

Talya Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, Philadelphia: University of Pennsylvania Press, 2011. Pp. 424. \$65.00 (ISBN 978-0-812-24313-0). doi:10.1017/S0738248012000053

When the northern French Rabbi Samuel ben Meir, known as “Rashbam” (1085–1174), commented that the Talmud was the sole authoritative source of Jewish applied law (*halakhah le-ma’aseh*), his instrumental view of Talmud broke with tradition, yet it remains that of traditional rabbinic Judaism to this day. In her extraordinary book, Talya Fishman argues that Rashbam’s perspective was derived from a specific type of textualization, a century-long transformative process within Ashkenazi (Northern European) Jewry from the early eleventh century onward. By “textualization,” Fishman means the shift that occurs when a culture moves from trusting oral and witnessed testimony to vesting authority in the written word. She deftly avoids a polarized conception of the oral and the written and addresses the dialogic mediality at work between these two modes of communication. With respect to the Talmud, this mediatic dimension was crucial. Jewish sages of late antiquity (Tannaim, fluent Palestine, first century BCE–200 CE) had distinguished between *written matters* (Scripture), and *oral matters*. The Talmud, a record of the Amoraim’s rabbinic legal and non-legal teachings orally conveyed and transmitted over three centuries (third to sixth century CE), belonged to the category of Oral Torah, and as such, fell under the Tannaim’s proscription against “saying *oral matters* in writing.” This injunction was taken seriously by the heirs to the Amoraic tradition, the scholarly Geonim who headed (mostly Babylonian) post-Talmudic academies between the seventh and the eleventh centuries CE, and whose authority within diasporic Jewry rested firmly on their access to traditions transmitted by earlier generations. Even when by the eighth century the entire Babylonian Talmud had been committed to writing, the Geonim strove to retain the Talmud’s oral character. They understood the Tannaic interdiction as forbidding not the inscription of oral matters, but their authoritative proclamation from a written text; there could be written Talmudic notes and commentaries but these would be, in terms of rabbinic culture, “phantom texts,” mnemonic tools for silent reading devoid of public authority in themselves. As a corollary of this interpretation, the Geonim never considered the legal teachings (*halakhah*) encountered in the Talmudic text to be intrinsically authoritative; in order to become applied law, these written teachings had to be vetted by living masters who orally attested to their actual implementation. Therefore, despite its scripted format, the modalities of its manipulations continued to characterize the Talmud as *oral matters*. Even outside Geonic academies, in the eleventh-century Sefardi world of North African and Spanish Jewry where rabbinic scholars increasingly accessed the Talmud solely through the written text, their tendency to regard the Talmudic text as a self-sufficient source for

practical adjudication was counterbalanced by behaviors that preserved the category of *oral matters*. It was the behavior of readers toward the text, rather than the presence or absence of writing that categorized a corpus of tradition as either oral or written. Memorization of inscribed law codes, verbal elaboration, discussion of post-Talmudic material, oral instruction by teachers, all affirmed a conception of the Talmud as a guide to applied law; all situated the Talmudic corpus within a framework of oral performance.

Fishman's main contention, that it was the Ashkenazi Jewry of the central Middle Ages who were responsible for establishing the legally binding agency of the Talmud as a book, emerges from her meticulous unraveling of the process of textualization at work within this community. The running commentary of the Talmud written by the French rabbi Shlomo Yizhaqui, known as Rashi (1040–1105) is shown to have supplied the digressive Talmudic text with a connective narrative that organized its abbreviated formulations into a comprehensible discourse. Rashi's systematic gloss, Fishman believes, made it possible for his grandsons and successors, the Tosafists, to develop a panoptic perception of the Talmud, one that drew attention to apparently contradictory passages. The Tosafists resolved such contradictions by means of intratextual readings to which they applied a logical dialectic, thereby endowing the Talmud with internal consistency. Learned dialectics and the application of exegetical tools led to a text-centered analysis of the Talmud, which abrogated forms of oral teaching and transmission. Whereas, in Geonic times and in Sefardic communities, the written Talmud had continued to function within the tradition of *oral matters*, any northern French rabbinical student skilled in logical analysis was enabled independently to derive applied law from the definitive reference that the written text of the Talmud had become within his community.

To account for the particular agency of the written Talmud among northern French Jewry, Fishman explicates textualization by contextualization. She points to parallels between the growing literate practices and epistemologies of northern European Christendom and the developing referential status of the written Talmud among French Jews, suggesting a consequential link between Jews' participation in the surrounding culture and their adoption of a Christian model of textuality. Fishman's survey of Christian legal and textual culture rests on a partial review and an approximate command of the vast historiography devoted to the implications of literacy in twelfth-century Europe. This stands in sharp contrast to her rich treatment of Jewish textual culture during the twelfth centuries, and indeed back to the beginning of the Common Era. Fishman's reading of primary texts in Aramaic and Hebrew, her informed and comprehensive grasp of the interpretive and theoretical literature and her lucid presentation of controversial issues, convincingly support her powerful historicization of the place of the Talmud in Jewish life. Hers is an indispensable study, whose exemplary exposition of Jewish attitudes

toward oral, written, and legal matters may well spark comparisons with other cultures, for Fishman has brilliantly shown that words can produce meaning through their epistemological categorization as oral or written, a categorization that itself remains undetermined by their actual mediatic support.

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Kevin Costello, *The Court of Admiralty of Ireland, 1575–1893*, Dublin: Four Courts Press, 2011. Pp. 322. \$70.00. ISBN (978-1-846-82243-8). doi:10.1017/S0738248012000065

This is an intriguing, sometimes frustrating, book. The intrigue comes from what is almost a handout for a family reunion. Aided by comprehensive footnotes, even the newest member of the family could quickly decide whether a true “character” is deserving of further inquiry. The problematic aspect arises for those readers who are not family members—a spouse for example. For those readers there is little to allow placing a person in the sweep of legal history captured by this book. Put another way, the book offers little to place its particular court in the broader three centuries mentioned in its title. That omission is disappointing, especially given the rich and troublesome history of the relationship between Ireland and England. However, there may be something more, even something quite valuable in this book: The story of a society changing itself from a government of “men” to a government of “laws.” The author makes no specific reference to such a theme; again, however, the footnotes offer evidence of movement from decisions of individuals to statutes representing the collective will of a people. (With no reference to the increased difficulties he faced, the author confines to a footnote [125, n. 94], reference to an explosion that destroyed most of the relevant records.)

The story begins in 1575, with the appointment of someone to oversee the admiralty and admiralty-like claims that arose in Ireland. The reasons for the appointment are not clear. Nevertheless, the author manages to describe this first appointee in familial terms—not quite the Biblical “begats,” but close (2). The emphasis on peoples is further emphasized by the headings for each section; making the book look more like an encyclopedia than a history. As the decades pass, the Court continued to seek additional jurisdiction, not for any thematic or jurisprudential reason. Instead, the rationale was much more mundane: the judges looked to fees for their support. The inadequacy of the fees as both a personal matter and an institutional one, provoked one of the judges to complain to Parliament that the fees had been inadequate to