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BOOK REVIEWS

FEATURED REVIEWS

Barry Scott Wimpfheimer. *Narrating the Law: A Poetics of Talmudic Legal Stories*. Philadelphia: University of Pennsylvania Press, 2011. 248 pp.
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Barry Wimpfheimer makes an insightfully original and valuable contribution to the growing number of studies of the relation between law and narrative (*halakhah* and *aggadah* in rabbinic terminology) in ancient Judaism, as in Judaism and the humanities more broadly. His focus is on “talmudic legal stories,” that is, on narratives whose subjects are legal actors, which are set within a mainly legal setting in the Babylonian Talmud, and which, therefore, both draw meaning from and contribute meaning to that broader literary context. These stories have often baffled (or annoyed) previous commentators on the Talmud precisely because they complicate any neat division between rabbinic law and narrative and the conventional roles assigned to each. Wimpfheimer argues that it is precisely for their multidiscursive juxtapositions, by which they destabilize the Talmud’s overall drive (beginning with its anonymous redactors and accelerated among its post-talmudic interpreters) toward monological codificatory closure, that they need to be taken more seriously and read more deeply and dynamically as sites of cultural meaning under construction.

In the book’s Introduction and first chapter (“Privileging Legal Narrative: Resisting Code as the Image of Jewish Law”) Wimpfheimer sets out his own manner of “reading” talmudic legal stories and its justification in terms of the history of talmudic scholarship, on the one hand, and broader approaches to the meaning-making cultural discourses of law and narrative, on the other. According to Wimpfheimer, while the Talmud at first appears to resist and even reverse the codifying proclivities of the Mishnah as statutory law through its dialogical commentary thereto, the history of traditional commentaries on the Talmud have tended to reverse that reversal by reading the Talmud primarily as a source of statutes, thereby marginalizing and flattening its legal stories. Although talmudic legal stories are not the most representative form of talmudic discourse, by “reading against the grain” of the Talmud’s more statutory forms of discourse, Wimpfheimer seeks to uncover therein expressions of Babylonian rabbinic culture and social dynamics during the late stage of rabbinic history in which the Talmud was redacted in its present form.

The two chief influences on this manner of reading talmudic stories, both of whom Wimpfheimer explicates ably for his purposes, are Mikhail Bakhtin for his manner of reading and celebrating the dialogical “heteroglossia” of narrative, and Robert Cover for his understanding of *nomos* as a cultural space in which law and narrative intersect in such ways as to destabilize yet sustain one another. Wimpfheimer, therefore, seeks through his readings of talmudic legal stories to

de-privilege statutory law as that which defines rabbinic Judaism (and by extension, Judaism in general) by privileging instead the narratives that sit somewhat uncomfortably in the very midst of legal discourse. He applies this manner of reading to the legal narrative of B. Megillah 7a, concerning drunkenness on Purim, with rich results.

Space allows me only to summarize the following chapters, each of which provides a close and deep reading of a particular talmudic legal narrative in terms of a broader question for the critical study of Babylonian rabbinic culture.

In Chapter 2 (“Deconstructing Halakhah and Aggadah”) Wimpfheimer seeks to upset the regnant division and dichotomization of rabbinic literature into *halakhah* (law) and *aggadah* (narrative, but also anything else that is not law) that has tended to privilege the former at the expense (denigration) of the latter. The talmudic stories (here focusing on that of the “lovesick man” of B. Sanhedrin 75a) defy such dichotomization, precisely because they are simultaneously and liminally both legal and narrative. While some distinction between *halakhah* and *aggadah* is unavoidable (the terminological differentiation originating, at least in a soft form, in the earliest strata of rabbinic literature¹), the terms should not be reified as hermetically distinct generic entities (as begins in gaonic times, and whose subsequent history Wimpfheimer traces), but rather seen as porous categories whose dialogical cross-bleeding is endemic to the vitality of both.

In Chapter 3 (“A Touch of the Rabbinic Real: Rabbis and Outsiders”) focusing on B. Shevu’ot 30a–b, Wimpfheimer suggests that while talmudic legal narratives are not of much use for purposes of simple representational historiography, in their complex, often oppositional relation to their more statutory legal settings, they may be read as textual “nuggets” in which are contained, and from which through thick cultural readings can be released, “touches of the [rabbinic] real,” to paraphrase Stephen Greenblatt. Such readings expand what is semiotically compressed by the redactional processes that both shaped and inserted the talmudic legal stories in their editorial settings. In the present case, discussion of the proper physical postures of rabbinic courtroom/classroom etiquette, aspects of the hierarchical nature of rabbinic society, and that society’s ambivalent attitudes to outsiders, are understood to reflect both rabbinic claims to social and cultural authority and the “anxieties” attendant upon the means by which that authority is achieved (or not). So read, the unsettled relation of law to legal narrative provides a window into the unsettled social dynamics of rabbinic culture of the late talmudic tradents (*amoraim*) and their anonymous successor redactors (*stammaim*, a modern construct). While the latter might seek literary (and social) cohesion by reconciling law and narrative, the legal narratives forcefully resist such formalistic closure.

Chapter 4 (“Social Dynamics of Pedagogy: Rabbis and Students”) continues the manner of thick reading of the previous chapter in seeking to uncover rabbinic social dynamics by using legal stories as a means for reading “against the grain” of

1. Neither term, in its nominalized form, appears in pre-rabbinic Hebrew. For early rabbinic passages that stress their interpermeability, see Steven D. Fraade, “Nomos and Narrative Before *Nomos* and Narrative,” *Yale Journal of Law and the Humanities* 17 (2005): 89–93.

the talmudic drive for statutory (and social) cohesion. In this exercise, the focus is on the social and psychological nature of decentralized teacher-student relations, which while lying at the heart of the rabbinic enterprise, is here shown to be less hierarchically stable, at least locally, than usually presumed. The text (B. Baba Metzi'a 97a) deals with bailee liability, and once again the social and cultural dynamics of both rabbinic power and its attendant "anxieties" are teased out of the textual dynamics that result from the editorial reshaping of received legal narratives.

In Chapter 5 ("Torah as Cultural Capital: Rabbis and Rabbis"), Wimpfheimer explores another case for dialectically reading a talmudic legal narrative against the grain of its legal discursive setting as a way of penetrating the internal social dynamics of rabbinic Babylonia. He is guided here by the modeling of Pierre Bourdieu's "internal literary sociology." As previously, Wimpfheimer seeks to deconstruct the legal-narrative (halakhic-aggadic) dichotomy often imposed upon rabbinic literature. In particular, by focusing on the interplay of law and narrative in B. Bava Batra 20b–22a, he explores the idea of Torah learning as a form of intellectual "commerce" and "cultural capital," with its by now familiar attendant aspects of intra-rabbinic hierarchy, envy, and competition for status.

In Chapter 6 ("Lengthy Bavli Narratives: A New Theory of Reading") Wimpfheimer turns from the relatively short (episodic) legal narratives of the previous chapters to a long and complex legal narrative (B. Kiddushin 70a–b), with the aim of contrasting the literary work of the legal "storyteller" who produces such a lengthy narrative, with the editorial work of the anonymous editor(s) (*stam*) who, on the one hand, produces the dialectical pericopae of legal argument (*sugyot*), and, on the other, seeks to integrate the legal narrative to its otherwise statutory setting. While the former work he characterizes as "centrifugal" in its energy ("dialogical" in a Bakhtinian sense), and challenging of rabbinic power, the latter he characterizes as "centripetal," and affirming (even if anxiously) of rabbinic authority and statutory closure. In a sense, the latter is more interested in "product," the former in "process." Once again, one of Wimpfheimer's central aims is to model a manner of reading legal narratives that "deconstructs" the *halakhah/aggadah* (law/narrative) dichotomy, by which talmudic discourse is usually parsed so as to flatten legal narrative as being uncomfortably either one or the other. A brief conclusion reiterates and integrates the most salient conclusions of the preceding case studies.

Notwithstanding the importance of this book overall, and the analytical, philological, source-critical, and methodological contributions that it makes in its perceptive readings of the specific passages examined, I have two sets of questions that I offer in the modest hope of complementing Wimpfheimer's considerable contribution by broadening the conversation that it will undoubtedly stimulate.

Are there antecedents to the talmudic legal stories that would enrich our appreciation of their particular contribution to our understanding of this "genre"? Certainly, Wimpfheimer passingly points to the existence of legal stories in the Hebrew Bible (in Chapter 1 in conjunction with his discussion of the work of Robert Cover). However, in monologically reifying the Mishnah as authoritative "code" and "statute" (and the Talmud as anti-code/Mishnah in this

regard), he misses an opportunity to consider important antecedents to the dialogical embedding of rabbinic narratives within legal settings, and the complex dynamic of such multidiscursive juxtapositions within the Mishnah itself.² Similarly, the question of the uneasy relationship between description and prescription in talmudic discourse is amply illustrated by mishnaic legal discourse. It too is deeply narrativized, as recently demonstrated by Moshe Simon Shoshan in a dissertation and resulting book, the former referenced by Wimpfheimer (p. 181) but not adequately appreciated in his reductive characterizing of the Mishnah as “code” and “statute,” and thus as foil to the Talmud.³ The Mishnah includes some remarkable legal stories, which, like the talmudic legal stories treated by Wimpfheimer, can be used to read “against the grain” of their legal discursive contexts. They too would benefit from being read in terms of Cover’s *nomos* and Bakhtin’s heteroglossia.⁴ Given the fact that they derive from a very different chronological and geographical context than do the legal narratives of the Talmud, a more subtle comparison and contrast between the two would be of considerable historical and literary interest. Instead, however, and ironic as it might seem, Wimpfheimer monologizes the dynamic combination of law and narrative in the Mishnah, as he correctly accuses the Geonim and subsequent scholarship, both tradition and critical, of having done to the Talmud, that is, of turning it into a book of flattened normativity in which the dialogue of law and narrative is marginalized if not erased. By overlooking the antecedent of the Mishnah, he renders the “genre” of legal stories in the Babylonian Talmud as having sprung, as it were, from nowhere, whereas viewing them against a broader canvas of ancient Jewish legal storytelling would paint a richer picture.

Unlike other scholars (especially D. Halivni and J. Rubenstein) who draw a sharp line between the attributed sayings of the *amoraim* (third–fifth centuries) and the anonymous editorial work of the so-called *stammaim* (sixth–seventh centuries, if not a century later, according to Halivni), Wimpfheimer wisely views the editorial activity that produced the Talmud as having progressed in stages, beginning already in the time of the later *amoraim*, and through many hands. As a result, he seeks to uncover, through his dialogical readings of talmudic legal stories, the social dynamics of Babylonian rabbinic culture of “the third to seventh centuries” (166), that is, of a period of some five hundred years, if not more. But does this not pose significant historiographic risks of sweeping pop-sociologizing and

2. Cf. Steven D. Fraade, “Interpreting Midrash 2: Midrash and its Literary Contexts,” *Prooftexts* 7 (1987): 284–300, esp. 286–287 (with corrigenda in 8 [1988]: 159–60).

3. See Moshe Simon-Shoshan, “Halachah Lema’aseh: Narrative and Legal Discourse in the Mishnah” (PhD diss., University of Pennsylvania, 2005); idem, *Stories of the Law: Narrative Discourse and the Construction of Authority in the Mishnah* (Oxford and New York: Oxford University Press, 2012). At points (e.g., p. 32) Wimpfheimer qualifies his reified representation of the Mishnah.

4. Two noteworthy examples, among many, are the story of Ḥoni the Circle Drawer in M. Ta’anit 3:8 and that of the calendrical dispute between R. Gamliel and R. Joshua in M. Rosh ha-Shanah 2:8–9. While such stories are not necessarily typical of the Mishnah, they are no less so than are the scant talmudic legal stories that Wimpfheimer uses to characterize the Talmud as a whole by using legal stories to read against its “statutory” grain.

psychologizing in terms of a collective rabbinic drive to power, both within and without rabbinic society, and its attendant “anxieties,” a monocular lens that becomes ever flatter (and flattening) with repetitive use?⁵

Unlike those (most recently Y. Elman and his students) who seek to understand the Talmud in relation to its *exterior* Persian cultural contact (not without its own historiographic risks), Wimpfheimer seeks to extract, as it were, the Talmud’s more narrowly rabbinic socio-cultural context from *within* the talmudic text itself. If, he argues, the redactors of the Talmud created the complex text we have, especially in its blending and juxtaposing of law and narrative, as a way of “processing” the messiness of their own social dynamics, then it should be possible to reverse that process (unscrambling the egg, as it were), and get from the dynamics of the text to the social dynamics which, in a sense, produced it. Applying this method to single, narrowly historically locatable authors (as does Bourdieu) is one thing. However, Wimpfheimer wants to apply it to some five hundred years of anonymous editors whose editorial approaches were not always consistent (as he brilliantly demonstrates) with one another. The anonymous editors of the legal dialectical units (*sugyot*) were not the same as the anonymous storytellers whose legal stories are set therein. Nor are the anonymous narrators of the short legal stories the same as those of the long narratives, who are in turn different from the anonymous editors who try, mainly unsuccessfully, to smooth out the tensions between the legal settings and the resistantly embedded legal narratives, all of whom are presumably different from whoever combined these various sources with one another in rougher form to begin with. While it might be a lot “easier” for those who imagine the Talmud to have been edited in one fell swoop by a single editorial “culture” of *stammaim*, Wimpfheimer deserves our gratitude for demonstrating that this was not the case, and for producing a much richer and more dynamic analysis, especially of the dialogical combining and refashioning of law and narrative over what now looks like a *longue durée*. Once again, why not extend this dynamic both prior and subsequent to the period of the Babylonian Talmud’s own final editing?

These complementary queries aside, Wimpfheimer has provided us with a deep and profound set of source-critical and rhetorically-attuned textual readings of talmudic legal stories that transcend their discrete textual borders to provide a deeper taste and appreciation of the rabbinic construction of a dynamic *nomos* in which neither the discourse of law nor that of narrative can afford to be privileged over the other, whether in *midrash*, Mishnah, or Talmud.

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5. I presume that Wimpfheimer intends his frequent diagnoses of rabbinic “anxiety” figuratively rather than clinically. Otherwise, it would be hard to imagine the collectivity of rabbis having gone without a good night’s sleep for some five hundred years.