Israel, emphasized the role of marriage and Halakha in shaping the identity and unity of the nascent state. He advocated for a synthesis of Zionism and Halakha to organize everyday life through a nationalism rooted in Jewish religious principles (Elkins, 2005, p. 24). Referring to the takkanah attributed to Rabbeinu Gershom, which forbade husbands from divorcing their wives without their consent, Rabbi Kook entered into a debate with Yemeni rabbis. He aimed to centralize religious sectarianism in Israel, arguing that the marital bond could not be dissolved without the consent of both parties. Despite these theological debates and well-intentioned efforts to ease women's hardships, such as following the rulings of Rambam, decisions affecting women's lives remained constrained by religious and patriarchal legal coercion. The patriarchal perspective within Halakha disadvantages women not only in divorce but also in inheritance and child custody. Halakha prioritizes male heirs over female heirs, a principle derived directly from biblical texts. For example, Numbers 27:8 states, "If a man dies and has no son, you shall give his inheritance to his daughter," implying that daughters inherit only in the absence of male heirs. The Talmud reinforces this hierarchy: sons take the paternal estate, and a daughter does not inherit alongside a son (Babylonian Talmud, Bava Batra 115b). This theological-legal framework systematically excludes women from inheriting family property.

In contrast, Israel's secular inheritance law, enacted in 1965, mandates the equal division of inheritance between sons and daughters (Radford, 2000, p. 181). However, civil law also preserves testamentary freedom, allowing property owners to depart from the statutory shares by will. This allows Halakha-observant families to bypass secular provisions, often leaving women disadvantaged.

³ There are two Talmudic texts, known as the Jerusalem Talmud and the Babylonian Talmud, with the Babylonian Talmud generally recognized as having greater authority in Jewish religious life.

Similarly, the division of marital property after divorce poses significant challenges for women denied a get. While a 1973 law mandated equal division of property upon divorce and required Rabbinical Courts to comply (Layish, 1994, pp. 48-50; Weiss & Gross-Horowitz, 2013, p. 69), the law applies only after the divorce is finalized. As a result, women in agunah status are often denied access to marital assets, leaving them financially dependent on male relatives and depriving them of economic independence and security. These intersecting legal and cultural frameworks highlight the persistence of systemic gender inequalities within Israel's hybrid legal system, where secular laws coexist with and are often subordinated to religious traditions. This dual system, while attempting to balance democratic principles with religious autonomy, continues to place women in positions of disadvantage, particularly in matters of marriage, divorce, and inheritance.

Although the 1962 law stipulated that custody decisions after divorce should prioritize the best interests of the child (Mazeh, 2013, p. 248), patriarchal interpretations of Halakha often disadvantage women in child custody arrangements. Jewish religious and cultural traditions, deeply intertwined with Halakha, assign distinct parental roles and responsibilities based on gender, leading to unequal outcomes in custody decisions rendered by rabbinical courts. For example, while mothers are typically favored for custody of young children, fathers are preferred once children reach the age of six (Kaplan, 2008, pp. 102-105). This preference reflects traditional gender roles that portray fathers as breadwinners and heads of the household, while mothers are seen primarily as caregivers. The religious justification for these practices is rooted in Jewish texts that assign fathers responsibility for their children's education. Maimonides, for instance, argued that fathers should have custody of boys over six years old to teach them Torah and trade skills, while girls could remain with their mothers for a longer period (Kaplan, 2008, pp. 108-110). However, these historical presuppositions are incompatible with contemporary understandings of parenting, which emphasize the importance of both parents' involvement, regardless of gender, in promoting the child's well-being. Modern theories of child development stress that prioritizing one parent over the other based on gender can harm a child's emotional and psychological development. In some cases, custody negotiations are exploited by husbands as leverage during divorce proceedings. Husbands may refuse to grant a get to pressure their wives into accepting unfavorable custody or financial arrangements (Misra & Rich, 2003, pp. 65-68). This dynamic further entrenches the power imbalance inherent in the patriarchal system, as women are often forced to relinquish their legal and parental rights to secure a divorce (Rosenberg, 1996). Such practices not only undermine women's rights but also jeopardize the child's best interests, violating international conventions on the rights of the child. The gap between formally egalitarian civil legislation and religiously mediated family practice points to the article's wider claim: inequality here is rarely produced by open legal exclusion alone. It is also generated by the coexistence of parallel normative orders, which lets patriarchal communities convert religious authority into concrete material outcomes for women (Radford, 2000; Halperin-Kaddari & Yadgar, 2010).

2. Intersectionality of Feminist Responses to Gender Inequalities in the Rabbinical Court System

The tension the hybrid legal system creates for gender equality runs deeper than Halakha's hold over Jewish family law: across communities, family status is mediated through religious jurisdiction, communal belonging, and the ethno-national structure of the state itself (Yuval-Davis, 1980; Shachar, 2001). The responses of women's movements to the challenges women face in the legal system range from street protests to efforts to promote legal reforms, from exploiting the patriarchal nature of the Halakha in religious courts to exert pressure on men who victimize women through civil court, to efforts to create more egalitarian interpretations of religious texts. Women's movements in Israel fall broadly into two groups. The first comprises secular feminist movements, which call for the complete abolition of religious legal institutions, arguing that the hybrid legal system is incompatible with universal democratic principles and international human rights standards. The second comprises religious feminist movements, which do not oppose the presence of Halakha in the legal system but argue that the way it is applied should be reformed. In other words, while some feminist movements seek to reinterpret the Halakha in a way that is compatible with contemporary democratic values, there are also feminist groups that argue that the Halakha has no place in the legal system of a state that claims to be modern and democratic, and that this integration itself is directly opposed. Arguing that both secular feminist movements and religious women's movements ultimately draw from the same source, and that the cultural transformations and new needs in Israeli society constitute a collective and intersectional line of struggle that requires both groups to be considered in the same frame, this section of this study will first present a general picture of the feminist struggle in Israel within the historical context. Since the emergence of the Yishuv, religious feminist movements have been able to find room for maneuver in the space opened by secular women's movements defending women's rights against male-dominated social institutions and culture, and have tried to expand this space, albeit in different forms and interpretations. Crucially, the secular-religious divide is not the only axis along which this struggle is organized. Because the 1953 settlement devolved personal-status jurisdiction onto each religious community simultaneously, the disadvantage it produces runs along ethnic and confessional lines as well: Palestinian-Arab women governed by the Shari'a and church courts, and Mizrahi women situated at the intersection of class and intra-Jewish ethnic hierarchy, are subject to structurally analogous forms of religious-patriarchal authority. An intersectional reading therefore situates the position of Jewish women in the rabbinical courts within a shared architecture of domination, rather than treating it in isolation. It is in this wider frame, rather than in the secular-religious binary alone, that the collective character of the struggle becomes legible.

Founded in 1921 in the context of Aliya III's expansion and institutionalization of the Yishuv, Mo'ezet Ha-Po'alot (Women's Workers' Council) is the first organization to be mentioned in this context. The 3rd Aliya, which began in 1919 and lasted until 1923, consisted of about 40000 young men and women with revolutionary-socialist ideas from Eastern Europe and Russia. Women who had been involved in socialist movements in their countries of origin joined the Jewish labor and workers' organization Histadrut when it was founded in 1920. However, their lack of a voice within the Histadrut and their systematic exclusion from the construction, agricultural and industrial sectors led women to form their own labor organizations in order to find a higher representation in the labor market (Bernstein, 1987, pp. 456-457).

Although the 1948 Israeli Declaration of Independence rejected all forms of discrimination based on gender, just as it rejected discrimination based on race and religion, Israel has refrained from granting equal rights to its Jewish women citizens with Jewish men, just as it has refrained from adopting universal principles of equality before the law for its Muslim or Christian Arab citizens (Yuval-Davis, 1980, p. 16). This unequal relationship, legitimized through the rhetoric of preserving the Jewish character of the state and society, has presented itself as a solution to the problem that it itself has created. This solution strengthened the image of external and internal enemies imagined to "ensure the survival of the state." Beyond that, it inscribed into state institutions, society, and the legal position of citizens a form of discrimination that cuts across the very spaces those enemies were said to create. The Law on the Jurisdiction of the Rabbinical Courts, which grants broad powers to the rabbinical courts in matters such as marriage, divorce, inheritance, custody, etc., and which puts women in a disadvantageous position, was produced in the Knesset in 1953 through such a friend-enemy, good-bad, internal-external rhetoric and took its place in the legal system. Although not directly criticizing this rhetoric itself, one of the most important organizations questioning the place of Halakha in the legal system and fighting for the exclusion of religion from legal institutions is the Israel Women's Network (IWN), founded in 1984. This movement, which opposes the influence of established religious norms on the institution of the family through street protests, court cases and petitions to the Israeli Supreme Court, argues that religious law, Halakha, is inherently patriarchal, paves the way for discrimination against women and should have no place in the law in a modern democratic state (Shakdiel, 2002; Herzog & Krauss, 2005; Izraeli, 2003).

The Coalition of Women for Peace (CWP), founded in 2000 in response to the failures of the Israeli-Palestinian Peace Process, is another group that, like IWN, campaigns against the application of religious law in civil matters and argues that gender equality is only possible within a secular legal system. However, CWP argues that various intersectional forms of ethnic, religious and gendered oppression, including the incorporation of religious law within the legal system as a basis for oppressive social practices, are interrelated and together construct the mechanism of domination. According to the CWP, the occupation of the West Bank and discrimination against Muslim and Christian Arabs within the borders of 1948 cannot be separated from the disadvantaged position of Jewish women in Israeli society before the law, the difficulties faced by Mizrahi women and Palestinian women, and the ideological-material background that creates all of this, and must be fought against as a whole, since domination is not based on a single identity but on the victimization of intersecting identities (Amram, 2011). For the CWP, then, secular feminist critique goes beyond demanding the removal of Halakha from Jewish divorce law; it challenges the wider regime in which religious and national classifications determine who holds which rights. This is not an abstract claim. It is borne out by the concrete legal predicament of non-Jewish and marginalized Jewish women, whose subordination flows from the very same 1953 decision to devolve personal-status jurisdiction to religious courts. For Muslim citizens, the Shari'a courts — carried over from the Ottoman and Mandate frameworks and given their statutory footing in Israel by the Qadis Law of 1961 — retain jurisdiction over marriage and divorce, leaving Palestinian women in Israel subject to a parallel religious-patriarchal regime in which, for example, a husband's unilateral repudiation (talāq) and polygyny remained legally consequential long after they were curtailed for Jewish women (Abou Ramadan, 2006), and in which the appointment of the first female qāḍī came only in 2017 after sustained activism (United Nations OHCHR, 2017). For Mizrahi women, the disadvantage is compounded rather than parallel: more often situated in lower-income households and marginalized within both Ashkenazi-dominated state institutions and their own communal-religious establishments, they are among the women least able to absorb the financial cost of a withheld get or to litigate protracted tort claims in the civil courts, and among the least likely to be heard sympathetically by rabbinical judges drawing on patriarchal communal norms (Dahan-Kalev, 2001; Shohat, 1988; Lavie, 2014). When these experiences are read together, the agunah problem faced by Jewish women emerges as one node within a single, state-designed structure of religious-patriarchal jurisdiction rather than a stand-alone complaint. Within this structure, gender, ethnicity, class, and religious affiliation intersect concretely in the lives of those it governs.

The multifaceted strategies developed by feminist movements in response to the systematic gender inequalities perpetuated by the application of Halakha in Israeli rabbinical courts, particularly in the areas of get, religious divorce certificates, property rights and child custody, have also opened space for religious feminist movements. In particular, tort lawsuits filed in civil courts systematize financial sanctions against husbands who abuse their halakha-based power and create pressure for the granting of get. In this context, as a result of public pressure from feminist organizations, the Rabbinical Courts Law, enacted in 1995 and revised in 2001, imposed sanctions on husbands who refuse to divorce, such as imprisonment, revocation of driver's licenses and restrictions on bank accounts. However, it was not possible to achieve the intended results of the law. This is because if the husband gives a Halakhic reason for not giving the get, i.e., he refuses to give the get on various grounds of fault on the part of the wife, the Rabbinical Courts must first determine whether the wife is entitled to the get. Thus, despite its promise, the implementation of this legal improvement has been inconsistent due to both religious law and the attitude of the courts, which, due to patriarchal cultural codes, have refrained from imposing severe penalties on the husband (Leichter, 2009).

Referencing women's rights under international law has also been an important strategy for feminist activism. Here the politics become unusually clear. Israel ratified CEDAW in 1991 but entered reservations to both Article 16, on equality in marriage and family relations, and Article 7(b), on women serving as judges in religious courts. In effect, it accepted gender equality as an international norm while exempting the one field where family status is actually decided. When the CEDAW Committee reviewed Israel in 2017, it again pressed for the reservation to be withdrawn, even as the state pointed to incremental steps such as the 2017 appointment of the first woman to sit as a qāḍī in a Shari'a court. For Arab women citizens the bind is doubled, since they are governed at once by their minority status in a Jewish state and by communal personal-status law (United Nations OHCHR, 2017; Amnesty International, 2004).

While legal reforms have been a major focus of feminist activism in Israel, it is clear that legal changes alone are not enough to address entrenched gender inequalities rooted in cultural and religious traditions. Cultural codes frame societal values and norms that shape how laws are interpreted, applied and lived out in everyday life, and therefore cultural change is also important in achieving an acceptable form of gender justice.

Feminist scholars argue that the persistence of gender inequality in the Rabbinical Courts is not only a legal issue, but also a reflection of cultural norms that favor male authority over female autonomy (Halperin-Kaddari, 2004; Shachar, 2001). However, secular feminist approaches that seek to isolate these religious social values, norms and culture and to exclude religion from social life do not read the experiences of religious women well enough. Just like the second-class status of Arab citizens of Israel or the difficulties faced by Mizrahi women, the inequalities faced by Jewish Israeli women in the Rabbinical Courts stem from the same political-social source (Halperin-Kaddari & Yadgar, 2010).

Having been entrusted with the responsibility of running the household and maintaining contact with the outside world for thousands of years in religious communities, men have historically used the prestige of this responsibility to become the legal authority in the family and community and to oppress women. Women, by contrast, were confined to the domestic sphere as prescribed by traditional gender roles, with their social roles narrowed to housework and childcare (Waters, 1989, pp. 193-197). Although it is erroneous to establish a categorical equality between isolation in the domestic sphere and low prestige on the social and cultural level, the political-anthropological transformation we have observed since the Neolithic revolution shows that women are positioned outside the public sphere. In the Jewish tradition, as a rule, women were systematically excluded from the spheres where social and political power was concentrated; they were prevented from studying Torah, from participating in Torah-study institutions, from public service and religious services (Shilo, 2006, p. 82). This situation, that is, the fact that gender roles are embedded in a patriarchal culture that legitimizes itself through religion, requires that women's movements and the legal reforms they spearhead, which aim to advance gender equality, must also combat, but perhaps more importantly negotiate, the religious and cultural norms that underpin these roles.

This deliberative move towards more democratic interpretations of religious texts is triggered by the transformation of material conditions and corresponds to the need to create a new set of norms and values to follow this transformation. The new material cultural reality created by today's world, where goods, services and information move without borders, has created the need to create a new set of immaterial culture not only for women who do not live their daily lives according to religious rules and whose ideas about the organization of the political sphere remain within secular boundaries, but also for religious women. Throughout the 20th century and in the first quarter of the 21st century, educational opportunities in Israel, as in the rest of the world, have expanded to include women. This expansion, combined with the new possibilities offered by the information society, ushered in a new phase in which women freed themselves from gender and neighborhood oppression and demanded greater equality of opportunity and justice. In the context of this act of deliberation, feminist movements in Israel have increasingly engaged with religious scholarship to challenge patriarchal interpretations of Jewish law. Religious feminist groups such as Kolech and Women of the Wall have sought to reinterpret religious texts in ways that promote gender equality, arguing that patriarchal readings of Halakha are not intrinsic to Judaism; instead they express and perpetuate centuries of male-dominated religious authority (Lahav, 2015). In this context, the struggle to address the problems faced by agunot, both in Jewish communities outside Israel and in Israel, has historically been directly linked to this act of reinterpretation and the intervention of women familiar with Halakha from within (Israel-Cohen, 2012; Shilo, 2006; Kehat, 2001; El-Or, 2002; Seidman, 2019). This "insider intervention" and "reinterpretation" by the religious group Women of the Wall since 1988 is of great importance in this context, both in terms of understanding the problems that create gender inequality in Israel and in terms of solving these problems that arise in an intersectional field on secular, religious and ethnic foundations. The case is revealing precisely because it is never only about access to a sacred site. It exposes how state-backed Orthodox authority defines the boundaries of legitimate Jewishness and public religiosity, and it presents religious women as political actors who contest that authority from inside the very institutions that reproduce Jewish national identity, rather than as passive bearers of tradition (Shakdiel, 2002; Zion-Waldoks, 2015).

In Judaism, in order for a religious ceremony or worship to take place, a minyan must be formed by gathering 10 people. However, tradition stipulates that women cannot form a minyan since they cannot lead a public religious ceremony (Frimer, 1988, p. 57). Based on the doctrine that women cannot form a minyan, the rabbis consider it heretical for them to pray in a group in this space, and direct women to visit individually in the relatively small space reserved for them. In fact, many congregations and progressive rabbis outside Israel accept the Women of the Wall movement's claim that the Torah does not prohibit women from praying in public (Shakdiel, 2002, p. 128). However, the rabbis who control the holy sites in Jerusalem where the Western Wall is located prefer to adhere to tradition. This leads to women who come to the site to pray in groups being removed by police force, detained or even arrested (Lahav, 2015, p. 51). Since 1988, the Women of the Wall group has challenged Orthodox patriarchal control over this religious space by defending women's right to pray at the Western Wall, focusing primarily on religious freedom. The movement does not understand group prayer at the Western Wall from the perspective of Reform Judaism. The Women of the Wall movement, most of whose members are Orthodox Jews, wants to pray in front of the Western Wall according to Orthodox traditions. In this context, the group's efforts to stretch established patriarchal interpretations in the religious sphere should not be seen as a shaking and dilution of religious tradition. On the contrary, the goal of the movement is to point to male domination as the cause of patriarchal interpretations of religious texts, to liberate the texts from this patriarchal domination, and to create space for gender equality within the religious tradition so that the Orthodox Jewish tradition can be kept alive even stronger. This nuanced context and effort to unearth more democratic and egalitarian interpretations of halakha is also evident in Kolech, a movement of religious women organized in 1998 to advocate for women's participation in Orthodox religious institutions. Structural transformations such as the establishment of Torah study centers (midrashot) for women, the opening of rabbinical-court advocacy to women (toanot

rabbaniyot) and the creation of training programmes in this field, and women's leadership of religious rituals have gained momentum through Kolech's efforts and struggle (Shilo, 2006). Both Kolech and the Women of the Wall were marginalized by secular feminist movements that fought to remove religion from the public sphere altogether, and for a long time seemed to be against these movements (Zion-Waldoks, 2015, p. 76). However, the subalternities of disadvantaged groups of society such as women, ethnic minorities, and communities that have been marginalized because of their beliefs are located in an intersectional line (Bilge, 2010). In this framework, the experiences and struggles of religious women should be considered as part of the same collective struggle as secular feminist movements in the context of eliminating the inequalities faced by women in the Rabbinical Courts. Yet "Jewish women" should not be read as a single category either. Ashkenazi, Mizrahi, and Ethiopian women, like secular, traditional, and Orthodox women, occupy quite different positions within Israeli society, and Mizrahi feminist scholarship in particular has shown how ethnicized hierarchies operate inside the Jewish collective itself, in disputes over religious authenticity, integration, and recognition that long predate any single divorce case. These internal differences do not displace the agunah problem; they qualify the assumption that all Jewish women meet rabbinical authority from the same social location (Shohat, 1988; Dahan-Kalev, 2001; Chetrit, 2010).

Conclusion

Following Ahad Ha'am, Israel's founding cadres envisioned that large masses of people could only be organized on the basis of a cultural-political bond with the faith elements of the Jewish religion and rejected the secular character of political Zionism developed by figures such as Theodor Herzl and Leo Pinsker. Accordingly, the organization of the Jews, their immigration to Palestine, the creation and survival of the Jewish state could only be possible through the establishment of the relationship between the holy land and the holy people, and adherence to the sacred traditions of the Jewish religion. The mechanics of thought and action that created Israel as a security state surrounded by enemies caused the notion of equality in the Declaration of Independence, which stipulated that there would be no discrimination between citizens, to remain only on paper. This has created an intersectional system of discrimination among Israeli citizens, which is most evident in gender inequality. It cuts across ethnic, gender and faith lines simultaneously. In other words, secular Jewish women, religious Jewish women, and Arab women have faced problems created by the structural situation inherent in the creation of Israel and the construction of its institutions. The 1953 law that divided the legal system according to the religious orientation of the Israeli population created a hybrid legal system in which family law was left to the religious courts. Accordingly, issues such as marriage and divorce, the ownership of children and the division of property fall under the jurisdiction of Rabbinical or Sharia courts, not secular courts. This legal hybridity creates oppression for Jewish Israeli women stemming from patriarchal interpretations of Halakha. These interpretations, which stipulate that husband and wife cannot divorce without the consent of both parties, create an inequality whose consequences create many difficulties for the woman rather than the man due to the patriarchal mentality inherent in the Orthodox interpretations of Jewish culture. The problem of Agunot and the striking nature of the problems faced in social life, especially by women who have not been able to obtain a get from their husbands in order to obtain a divorce, have led women's movements in Israel to organize struggles to come to terms with this patriarchal order, which is entrenched in social and legal institutions, in various ways. Feminist movements first emerged in Palestinian Jewish society during the time of the Yishuv in response to the failure of the Jewish labor movement, the Histadrut, to ensure equality between men and women, to address women's issues, and to meet women's demands for a greater voice in the trade union. Feminist movements who do not organize their daily lives with reference to religious rules and who believe that sin and politics in the public sphere should be organized in two distinct spheres, separated by thick lines, struggle to end the hybridity of the legal system and to remove Halakha as a source of legal reference. However, the struggle against inequality between men and women in Israel and the discrimination faced by women, especially in rabbinical courts, has not only been organized by secular feminist movements. Religious women do not aim to remove the Halakha from the private sphere altogether, but to create change by producing democratic interpretations of the Halakha that are more gender-equal. Accordingly, it is not the Jewish religion itself that creates inequality, but the way it has been interpreted by men for hundreds of years. At first glance, secular and religious feminists may appear to be rivals pursuing incompatible strategies. This study has argued instead that each responds to a different face of the same personal-status regime. The claim is not that Jewish, Arab, and Mizrahi women suffer identical exclusions. Rather, their unequal positions stem from a shared institutional design that links religious jurisdiction, patriarchal authority, and national belonging. An intersectional diagnosis of this kind also reframes what reform must address. If the disadvantage women face is the product of a single state-architected structure of religious jurisdiction rather than a series of isolated doctrinal defects, then piecemeal remedies are unlikely to suffice. Two complementary, and politically realistic, directions follow. The first is procedural: the establishment of a civil avenue of appellate review over the personal-status rulings of the religious courts, so that decisions on get, property and custody are answerable to the equality guarantees of Israeli constitutional law. Such a mechanism would extend, rather than invent, the supervisory role the High Court of Justice has intermittently asserted over the rabbinical courts, and it would apply with equal force to the Shari'a and church courts, thereby reaching Palestinian-Arab and Mizrahi women who are presently the least protected. The second is interpretive: the cultivation of religious-judicial bodies empowered to develop and authorize gender-equal readings of Halakha from within, building on the precedent of the yoatzot halakhah and the rabbinical-court advocacy that movements such as Kolech have already institutionalized. Neither proposal is politically frictionless. In a parliamentary system in which religious parties have been near-permanent coalition partners and the status quo on religion and state is itself a foundational bargain, any erosion of rabbinical autonomy is treated as an existential threat by powerful veto players; this is precisely why feminist litigation has historically advanced further through the courts than through the Knesset. Recognizing these constraints is not a counsel of resignation; it is a precondition for any realistic strategy. Durable change is most likely where civil-rights litigation, intra-religious reinterpretation, and cross-communal coalition-building support one another. In that case, reform can claim both constitutional legitimacy and religious-cultural authenticity instead of having to choose between them.

Ek Bilgiler/Yazar Beyanları

Araştırma ve Yayın Etiği Beyanı	Çalışma, etik kurul onayı gerektirmemektedir.
Çıkar Çatışması	Yazar(lar) açısından ya da üçüncü taraflar açısından çalışmadan kaynaklı çıkar çatışması bulunmamaktadır.
Teşekkür veya Destek Beyanı	Bu araştırmayı desteklemek için dış fon kullanılmamıştır.
Yazar Katkıları	Yazar, çalışmanın tümüne tek başına katkı sağlamıştır.

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