

**What's Rape got to Do with It?:
Denying Maintenance from the Rebellious Wife and Women's Sexual Autonomy**

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Israeli law conveys contradictory messages regarding women's right to sexual autonomy. On one hand, the secular law of the state has gone through a major transformation over the last 30 years toward recognizing and protecting women's sexual autonomy right. The definition of the criminal offense of rape has developed so that requirement for active resistance of the woman, as well as other conditions regarding the circumstances that affected women's consent, were omitted and the offense today centers solely around the lack of the woman's free consent.

On the other hand, in the realm of family law women's sexual autonomy right is significantly limited. Israeli family law is a mixture of two contradictory systems: civil and religious. While some aspects of family law are governed by civil (and territorial) law, other aspects are governed by religious law applicable to Israeli citizens based on religious affiliation. Within this distinction, spousal maintenance issues are governed by the religious laws of the parties, which for Jewish couples is the Jewish law.

Under Jewish law the husband is under a unilateral duty to maintain his wife during the marriage. The wifely reciprocal obligations include various housework chores and the duty of having sexual relations with the husband. A wife who refuses to have sexual intercourse with her husband over a period of time without a justified reason may be deemed a *moredet* (a rebellious wife) and lose her entitlement to her husband's support. This rule of Jewish law clearly exemplifies Mackinnon's claim about sexuality being a site of male dominance and is incompatible with women's right to sexual autonomy.

My research goes beyond the law on the books and explores its application in case law. I examine cases addressing Jewish women's right to maintenance where husbands raised the claim of a rebellious wife and particularly whether the recognition of women's right to sexual autonomy within the civil Israeli law has penetrated the religious aspects of family law and affected its interpretation and implementation.