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The "Rabbi's Daughter" and the "Jewish Jane Addams": Jewish Women, Legal Aid, and the Fluidity of Identity, 1890-1930

Felice Batlan

FORGING IDENTITIES: JEWISH WOMEN, LEGAL AID, AND THE SECULAR LIBERAL STATE, 1890-1930

*Felice Batlan**

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INTRODUCTION

The Association of the Bar of the City of New York jovially staged an original musical called “Oh, Pioneer!” in 1988. Its advertising flier featured attorney Helen Buttenwieser as an aged woman dressed in frontier clothing, holding the reins of a covered wagon. Across the wagon a banner read Legal Aid Society.¹ Buttenwieser was the first woman chairperson of the board of directors of the Legal Aid Society of New York and well-suited for the position. She held

*Professor of Law and Associate Dean for Faculty, IIT Chicago-Kent College of Law.

¹ Advertising Circular of the Association of the Bar of the City of New York (Jan. 8, 1988)(available at Schlesinger Library, Cambridge Mass., Helen Buttenwieser Papers, Box 1, fl. 26). Buttenwieser was the daughter of elite banker Arthur Lehman and the niece of the former governor of New York. Another uncle sat on the New York Court of Appeals.

degrees in both social work and law and, during the 1930s, had worked briefly for the Legal Aid Society. She was also Jewish and a member of the wealthy and famed Lehman family of bankers, politicians, and judges. Although pictorially imaginative, Bittenwieser was not quite the pioneer that the Bar Association and Society imagined. Women, as lay lawyers, social workers, and lawyers, had long worked at legal aid organizations and held leadership roles. Women had even pioneered the idea of organized free legal aid for the poor. These women, however, had been long forgotten because early twentieth century male lawyers obfuscated the true history of legal aid.²

This symposium article discusses an unexamined area of legal aid and legal history—the role that late nineteenth and early twentieth century Jewish women played in the delivery of legal aid as social workers, lawyers, and, importantly, as cultural and legal brokers. It presents two such women who represented different types and models of legal aid—Minnie Low of the Chicago Bureau of Personal Service, a Jewish social welfare organization, and Rosalie Loew of the Legal Aid Society of New York. I interrogate how these women negotiated their identities as Jewish professional women, what role being Jewish and female played in shaping their careers, understandings of law, and the delivery of legal aid, as well as the constrained professional possibilities, but at times, opportunities, both women confronted and embraced. By puzzling through these issues, we also see two very different understandings of the rule of law and the liberal secular state.

Elaborating upon the ideas, concepts, and themes of the symposium conference, the article uncovers the voices of women and a story of the provision of legal aid which had been intentionally suppressed and written out of history. In doing so, it de-silos legal aid, demonstrating its close connections to social work. It also pays attention to class, race, religion, ethnicity, and gender, and the article's methodology ranges freely between different disciplines. Another theme that arises is the difficult question of the relationship between the provision of

² See REGINALD HEBER SMITH, *JUSTICE AND THE POOR* (1919). Other scholars justifiably accepted such histories at face value. See MICHAEL GROSSBERG, *COUNSEL FOR THE POOR? : LEGAL AID SOCIETIES AND THE CREATION OF MODERN URBAN LEGAL STRUCTURE, 1900-1930* (1994); JEROLD S. AUERBACH, *UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA* (1977); MARTHA DAVIS, *BRUTAL NEED: LAWYERS AND THE WELFARE RIGHTS MOVEMENT, 1960-1973* (1995); Phillip Merkel, *At the Crossroads of Reform: The First Fifty Years of Legal Aid*, 27 HOUS. L. REV. 1 (1990); EARL JOHNSON JR., *JUSTICE AND REFORM: THE FORMATIVE YEARS OF THE AMERICAN LEGAL SERVICES PROGRAM* (1974); JACK KATZ, *POOR PEOPLE'S LAWYERS IN TRANSITION* (1982); DEBORAH L. RHODE, *ACCESS TO JUSTICE* (); Mark Spiegel, *The Boson Legal Aid Society: 1900–1925*, 9 MASSACHUSETTS LEGAL HISTORY 17 (2003); Richard L. Abel, *Law Without Politics: Legal Aid under Advanced Capitalism*, 32 UCLA L. REV. 474 (1985).

civil legal services to the poor and the much larger question of what constitutes justice. In a strikingly disheartening manner we see how many of the same problems that poor people faced at the turn of the twentieth century have changed little in the past hundred and fifty years, despite the growth of the administrative state and federally funded welfare programs.

I. A BRIEF HISTORY OF THE ORIGINS OF LEGAL AID³

Women and Justice for the Poor: A History of Legal Aid, 1863-1945, my recent book, examines the enormous role played by women as legal aid providers and how gender ideologies shaped what legal aid consisted of and who would be its providers and clients. It excavates the “true” history of legal aid, a story which leaders of legal aid intentionally masked in the second decade of the twentieth century as legal aid was being professionalized. Using and analyzing thousands of pages of archival documents, the book addresses how various actors, including women lay providers of legal aid, social workers, and lawyers, constructed types of authority, the ambiguity of what it meant to be an attorney, and the complex and fraught interactions between lawyers and social workers over who would provide legal aid to the poor and what assistance would be provided. Thus it puts in historical context and challenges the modern day dichotomy of lawyers versus non-lawyers and demonstrates that the practice of law from the nineteenth century through the first decades of the twentieth century was more democratic, heterogeneous, and less male than we understand.

In fact, in the mid-to-late nineteenth century, the provision of legal aid in New York City, Boston, Chicago, Philadelphia, Rochester, Buffalo, and Jersey City, though developing in different configurations and in a variety of historical circumstances, involved the creation of legal aid organizations that ministered to poor women. This legal assistance was provided primarily by elite and middle-class women who were not lawyers. Following the creation of women’s legal aid organizations, second generation legal aid societies developed. These were generally run by men and employed primarily professional lawyers. Such societies focused on male clients and attempted to provide to both men and women the legal aid that women’s organizations provided to women. As this occurred, male lawyers began replacing a feminized and lay-based discourse of

³ See the introduction to FELICE BATLAN, *WOMEN AND JUSTICE FOR THE POOR: A HISTORY OF LEGAL AID, 1863-1945*, (2015), 1-14. Parts of this article are taken from the book. In each such case, I provide a footnote citing such material. For readability, I have not used quotation marks when using my own work. In many ways this article is a companion piece to the book but it also uses significant archival material that was not contained in the book.

care and empathy, undergirded with an understanding that legal aid was part of a continuum of reform and philanthropy, with a professionalized language of efficiency and an ideology based on both the autonomy of the individual as well as the legal profession.

By the turn of the century, a number of women lawyers began joining these second generation legal aid societies. But, in a counterintuitive twist of history, there were more female lawyers in 1905 at the Legal Aid Society of New York than there would be for the next forty years. In spite of attacks from lawyers, social workers, mostly women, refused to turn over legal aid to lawyers and deep contestations over authority and expertise took place through the World War II period.

One of the continuous threads that connect all organizations that provided legal assistance run by men or women, lay lawyers, social workers, or professional lawyers is the unchanging nature of the claims that the poor brought to legal aid. Whether willing to admit it or not, one of the largest categories of claims across legal aid societies involved women with domestic relations cases. How various legal aid organizations handled such claims differed significantly, with women's legal aid organizations often, although not always, being more sympathetic than those organizations dominated by male lawyers. Competing with domestic relations claims were complaints involving the non-payment of wages. Some women's legal aid organizations specialized in the area of domestic servants where male run organizations had little patience for such claims. Finally, the poor sought legal assistance in regard to small loans and debt. These three types of cases dominated the caseloads of legal aid organizations stretching from the mid-nineteenth century to the present.⁴

II. A SHORT REVIEW OF THE LITERATURE ON JEWISH LAWYERS

Situating the story of Low and Loew within existing scholarship is challenging since it stands at the intersection of legal history, women's history, and Jewish history. A relatively substantial body of literature discusses the history of Jewish men in the American legal profession and a number of themes arise from this literature. Some scholars detect a connection between medieval Talmudic and rabbinical learning and the modern legal profession. Such works

⁴ *Id.*

gesture towards the rabbi of the old country becoming the lawyer of the new world, using the same intelligence, skill, respect for law, and analytic ability.⁵

Other scholarly works have focused on discrimination against Jewish lawyers and the segmentation and segregation within the legal profession.⁶ It is now well-established that it was rare that elite law firms hired Jewish lawyers until after World War II.⁷ Rather, in the late nineteenth and early twentieth century, most Jewish lawyers, especially those who were immigrants or of Eastern European background, worked in solo and small firm practice. It was common for such practices to include personal injury law or what came to be known as “ambulance chasing.” Elite lawyers and even progressive reformers, both Jewish and Christian, often referred to such lawyers as shysters who fleeced their clients, sometimes through exorbitant fees and sometimes through outright fraud or neglect.⁸

An overlapping category of scholarship on Jewish lawyers delves into the lives of elite Jewish lawyers such as Louis Brandeis, Benjamin Cardozo, Felix Frankfurter, and the lesser known but widely influential Louis Marshall.⁹ Such scholarship focuses upon how these attorneys used the law to battle anti-Semitism, their attempts to represent the “Jewish community,” and their relationship to Zionism, immigration, and the secular state. Such lawyers played a large role in founding important institutions like the American Jewish Committee and they sought to intervene in both national and international affairs, hoping to protect Jews world-wide while also claiming a type of parental authority over all Jews.¹⁰ William Forbath writes that Reform Judaism (which began in Europe but blossomed in the United States) adopted as one of its central tenets the modern idea of “justice seeking,” which encompassed the supposedly universal and enlightened values of the Constitution. Thus, he argues, Reform

⁵ See JEROLD S. AUERBACH, *JUSTICE WITHOUT LAW* (1983); Auerbach, *UNEQUAL JUSTICE*, *supra* note 2; JEROLD S. AUERBACH, *RABBIS AND LAWYERS: THE JOURNEY FROM TORAH TO CONSTITUTION* (1990).

⁶ LOUIS ANTHES, *LAWYERS AND IMMIGRANTS, 1870-1940: A CULTURAL HISTORY* (2003); ARI MERMELSTEIN ET AL., EDS. *JEWS AND THE LAW* (2014).

⁷ Russell G. Pearce, *Reflections on the American Jewish Lawyer*, 17 J.L. & RELI. 170 (2002); Eli Wald, *The Rise of the Jewish Law Firm or is the Jewish Law Firm Generic?*, 76 U. MISSOURI AT K.C. L. REV. 885 (2008).

⁸ See ANTHES, *supra* note 6; ANNA R. IGRA, *WIVES WITHOUT HUSBANDS: MARRIAGE, DESERTION, AND WELFARE IN NEW YORK 1900-1935* (2006); MERMELSTEIN ET AL., *supra* note 6.

⁹ See VICTORIA SAKER WOESTE, *HENRY FORD’S WAR ON JEWS AND THE BATTLE AGAINST HATE SPEECH* (2012); ALBERT VORSPANN, *GIANTS OF JUSTICE* (1960); ROBERT BURT, *TWO JEWISH JUSTICES: OUTCASTS IN THE PROMISED LAND* (1988).

¹⁰ See WOESTE, *supra* note 9; Victoria Saker Woeste, *Introduction*, in MERMELSTEIN ET AL. *supra* note 6, at 1-9.

Judaism was in early conversation with, perhaps even guided by, the ideals of the U.S. Constitution, and elite Jewish lawyers engaged in realizing such ideals through their involvement in and support for various causes.¹¹ Some scholars have also claimed that Jewish elite lawyers were particularly concerned with the secular liberal project, including the politics and jurisprudence of equal rights.¹² A common connection between all of the above scholarship is their assumption that Jewish lawyers were all male and that those who provided legal counsel were all lawyers.¹³ This article demonstrates that these assumptions are not always correct. By challenging them, the article seeks to prompt generative narratives and bring the history of Jewish men in the legal profession into dialogue with women's history and the growing body of scholarship on women lawyers.

III. ROSALIE LOEW: THE RABBI'S DAUGHTER

Rosalie Loew's life encapsulates significant tensions and ruptures as she sought to forge a legal career and negotiate her identity as both a woman and a first generation Jew. Loew's parents immigrated from Hungary, where her grandfather, Rabbi Leopold Loew of Szeged, had been an influential rabbi, intellectual, and part of the Jewish Reform movement.¹⁴ Once established in New York, the family often assisted other Hungarian immigrants and was part of the growing Jewish Hungarian community.¹⁵ Loew's father was a lawyer and her mother a milliner with whom Rosalie at times worked. In cities around the world, Jewish men and women worked in the sewing and notions trades, and Loew

¹¹ William E. Forbath, *Jews, Law, and Identity Politics* 32 (March 31, 2014) (unpublished manuscript).

¹² Russell Pearce and Adam Winer, *From Emancipation to Assimilation: Is Secular Liberalism Still Good for Jewish Lawyers?*, in MERMELSTEIN ET AL., *supra* note 6, at 171-205.

¹³ In the otherwise excellent edited collection *JEWS AND THE LAW*, there is no discussion of Jewish women lawyers. See MERMELSTEIN ET AL., *supra* note 6.

¹⁴ ROBERT PERLMAN, *BRIDGING THREE WORLDS: HUNGARIAN-JEWISH AMERICANS, 1848-1914*, 173 (1991); Danielle Haas-Laursen, *Rosalie Loew Whitney: Lawyer, Crime Fighter, Judge, Political activist, Suffragist*, STANFORD WOMEN'S LEGAL HISTORY WEBSITE (2001), available at <http://wlh-static.law.stanford.edu/papers/WhitneyR-HaasLaursen02.pdf>.

¹⁵ Rada Blumkin, *Rosalie Loew Whitney: The Yearly Years as Advocate for the Poor*, STANFORD WOMEN'S LEGAL HISTORY WEBSITE (2001), <http://wlh-static.law.stanford.edu/papers0203/WhitneyR-Blumkin01.pdf>; BARBARA BABCOCK, *WOMAN LAWYER: THE TRIALS OF CLARA FOLTZ* (2011).

experienced this firsthand.¹⁶ Growing up in this milieu, Loew became fluent in German, Yiddish, and Hungarian. Loew graduated from Hunter College and then attended New York University Law School, which began admitting women in the early 1890s. After graduating, she passed the bar examination, and was one of two women and 198 men who were admitted to New York's Bar in 1895.¹⁷ Loew was thus part of a second generation of women attorneys who did not experience the institutional rejection from law schools and state bars which the first generation of women lawyers confronted.¹⁸ Although historians have long recognized that part of NYU's student body consisted of Jews, immigrants, and women, they have not explored the multiple identities of students like Loew who were Jewish, women, and from immigrant backgrounds.¹⁹ The career path that such a woman lawyer might embark upon was uncharted.

Loew quickly began working in her father's law firm, which he renamed Loew and Loew. All indications are that Loew's family was extremely supportive of her decision to pursue law and saw the legal profession as a way to further create, demonstrate, and display their own American middle-class status. Here the connection between women's homemaking and class status was inverted, with a daughter able to enhance the family's community and class standing by labor in the marketplace rather than solely in the home through marriage and consumer culture. Historian Maria Baader writes that at the turn of the century within Reform Judaism, a daughter's professional career reflected well upon a family.²⁰

Loew's father publicly showed his pride in Rosalie and endorsed what women could bring to the legal profession.²¹ When interviewed by a reporter about Rosalie, he stated that women were especially qualified to practice law given their intelligence and superior honor and moral qualities. He continued that women lawyers, due to these traits, would combat "shyster" attorneys.²²

¹⁶ On women in the sewing trades, see WENDY GAMBER, *THE FEMALE ECONOMY: THE MILLINERY AND DRESSMAKING TRADES, 1860-1930* (1997); NANCY L. GREEN, *READY-TO-WEAR: A CENTURY OF INDUSTRY AND IMMIGRANTS IN PARIS AND NEW YORK* (1997).

¹⁷ *Women Admitted to The Bar*, N. Y. TIMES July 20, 1895.

¹⁸ *Id.*

¹⁹ Phyllis Eckhaus, *Restless Women: The Pioneering Alumna of New York University School of Law*, 66 N.Y.U. LAW. REV. 1996 (1991).

²⁰ Maria T. Baader, *From "the Priestess of the Home" to "the Rabbi's Brilliant Daughter": Concepts of Jewish womanhood and Progressive Germanness in Die Deborah and the American Israelite, 1854-1900*, 43 LEO BAECK INSTITUTE YEARBOOK 47 (1998) at 68-70.

²¹ See HASIA DINER, *HER WORKS PRAISE HER: A HISTORY OF JEWISH WOMEN IN AMERICA FROM COLONIAL TIMES TO THE PRESENT* (2002); MARION KAPLAN, *THE MAKING OF THE JEWISH MIDDLE CLASS: WOMEN, FAMILY, AND IDENTITY IN IMPERIAL GERMANY* (1991).

²² *Mr. Loew Has a Lawyer Daughter*, N.Y. TIMES, June 16, 1895, at 26.

Important here is not only his support for women lawyers but also how he subtly differentiated himself, Rosalie, and his own practice from that of other immigrant attorneys (often Jewish) who fell into the nebulous category of “shyster.” Perhaps for Mr. Loew, not being a “shyster” was attributed to the quality of the practice and the ethics of the attorney, rather than the types of cases that they handled. He also echoed a sentiment that Jewish women professionals, by virtue of their Judaism and upbringing as well as supposedly innate female characteristics of morality and care, would reflect well on the Jewish community and would function as a further marker of Jewish acculturation and achievement in America.²³

In fact, Loew was celebrated in a variety of Reform Jewish publications as the first Jewish woman lawyer or the first Jewish woman Hungarian lawyer, a marker of Jews’ success in America and America’s modernity. This celebration of the New World Jewish woman was particularly salient because women in Germany and the Austro-Hungarian Empire were not could not attend law school or practice law.²⁴ A variety of Jewish publications also linked Loew to a long line of rabbis in her family, as if the modern American incarnation of the European rabbi was the woman lawyer.²⁵ The *American Israelite*’s cover story, on Rosalie, “The Rabbi’s Brilliant Daughter,” praised her legal acumen and boasted of the respect that she received from other lawyers, while also emphasizing her womanly qualities.²⁶ The title, however, was misleading as Rosalie was the granddaughter of a rabbi, not a daughter. Accuracy fell away in the desire to make a direct link between the old world’s religious leader and the new world’s lawyer.

Other newspapers from around the country were also fascinated by Loew and published hundreds of stories. A Pennsylvania newspaper interviewed Loew and commented that she “has the dark tinge of feature that is characteristic of her race.”²⁷ The article did not identify Loew as coming from a family of rabbis, but rather that she came from a family of lawyers, adding that her uncle was the attorney general of Hungary. Loew presented her decision to become a lawyer as inevitable and as the rightful product of her heritage. “I cannot remember the time when I did not intend to be one In my childhood I became impressed with

²³ Baader, *supra* note 20, at 72.

²⁴ KAPLAN, *supra* note 21 at 177-180; MARY JANE MOSSMAN, *THE FIRST WOMEN LAWYERS: A COMPARATIVE STUDY OF GENDER, LAW AND THE LEGAL PROFESSION* (2006).

²⁵ See *Domestic notes*, 20 THE MENORAH: A MONTHLY MAGAZINE FOR THE JEWISH HOME 355(1896), at 355 (available on Google books) ; 1 THE JEWISH RECORD: A WEEKLY MAGAZINE FOR JEWISH INTERESTS (September 19, 1909).

²⁶ *The Rabbi’s Brilliant Daughter*, 44 AMERICAN ISRAELITE 1 (May 19, 1898).

²⁷ *Woman and Home: A Young Woman Who is Her Father’s Law Partner*, THE SEMI-WEEKLY GAZETTE April 25, 1896, at 8.

the idea that the law was really the only thing which anybody respected, and I naturally assumed that when I grew up I would follow my father into his calling.”²⁸ Here Loew gestured towards how in America, as opposed to Europe, rabbis were losing authority. A lawyer, she implied, was America’s new high priest.²⁹

It was not only Jewish leaders who measured the success of immigrant Jews through women’s professional status, but also those who were not Jewish and whose words had a slight tinge of anti-Semitism. One author discussed Loew in the context of how long it took Jews to assimilate to America. She wrote, “The Oriental idea of domestic seclusion of women tinged of the Jew’s blood sufficiently to require several generations of the light of Western liberty to bleach it out of him.”³⁰ Thus where some saw Jewish women professionals as part of an unbroken historical chain of Jewish women’s standing within Judaism, others understood it as the shedding of Jewish tradition and the introduction of Western, perhaps even Christian ideas.

Although Loew was celebrated for her accomplishments, Loew and Loew’s practice was by no means prestigious, as it primarily handled small criminal cases and divorces.³¹ It was quite typical in regard to the avenues open to most Jewish lawyers at a time when the New York bar was rife with anti-Semitism. From the perspective of the elite bar, most Jewish immigrant lawyers—and especially those from Eastern Europe—stood on the cusp of being shysters.³² As is well known, some of the more elite law firms in New York simply would not hire Jewish lawyers.³³

IV. JEWISH IMMIGRANT CLIENTS AND THE LEGAL AID SOCIETY OF NEW YORK³⁴

The Legal Aid Society of New York, in 1897, hired Rosalie Loew as its first female lawyer and probably its second Jewish attorney. She arrived amidst a

²⁸ *Id.*

²⁹ *Id.*

³⁰ Lillian Gray, *Distinguished Jewish Women in America*, THE PITTSBURGH PRESS, July 6, 1901.

³¹ See N.Y. DAILY TRIBUNE, October 24, 1896, at 10.

³² See Woeste, *supra* note 9; WILLIAM E. NELSON, *THE LEGALIST REFORMATION: LAW, POLITICS, AND IDEOLOGY IN NEW YORK, 1920-1980* (2002); AUERBACH, *UNEQUAL JUSTICE*, *supra* note 2.

³³ See, e.g., Eli Wald, *The Jewish Law Firm: Past and Present*, in MERMELSTEIN ET AL., *supra* note 6, at 65-123; ; Lawrence Mitchell, *Gentleman’s Agreement: The Antisemitic Origins of Restrictions on Shareholder Litigation*, in MERMELSTEIN ET AL. *supra* note 6, at 141-170.

³⁴ Portions of this section are taken from BATLAN, *supra* note 3, at 87-122.

period of both expansion and tension for the society—a situation that presented opportunities for Loew to use her unique skills and to function as a cultural broker.

By the late nineteenth century, the Society encountered a new population of immigrants, especially Eastern European Jews in need of legal services, as a result of massive immigration from Eastern Europe to the United States. This created a significant rupture from the Society's earlier history of catering to German immigrants and it produced significant tensions.³⁵ German Jews had already been involved with the Society, both as board members and clients, but cleavages existed between German Jews, many of whom had immigrated earlier in the nineteenth century, and impoverished Eastern European Jews. German Jews, who often identified with Reform Judaism, at times, looked down upon Eastern European Jews as uncivilized, and feared that such immigrants would provoke anti-Semitism, thus endangering all Jews.³⁶

Some lawyers at the Legal Aid Society (all male and primarily of German background) emphasized how difficult and unpleasant it was to work with these new immigrants. One of the Society's lawyer explained in 1893, "Russian and kindred immigrants are less in sympathy with the views of life and justice that prevail in the United States . . . Being frequently ignorant, suspicious and over charged with prejudices, [they] . . . are more apt to get into disputes of a legal or quasi-legal character."³⁷ The Society viewed its Eastern European Jewish applicants as too freely calling upon its services, as unable to settle their own disputes, as being uncivilized, and as lacking the rationality and discipline required by capitalism and citizenship. As historian Matthew Frye Jacobson famously wrote regarding immigration, race, and Jews, at the turn of the century many viewed these immigrants as not white, and it was at best unclear whether

³⁵ Approximately eighty-five percent of Eastern European Jewish immigrants passed through the port of New York and although many fanned out throughout the United States, very large numbers settled in New York City. In 1870, New York City had a Jewish population of approximately 80,000. By 1915, the Jewish population was close to 1.4 million, which was almost twenty-eight percent of the city's population. HASIA R. DINER, *LOWER EAST SIDE MEMORIES: A JEWISH PLACE IN AMERICA* 130 (2000); JONATHAN D. SARNA, *AMERICAN JUDAISM: A HISTORY* (2004).

³⁶ HASIA DINER, *A TIME FOR GATHERING: THE SECOND MIGRATION, 1820-1880* (1992); DINER, *LOWER EAST SIDE MEMORIES*, *supra* note 35, at 146; IGRA, *supra* note 8; Benny Kraut, *Jewish Survival in Protestant America*, in *MINORITY FAITHS AND THE AMERICAN PROTESTANT MAINSTREAM* 15-51 (Jonathan D. Sarna, ed., 1998); GERALD SORIN, *A TIME FOR BUILDING: THE THIRD MIGRATION, 1880-1920* (1992).

³⁷ NYLAS, *EIGHTEENTH ANNUAL REPORT OF THE PRESIDENT, TREASURER AND ATTORNEY OF THE GERMAN LEGAL AID SOCIETY, FOR THE YEAR 1893* 2 (1894).

they would ever be capable of assimilation, citizenship, and self-governance.³⁸ Legal Aid Society lawyers often displayed this attitude which bordered on overt hostility.³⁹

In the early 1890s, the Society's board of directors discussed refusing services to Eastern-European Jewish immigrants altogether, finding that they were too much of a burden and strained the Society's resources. Eventually, the Society formed a committee to determine how it might handle such immigrants. The committee reached an informal agreement to appeal to the Jewish community to raise funds to hire a Jewish lawyer who spoke Yiddish.⁴⁰ Although it is unclear whether and how the agreement between the Society was fully effectuated, in 1900, the Society opened its East Side Branch, which was intended to serve immigrant Jews. Even with this, the Society continually viewed Jewish immigrants, especially Jewish immigrant men, as lacking a requisite masculinity for citizenship.

The Society created a racial and gendered logic that saw Eastern European Jewish men as especially undisciplined and acrimonious. Pursuant to such logic, *not* seeking legal assistance was a gauge for an immigrant population's potential for assimilation and suitability for citizenship. That is, the very process of applying to the Society for legal assistance indicated that an immigrant was unable to solve his own problems independently and was thus civically immature. This was especially true if an applicant brought a problem to the Society that did not have a legal solution. One attorney explained that he often had to "[d]isabuse [the Eastern European applicant] of the impression of imaginary wrongs."⁴¹

The process of a new immigrant visiting the Society's offices and interacting with its employees was, according to the Society, a lesson in self-discipline. One attorney declared, "Our interviews have been treated by us as so many opportunities of raising [immigrants] to truer manhood and better citizenship."⁴² One publication explained, "Very frequently an applicant [is] . . . indignant at the treatment he has received . . . It is then the duty of the attorney to point out . . . that the treatment he has received is not unjust, but . . . necessary to the social and political well-being of his community. The man . . . realizes . . .

³⁸ MATHEW FRYE JACOBSON, *WHITENESS OF A DIFFERENT COLOR: EUROPEAN IMMIGRANTS AND THE ALCHEMY OF RACE* (1998). *See also* M. ALISON KIBLER, *CENSURING RACIAL RIDICULE: IRISH, JEWISH, AND AFRICAN AMERICAN STRUGGLES OVER RACE AND REPRESENTATION, 1890-1930* (2015).

³⁹ BATLAN, *supra* note 3, at 87-122.

⁴⁰ NYLAS, *EIGHTEENTH ANNUAL REPORT*, *supra* note 37, at 3-5.

⁴¹ J. P. SCHMITT, *HISTORY OF THE LEGAL AID SOCIETY OF NEW YORK, 1872-1912* 19-20 (1912).

⁴² NYLAS, *NINETEENTH ANNUAL REPORT OF THE PRESIDENT, TREASURER AND ATTORNEY OF THE GERMAN LEGAL AID SOCIETY, FOR THE YEAR 1894* 27 (1895).

that everyone in a civilized state must give up certain privileges and advantages to which he feels himself entitled.”⁴³ Thus, surprisingly, the process of transforming the immigrant into an American through legal aid did not entail instructing applicants about individual rights, but rather instilling an understanding that they did not possess certain prerogatives or entitlements.⁴⁴

Sentiments such as anger, spite, revenge, justice, and honor were inappropriate grounds to seek legal assistance and they represented the immaturity of the immigrant client. Such emotions were too associated with pre-capitalism and the feminine—both of which supposedly stood outside of modern market relationships.⁴⁵ The attorney for the East Side Branch elaborated upon this theme: “This office continually dings into the ears of its clients the principle that suits are brought, not for the sake of inconveniencing the defendant but to gain something substantial for the plaintiff. Your Attorney also always brings home the fact that time is money.”⁴⁶

The Society’s treatment of Eastern European Jews was so troubling to some in the New York Jewish community that the Educational Alliance, a large Jewish cultural and educational institution, created its own legal aid bureau in 1903.⁴⁷ The Alliance’s Bureau prided itself on having evening and Sunday hours, recognizing that many of its clients worked all day and then observed the Saturday Sabbath. Its three part-time male lawyers also spoke Yiddish.⁴⁸ Even with the limited scope of the Alliance’s Legal Aid Bureau, it long believed that it provided its clients with the kind and “sympathetic treatment” that the Society failed to provide.⁴⁹

Although applicants and clients might walk away from the Society unsatisfied, the Society continually spoke of legal aid as a mechanism to de-

⁴³ The Legal Aid Society of New York, *Editorial*, 1 THE LEGAL AID REV. 2 (Jul. 1903).

⁴⁴ On various understandings of what constituted immigrants’ Americanization, see CHRISTINA A. ZIEGLER-MCPHERSON, *AMERICANIZATION IN THE STATES: IMMIGRANT SOCIAL WELFARE POLICY, CITIZENSHIP, & NATIONAL IDENTITY IN THE UNITED STATES, 1908-1929* (2009). For some early classic studies, see EDWARD GEORGE HARTMANN, *THE MOVEMENT TO AMERICANIZE THE IMMIGRANT* (1948); JOHN HIGHAM, *STRANGERS IN THE LAND: PATTERNS OF AMERICAN NATIVISM, 1860-1925* (2002).

⁴⁵ On honor and its relationship to capitalism, masculinity, and law, see ANN GOLDBERG, *HONOR, POLITICS, AND THE LAW IN IMPERIAL GERMANY, 1871-1914* (2010); CHRISTOPHER DUMMIT, *THE MANLY MODERN: MASCULINITY IN POSTWAR CANADA* (2007); BERTRAM WYATT-BROWN, *HONOR AND VIOLENCE IN THE OLD SOUTH* (1986).

⁴⁶ NYLAS, NINETEENTH ANNUAL REPORT, *supra* note 42, at 17.

⁴⁷ *Helping the Poor to Right Their Wrongs Legally*, N.Y. TIMES, March 2, 1913, at SM11. On the Alliance, see DINER, *LOWER EAST SIDE MEMORIES*, *supra* note 35, at 148-149.

⁴⁸ See Educational Alliance Papers, reels 4- 6, JHC (on file with YIVO Institute for Jewish Research).

⁴⁹ Letter from Abram Glaser to Henry Fleischman (September 25, 1935) (on file with YIVO Institute for Jewish Research, Educational Alliance Papers, box 3, fol. 59).

radicalize immigrants. This, however, was more of an imaginary construct of the leaders of legal aid than a description of anything that concretely occurred in legal aid offices. Rather, such tropes functioned as a fundraising device and assured the Society's supporters that if proper institutional structures were in place, America's new immigrants would not undermine United States institutions or capitalism, but rather would be assimilated into them.⁵⁰ This small expenditure supposedly had magical and transformative abilities. It satisfied "the craving for justice in the hearts of the poor and helpless" and diverted them away "from the band of the dissatisfied," instead making them "good, loyal and enthusiastic citizens."⁵¹ But at least for some who visited the Society, they learned that that access to a lawyer did not bring justice, but rather the knowledge that the legal system saw no merit to their claims, or that their valid legal claims were monetarily worthless.

V. ROSALIE LOEW AND THE LEGAL AID SOCIETY

Loew and Loew and the Legal Aid Society of New York were located in the same building in downtown New York City, and Rosalie probably came into contact with the Society in this manner. In 1897, the Society hired her to work on a temporary and part-time basis, but her presence at the Society immediately garnered the attention of the press. One journalist followed her during a typical day at the Society, photographing and noting what she did in regular hourly intervals. Loew discussed her enthusiasm for the work, as she was able to see "[a]ll classes and conditions" of people while working on cases that ranged from small debts to habeas corpus petitions.⁵² After a couple of months, Carl Schulz, the Society's chief attorney, hired Loew to work full time in its main office. Her hiring was perhaps an olive branch to the Jewish immigrant community. She had already earned accolades from the press for her work with the Society, for her linguistic ability, and for being a Jewish woman lawyer. It is also possible that because the Society saw Eastern European Jewish male immigrants as lacking masculinity, they were unconcerned that a female lawyer would make such clients any less manly.

Poor women also constantly sought the society's assistance in cases involving domestic relations, and pursuant to turn of the century gender ideology,

⁵⁰ TWENTY EIGHTH ANNUAL REPORT OF THE PRESIDENT, TREASURER AND ATTORNEYS OF THE LEGAL AID SOCIETY FOR THE YEAR 1903, 6 (1903).

⁵¹ *Id.*

⁵² *One Day with a Modern Portia*, THE WORLD, Oct. 31 1897, at 53.

middle-class women were particularly suited to deliver such assistance to other women, especially when dealing with subjects involving the home. Women who were not trained lawyers were already proving legal assistance through women's legal aid organizations and this also may have paved the way for the Society hiring Loew.⁵³ Why Loew accepted the position is open to interpretation, but it perhaps indicates that Loew and Loew did not generate enough income to support two lawyers.

At the Society, Loew functioned as a cultural broker and brought her identity as a first generation American, a lawyer, a Jew, and a woman to her primarily immigrant clientele, many of whom worked in the garment trades. Loew also contributed her linguistic abilities to the Society, which needed lawyers fluent in Yiddish who could communicate with clients and applicants.⁵⁴ Even her family's Hungarian background was neither quite German nor Eastern European, but rather part of the large and diverse Austrian-Hungarian Empire, which defied facile ethnic mapping. Loew used her new position to reach out to other Jewish women and explain the important work of the Society. In the *Jewess*, a newspaper for Jewish American women, she explained that the Society "draws its clientele from the working classes, and a very large percentage of its clients come from the Jewish quarter of the east side." She continued, "The discontented workman, the deserted wife, the dishonest employer are daily visitors; not only, therefore, is the work that of a lawyer, but of a teacher." The use of "teacher" may have been pointing to both teaching as an appropriate career for a woman but more transgressive it also gestured toward the male figure of a rabbi who traditionally both taught and provided advice.

Loew made sure that her Jewish audience understood that wealthy Jewish banker Jacob Shiff was a large supporter of the Society and that she hoped that it would be "only a question of time when the society's work will be appreciated by a greater number of persons of our race."⁵⁵ Here Loew clearly identified herself as Jewish and attempted to solicit new supporters by making the Society seem welcoming to Jewish clients and Jewish benefactors. Historian Anna Igra writes, in regard to later Jewish male attorneys in legal aid societies, that such employment established their "reputability along with that of the Jewish community as a whole. Their work demonstrated to skeptical American observers

⁵³ On these women's legal aid organizations see BATLAN, *supra* note 3, at 17-84.

⁵⁴ *Women who Practice Law*, THE EVENING TIMES, July 7, 1898, at 5.

⁵⁵ Rosalie Loew, *Folk-Lore*, THE AMERICAN JEWESS, December, 1898, at 28.

that Jewish participation in the legal profession was a public service not a public menace.”⁵⁶

By all accounts, Loew was an excellent attorney and, in 1901, the Society’s board appointed her chief attorney. From that position she supervised a number of male lawyers and, importantly, hired other women lawyers, some of whom were Jewish.⁵⁷ It is very possible that Loew was the only women lawyer in the country who supervised male attorneys.⁵⁸ Also during her tenure, the Society opened the Women’s Branch, intended primarily to handle women’s domestic relations claims.⁵⁹

Unlike famed Jewish male lawyers, Loew did not produce lengthy written texts explaining her jurisprudential thinking. In 1901, however, Loew began giving a series of lectures on law to women. She explained in her introductory lecture that a common misperception was that the law was a concretized set of rules. Instead, she asserted, that law grew and evolved over time and that law was a reflection of culture.⁶⁰ Such an understanding was certainly in line with the thinking of other legal Jewish progressives such as Louis Brandeis and Benjamin Cardozo, indicating that she was at least in part influenced by legal progressivism.⁶¹ Like other women legal progressives, such as Florence Kelly, Loew also sought to popularize, even democratize, legal knowledge.⁶²

Yet did Loew’s identity as a Jewish woman make any difference in her jurisprudential outlook, how she interacted with and perceived clients, or the

⁵⁶ IGRA, *supra* note 8, at 23.

⁵⁷ See JULIUS HENRY COHEN, *THEY BUILT BETTER THAN THEY KNEW* (1946).

⁵⁸ See JILL NORGREN, *REBELS AT THE BAR: THE FASCINATING, FORGOTTEN STORIES OF AMERICA’S FIRST WOMEN LAWYERS* (2013).

⁵⁹ BATLAN, *supra* note 3.

⁶⁰ *Woman Lectures on Law*, THE BROOKLYN DAILY EAGLE, Nov. 30, 1901, at 12.

⁶¹ See Morton J. Horwitz *Jews and Legal Realism*, in MERMELSTEIN ET AL., *supra* note 6, at 309-320. For a canonical discussion of legal progressivism, see MORTON J. HORWITZ, *THE TRANSFORMATION OF AMERICAN LAW, 1870–1960: THE CRISIS OF LEGAL ORTHODOXY* 189 (1992). On Louis Brandeis’s and Felix Frankfurter’s work with Florence Kelley and the National Consumers League, see Susan D. Carle, *Gender in the Construction of the Lawyer’s Persona*, 22 HARV. WOMEN’S L.J. 239 (1999) (reviewing Kathryn Kish Sklar, *Florence Kelley and the Nation’s Work: The Rise of Women’s Political Culture, 1830–1900*, 22 HARV. WOMEN’S L.J. 258 (1999)); Clement E. Vose, *The National Consumers’ League and the Brandeis Brief*, 1 MIDWEST J. POL. SCI. 283 (1957); NANCY WOLOCH, *MULLER V. OREGON: A BRIEF HISTORY WITH DOCUMENTS* (1996); Felice Batlan, *Notes from the Margin: Florence Kelley and the Making of Sociological Jurisprudence*, 2 TRANSFORMATIONS IN AMERICAN LEGAL HISTORY, LAW, IDEOLOGY, AND METHODS: ESSAYS IN HONOR OF MORTON J. HORWITZ (Daniel W. Hamilton & Alfred L. Brophy, eds., 2011).

⁶² Felice Batlan, *Law and the Fabric of the Everyday: The Settlement Houses, Sociological Jurisprudence, and the Gendering of Urban Legal Culture*, 15 S. CAL. INTERDISC. L.J. 235, 253-256 (2006).

policies that she put into place as chief attorney of the Society? Loew was involved in lobbying for specific legal reforms such as abolishing imprisonment for defaults on installment contracts, but she did not criticize law as a whole. Much like male legal aid lawyers, she believed in the rule of law and the overall fairness, even justice, of law. She also had faith in the ability of courts to make unbiased decisions. Yet subtle differences existed between Loew and other lawyers at the Society. Loew, at least publicly, did not speak with the same severity as her male colleagues about the Society's clients. The harshest of the Society's statements came before and after her tenure as chief attorney.⁶³

For example, Loew authored an article for the *New York Times* about the Society, in which her words had a certain sympathy and respect for the poor, as well as an awareness of social justice that was somewhat rare among the Society's attorneys.⁶⁴ She wrote, "At no point better than in this office can the student either of human nature or of metropolitan conditions find subjects of study. Picture after picture is presented, each a chapter in the life of a human soul, however apparently simple the proposition of law involved. Social conditions can never be properly improved until the dignity of all labor is honestly recognized."⁶⁵ Likewise, Loew advocated for a court system that would not charge fees to litigants, asserting that justice should be free and "not measured like potatoes or beans."⁶⁶ This statement resonates with other women's legal aid organizations that believed clients should be charged no fee for legal aid services. In contrast, male lead legal aid societies believed that clients paying a small fee was crucial to establishing a professional relationship.⁶⁷

Loew also wrote an article for a progressive women's journal that focused on women's domestic employment. She described how young Jewish women servants in Jewish households called upon the Society to resolve disputes with their employers. Unlike many Society lawyers, who were especially harsh with domestic servants, blaming most of their problems on the servants' own acts, Loew was somewhat more sympathetic.⁶⁸ Taking the view of a number of progressive women's organizations that provided legal services, she saw the problem between domestic workers and their employers as arising from a lack of

⁶³BATLAN, *supra* note 3, at 87-122.

⁶⁴Rosalie Loew, *The Legal Aid Society*, N.Y. TIMES, April 1, 1900, at 25.

⁶⁵*Id.*

⁶⁶*Miss Rosalie Loew*, THE ATLANTA CONSTITUTION, Feb. 20, 1899, at 4.

⁶⁷BATLAN, *supra* note 3, at 123-153.

⁶⁸On the Society's treatment of domestic servants see BATLAN, *supra* note 3, at 17-46 and 87-122.

mutual understanding of the parties' rights, duties, and responsibilities.⁶⁹ After Loew's departure from the Society, it increasingly adopted strict criteria for accepting cases in ways that negatively and disproportionately affected women seeking legal assistance, including domestics.⁷⁰ That Loew was asked to write for a women's progressive journal indicates that she already was in contact with reform-orientated women's organizations. Likewise, she worked with a number of New York settlement houses regarding the treatment of installment contract debtors.⁷¹ Such collaboration with social welfare organizations was rare for any attorney-led legal aid society and was much more of a hallmark of women's legal aid organizations. In fact, Arthur v. Briesen, president of the New York Society, repeatedly rebuffed working with such organizations.

Outside of Loew's work at the Society, she was deeply involved in creating first informal and then formal gatherings for women lawyers. She, along with other women attorneys in the New York area, founded the Women Lawyers' Club in 1899, and she served as its first president. This organization, reported to be the first in the country, was crucial for women lawyers because it enabled them to advocate for their own inclusion within the male bar as well as to provide support for one another.⁷² The Club would later become institutionalized as the Women Lawyers' Association. Loew was also a role model for other women interested in legal aid. For example, Mary Philbrook, who knew Loew from the Women Lawyers' Club, founded the New Jersey Legal Aid Society.⁷³

Even with Loew's significant visibility, the Bar Association of the City of New York rejected her application for membership. In 1903, while Loew was chief attorney for the Society, she applied to this prestigious private institution. The Association rejected Loew on the grounds that it did not permit women to be members. Although its constitution did not explicitly exclude women, it used the language of "he." In interpreting whether women could be admitted, members of the association determined that "he" meant that women were not eligible for membership and they were unwilling to amend its constitution. One member explained, "The Bar Association is distinctly a place for men. In the library men

⁶⁹ Rosalie Loew, *The Legal Aid Society and its Work for Households*, BULLETIN OF THE INTER-MUNICIPAL COMMITTEE ON HOUSEHOLD RESEARCH (December 1904) at 9.

⁷⁰ BATLAN, *supra* note 3, at 87-122.

⁷¹ Batlan, *Law and the Fabric of the Everyday*, *supra* note 62.

⁷² *The Women Lawyers' Club*, N.Y. TIMES, June 25, 1899, at 5; Jean H. Norris, *Looking Backward Through the Journal*, 12 THE WOMEN'S LAWYERS JOURNAL 22 (March-April 1923) <https://goo.gl/XnNBi5>.

⁷³ BARBARA PETRICK, MARY PHILBROOK: THE RADICAL FEMINIST IN NEW JERSEY 17-18 (1981).

take off their coats and get down to hard work without restraint.”⁷⁴ In the end, Loew was excluded because she was a woman, but it could not have escaped her that the Association’s membership was primarily Protestant. Indeed, attorney Louis Marshall sharply criticized the Association’s discrimination against even the most elite male Jewish lawyers.⁷⁵

In a somewhat surprising twist, given the Jewish press’ fascination with Loew, in 1903, she married Travis Harvard Whitney, a Harvard-educated lawyer whose family hailed from colonial New England. After her marriage, Loew seems to have adopted her husband’s Episcopalianism. Loew, in 1905, resigned from the Society and, in 1906, she wrote a short but widely-circulated article, “Motherhood the Highest Duty of Professional Woman,” in which she claimed that professional women could not both raise children and work, and that creating a home, with the husband as the master, was the highest duty and even the destiny of women. She then dropped out of sight for a little over a decade.⁷⁶

When she re-emerged as a women’s suffragist in the late nineteen-teens, overt traces of her parents, her ethnicity, and her Judaism disappeared. As far as the historian can know, Loew never again publicly discussed her Jewish roots, that she was multi-lingual, or that she was a first generation American. One might say that she had been fully assimilated into the dominant American culture, and her cultural, ethnic, and religious identity was now covered by her husband’s. Perhaps, given the discrimination that both women and Jews faced in the legal profession and elsewhere, being doubly marginalized was too heavy a burden for Loew.⁷⁷ While she could disassemble her identity as a Jew through marriage, perhaps also demonstrating her devotion as a wife, she could not cease being a woman. There is perhaps a parallel here with Ida Platt, who was one of the first African American women lawyers at the turn of the century. Platt, who opened her own law firm in Chicago, soon shed her identity, at least publically, as an African American and identified herself as white.⁷⁸

⁷⁴ *Against Women Lawyers*, N.Y. TIMES, Sept. 27, 1903, at 13.

⁷⁵ AUERBACH, *UNEQUAL JUSTICE*, *supra* note 2.

⁷⁶ Rosalie Loew, *Motherhood the Highest duty of Professional Woman*, THE VIRGINIA ENTERPRISE, (September 7, 1906, at 6.

⁷⁷ On the double burden of being Jewish and female in the medical profession see MELLISSA R. KLAPPER, *BALLOTS, BABIES, AND BANNERS OF PEACE: AMERICAN JEWISH WOMEN’S ACTIVISM, 1890-1940* 152 (2013).

⁷⁸ Gwen Hoerr Jordan, *Creating a Women’s Legal Culture: Women Lawyers in Illinois, 1855-1939* (2004) (Ph.D. dissertation, University of Illinois at Chicago). On the long and complicated history of racial “passing,” see ALLYSON HOBBS, *A CHOSEN EXILE: A HISTORY OF RACIAL PASSING IN AMERICAN LIFE* (2014).

Where the legal profession left Loew few options to engage in practice, politics opened doors for Loew, and she and her husband became actively involved in the Republican Party. This too, however, garnered controversy. In 1918, Loew was selected as a delegate to the Republican unofficial convention. One of the candidates for governor publically claimed that Loew had only been chosen because of her husband's influence as then Public Service Commissioner. Writing in the register of feminism, Loew asserted: "May I object . . . to having my husband either charged or credited with any political activities in which I engage, or to be myself either charged or credited with his political office? Men and women, even husbands and wives, must be considered as individuals and on their own merits and fitness. Shall we not, in New York State begin on this basis?"⁷⁹ She continued that her success and name-recognition was not due to her husband but rather to her work as a lawyer, and her significant volunteer activities, including her work on suffrage. This strong statement went to the heart of feminism and its still-radical assertion that women had a legal, civic, and political claim to direct citizenship, and that such citizenship did not flow through a husband or family unit.⁸⁰ This defiant insistence on being recognized as an individual might be read into her decision to no longer identify herself as Jewish and to put distance between herself and her family's heritage. Going to the heart of secular liberalism, she asked to be seen and judged only on her merits.⁸¹

Although Loew ceased to identify as Jewish and the press stopped referring to her as such, she was not able to entirely escape her family's background and religion. Emmanuel Loew, Rosalie's paternal uncle and a rabbi in Hungary, was arrested in the 1920s. His arrest was part of a larger outbreak of violent anti-Semitism. Both Rosalie and her father reached out to Louis Marshall, who was then president of the American Jewish Committee. Marshall began pressuring the U.S. State Department to intervene on the uncle's behalf and to provide a warning that the U.S. would become involved should anti-Semitic violence continue. In a letter that he wrote to the Secretary of State, he mentioned Rosalie as the wife of Travis Whitney.⁸² This incident indicates that Rosalie and Marshall knew one another.⁸³ Yet, Marshall did not identify Loew as a lawyer nor

⁷⁹ *Not a Rubber Stamp, Mrs. Whitney Asserts*, N.Y. TIMES, July 17, 1918, at 6.

⁸⁰ *Id.*

⁸¹ Pearce and Winer, *supra* note 12.

⁸² Nathaniel Katzburg, *Louis Marshall and the White Terror in Hungary, 1919-1920: Louis Marshall to Secretary of State, May 27, 1920*, 45 THE AMERICAN JEWISH ARCHIVES JOURNAL 1 (1993) at 8, http://americanjewisharchives.org/publications/journal/PDF/1993_45_01_00_katzburg.pdf.

⁸³ *Id.*, at 9.

as a senior officer of the Republican Party. Once again, her identity was obscured by her husband's.

By the 1920s, Loew's work with and staunch support for the Republican Party led to a series of appointments in the growing administrative welfare state.⁸⁴ Loew also became involved in the Brooklyn Laundry Owners Association, where she attempted to eliminate bribery and extortion from the business and once again gleaned substantial attention in New York's newspapers. She earned a reputation for efficacy, strong leadership, and non-partisanship.⁸⁵ The *New York Times* now referred to her as a "social worker and a lawyer."⁸⁶ Loew had never engaged in social work, but such a description highlights how women lawyers often were deeply connected in the public's mind to social work.⁸⁷ Eventually New York City's progressive mayor, Fiorello LaGuardia, appointed Loew to be a judge on New York's Domestic Relations court in 1934. This made her the first woman on that court. Although Loew had little expertise in the area, such courts were the first and often only judicial appointments open to women. Historians have long known this about women's entry into the judiciary, but it also appears that a disproportionate number of Jewish men also served on such courts.

Once on the bench, Loew was active in further opening the judiciary to other women and was influential in LaGuardia's appointment of Jane Bolin to that court. Bolin was the first African-American female judge in the United States, and Loew and Bolin formed an intense friendship which sustained both of them.⁸⁸ In 1937, Loew, along with twelve other women, were admitted as members to the Association of the Bar of the City of New York. A large number of these women were from elite families and had a patrimony that included fathers and grandfathers who had been justices on the U.S. Supreme Court or well-known politicians. Loew was introduced as the widow of Travis Whitney; her own family background of famous rabbis and a father who had been a lawyer was omitted.⁸⁹ When Loew died she was buried in an Episcopal cemetery and

⁸⁴ Loew was appointed to the State's Industrial Board in 1921. See *Miller's Nominees Confirmed*, N.Y. TIMES, April 7, 1921, at 17.

⁸⁵ See *Laundry Leaders Meet*, N.Y. TIMES, July 13, 1930, at 22; *Mrs. Whitney Rebukes District Attorney*, N.Y. TIMES, December 12, 1930, at 14.

⁸⁶ *Laundry Group Dissolves*, N.Y. TIMES, January 17, 1931, at 20.

⁸⁷ See BATLAN, *supra* note 3, at 157-184.

⁸⁸ JACQUELINE A. MCLEOD, *DAUGHTER OF THE EMPIRE STATE: THE LIFE OF JUDGE JANE BOLIN* (2011).

⁸⁹ *Bar Group Turns to Noted Women*, N.Y. TIMES, Oct. 24, 1937, at 87. See also *Mayor Names 14 to High City Posts; 2 Women on List*, N.Y. TIMES, December 15, 1935, at 1. *Letter from the President*, 44th Street Notes of the Association of the Bar of New York (November, 1987), at 1-2.

eulogized by many, but there was no mention of her Jewish roots.⁹⁰ Indeed, Loew's identity and self presentation shows a remarkable fluidity as she moved from being a daughter, a Jew, a legal aid attorney, a wife, a mother, a suffragist, a widow, and then a judge, who may have seen herself as a protestant.

VI. MINNIE LOW: "THE JEWISH JANE ADDAMS"

As Rosalie Loew represented the pinnacle of success of a professional Jewish women lawyer in legal aid, Minnie Low was the most influential Jewish social worker involved in legal aid. Born in New York City, in 1867, Low's family moved to Chicago. Unlike Rosalie, Minnie only completed two years of high school because she had to work to support her family. Even without education as a means to upward mobility, Low was able to make important connections in Chicago's growing sphere of Jewish middle-class and elite women's philanthropy.⁹¹ She also began her career at a time when social work was just beginning to professionalize and coalesce, so her lack of formal education was not an immediate barrier.⁹²

Due, in part, to her typing skills, Low was hired to be the secretary to [Hannah Greenebaum Solomon](#), a wealthy philanthropist, reformer, and founder of the important National Council of Jewish Women.⁹³ Like New York, Chicago in the 1890s experienced an influx of Eastern European Jewish immigrants, and the older German Jewish community in Chicago responded with both philanthropy and condescension. Many of Chicago's Jewish reform leaders and progressives were supportive of Jane Addams and Hull House, but for some there remained a low-grade fear that Hull House would seek to Christianize children. Historians have, in fact, debated the extent to which Hull House was entirely welcoming to Eastern European immigrant Jews.⁹⁴

⁹⁰ *Mrs. Rosalie Loew Whitney, Domestic Relations Court Jurist*, BROOKLYN DAILY EAGLE, September 4, 1939, at 9; *Rosalie Loew Whitney*, BROOKLYN DAILY EAGLE, September 5, 1939, at 10; *Notables Attend Whitney Service*, BROOKLYN DAILY EAGLE, September 5, 1939, at 11.

⁹¹ Letter from Minnie Low to David Bressler (February 29, 1916) (available at Center for Jewish History, New York City, National Association of Jewish Social Workers Papers, Box 4, folder 42).

⁹² On the history of social work, see ELIZABETH N. AGNEW, *FROM CHARITY TO SOCIAL WORK: MARY E. RICHMOND AND THE CREATION OF THE AMERICAN PROFESSION* (2004); DANIEL WALKOWITZ, *WORKING WITH CLASS: SOCIAL WORKERS AND THE POLITICS OF MIDDLE-CLASS IDENTITY* (1999).

⁹³ Letter from Minnie Low to David Bressler, *supra* note 91.

⁹⁴ Susan Roth Breitner, *Jewish Labor's Second City: The Formation of a Jewish Working Class in Chicago, 1886-1928* 125-126 (2007) (unpublished Ph.D. Dissertation, University of Iowa); RIVKA LISSAK, *PLURALISM AND PROGRESSIVES: HULL HOUSE AND THE NEW IMMIGRANTS, 1890-1919* (1989).

Chicago was also the epicenter of a vibrant women's movement and women's organizations founded multiple institutions involved in social welfare. Middle-class Jewish women were certainly members in some of these organizations by the 1880s, but with the exception of the very wealthy, Jewish women did not hold leadership positions. Thus, the creation of a separate set of Jewish organizations allowed Jewish women to become philanthropists and to take leadership roles while acting as liaisons between Chicago's mainstream women's institutions and their own.⁹⁵

Through Solomon's many connections, Low began working at the Maxwell Street Settlement House, founded by the German Jewish reform community as a counterpart to the famed Hull House settlement.⁹⁶ In general, settlement houses served as an important intermediary between the poor residents of a neighborhood and the growing state, but one of their main purposes was to Americanize immigrants.⁹⁷ Maxwell Street allowed Low to become a full-time social worker and she was in charge of a number of girls' clubs. Social work was a particularly attractive field for Jewish women because it fulfilled the strong Jewish value of improving the world. It also provided such women the opportunity to be part of the Jewish community while also being secular and seemingly modern.⁹⁸ Likewise some historians assert that efforts involving philanthropy and social justice within the reform community took on new meaning at the turn of the century as Jewish reform leaders transformed the idea that Jews were a people chosen by god into a Jewish duty to seek social justice.⁹⁹

VII. LEGAL AID IN CHICAGO: THE BUREAU OF PERSONAL SERVICE

Unlike the provision of free legal aid in New York, which by the turn of the century, was dominated by the Legal Aid Society with its staff of professional lawyers, legal aid in Chicago originated with the Protective Agency for Women

⁹⁵ On Jewish women's commitment to activism see MELLISSA R. KLAPPER, *BALLOTS, BABIES, AND BANNERS OF PEACE: AMERICAN JEWISH WOMEN'S ACTIVISM, 1890-1940* (2013).

⁹⁶ Letter from Minnie Low to David Bressler, *supra* note 91. There is very little written on the Maxwell Street Settlement as opposed to the vast literature on Hull House. See Sarah Imhoff, *The Heart of the Ghetto? The Founding of the Maxwell Street Settlement House*, 15 J. ILL. HIST. 159(2012), available at http://www.academia.edu/6558573/The_Heart_of_the_Ghetto_The_Founding_of_the_Maxwell_Street_Settlement_House; Breitzer, *supra* note 94.

⁹⁷ Breitzer, *supra* note 94, at 80.

⁹⁸ KAPLAN, *supra* note 21.

⁹⁹ ARTHUR HERTZBERG, *THE JEWS IN AMERICA, FOUR CENTURIES OF AN UNEASY ENCOUNTER: A HISTORY 148-151* (1989); Breitzer, *supra* note 94, at 127.

and Children (PAWC) in 1885, whose umbrella organization was the Chicago Women's Club. The PAWC offered a wide array of free legal services to women and such legal assistance was provided by a full-time staff of women social workers as well as women volunteers. Part of what made the PAWC so successful was its support by a wide network of women's clubs. Although the PAWC was secular, many of the clubs that supported it were protestant organizations, including the Women's Christian Temperance Union and a variety of liberal protestant churches. It thus had a vaguely Christian feel to it. Likewise, its brother organization, the Bureau of Justice, provided free legal assistance to men and women. Although originally supported by the Ethical Society for Culture, in which Jews were members, it soon began using overtly Christian apocalyptic language.¹⁰⁰ It appears that neither Jewish men nor women were active in the leadership of either organization.

In 1895, with the support of the National Council of Jewish Women and other Chicago Jewish charities, the Bureau of Personal Service opened its doors.¹⁰¹ Minnie Low was head superintendent and she would shape the Bureau into an institution that combined charity, social services, and the provision of free legal aid.¹⁰² That the Bureau was entirely run and managed by women social workers may have been rare in the context of Jewish philanthropy. Historian Anna Igra writes that Jewish male philanthropists reacted against the dominant association of welfare work with femininity and instead asserted a more masculine form of philanthropy in which men were in control with women "relegated to subsidiary roles."¹⁰³ We cannot know with certainty, but Solomon and Low may have created the Bureau as male workers began to dominate the Maxwell Street Settlement.

Low articulated the need for the Bureau as arising from how Jewish spiritual life had to be part of community life, the secular and religious duty of the Jewish community to care for other Jews, and as a demonstration of the Jewish community's dignity and responsibility.¹⁰⁴ She positioned such duties as transhistorical, ancient, and central to Judaism: "That the Jew has, since time immemorial, been his brother's keeper and that he will continue to be such, is

¹⁰⁰ For a full account of the PAWC, and the Bureau of Justice see BATLAN, *supra* note 3, at 47-84.

¹⁰¹ Letter from Minnie Low to David Bressler, *supra* note 91.

¹⁰² *Id.* See also Shelly Tanenbaum, *Minnie Low*, in JEWISH WOMEN'S ARCHIVE ENCYCLOPEDIA <http://jwa.org/encyclopedia/article/low-minnie>; Mary Jo Deegan, *Minnie Low*, in WOMEN BUILDING CHICAGO, 1790-1990 (Rima Lunen Schultz and Adele Hast, eds. 2001), at 520-522.

¹⁰³ IGRA, *supra* note 8.

¹⁰⁴ *Annual Report of the Bureau of Personal Service (May, 1915)*, in REPORTS OF THE JEWISH CHARITIES OF CHICAGO 63 (1915).

tradition. This sacred exhortation to the Jewish conscience, will doubtless obtain as fervently in the future as it has in the past. In fact, the Jewish religion, separate and apart from human service, is beyond conception or belief. Impregnable and impervious is the dogma of charity, permeating the atmosphere and ever finding lodgment in the hearts of our people.”¹⁰⁵ Low saw social action as central to Judaism, and in some ways it supplanted actual religious worship or even prayer. Thus she had very much incorporated some of the central tenants of late nineteenth century Reform Judaism in America.¹⁰⁶

Yet, how did Low, a woman with almost no formal training, create and supervise a legal aid bureau without lawyers? In the past, women’s legal aid organizations, formed by women’s organizations, had only provided services to other women, basing their expertise on an ideology of gender and class which allowed elite and middle-class women to claim responsibility for poor women. Women’s philanthropic culture also produced the belief that poor women had unique problems that other women might better sympathize with, and that women had supposedly innate characteristics of care and nurture. In contrast, the Bureau provided legal services to both men and women, and Low did not engage in a discourse of women’s special abilities to care for other women.

Instead, Low justified the Bureau’s provision of legal aid and her role in it by creating a narrative in which she was called to action by the Jewish masses and her own will overcome: “Hundreds upon hundreds of our co-religionists were suffering the disastrous effects, physically, mentally, and financially of legal entanglements, without redress.” She continued: “The demand made by the people themselves . . . put into motion this newer branch of Social Work.”¹⁰⁷ For Low, what justified the Bureau’s and her entry into the provision of legal aid was its clients’ absolute need and the fact that she could no longer reject their pleas. Later she described the beginning of the Bureau’s work in slightly different terms: “We had come to the congested district to serve the people, but they asked of us services then quite unknown They forced us in the courts, when in despair and mental anguish, they were victims of injustice, from which they had neither the means nor the ingenuity to extricate themselves. It was the cry of the people themselves that led us from one branch of endeavor to another. They showed us

¹⁰⁵ *Id.*

¹⁰⁶ See MICHAEL A. MEYER, *RESPONSE TO MODERNITY: A HISTORY OF THE REFORM MOVEMENT IN JUDAISM* (1988); EDWARD MAZUR, *MINYANS FOR A PRAIRIE CITY: THE POLITICS OF CHICAGO JEWRY, 1850-1940* (1990)

¹⁰⁷ Minnie F. Low, *Legal Aid*, PROCEEDINGS OF THE SIXTH NATIONAL CONFERENCE ON JEWISH CHARITIES 169 (May, 1910) <http://www.bjpa.org/Publications/details.cfm?PublicationID=1402>.

the way – a way that we had not anticipated nor mapped for ourselves.”¹⁰⁸ She further assured the reader that the decision to provide legal aid was “not any whim or fancy upon our part.”¹⁰⁹ Low thus positioned the Bureau and herself strategically. She was not encroaching upon the male-dominated and controlled practice of law; the law had encroached upon those she sought to protect. Low’s narrative also gestured towards the biblical story of Moses, who was forced to lead the Jews out of Egypt.

Here a comparison with Rosalie Loew is valuable. Rosalie explained being called to law as part of her birthright and family lineage, Minnie by the people themselves. Yet in these narratives both, like Jews themselves, were chosen. In constructing such stories for fin-de-siècle audiences, Loew and Low elided their own agency and even their own ambitions.

As mainstream women’s legal aid organizations claimed a quasi-legal jurisdiction over poor women, so Low claimed a jurisdiction over poor Jewish men, women, and children. Fascinating is that the courts and other municipal entities such as the police recognized and respected this jurisdiction and saw the Bureau as the legitimate representative of the Jewish community and as legitimately representative of poor Jews.¹¹⁰ Low proudly wrote of the Bureau’s work in police stations: “We have a worker everyday at our local police station, to intercept complaints by Jewish prospective litigants. All complainants desiring warrants, except in very serious matters, are referred to our worker and she adjusts matters without referring them to the court One of the Judges said, from the bench, that ‘Organizations like the Bureau of Personal Service are the fore-runners of the court and the right arm of the court as well.’ That is the general verdict in our city.”¹¹¹

The Bureau’s self-proclaimed jurisdiction may strike us as odd as modern jurisprudence generally understands legal jurisdiction to be based on geographical space and a state’s sovereignty, not on an individual’s religion or ethnicity. Indeed, to do so would fly in the face of contemporary understandings of the rule of law. Yet the state seemed to hand over gladly at least some of its power and authority to the Bureau.

The Bureau was a bridge between poor immigrant Jews and the state, protecting the Jewish community as a whole from the eyes of the state and from non-Jews. A Chicago Police Chief commented that the Bureau “works very

¹⁰⁸ *Annual Report of the Bureau of Personal Service (May 1, 1912 to May 1, 1913)*, REPORTS OF THE JEWISH CHARITIES OF CHICAGO 53 (1913).

¹⁰⁹ Letter from Minnie Low to David Bressler, *supra* note 91.

¹¹⁰ See *Annual Report 1913-1914*, *supra* note 104, at 70-74.

¹¹¹ Letter from Minnie Low to David Bressler, *supra* note 91.

diligently in the Jewish Ghetto, and whenever there is a suspicion of indecency, the Bureau is always on the spot.”¹¹² Thus the Bureau, in place of the state, sought to surveil and even control those areas of Chicago, such as the west side, where many poor immigrant Jews lived. The Bureau’s jurisdiction included not only intermediation between police and the courts in Jewish neighborhoods, but it continually expanded its jurisdiction, demanding the right to inspect institutions such as jails, prisons, hospitals, asylums, and schools in which poor Jewish people were inmates, patients, or attendees.¹¹³ Thus, a two way street existed—it surveilled the state while simultaneously functioning as the eyes of the state.

The Bureau’s jurisdictional claim was enhanced by its prestigious supporters, who were connected to Chicago’s major Jewish institutions. Such list included Emil Hirsch, the famed and progressive rabbi at Mount Sinai, Chicago’s largest reform synagogue; Sarah Hart, who was a philanthropist and the wife of Max Hart, one of the country’s largest garment producers; Hannah Solomon; Julius Rosenwald; and Judge Julian Mack. Through these supporters, the Bureau could assert class, religious and legal authority.

Low also had a distinctive understanding of law that required the social worker to administer legal aid, and she boasted that the Bureau was probably the only legal aid society in the country without attorneys.¹¹⁴ Unlike legal aid lawyers, who believed in law as a means to access justice and who understood that legal injustice arose, at least in part, from the lack of access to a lawyer or the courts, Low went much further. The poor, she wrote, were “wholly at the mercy of a merciless, grinding legal machinery, slow, cumbersome, unjust.” Low understood modern-day law as a series of technicalities that prevented “moral adjudication” and “real justice.” The moral dimension of the case was of prime importance; law itself was secondary. She wrote that the social worker is “deeply interested in that side of a case, which conserves the moral issue, for the moral side is positive—it is vital, while the legal side is more or less negative and traditional.”¹¹⁵

How Low described social workers’ approach to law, as opposed to attorneys’, was deeply gendered. The law was cold, hard, technical, and abstract, whereas the social worker brought morality, care, and the personal to the law. Lawyers represented the narrow interest of the individual, whereas social workers

¹¹² *Chief McWinney Declares That the Jewish Ghetto is Free of Crime*, DAILY JEWISH COURIER, July 23, 1913, http://flps.newberry.org/article/5423972_2_1188/.

¹¹³ See *Annual Report of the Bureau of Personal Service for the Year 1906*, REPORTS OF THE JEWISH CHARITIES OF CHICAGO(1906).

¹¹⁴ *Annual Report 1913-1914*, *supra* note 104, at 74.

¹¹⁵ *Id.*, at 183.

represented the greater interest and good of the community. The lawyer indiscriminately sold his labor to the highest bidder; the social worker was pure, engaging in the Jewish duty of charity, care, and the repair of broken social relations. Low exclaimed, “It is the Social Worker, whose mission it is . . . to make the law serve man—not make man a slave of the law.”¹¹⁶ Slavery had a laden meaning within Jewish and United States history. To be a slave was to be within the power of a despotic and arbitrary ruler. That, she claimed, was the reason that many Jews had fled Eastern Europe, yet now they were again within the grasp of despotism. Low thus sought to save the immigrant Jew from American law itself. This view differed dramatically from the longstanding trope that the provision of free legal aid would help Americanize immigrants as they recognized that American law treated all equally and provided access and avenues to redress injustices.¹¹⁷

Instead of litigation, which put technical law ahead of what was moral, right, and just, Low believed that social workers should arbitrate disputes wherever possible. Legal aid, she declared, should be “personal service legalized,” something that the rule of law could not deliver. Indeed, she claimed that the Bureau functioned as a crucial intermediary between the immigrant’s innate understanding of justice and equity and actual American law.¹¹⁸ Women social workers, she contended, could better turn the potential litigant and irritated community member away from the courts and towards arbitration conducted by impartial women within the context of a justice-seeking Jewish organization.¹¹⁹ Where the New York Legal Aid Society debated whether Eastern European Jews’ litigiousness was an inherent Jewish trait, Low understood that neighborhood disputes were a result of the crowded housing conditions and poverty in which immigrant Jews lived.¹²⁰

The very substance of American law, Low claimed, made the poor immigrant vulnerable to unknowingly violating the law. Law was thus a series of traps for the unsuspecting immigrant. American law did not correspond with what the immigrant might know or understand, because no reasonable person could understand that which was unreasonable and failed to correspond with concepts of morality, equity, or even common sense. She proclaimed, “To make such an offender pay the penalty demanded by technical law, is a travesty on justice, a

¹¹⁶ *Id.*, at 185.

¹¹⁷ BATLAN, *supra* note 3, at 87-122.

¹¹⁸ Low, *supra* note 107, at 169.

¹¹⁹ *Id.*, at 174.

¹²⁰ *Id.*, at 172.

wrong against society, and a crime against the individual.¹²¹ For instance, urban peddlers and side walk carts proved a volatile problem in the Maxwell Street area of Chicago. The city, seeking to limit their use, required an expensive license and arrested peddlers who did not possess one. Some politicians and business owners supported such laws because pushcarts supposedly created disorderly streets and congestion, and peddlers competed with established businesses. In contrast, Low found these laws outrageous as peddling had long been a Jewish occupation, licenses were unaffordable, and arrest prevented men from supporting their families.

When such men were arrested, Bureau social workers represented them in court and attempted to make the judge understand the arrested man's culture, motivations and poverty.¹²² Scholars have long understood that at the heart of American welfare law was the privatization of need within the family and the idea that a male breadwinner would support his family in order to prevent them from having to rely upon either charity or state funds. Some argue that much of the role of social workers, and even legal aid attorneys, at the turn of the century was to enforce such a gendered arrangement.¹²³ Yet how Low understood the role of peddlers was more nuanced and drew upon her knowledge of traditional Jewish vocations, along with more modern concepts of the male breadwinner model and the reality of Jewish immigrant poverty.¹²⁴

Low's scorn was also directed at prosecutors who placed the importance of winning a case above justice. "Professional triumphs and records of convictions are the goal to which prosecutors aspire—the human element seldom entering into the controversy between a poor, defenseless creature, pitiable in his weakness, and the powerful state, with money, force and despotic might behind it."¹²⁵ In this statement, Low voiced a widely shared sentiment in the Eastern European Jewish immigrant community that it was subjected to various types of police brutality.¹²⁶ In contrast to the Legal Aid Society of New York, whose lawyers often trusted state authority, the Bureau claimed that it protected Jewish

¹²¹ *Id.*, at 170.

¹²² *Id.* at 177.

¹²³ See IGRA, *supra* note 8.

¹²⁴ On the history of Jewish Peddlers see Hasia Diner, *ROADS TAKEN: THE GREAT JEWISH MIGRATIONS TO THE NEW WORLD AND THE PEDDLERS WHO FORGED THE WAY* (2015).

¹²⁵ *Annual Report 1913-1914*, *supra* note 110, at 76.

¹²⁶ HARRY BARNARD, *THE FORGING OF AN AMERICAN JEW: THE LIFE AND TIMES OF JUDGE JULIAN W. MACK* 59 (1974). On police harassment of poor Jews in Chicago see Breitner, *supra* note 94; for the same in New York City see WOESTE, *supra* note 9 =, at 68-69.

immigrants from the “unjust actions of vicious constables” and the state’s “monstrous injustice” by teaching such immigrants to “assert their rights.”¹²⁷

Low used a gendered discourse in describing how the courts and police treated immigrant Jewish men. The criminal court process and incarceration destroyed the “manhood” of the poor Jew, crushing hope and making him a dependent of the state by imprisoning him. In contrast, the Jewish social worker sought to reaffirm the manhood of the male immigrant and return him to his rightful state as a breadwinner.¹²⁸ As discussed earlier, the Legal Aid Society of New York believed that such men lacked an appropriate American masculinity, which it worked to instill. In contrast, the Bureau constructed the male immigrant as already possessing masculinity, with which the state interfered. Yet a deep tension, even contradiction, existed at the heart of Low’s argument. With its female social workers, the Bureau’s very ability to claim a quasi-jurisdiction over poor Jewish men rested on a more general understanding that such men were not quite real American men. In fact, part of the very objection of male legal aid leaders to female social workers providing legal aid is that it made men effeminate and overly dependent upon women.¹²⁹

As the Bureau claimed that it protected poor immigrants from the law, the Bureau’s social workers further protected them from the avarice of lawyers. Lawyers, Low claimed, were merely commodities who could be bought and sold. “[Lawyers’] professional talents are to them, what wares are to the merchant.”¹³⁰ Low implied that to some extent many lawyers were in fact shysters and she held with particular disdain those lawyers who charged the poor fees for winning small judgments. Such lawyers were a menace to the community and drained a family of its resources, leaving children and women to depend upon charity.¹³¹ Once again, Low incorporated a male breadwinner ideal, but here it was the unscrupulous lawyer who endangered the immigrant man’s masculinity. Rather than relying upon private attorneys, the Bureau’s social workers stood ready to serve bound by “conscience and cause.”¹³²

Importantly, like other women’s organizations in Chicago, the Bureau was involved in the creation of Chicago’s juvenile courts, which were a joint

¹²⁷ *Businesslike Jewish Charities*, RECORD-HERALD, , November, 12, 1905, http://flps.Newberry.org/article/5423972_6_0890.

¹²⁸ Low, *supra* note 107, at 180-181.

¹²⁹ BATLAN, *supra* note 3, at 123-153.

¹³⁰ Low, *supra* note 107, at 172.

¹³¹ *Id.*, at 172.

¹³² *Id.*, at 183.

effort between the municipality, the legal bar, and women's organizations.¹³³ Chicago's juvenile courts, which opened in 1903, provided a significant wedge for middle-class and elite women, both volunteers and paid staff, to become active participants in the court system. It also put into place "socialized" law, where judges and their often female assistants sought to learn the facts of a case and fashion individual remedies for the children and families brought before the court. Women from different races and religions claimed the right to work with children and families of their own racial and religious identities. The Bureau paid for two Jewish probation officers to work with Jewish children and often Low personally appeared in the juvenile court. Like other organizations that helped to build and then worked in the juvenile courts, the women of the Bureau had a strong middle-class ideology regarding how children and families should behave, and one of its core missions was to work with Jewish "delinquent" boys, "gangs," and "fallen girls."¹³⁴ The Bureau justified its involvement by an understanding that the Reform Jewish community had a responsibility to Americanize Jewish immigrant children, and that children would face discrimination from Christians.

Likewise, when Chicago's domestic relations court opened in 1911, similar claims were made and Bureau social workers saw the court as within their purview. The new court heard issues involving desertion, support, divorce, and mother's pensions. Low called the court a "social service department of great magnitude," and further claimed that the Bureau had a responsibility to represent "unhappy women."¹³⁵ In significant contrast, the New York Legal Aid Society claimed that women did not need legal assistance when applying for mothers' pensions.¹³⁶ Low also was concerned that other legal aid organizations, especially those run by social workers, too liberally advocated for the imprisonment of men who failed to support wives and children.¹³⁷ In contrast, one Bureau report stated that it sought jail terms for only six men that year and only when "repeated overtures for peace had failed".¹³⁸ This may have reflected a desire that Jewish men not be imprisoned for fear that it reflected poorly upon the Jewish community, and that in prison Jewish men would not be able to practice

¹³³ *Annual Report 1912-1913*, *supra* note 108, at 53.

¹³⁴ REPORTS OF THE JEWISH CHARITIES OF CHICAGO FOR THE YEAR ENDING 1902, 84-85 (1902). On juvenile courts see DAVID TANENHAUS, *JUVENILE JUSTICE IN THE MAKING* (2004); MICHAEL WILLRICH, *CITY OF COURTS: SOCIALIZING JUSTICE IN PROGRESSIVE-ERA CHICAGO* (2003); Mae C. Quinn, *Feminist Legal Realism*, 35 HARV. J.L. & GENDER 1 (2012).

¹³⁵ *Annual Report 1911-1912*, *supra* note **Error! Bookmark not defined.**, at 47.

¹³⁶ BATLAN, *supra* note 3, at 87-122.

¹³⁷ *Id.*, at 157-184.

¹³⁸ *Annual Report 1911-1912*, *supra* note **Error! Bookmark not defined.**, at 47.

their Judaism or work to earn money to pay support. There might also have been some fear that in prison men might be subjected to anti-Semitism.¹³⁹

Throughout Low's career, she resisted the professionalization of social work and highly privileged an on-the-ground type of experiential knowledge that could neither be taught nor captured by statistics or reports. She protested writing reports for United Jewish Charities, the Bureau's umbrella organization. "As has been stated from year to year, the annual report of the Bureau of Personal Service is presented with extreme reluctance. The intangibility and apparent vagueness of the work naturally detract from its significance. The preventive, protective and constructive in philanthropy, as applied to the human equation, cannot be tabulated. Relief is the material or physical in charity; personal service, the spiritual. . . . Personal service is felt, but it [is] not readily [described]." ¹⁴⁰ This idea that the provision of material and legal aid was about person-to-person interchange was not entirely new; it had been a hallmark of early women's legal aid organizations whose members believed that they could heal class rifts through personal contact.¹⁴¹ But Low went beyond what had existed in the past by explicitly claiming a Jewish spiritual side of the work.

As late as the 1920s, Low adamantly refused to staff the Bureau with lawyers, convinced that the lawyer would destroy all that she had sought to build. Only Low's female domain of Jewish social workers could adequately deploy the individualized, spiritual, and holistic type of justice that she envisioned and demanded.¹⁴² Her decision to staff the Bureau with women was ideological and strategic. Low understood that she would face difficulties maintaining power and control if men were involved. In numerous situations she complained of male social workers excluding her from their larger work.¹⁴³

Yet, by the second decade of the twentieth century, some lawyers had begun a significant assault on lay lawyers and social workers providing legal aid. They found it to be unbelievable that women not formally trained in the law could be engaging competently in the practice of law.

Reginald Heber Smith, who would become the most prominent leader of legal aid in the 1920s, strongly believed in a lawyer-based model of legal aid. He

¹³⁹ In contrast, the Jewish National Desertion Bureau in New York seems to have supported the arrest of men to pay support. See IGRA, *supra* note 8.

¹⁴⁰ *Annual Report 1911-1912*, *supra* note **Error! Bookmark not defined.**, at 15.

¹⁴¹ BATLAN, *supra* note 3, at 47-84.

¹⁴² MAURICE KARP, A SOCIAL AUDIT OF A SOCIAL SERVICE AGENCY, THE JEWISH AID SOCIETY AND THE JEWISH SOCIAL SERVICE BUREAU OF CHICAGO, 1919-1925 (1925).

¹⁴³ Letter from Minnie Low to Julius Rosenwald (January 28, 1916) (available at Univ. of Chicago, Regenstein Library Special Collections, Rosenwald papers, Box IV, Folder 16).

was an adamant opponent of social work and social workers' involvement in legal aid. As head attorney of the Boston Legal Aid Society from 1914 to 1916 and the author of the influential book *Justice and the Poor*, Smith created an imagined history of legal aid in which women lay lawyers played no role in legal aid and in which the modern social worker had no place.¹⁴⁴ In Smith's research for the book, he interviewed Minnie Low about the Bureau. One can imagine his bewilderment at meeting this small Jewish woman who had little formal education and was the director of a relatively large legal aid organization. Smith's notes read: "No lawyers used. . . All of staff are women. Social workers. Not trained in law. They do, however, perform all the functions of an attorney. They go into court and advise clients, etc. This is the extreme type of social service legal aid office. The law is trusted to what the social workers pick up through experience. I examined them and they appear very intelligent. They follow current decisions, etc."¹⁴⁵ Smith also described how the organization fully integrated law and social work and, when necessary, provided material relief to their clients. "[T]hey follow the case and keep after it doing anything that is necessary They try to cover everything."¹⁴⁶ Smith recognized that these women social workers were practicing law and that they were competent to do so. He even seemed satisfied with how they conducted and handled their cases. This material, however, was omitted from *Justice and the Poor*.

VIII. THE DEMISE OF MINNIE LOW

Despite years of experience, a lack of a professional degree in social work left Low vulnerable. By the 1920s, social work as a field was in the midst of becoming a profession, with multiple schools of social work offering advanced degrees to their primarily female students.¹⁴⁷ By 1921, with the reorganization of Chicago's Jewish charities, Low was squeezed out of power and she died soon thereafter. Various parts of the Associated Jewish Charities were spun off and placed under the leadership of a professionally trained male social worker.¹⁴⁸ The legal aid part of the Bureau continued now under the new name the Jewish Social

¹⁴⁴ BATLAN, *supra* note 3, at 123-153.

¹⁴⁵ Reginald Heber Smith, *Preliminary Survey of Bureau of Personal Service, January 30-31, 1917*, 1 STUDY OF LEGAL AID WORK 3 (1916-1917) (available at Harvard Special Collections, Harvard Law School, Cambridge, Mass).

¹⁴⁶ *Id.* at 7.

¹⁴⁷ *Id.* at 123-153.

¹⁴⁸ KARPFF, *supra* note 142.

Service Bureau. Well into the 1940s, it was staffed with women social workers, some of whom were also trained in law.¹⁴⁹

In many ways, Low, as an unmarried woman and a Jewish social worker, occupied a liminal space and towards the end of her life she agonized about her life, career, and the discrimination that she faced. She was particularly aware and at times resentful that she had not married and had children, and that she had to earn her own wages. She wrote, “The love, care and protection, as well as the companionship of a good man and the pleasure of a little one are a thousand fold more than all the work and all the glory the world contains.”¹⁵⁰ Being unmarried may have been particularly difficult in the context of being part of the Jewish community which put so much emphasis on family and motherhood.¹⁵¹ Low also was not the social equal of the benefactors who supported Jewish charities. For years, Low worked for Hannah Solomon, but Solomon in her autobiography barely mentions Low.¹⁵² This indicated that Solomon viewed Low as a peripheral employee rather than a friend, partner, or an integral part of Chicago’s philanthropic and reform community. Further, it was Solomon, as the founder and long-time president of the National Council of Jewish Women, who held the limelight.¹⁵³

Low idolized Julius Rosenwald, the Sears and Roebuck department store magnate, philanthropist, and financial contributor to the Bureau. Her relationship with him, however, was complex; and she desperately sought his approval and trust. She wrote to Rosenwald, “You see I am quite human after all, and I feel duly proud if you show just a little bit of confidence in me.”¹⁵⁴ Towards the end of her career, she railed at Rosenwald: “[Y]ou never never give me, or have given me an opportunity for bigger things and I feel as if I must be a real failure. If not why am I kept always in the same groove of service, and why do you never call upon me in times of a crisis?” Low answered her own question, “I am merely

¹⁴⁹See, e.g., Letter from Sarah Schaar to John Bradway (April 27, 1929) (available at David M. Rubenstein Rare Book & Manuscript Library, Duke University, John S. Bradway Papers, Box 7, v. XIII).

¹⁵⁰ Letter from Minnie Low to Mrs. Julius Rosenwald (August 17, 1913), (available at Univ. of Chicago, Regenstein Library Special Collections, Rosenwald papers, Box XXIV, folder 18).

¹⁵¹ See KAPLAN, *supra* note 21; BREGSTONE, *supra* note **Error! Bookmark not defined.**; MELLISSA R. KLAPPER, *BALLOTS, BABIES, AND BANNERS OF PEACE: AMERICAN JEWISH WOMEN’S ACTIVISM, 1890-1940* (2013).

¹⁵² HANNAH G. SOLOMON, *FABRIC OF MY LIFE* (1946),

¹⁵³ Solomon’s substantial papers are located at the Library of Congress and the American Jewish Archive.

¹⁵⁴ Letter from Minnie Low to Julius Rosenwald (January 7, 1917) (available at Univ. of Chicago, Regenstein Library Special Collections, Rosenwald papers, Box IV, Folder 16).

a social worker . . . I am merely a woman.”¹⁵⁵ At times, Low had to beg Rosenwald for the most meager of funds. This stood in significant contrast to how others approached him for contributions. For example, John Wigmore, Dean of Northwestern Law School and board member of the Chicago Legal Aid Society often sought contributions from Rosenwald by brusquely soliciting large amounts of money with the expectation that they would be granted. By all indication, Wigmore certainly felt that he was at least the intellectual and social equal of Rosenwald. Low did not see herself nor was she treated as such.

Low also keenly felt the discrimination that she faced as a female social worker and complained of her male colleagues’ lack of appreciation or even acknowledgement of her accomplishments and ideas. “A year or two or three thereafter, the very suggestions I made was out into concrete shape by some of the very men who treated my ideas with silent contempt.”¹⁵⁶ In a poignant letter to David Bressler, President of the National Association of Jewish Social Workers, she complained of being the only woman on the Board of Directors and the only female speaker at an upcoming conference. She continued, “[I]f you want to retain the interest of the rank and file, you must give women a chance to be heard . . . It is merely a question of justice, because you surely could have found one fair dame in the width and breadth of this land, who could bring something valuable to the Conference.”¹⁵⁷

Minnie Low continually lamented her lack of personal funds, her dependence on her salary, and her inability to engage in volunteer work as other Jewish middle-class and elite women were able to do. In Low’s understanding, earning her own wages did not make her independent but rather dependent on benefactors of the Bureau and this served to reinforce class differences. To Rosenwald, she wrote, “I have dreamed and hoped that the day could come when I could work without compensation—the taking of it has always been distasteful.”¹⁵⁸ Low continued that she wished that she had a husband or other male relatives who might care for her so that she might be able to “volunteer her services.”¹⁵⁹ Such complaints were perhaps somewhat strategic as she sought to

¹⁵⁵ Letter from Minnie Low to Julius Rosenwald (August 26, 1917) (available at Univ. of Chicago, Regenstein Library Special Collections, Rosenwald papers, Box XXIV, Folder 11) (underline in original).

¹⁵⁶ Letter from Minnie Low to Julius Rosenwald (January 28, 1916), *supra* note 143.

¹⁵⁷ IGRA, *supra* note 8 (quoting letter from Minnie Low to David Bressler (February 1915) (available at American Jewish Historical Society, National Association of Jewish Social Workers papers, box 2).

¹⁵⁸ Letter from Minnie Low to Julius Rosenwald (July 26, 1917) (available at Univ. of Chicago, Regenstein Library Special Collections, Rosenwald papers, Box IV, Folder 16).

¹⁵⁹ *Id.*

explain her need for additional compensation and she understood that her compensation was less than a man would earn. “A woman must work so much longer for recognition to get what comes so naturally to a man.”¹⁶⁰

Although we often think of unmarried women reformers in Chicago, like Jane Addams, Grace and Edith Abbot, and Sophonisba Breckinridge, as having deep bonds of friendship with one another, Low seems not to have found such support and she was not embraced by Chicago’s larger community of women social reformers whose hub was either Hull House or later the University of Chicago.¹⁶¹ Many of the extraordinary women who spent time at Hull House, like Florence Kelley and Breckinridge, came from elite backgrounds, had substantial educational achievements, and were Protestant.¹⁶² Similarly, the Jewish men and women most closely involved with Hull House were the elite of Chicago’s Jewish community. By all accounts, Jane Addams was widely beloved and admired; Low, however, had a more difficult time attracting friends and admirers. For instance, Sarah Hart, who volunteered with the Bureau, described Low “as a frail but capable woman.” As soon as possible, Hart deserted the Bureau for Hull House.¹⁶³ For Low, a combination of class, gender, religion, and being unmarried created an intense loneliness.

When Low died, in 1922, she was eulogized by Rabbi Hirsh and Jane Addams, a pairing of one of the leading reform rabbis and the preeminent social worker. It was Rabbi Hirsch who dubbed Low “The Jewish Jane Addams” and he saw in her the “*Shekinah*,” a Jewish manifestation of the divine associated with the feminine.¹⁶⁴ In her death, the Jewish press portrayed Low as a Jewish maternal martyr who “deprived herself of many of the pleasures of life and devoted most of her time to the unfortunate of this community.”¹⁶⁵

IX. CONCLUSION

Minnie Low and Rosalie Loew stand in significant contrast with one another, but there are also similarities. One of the greatest contrasts is their

¹⁶⁰ *Id.*

¹⁶¹ See Anya Jabour, *Relationship and Leadership: Sophonisba Breckinridge and Women in Social Work*, 27 *Affilia* 22 (2012); LELA B. COSTIN, *TWO SISTERS FOR SOCIAL JUSTICE: A BIOGRAPHY OF GRACE AND EDITH ABBOTT* (1983); LOUISE W. KNIGHT, *JANE ADDAMS AND THE STRUGGLE FOR DEMOCRACY* (2005).

¹⁶² Felice Batlan, *Florence Kelley and the Battle Against Laissez-Faire Constitutionalism* (2010), <http://ssrn.com/abstract=1721725>; BATLAN, *supra* note 3.

¹⁶³ SARAH L. HART, *THE PLEASURE IS MINE: AN AUTOBIOGRAPHY* 82 (1947).

¹⁶⁴ Emil Hirsch, *A Tribute to the Memory of Minnie F. Low*, *THE REFORM ADVOCATE*, June 17, 1922.

¹⁶⁵ *Minnie Low, Well-Known Social Worker, is Dead*, *DAILY JEWISH COURIER*, May 29, 1922, http://flps.newberry.org/article/5423972_10_1_1010/.

complex relationship to law, their understanding of the rule of law, and their relationship to the state and the larger Jewish community. Minnie Low was deeply suspicious of law and the idea that particular laws should be uniformly applied to individuals. She believed in an individual, holistic type of justice in which each person's life and circumstances were taken into account in decision-making and the fashioning of particular remedies. Low also harshly criticized courts, and the state more generally, at times asserting that the power of the state was despotic. Her articulated distrust of state power was unusual for progressive-era reformers who often saw tremendous possibility for social reform through state intervention and regulation. When progressives were suspicious of government power, it was primarily because of a fear of corruption, especially in urban areas where ward bosses existed.¹⁶⁶ Low's fear was different—it was a fear of technicalities and procedures, of impersonal power and anti-Semitism. For Low, the less immigrant Jews used the court system, the better, and much of the Bureau's work in regard to mediation was intended as a Jewish maternal alternative to the courts. In many ways, Low rejected the liberal secular state.

In contrast, Rosalie Loew never seemed to have such misgivings. She understood that courts and the law could deliver justice. What the poor most needed were lawyers. She also strongly believed in the sacrosanct nature of the Constitution.¹⁶⁷ Loew did not publically discuss anti-Semitism either in state institutions or in her professional life. Rather, she publicly encountered and sought to remedy discrimination against women, and she built alternative institutions for women lawyers. So, too, she became an avid supporter of suffrage and the appointment of women to government positions.¹⁶⁸ As indicated by Loew's 1903 application to the Association of the Bar of the City of New York, she wanted to be part of the mainstream legal profession. She repeatedly said she wanted to be judged solely on her merits and seemed to possess a belief that true equality for women was possible.¹⁶⁹ Consistent with much of her career, Loew spurned activity that was overtly radical and even condemned suffragists picketing the White House. The vote for women would be won through the Republican Party, she claimed, not through unseemly and disorderly acts.¹⁷⁰

¹⁶⁶ See BATLAN, *supra* note 3, at 47-84; MICHAEL WILLRICH, *CITY OF COURTS: SOCIALIZING JUSTICE IN PROGRESSIVE-ERA CHICAGO* (2003); DANIEL T. ROGERS, *ATLANTIC CROSSINGS: SOCIAL POLITICS IN A PROGRESSIVE AGE* (Belknap Press 1998).

¹⁶⁷ *Women Denounce La Follette Plan*, N.Y. TIMES, October 12, 1924, at E4.

¹⁶⁸ *Women Appeal to Board*, N.Y. TIMES, August 21, 1922, at 26.

¹⁶⁹ *Against Women Lawyers*, *supra* note 74.

¹⁷⁰ *Postpone Hearing of Suffragists*, N.Y. TIMES, August 8, 1918, at 7.

Rosalie Loew and Minnie Low each had groundbreaking careers at a time when that was a difficult feat for women. Ironically, however, Rosalie Loew ended her career where Minnie Low's began—in one of the new urban specialized courts intended to deal with families and children. Although Loew's appointment to the bench was celebrated as an achievement for women professionals, it also demonstrates the small arena in which women professionals, as social workers or lawyers, functioned.¹⁷¹

The stories of both of these women are important as Low and Loew can be added to the pantheon of early twentieth century Jewish legal figures and we can ask legal scholars writing of Jewish male lawyers to grapple with gender and the presence of female legal practitioners. They also contribute to our understanding of how Jewish women legal practitioners negotiated their identities as women, Jews, and, professionals. Further both Loew and Low directly provided free legal counsel to poor Jewish immigrants and we can see the differing ways in which Jewish middle-class legal professionals attempted to assimilate and acculturate, through legal assistance, such immigrants. Finally, through this examination we gain a better and perhaps more complex understanding of Jewish legal professionals sometimes fraught relationship to the secular liberal state.

¹⁷¹ See IGRA, *supra* note 8.