

BOOK REVIEWS

The Myth of the Cultural Jew: Culture and Law in Jewish Tradition. By Roberta Rosenthal Kwall. Oxford: Oxford University Press, 2015. Pp. 315. \$34.95 (paper). ISBN: 9780195373707.

The immediate—one might say scholarly—goal of Roberta Kwall’s book, *The Myth of the Cultural Jew*, is to demonstrate that *halakhah*, Jewish religious law, is most comprehensible through the lens of cultural analysis. That lens rejects the view that legal development occurs only through objectively rational analysis insulated from the contested dynamics of culture and historical circumstance. Conversely, Kwall hopes to show that there is no such thing as a “cultural Jew” in modern parlance, because “that person is inevitably molded and shaped by the Jewish tradition, which includes Jewish law” (xiii). However, Kwall’s longer-term—one might say ethical—goal is to suggest what values must drive the discussion of what the Jewish people need to survive as a community in light of their interaction with modern national cultures imprinted with largely secular values and assumptions. The dilemma she seeks to explore is perhaps most succinctly stated in the chapter on the Jewish community’s modern encounter with the question of recognizing gay and lesbian Jews:

[H]alakhah and the culture from which it has been derived are inextricably intertwined. When *halakhah* is not directly considered in the decision-making process on any given issue, the result may not represent an authentic Jewish response. In other words, when law and culture are seen as separate domains, it becomes impossible to maintain a shared language and continuity of the tradition. On the other hand, when there is a complete resistance to incorporating a consideration of current cultural norms in *halakhic* interpretation, the tradition may suffer from paralysis. (160)

Kwall succeeds in writing an accessible while complex book that establishes her thesis through numerous historical examples from the fluid interplay of Jewish culture, the non-Jewish environments in which it was forged, and Jewish law and legal decisions. After providing a brief introduction to the themes that dominate the cultural analysis approach—power relationships, contextualization, contestation, multiplicity of values, and the interrelationship between law and culture—Kwall delves into these themes through a fascinating series of critical historical episodes in the continuing debate over Jewish law and tradition. Along the way, she considers community conflicts over the relationship between the Written Law and the Oral Law, the interaction between custom and law in the rabbinic period, the post-Enlightenment fracture of Jewish theology and communities led by the more liberal modern movements, and the continued conversation within modern Jewish communities, particularly in the United States and Israel, over important questions of law and *mesorah*, or Jewish tradition.

For those who read about Jewish law or social custom from the periphery of this tradition, Kwall’s book provides a succinct introduction to many changes that have occurred in the tradition over time. Kwall deftly delineates how this tradition forms a chain novel, from rabbinic controversies of the past to modern-day debates that many of us only read about episodically, such as those over “who is a Jew,” Sabbath observance and “keeping kosher,” and the Jewish response to social demands for changing norms on homosexuality and the role of women in the synagogue. It also provides non-Jewish scholars with the rare opportunity to be bystanders to the modern rabbinic debate on these questions, which can otherwise be difficult for outsiders to access. Kwall achieves a nice balance between respectful attention to each of the three contending streams of

Judaism—Orthodox, Conservative, and Reform—and her argument that proper respect for tradition and the authority of the Torah is critical to preservation of the Jewish community and to the Jewish faith.

For those who approach this book primarily because of interest in cultural analysis, Kwall provides a bevy of examples of her thesis that culture and law, popular practice, and rabbinic pronouncement are continually interacting to forge a workable yet authentic synthesis that preserves the integrity of the Jewish tradition while allowing it to adapt to the divergent social cultures and historical periods in which it has been required to survive.

These adaptations do not always proceed in the way one might expect—as much as law drives culture, culture drives law as the rabbis overlook, tolerate, or even accept as part of the tradition the customary practices that have arisen as a result of the Jewish community's interaction with the wider world. For example, Kwall shows how modern customs surrounding the *brit*, or circumcision, have melded Jewish tradition, such as the anciently recognized place for the prophet Elijah in the *brit* ceremony, and Christian baptism tradition, such as the naming of godparents and pre-*brit* vigils to ward away demons. Similarly, in tracing the development of the modern “kosher kitchen,” Kwall demonstrates how lay customs actually increased the stringency of practice, tracing the development of *kashrut* laws from early prohibitions on cooking milk and meat dishes together so each would not “give taste” to the cook pots, to social practices adopted into Jewish law such as separate knives, then separate kitchens and lengthening waiting periods between the consumption of meat and dairy.

In explaining these changes, Kwall describes how legal authority has influenced and constrained the further development of Jewish custom and tradition. One modern example of this dynamic is the continuing development of the Conservative movement's position on driving to synagogue and using electricity on the Sabbath, which begins with a more “liberal” modern Sabbath *Responsum* that initially permits these activities but ultimately limits this liberalization in later *halakhic* opinions. But Kwall also shows with numerous examples that Justice Stevens's view that traditions that codify the preferences of those in power may as often occur “from below,” from popular practice, as “from above,” from the study and thought of rabbinic authorities. Moreover, she illustrates cases in which cultural arguments are being employed by all disputants in cases where the ancient Jewish texts are ambiguous, such as whether women may publicly read from the Torah in light of Talmudic warnings about preserving “the dignity of the congregation,” and the traditional view that women are exempted from the command to study the Torah. On this issue, Kwall argues, using multicultural analysis, that reopening the question is compatible with authentic tradition. Cultural arguments may even be employed to different results within particular streams, as in the contemporary Conservative debate over the recognition of gay and lesbian Jews, which raises the recurring question whether legal pluralism is possible in a tradition that recognizes the Torah as binding.

For those who are interested in modern ethical or political debates, such as how the tradition should approach issues of inclusion for women or gay and lesbian Jews, this book provides concise summaries of the theological and philosophical “bottom lines” of several Jewish authorities debating these issues. Of course, as is true of the historical context provided, given the broad sweep of the text and available pages in such a reader, these summaries cannot provide the extended argument or ethical nuance available in works that concentrate on particular historical periods or specific ethical problems. However, these summaries capably and succinctly help the reader understand what the arguments are about and the views of the authorities or schools of thought who are making them. And Kwall brings in non-mainstream arguments, such as Tova Hartman's claim that feminist thought, considered disruptive by many Orthodox authorities, may actually be truer to the

Jewish tradition than so-called mainstream Orthodox arguments built on a modern Western, Kantian framework.

The richness of and difficulty faced by a religious tradition with an ancient and well-developed set of moral standards for behavior is evidenced throughout the book, but an example from the Sabbath law debate is a striking illustration about the moral difficulty of living within a community gathered around a commitment to obedience to God's law that must yet interpret that law in light of changing historical conditions. In Kwall's telling, the Sabbath laws derive from an interplay of complicated theological explanations for the day of rest, including the distinction between Divine creativity and "the cessation of Divine Creativity" that leads to the experience of and responsibility for holiness on the Sabbath; the status of humankind as *imago Dei*, with the moral obligation to mirror both God's creative and resting activity; the duty to recognize God's own mastery over the earth by human rest; the need for Jews to break from daily activity to express gratitude to God for their freedom from captivity; and the need to explicitly call upon God's reliability as their provider for their daily sustenance.

This theology is accompanied by centuries of rabbinic thought deriving from the biblical command to rest on the Sabbath. First, that tradition engenders thirty-nine prohibited tasks; they engender a new rabbinic list of *toledot*, or additional prohibited activities deriving from the thirty-nine tasks; and they bring forth *sh'vut*, prohibitions designed to protect Jews against inadvertent violations of these other prohibited tasks and to preserve the atmosphere of Shabbat. But then modern social and technological developments occur—in urban areas, Jews move too far away to walk to the synagogue, and they have access to electricity, neither of which are specifically mentioned in the *toledot* or *sh'vut*.

In the face of these modern developments, like all of the world's major religions, Jews must grapple with how they should discern what God intends for them as strivers for obedience, gratitude, humility, and recognition of their dependence on the Divine. They must ask if faithful legal interpretation is limited to logical analogies between the prohibited tasks and the opportunities and hardships created by urbanization and new technologies. They must consider whether, if the Talmud is sealed, centuries of observance of the opinions of learned and respected rabbis should authoritatively dictate Jewish moral responsibilities for all time. Or, they must ask, do modern Jews have an equal role in the task of interpreting the Torah, by reasoning directly from the theological explanations for the purposes of the Sabbath? If they should do so, in light of their status as both creators and sinners, does God expect constraint or sacrifice on the Sabbath to achieve its purposes, or creative enjoyment of the opportunity for community worship or family engagement? As Kwall demonstrates, these are difficult judgment calls for believers of any faith tradition who seek to recognize that God is continuously creating in the world with their help, while still trusting that God's law is sufficient for their lives. On this dilemma between individual discernment and obedience to centuries of tradition, Kwall quotes Rabbi Asher Lopatin, who chides another rabbi grappling with the topic of homosexuality for "not plunging 'into the great pool of our tradition, certain that he will be received by water rather than a dry cement bottom'" (168).

In chapters 8 and 9 of the book, Kwall observes the functioning of Jewish religion and tradition in the nations of Israel and the United States. Her discussion raises questions for all scholars of law and religion about parallel developments in other nations with commitments to preserve a religious identity tied to nationhood, as well as those with a stronger attachment to full church-state separation. Kwall illustrates the variety of ways that Jewish religion and culture are conceived to be tied to Israeli national identity—from those who claim only nationalist Jewish identities, to those who embrace the notion that Israel can be a laboratory for the development of Jewish culture and values, to those who consider the State of Israel a threat to Judaism. As a melting pot of

these ideologies, the case of Israel challenges other national communities trying to work out the relationship between dominant religious communities and national identities to articulate the way or ways in which the communal interplay of these identities can lead to healthy, diverse communities. Similarly, Kwall's observations about the privatization, the self-referential character and "customization" of Jewish rituals among young American Jews, and their movement away from traditional religious communities in favor of "alternative" community rituals could be said as well of Christian and other young people in the United States. The mainstream American religious communities of their parents and grandparents have similarly been at a loss about how to engage younger people in religious life, given these trends.

Kwall's final chapter makes the normative case for heeding the observations of cultural analysis. Both continued respect for traditional particularity and cultural fluidity are necessary to maintain a healthy and dynamic religious community. Pluralistic interpretation of the *halakhah*, in which the religious right, left, and center are "all part of the same family" (297); and in which *aggadah*, or narrative, plays as significant a part as law, characterize the intellectual journey of the Jewish tradition. Both human freedom and dignity, and obedience and humility, are necessary for an authentic, ethical self. Kwall's book richly demonstrates both the complexity and the promise of forging religious identity faithful to divine texts in the modern world.

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