Reply to Professor Fishman

I will leave my substantive rejoinder to Professor Fishman’s critique to the second half of the reply and begin by addressing the queries that some have put to me. Their questions were understandably sharp. “Why did you review the book so bluntly? Indirection and implication, rather than outright assertion, are the rule of academic critique. And if for some reason bluntness was needed, why publish in a journal intended for a general Jewish audience? Would it not have been far better to confine your remarks to a professional journal, with its restricted and specialized audience?” The answer is a simple one: the issue is not the quality of Fishman’s book which is an inconsequential matter, but the integrity of an academic discipline, which is anything but that. To explain what I mean, I must backtrack.

I have known Talya Fishman for some thirty-five years. She and I would see each other from time to time, and I read appreciatively her first book, Shaking of the Pillars, an excellent analysis of an anonymous, anti-rabbinic work published in Italy in the early seventeenth century. A decade or so ago, I met her and she told me that she was working on medieval Ashkenaz. It seemed to me somewhat strange, but I said nothing. About five years ago, she asked me to read a draft of her book in progress, which I naturally agreed to do. She sent me a draft of what would become Chapter 4 of People of the Book. I was taken aback by what I read; it was shot through with errors and abounded with statements for which I could find no basis in anything that I had been studying for over fifty years. (Her footnotes were of no help.) I marked up the copy heavily. She traveled from Philadelphia to New York on two successive Sundays for meetings, each of which lasted some two to two and a half hours, and I gave her in detail my criticism of what she had written. At one point I told her that every page of the manuscript bespoke an author who had never seriously studied Talmud, and I could not understand how she could have undertaken this project. I told her, “I’ll soon be seventy, and the last thing I need at this stage of my life is to write a sharp critique of a colleague, not to speak of one whom I have known for years. However, I will not allow happening to rabbinics what I witnessed as a graduate student happen to talmuds. If you publish, I will write a critique.” She said nothing, and we continued our discussion of the draft.

Professor Fishman understood what I was referring to in saying “what happened to talmuds;” the general reader, however, won’t, and I must explain.

If one attends the sessions in Talmud at the annual convention of the Association of Jewish Studies (AJS) as I did from roughly 1990 to 2006 (out of curiosity, I would attend a session or two at most conventions), one hears the texts of the Talmud almost invariably cited
in English; not only the Gemara which is in Aramaic, but even the Mishnah which is in Hebrew. Indeed, even the Biblical verses are often cited in English translation. One can open distinguished journals in Jewish studies, and the Talmudic citations will be in English with no Hebrew or Aramaic original provided, even in studies in literary analysis. One can scarcely imagine an analysis of a passage in Proust in a French Studies offered with only an English text. The analyses of a legal passage in many books on the Talmud and even some scholarly journals employ pericopes. That is, each step of the argument in the (translated) text is numbered (at times, typographically set off by assigning to each step a separate line or two) and the references to the steps of the arguments are made by referring back to the numbers. If one were to publish Hume’s Treatise on Human Nature in pericope style, it would probably run to fifteen volumes. If the United States Reports were published in this format, I shudder to think at the endless number of tomes that series of Supreme Court decisions would contain. The reason they aren’t found in that format is that it is expected of an undergraduate philosophy major and of a first-year law student that he or she learn, and learn quickly, to follow a sequential argument without typographical and numerical aids. However, what can be assumed of an upper-class sophomore and a one-L cannot today be assumed about some professors of Talmud at American universities.

Let me not be misunderstood. There is splendid work going on in many Talmud departments in American universities, and they can boast of eminent scholars. Need I mention the path-breaking work of Yaakov Elman and his colleagues in the comparative use of Pahlavi (i.e., Middle Persian) texts in Talmudic studies? However, alongside these notable accomplishments lies the well-known--though not publically discussed--fact that in no area of Jewish academic studies is there so much unabashed illiteracy as in the field of Talmud.¹

How did this come to pass?

It could never have happened in Jewish history, philosophy or literature, for example. Jewish history is simply an area in the discipline of history. A good historian will sense shoddy historical writing even in a field in which he knows little. Three professors of American history can make as good an assessment of a work on Jewish history as they can of one on Latin America. The same holds true for almost all other areas of Jewish studies. There is, however, no discipline comparable to talmudics in the Western canon. Here, universities are flying blind. They must rely upon the judgment of outsiders, in this case competent talmudists. Should a

¹ The past decade or so has witnessed an improvement in the level of the appointments, but the pericopes and the widespread use of translations attest to the damage wrought on the field.
truly unqualified person (and by that I do not mean simply a poor scholar) obtain, for whatever reason, a post at a prestigious university, he takes on graduate students—and if he is active and vigorous, many such students—who know no more than he does, and he systematically proceeds to shape them in his image. They in turn get posts, especially if the teacher works hard to place them. They write reviews of each other’s books and recommend each other’s pupils for positions. As unqualified people will scarcely hire people better qualified than themselves, the talented and competent soon encounter increasing difficulty in obtaining appointments. (Academic Talmud, after all, is not a large field.) All of this happens beneath the radar of the quality-control system of academia. The only control possible had to be provided by qualified Talmudists; they had to speak up and speak up early. For whatever reason, they didn’t do so in the 1960s and ‘70s.

Once the situation becomes entrenched, the mah yomru ha-goyyim (‘what will the Gentiles say’) syndrome sets in. That is to say, do not expose a fundamental problem in Jewish studies for fear that this only-recently-recognized field will be academically delegitimized. The result is the current situation in academic Talmud, which is without parallel in other university disciplines.

The situation in rabbinics until now has been radically different. Rabbinics is the literature of the interpretation of the Talmud and its application over the ages. The Talmud, taken in isolation of all its subsequent interpretation, studied simply as a Middle Eastern text produced in Palestine and Babylonia between the years, shall we say, from beginning of the Common Era to ca. 500, is, in and of itself, not a highly technical work. It requires training in textual editing, mastery of Mishnaic Hebrew and several Aramaic dialects, and naturally, the languages and culture of the societies both in Palestine and Babylonia in which the Jews were embedded. However, all this is not much different from what would be demanded of someone seeking to do comparative work in ancient history. It is possible to set up a serious program in talmudics, even for those who come to the university with no prior knowledge of Hebrew or Aramaic, if one insists on a long and rigorous training in text and languages. Peter Schafer, for example, did this notably at his Institut für Judaistik at the Free University, Berlin.

When the focus shifts to the interpretation of the text over the long arc of centuries, the requirements change considerably. Knowledge of the language and culture of the various interpreters remains, of course, a prerequisite, but the need for textual editing skills recedes, as the text that circulated from the outset was fairly uniform. The legal complexities, however, increase exponentially. Each text has differing interpretations that eventuate in differing legal doctrines, and these must be carefully differentiated and tracked through all the subsequent discussions. When scholastic dialectic enters into the picture, one set of dialectic gets piled on
another: one must follow the various medieval dialectical analyses of the dialectical arguments of the Talmud. This problem is then further compounded by the differing modes of exposition that we moderns employ, the rhetorical model, and the one that dominated the Middle Ages, the glossatorial one (see Appendix). The result is that the entry bar to the field is high.

In academic rabbinics there are, as in every field, better and worse scholars, but the technical competency of its practitioners cannot be questioned. I do not recall reading an article in the past ten years that could be seriously faulted on technical grounds. Needless to say there are no pericopes in the current scholarly writings on rabbinics, and any deliberation takes for granted that all are familiar with the basic literature. In lectures or discussions, the texts are invariably cited in the original, and barring an opaque quotation or two, it occurs to no one that there is any need for translation.

Professor Fishman’s work constitutes the first serious breach in this field, which, like Talmud, has no equivalent in the Western canon and flies, as it were, beneath the radar of academic control. The book itself is not important; the position occupied by the author at a major university and the claims its author is now making as to knowledge of rabbinics by publishing this book are. This is an exact replica of the situation in Talmud in the early 1960s. Professor Fishman is also training graduate students who will finish quickly, as there is little rigorous discipline to be mastered, and will get jobs in their areas of ‘expertise,’ and thus the sad tale of Talmud will be replayed in rabbinics.

Given the complex nature of rabbinics, there will always be fewer posts in this field than in Talmud. The younger generation of talented, highly competent men and women who are entering or will soon be entering graduate school will find few berths available. And a word about these young women. I ask the readers to look at the several paragraphs of the Appendix where I explain why it is so hard for anyone to acquire after his early teens the skills of handling a ‘glossatorial’ text, without which rabbinic literature is a closed book. Most young women have not had the advantage of an early exposure to this literature. The efforts that the new generation is making—despite all obstacles—to master these skills and achieve a command of rabbinic texts are extraordinary. You find it in the host of battei midrash programs in America and Israel where they put in long and grueling hours, in time set aside for Talmud study in the ‘havrotot’ (small study groups) in college and graduate school dormitories, in evening classes and in the free moments snatched after the children have at long last fallen asleep. The past fifteen years have witnessed enormous strides on their part, and soon these women will be entering academic rabbinics. They have not chosen the easy path of bypassing talmudic training, but the arduous one of mastering a demanding discipline. If, for some strange reason, others do deserve to compete against incompetents, they certainly don’t. And as the race is not
always to the swift nor do the wise have always bread, the field will become predominantly the
domain of the unqualified, without anyone in the broader academic or Jewish community ever
being aware of the fact.

When *Becoming the People of the Talmud* appeared and then won the Jewish Book
Council Award for Scholarship, the danger posed by this was clear; nevertheless, I was
conflicted about putting my assessment into print. I discussed the matter with one of my oldest
colleagues over dinner. He listened carefully and said, “Haym, the only way you can justify the
review that you are thinking of is if you state openly what the real reason for it is, the larger
issue that is at stake here. You can only do that is by becoming first, a whistle-blower and then
stating matters with an explicitness that breaches the proprieties of academic engagement. You
have to point out not simply mistakes but also their elementary nature and what they say about
the writer’s basic competence.” I thought about this during the meal and, as it was drawing to a
close, replied: “Those rules of propriety, and they are good ones, apply when they are
superimposed on the quality controls that function as a matter of course in academia. Everyone
then understands what is being said by indirection. However, when that community is wholly in
the dark as to what is transpiring, those rules must be breached. Look at what happened in
Talmud. A few reviews were, in fact, written in the 1960s and ‘70s pointing out the errors of the
author and hinting at his ignorance. The criticisms were shrugged off, because people thought,
‘Oh well, everyone makes mistakes.’ They didn’t know that the errors were ones that a
schoolboy would never have made. This couldn’t be stated openly because it was against the
rules of the game. Look at the situation now. If these rules aren’t finally broken and the whistle
blown, there will be little left in a decade.”

II

To turn now to Professor Fishman’s internet rejoinder.2

I have no quarrel with many of Professor Fishman’s general pronouncements. Indeed, I
applaud her aspirations and share some of them myself. The question at hand, however, is a
simple one: has her book fulfilled these aspirations? More specifically, is there a correlation

2 I address here Dr. Fishman’s rejoinder that she distributed among colleagues and placed on
the internet in December. In the concluding footnote (n. 30), I reply to Dr. Fishman’s further
claim in her letter to the Jewish Review of Books that the numerous inquiries of the Geonim
“tell us precious little about the ways in which the geonim used the Talmud”, an answer that I
could not give due to the space restrictions of the Review.
between the statements made in the texts and the documentation provided in the footnotes? If such a correlation is weak, then the work is more speculation, even fiction than history.

I. Does the Evidence Support the Assertions?

Seeking in her rejoinder to correct my purported distortions, Professor Fishman restates in clear, forceful language the basic arguments of her book. Two paragraphs in her rebuttal make the central argument for the orality of the Talmud during the Geonic period and its relatively recent inscription in Rashi’s time. She further asserts that the controversy the mid-twelfth century controversy between Rabbenu Meshullam and Rabbenu Tam is evidence that the geonic distinction between halakhah and halakhah le-maaseh was a vibrantly alive and “that talmudic legal teachings had to be mediated, or vetted, before they could be presented as applied law… at stake in this altercation nothing less was at stake in this altercation than rabbinic epistemology itself.”

There is every reason to assume that whatever errors may have inadvertently crept into her book, here she took great care to ascertain the facts of her restatement as she was here operating in the spotlight, as it were, reaching out on the Web to a far wider audience than she was addressing in her book. Let us examine the degree of correspondence between the argument advanced and the evidence presented, beginning with Professor Fishman’s orality thesis.

A. Orality of the Talmud in Geonic Times

Professor Fishman writes:

Notwithstanding Professor Soloveitchik’s peremptory assertion that “the entire notion of orality in pre-tosafist Ashkenaz, which is developed by Fishman… is without foundation,” it would be hard to overstate the importance of the scholarship of Clanchy, Carruthers and Stock, for students of medieval Jewish culture. Separately and collectively, their studies on medieval Christian Europe demonstrate that the very manner in which a tradition is transmitted — through oral communication and performance on the one hand, or through written texts which must be read, on the other — affects the way in which recipients use the tradition, and the type of cultural authority that they ascribe to it. (Professor Soloveitchik himself communicated this insight in his eye-opening essay of 1994, “Rupture and Reconstruction.”)[10]

The relevance of this body of general scholarship for medieval Jewish culture has been made all the more obvious by academic scholarship in rabbinics. Not only has Yaacov Süssman determined that the Babylonian Talmud, a vast corpus of Oral Torah, was orally transmitted through the end of the amoraic period, Nahman Danzig has advanced the claim that oral transmission of Talmud was de rigueur in the geonic academies of Babylonia, through the mid-eleventh century.[11] These
dramatic findings must be considered in conjunction with Robert Brody’s observation that the written text of the Babylonian Talmud continued to be lexically fluid through the end of the geonic period. They are also of interest given Yonah Frankel’s determination, from manuscripts, that the definitive reading of one of Rashi’s talmudic glosses portrays the inscription of Talmud as a relatively recent development. Without supplying any substantive chronological reference points, Rashi contrasts the transmission practices of amoraim with those of later generations as follows:

“For in their days, the Talmud was not in writing, nor was it permitted to write it. However, because the hearts have become diminished, our generations have begun to write it.”

Let us take the four items of documentation in reverse order.

1. Yonah Frankel has, indeed, shown [n. 13] that the correct reading of Rashi is “our generations,” from which Professor Fishman concludes that “one of Rashi’s talmudic glosses portrays the inscription of the Talmud as a relatively recent development.” It would be very strange if Rashi (1040-1105) would have done so. He and his teachers clearly employed written texts of the Talmud. The responsa of all his teachers and those of Rabbenu Gershon (d. 1028), the father of the Ashkenazic talmudic culture, profusely cite from the written text of the Talmud and their citations match what is found in our printed text. The school of Rabbenu Gershon penned a commentary to the Talmud and spoke of variant textual readings of the talmudic manuscripts (see below). Clearly the Ashkenazic community from its very inception (ca. 950, a century or so before Rashi’s birth) employed a written text of the Talmud. What then could the words of Rashi that Professor Fishman cited mean?

The answer is very simple. The terms “in these times,” “in our times,” “in our generations” in rabbinic commentaries can mean one of two things. “In our times” and not in the time when the Temple was standing (i.e. pre-68 CE)—Jewish time divides between pre- and post-Temple destruction (it can make a considerable difference at times in Jewish ritual law). Or the phrases may mean, in our time, in contrast to talmudic times, the time of the text upon which the writer is commenting and which by traditional reckoning ended ca. 425-525, with the hatimat ha-talmud, the “sealing of

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3 Rashi’s Methodology in his Exegesis of the Babylonian Talmud (Hebrew) (Jerusalem, 1975), 32

4 Since Rashi is the focal point of the discussion, I should have used the term sof hora'ah and given only the date ca. 425. However as I mentioned 'by traditional reckoning', this reckoning...
the Talmud”, that is to say, when the Talmud acquired more or less the form that it has today. The “sealers” (if one be permitted the term) divided the tractates into chapters, assembled, formulated and structured the huge quantity of the amoraic discussions of centuries, and finally, entered each discussion (sugya) in its appropriate place in the tractate. Everyone else assumed that such a huge corpus could have been preserved only by committing it to writing. Rashi realized (and it was not until the closing decades of the twentieth century that scholars came, much to their astonishment, to the same conclusion) that the “sealing” or “closing of the Talmud” did not entail any inscription of the Talmud. That vast, organized and articulate corpus was committed to phenomenal memories of a select few “reciters” (garsanim) who were in the employ of the two great yeshivot in Babylonia. The actual inscription of the Talmud took place at a later date. As to whether that date was 450, 650 or 750, Rashi said nothing. He didn’t know nor does anyone to this day.

Over five hundred years separate Rashi in the second half of the eleventh century from the ‘sealing of the Talmud’ in the first half of the fifth. To say, as Professor Fishman does both in her reply and in her book (p. 128), and it is an important component of her overall argument, that in Rashi’s day the inscription of the Talmud was a “relatively recent” development is true only in the sense that an event that may have occurred anytime between 1492 and 1992 may be termed “relatively recent.”

The passage from Rashi that Professor Fishman cites is taken from Yonah Frankel’s work on Rashi, which was published in 1975. Frankel realized that Rashi’s remarks might be misconstrued by someone unfamiliar with talmudic terminology, so he prefaced his citation with an explanation of the meaning of “in our generations” writing.

Here, in his [i.e. Rashi’s] description of the generations after the sealing of the Talmud, which included Rashi’s own generation, Rashi... wrote, “In their days

usually includes the saboraic period for which I have given a cutoff date of 525, though no one knows for sure that when that pre-geonic period ended.

5 Above, n. 3.

6坎 בנייאו הדורות שלאחר חתימת התלמוד, ובתוכם ג’ור ר. ומשתמשיו ר”ש, ודביי ר”ש. [רבSherira גאון] הוא: "שיבימו (וימ הדניאים أعمالיו) לא היה תלמוד acompan קום אלא יועי הלכות". See Photostat #1.
(those of the Tannaim and Amoraim) the Talmud was not in writing ... However... our generations have begun to write it.”

By further inserting into the quotation the parenthetic explanatory phrase –those of the Tannaim and Amoraim – Frankel felt sure that the reader would understand that the contrast was being made between talmudic and post-talmudic times. And, indeed, so it was taken for close to half a century. Professor Fishman is the first to construe Rashi’s (and Frankel’s) remarks differently.

2. Let us now turn to the preceding footnote (12) which documents Brody’s “observation that the written text of the Babylonian Talmud continued to be lexically fluid through the end of the geonic period.”


All the Sussman references that Professor Fishman provides refer to the fluidity in time of the Talmud not that of the Geonim,7 which is the issue at bar. Her evidence is thus based on Brody. Brody’s summary phrase “lexical fluidity” has all the precision of that fine scholar, only its meaning has eluded Professor Fishman. Allow me to explain, at the risk of oversimplification.

There are for, example, several ways of introducing a question from tannaitic sources into a discussion (sugya)—among them are ve-raminhu and metvei. One can find a family of manuscripts that will present all the queries from tannaitic sources with metvei; another group of manuscripts will systematically present the identical material with ve-raminhu. They are simply two ways of saying the same thing. Other than differences of this type, the two manuscript families present fairly identical texts. In other chapters of the same tractate or of another tractate, one will get a family with a more expansive version, another with a more conservative, terser one. For example, the Talmud points to a contradiction between dicta of Rabbi A and Rabbi B. The Talmud replies in one family of manuscripts “No problem; this refers to case X, that refers to case Y.” In a second family, the text reads “No question, the dictum of Rabbi A refers to case X; that of Rabbi B refers to case Y.” Again, there is no difference in meaning; one

7 I do not understand why she doesn’t cite Sussman, as his great article treats the geonic period no less than that of the amoraim. However, our remarks about Brody’s article and Danzig’s articles apply equally to Sussman’s.
text is simply more reader-friendly than the other. These minor differences also assume other forms, occasionally a phrase or line or two reflecting a different tradition or later insertion and, on rare occasions, an added unit of a discussion or the identical discussion but in a different sequence.

Put differently (and again at the risk of oversimplification) the state of the talmudic text in the period under discussion (ca. 750-1038) resembled that of a work ready to go to print, as it were, needing only a final copy editing. That copy editing was done by a number of different people, each in his own way or each with his own tradition. But when, where and by whom it was done is unknown to this day, except that it has become progressively clear that this took place in “the East.”

This, however, is light years away from the large-scale fluidity of the talmudic text in the ninth, tenth and eleventh century to which Professor Fishman makes claim and which is essential to her overall argument. Mary Carruthers, Brian Stock and John Clanchy were not referring to copy editing, light or heavy. They were referring to, as Fishman puts it, “transmission of tradition” through “oral communication and performance” and that is exactly what did not exists in the Jewish world --Andalusia, North Africa, Egypt, Palestine and most of Babylonia--during the Geonic period.

The above restatement of Brody’s article, furthermore, does not require any in-depth reading of the text, nor need one decipher any Delphic phrase as “lexical fluidity.” The minimal nature of the fluidity that he discusses is apparent from his very opening pages. It can also be seen by simply scanning the article in which the differing pairs of versions are often arranged in two parallel columns so that the reader can see at a glance their editorial nature or the very narrow compass of the substantive differences.

3. Let us now turn to the third statement and its documentation in note 11:

Not only has Yaakov Sussman determined that the Babylonian Talmud, a vast corpus of Oral Torah, was orally transmitted throughout the end of the amoraic period, Nahum Danzig has advanced the claim that the oral transmission of the Talmud was de riguer in the geonic academies through the mid-eleventh century. (Yaakov Sussman, “‘Torah she-be-‘al peh’—peshutah ke-mashma’ah: Koho shel qozo shel yod”, Mehqere Talmud 3 (2005): 209–384; Nahman Danzig, “Mi-talmud ‘al peh le-talmud be-khtav’, Sefer ha-Shana Bar Ilan 30–31 (2006): 49–112.)

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8 See Photostats ##2-4.
As the Geonic period (ca. 750-1038), not the amoraic one (200-425), is the matter at issue, Fishman’s invocation of Sussman is irrelevant. The controlling piece of evidence for Fishman’s claim is Danzig’s article. Danzig in the last part of his article (pp. 76-102), indeed says what Fishman claims he said; however, this in no way proves her point, for she has omitted what he wrote in the first part (pp. 51-75). Her summary should read (my additions in italics): “Despite the circulation in the Diaspora of written texts of the Talmud for centuries, the oral transmission of the Talmud was de rigueur in the geonic academies of Babylonia, through the mid-eleventh century.”

Indeed, the opening two sentences of Danzig’s article read:

It is a fact that the Babylonian Talmud was taught and transmitted orally from the time of its formation and editing until the period of the Geonim: and it is [equally] a fact that the Babylonian Talmud was taught and transmitted in writing from the time of the *rishonim*, [i.e. post-geonic] scholars of the Middle Ages. In contrast to this, in the geonic period the two methods [of transmission] both intersected and overlapped one another.

Danzig’s description of the nature of the fluidity of the Talmud differs not from that of Brody. He cites approvingly the characterization of another scholar that it affected the “talmudic glue,” that is to say those extra few words whose presence or absence makes the parts of the discussion adhere more closely; what we would call the “tightening up” of the text by a copy editor.

What this means is that the text of the Talmud was basically “fixed” by all accounts well before the beginning of the Geonic era ca. 750, though it lacked final copy editing. This “lexically fluid” text existed in two forms: in manuscript which circulated throughout the Diaspora and, astonishingly enough, in the memory of a few individuals with total recall (*garsanim*—reciters) who were employed by the two famed geonic yeshivot of Sura and Pumbeditha, which, for some still obscure reason, resisted inscribing the now relatively fixed text, but had it rather committed to memory and

9 See above n. 7.

10 Pp. 49-50. See Photostats #5-6.

11 Pp. 94-102.

12 P. 96.
drew upon these “reciters” for all their citations. However, what was being recited orally in these two centers was an almost fixed text that differed little from those that were found throughout the Diaspora in manuscript. Recitation from memory of a fixed text, albeit with lexical fluidity, may technically be termed “orality”. It has however, little, if anything, in common with the broad, open-ended textual fluidity of the orality discussed by Stock, Clanchy and Carruthers and upon which Professor Fishman constructs the thesis of her book.

This resistance to inscription in the ancient yeshivot of Sura and Pumbeditha is a discovery of the past generation of scholarship; however, the circulation of talmudic texts in the Diaspora throughout the geonic period and the small difference that exists between the text we currently possess and its counterpart in Geonic times is a commonplace. Anyone who studies geonics uses the Otsar ha-Geonim, the collection of texts of the geonic writings arranged in the sequence of the Talmud. Each of the volumes is divided into two parts: “Responsa” and “Commentaries.” The Commentary section contains the surviving fragments of Geonic talmudic commentaries and the replies to inquiries sent to the Geonim to explain difficult talmudic passages. One can’t ask for an explanation of a passage in the Talmud unless one has a copy of that passage in front of oneself, and one can’t write a commentary to a chapter or tractate of the Talmud unless one assumes that the recipient has a copy of the text being explicated. As these responsa begin around the ninth century, it is clear that written copies of the Talmud are by then in circulation. (By the second half of that century, we have from Kairouan alone, inquiries about passages from Yevamot, Gittin, Bava Metsia, Bava Batra, Shevuot, Zevahim, Keritut and Niddah.) As the citations of the Talmud found in the Otsar ha-Geonim don’t differ that much from the printed page of the standard Vilna

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13 The most probable reason was that for the many centuries when the Talmud was in formation and its parts wholly in oral form, these ancient seats of learning had employed “reciters” and had developed a rigorous system of control to ensure the accuracy of their recitations. When the Talmud took its final shape, ca. 425-525 (see above, n. 2), these yeshivot were loath to discard the ancient and well-vetted institution of garsanim and simply had them commit to memory the recently fixed text of the Talmud.

14 M. Ben-Sasson, The Emergence of the Local Jewish Community in the Muslim World: Qayrawan, 800-1057 (Hebrew) (Jerusalem, 1996), 240.
Talmud, the very limited nature of the textual fluidity during the Geonic period is equally obvious to all students of the Talmud.15

4. Let us turn to the Fishman’s fourth argument where she writes:

Notwithstanding Professor Soloveitchik’s peremptory assertion that “the entire notion of orality in pre-tosafist Ashkenaz, which is developed by Fishman…is without foundation,” it would be hard to overstate the importance of the scholarship of Clanchy, Carruthers and Stock, for students of medieval Jewish culture.

However, she speaks in generalities and offers no documentation to challenge my assertion about the pre-Tosafist period. There simply is none. I do not know of a single passage in any primary or secondary sources that could be construed (or even misconstrued) as speaking of “oral communication and performance” as the mode of religious transmission in Early Ashkenaz.

Professor Fishman concludes by citing an essay of mine.


My essay contrasted the nature of Jewish observance of Modern Orthodox Jews in America in the latter half of the twentieth century with that of in Eastern European Jewry in the eighteenth and nineteenth century, who had been “textualized” by Professor Fishman’s own account for well over half a millennium. I dealt with the difference between the nature of religious transmission in a closed, traditional society and in a modern, multi-cultural one. I fail to see the relevance of the essay to her argument about eleventh-century, Ashkenazic Jewry.

Four proofs were advanced as evidence. Three state the opposite of what is claimed; the fourth is irrelevant.

B. The Controversy between Rabbenu Tam and Rabbenu Meshulam

Professor Fishman writes:

15 What strikes a first-time user of the Otsar ha-Geonim is not the difference of text but of orthography, the radically different spellings of common Aramaic words.
Sefer HaYashar preserves a sustained vitriolic exchange between Rabbenu Tam and Rabbenu Meshullam concerning the manner in which the Talmud was to be deployed in the service of legal decision-making. Like their geonic predecessors, both parties to this twelfth century debate understood—and maintained—the ancient rabbinic distinction between halakha and halakha le-ma’aseh; that is, they distinguished between a received legal teaching, and an attestation that the teaching in question was one implemented in practice. In other words, both scholars realized that talmudic legal teachings needed to be mediated, or vetted, before they could be presented as applied law. They differed, however, over the precise sources of authority that were to be used, together with the Babylonian Talmud, in deciding law.[8] There is no doubt that both parties regarded the Talmud as “normative”(!), yet nothing less was at stake in this altercation than rabbinic legal epistemology itself.

[8] Rabbenu Meshullam based his jurisprudential conclusions not only on Talmud, but on Torah and Mishnah as well; indeed, he ascribed a similar cultural status to all three of these corpora. Other works of Jewish tradition, on the other hand—such as midrashic compositions, Massekhet Soferim, and writings by earlier scholars from Babylonia, Qayrawan, al-Andalus, and Ashkenaz—were, in his opinion, irrelevant to the adjudicatory process. Rabbenu Tam, on the other hand, regarded extra-talmudic writings such as midrashim, works of the geonic period, texts written earlier in Ashkenaz, Sefer Yosippon, and even the apocryphal book of Judith as necessary complements to Talmud.

Let us investigate Professor Fishman’s evidence, as it provides insight as to her modus operandi.

Contrary to what Professor Fishman claims, Rabbenu Tam never distinguishes between halakha and halakhah le-ma’aseh in his exchange with Rabbenu Meshulam, indeed, never mentions these terms at all.16 He does discuss, as Professor Fishman claims, the authority of the Talmud vis à vis other traditional literature, as the midrashim. What he says, however, is the exact opposite of what Professor Fishman asserts. Rabbenu Meshullam, a Provencal scholar who moved to Melun (some 65 miles west of Troyes where Rabbenu Tam resided), undertook to alter a number of customary practices of the Ashkenazic community, as, for example, that of women’s reciting a blessing of the candles Friday night. Astonishing as it seem to most, there is no Talmudic directive of women’s lighting candles on Friday evening, not to speak of reciting a blessing on them. This universal and much cherished practice is custom pure and simple, as is much of traditional religious behavior. Religious life is experienced as a whole and is taken as being cut from one cloth. However, the fact is that some seventy percent of the prayers recited

16 Rabbenu Tam does use the individual word ma’aseh in its conventional sense (p. 95).
regularly in the synagogue are not product of talmudic dictate but of age-old traditions. Much of the Seder on the eve of Passover is not halakhically mandated, but rather the aggregate of immemorial usage. Needless to say, Rabbenu Tam vigorously opposed Rabbenu Meshullam’s numerous innovations. He stated that when dealing with time-hallowed religious conventions, one can’t lay them out on a Procrustean bed of Talmudic law and lop off every excrescence. One must search carefully for references to these traditional practices in the midrashic literature and its cognates. Custom and midrashic literature should be relied on, Rabbenu Tam writes, only “where they do not conflict with the Talmud but add to it.”

He specifically states that the Talmud is the normative text, and the midrashic literature plays a significant role in the interstices of the Talmudic system, never when it stands in opposition to it. In Rabbenu Tam’s view, “extra-talmudic literature is, indeed, necessary complements to the Talmud,” as Professor Fishman claims, but only when we addressing custom—never when dealing with legal matters, areas covered by talmudic dicta. Rabbenu Tam’s remarks here would have won the full endorsement of the arch-talmudist of the modern era, R. Eliyahu, Gaon of Vilna.

The words of Rabbenu Tam thus run contrary to Professor Fishman’s central thesis. How is this passage dealt with in Becoming the People of the Talmud? Very simply, she cites it thus:

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17. See Sefer ha-Yashar le-Rabbenu Tam, Teshuvot, ed. S. Rosenthal (Berlin, 1898), #45:3 (p. 81), אכ' (אכ'ר) במדרש רב עמרם ויהלומד גוזל גוזל' וספירה ידפי: דר' אלייער יברב בדדירש רכ' ויהלומד (אכ'ר) ובסייא ספירה אגאדא אינ' ויהלומד' דברי קדמונים ומנחים: כי יש למסומן עליהם דברי穗יא שאמית כאןיתישל חלומד ו الإسلامية תורב 회ה מתא מוסיפי ויהלומד אינ' ויהלומד. See Photostat #7. (What Professor Fishman had in mind when she wrote Rabbenu Tam “regarded... even the apocryphal book of Judith as necessary complements to Talmud” is beyond me.)

18. Pp. 143-144. See Photostats #8-9. (Rabben Tam was also of the opinion that one should draw on Midrashim at times for understanding the intention of the Talmud, a hermeneutic principle with which all--barring Rabbenu Meshullam--would agree. A text should be understood within the milieu in which it is written, and one should remember that many of the most famous amoraim of the Bavli are Palestinians. However, that is not to say the Bavli is not the normative text. Someone who contends that one should draw upon the Holmes-Pollock correspondence to understand the meaning of passages in Holmes’ decisions is not denying that the decisions of his found in the United States Reports are the normative texts. The same holds true for custom. The practice of one’s forefathers’ is never wrong in a traditional society, and the Rabben Tam and his disciples had a deep respect for Ashkenazic customs. They were animated by the belief that their customs could ultimately be squared with the normative texts of the Bavli, and they spent a great deal of time and energy trying to do so. I have discussed... )
Whoever is not proficient in the *Seder Rav Amram* and in *Halakahot Gedolot* and in *Masekhet Soferim* and in *Pirqé de-Rabbi Eliezer* and in *Rabbah* and in *Yelamdenu*, and in the other books of the aggadah, must not destroy the words of the Early Ones and their customs... and many customs that we possess follow them.

Three dots in a citation indicate an omission of some words. The words elided in her citation are the above-cited “where they do not conflict with the Talmud but add to it.”

To turn now to Rabbenu Meshullam. Rabbenu Meshullam issued what seemed a radical ruling about immersion (tevilah) after menstruation. When criticized by Rabbenu Tam, he replied that he never issued such ruling; he had simply discussed its theoretical possibility in course of teaching a class in his yeshivah. This has nothing to do with “rabbinic legal epistemology.” The phrase “halakha le-ma’aseh” which means “to issue a ruling” or “practically speaking, the law is...” abounds in the rabbinic literature. Professor Fishman arrived at her strange notion of Rabbenu Meshullam’s “epistemology” because of a ninth-century Geniza fragment authored by a “Pirkoi ben Baboi,” an otherwise unknown figure who claims to be a pupil of Rav Yehudai Gaon of Babylonia (ca. 750). (There is no independent corroboration of such a discipleship and his report is far from a model of accuracy, as Professor Fishman herself admits.) He cites a very strange use of this phrase by R. Yehudai Gaon that would have surprising implications for legal adjudication, and for this reason it has occasioned some

their relationship to custom in a number of places, most recently in *Wine in Ashkeanz in the Middle Ages* (Hebrew) (Jerusalem, 2008), 208-271 [especially, 269-270], 362-369.)

19 *Sefer ha-Yashar*, #47:1 (p. 90): לַאֲלָו בָּאָתָיו לְהַלָּכָה [לְמַעַשָּׁהּ] לָאֳלָא חַשָּׁיִי לָטָם תַּרְאָא: לאֶלְוַא חַשָּׁיִי לָתַחֵי [תָּכֹרָת הַמַּצְוָה]... הַפַּסְקָה הַמַּצְוָה... תָּכֹרָת הַמַּצְוָה הַמַּצְוָה... (The emendations are those of the editor.) See Photostat #10.


21 *P. 45*, and see note 153 ad loc.

22 *It would demand that a talmudic dictum “The halakha is in accordance with X’s position” be accompanied by an oral tradition which states “and so one rules practically”. It is a strange demand, and the proof-text that Pirkoi cites in the name of R. Yehudai is incomprehensible. The Talmud says (Bava Batra 130b):*enerative מִדְרָשָׁהּ לַאֲלָו לָא מֵפִי לָמָּדָא לָא מֵפִי מַעַשָּׁה דֶּתֶּ xbox. This is a tannaitic statement made at a time when the halakha was purely oral. If in one bet midrash, it seemed plausible that the ruling was in favor of X, there was always the chance that there were other traditions known in another bet midrash which might alter the picture. The same held true in the amoraic period when the Talmud was in the process of*
discussion in the scholarly literature of the past generation. Knowing neither the standard meaning of the phrase *halakha le-ma’aseh* nor its frequency in rabbinic literature, Professor Fishman projects onto Rabbenu Meshullam, living in France in the twelfth century, the deeply problematic conditions of legal adjudication that Pirkoi ben Baboi attributed to R. Yehudai Gaon of Babylonia in the mid-eighth century. By so doing, she creates in twelfth-century France an “altercation about nothing less than rabbinic legal epistemology.” There is nothing that cannot be proven by such hermeneutics.

II. *Are Revolutions Possible Without First-Hand Knowledge?*

Every reference provided by Professor Fishman for two central theses are wrong. In the instances of Brody and Danzig, she read very selectively; in case of Frankel, she failed to understand what the author himself wrote. In the matter of Rabbenu Tam, she ignored passages that contradicted her thesis, and when dealing with Rabbenu Meshullam, she was unaware of the meaning of a stock halakhic phrase. Absent a basic knowledge in rabbinics, any reader will more often than not misunderstand what he or she reads, often skipping over its most important statements. This is a problem that abounds in the pages of *Becoming the People of the Talmud*. I referred to the problem in general terms in my review, writing: “Can one revolutionize subjects that one doesn’t know firsthand? Even if one should answer that question in the affirmative, one might still suggest that one still has to have a basic familiarity with the primary sources to read the secondary sources with some discrimination, indeed not to be misled by them... It may ... be needed simply to save oneself from error, from drawing a

creation in numerous Babylonian yeshivot. However, once all the relevant data was brought together, integrated and edited in the form the Talmud, why should one fear that there is missing information. (This is not my insight; all commentators have pointed out the inapplicability of this passage to post-talmudic times.) This proof-text seems hardly worthy of R. Yehudai Gaon and would appear to be the invention of Pirkoi. Seeing that much of Pirkoi’s strident reports about the religious practices of Babylonia and Palestine are inaccurate as are his accusations of Palestinian influences in Kairouan, he would seem to be one of those all-too-familiar figures on the traditional Jewish landscape: persons who announce themselves disciples of a deceased famous person and inform the world what “the Rav” used to say. Be that as it may, the doctrine imputed to Rav Yehudai Gaon—even if true—has nothing to do with the conventional use of *halakhah le-ma’aseh* by the European Rabbenu Meshullam centuries later.

23 The statements of H. H. Ben-Sasson and E. E. Urbach that she cites as supporting her position (p. 303, nn.140, 141) are both taken out of context.
seemingly reasonable inference from a secondary source, but one so outlandish to anyone in the know, that the writer never thought there was any need to preclude it.”

The issue is not what Professor Fishman said (or claims she said), but whether the sources support whatever it is that she is saying. On the whole, they don’t; at times, they state the opposite. This is hardly surprising. Nowhere in her rebuttal does Professor Fishman deny that she has never seriously studied the writings of the Geonim, Rabbenu Gershom, Rashi, or the Tosafists. The book is based on snippets culled from a host of secondary sources. Professor Fishman then proceeds to locate these snippets, not in the context of the wider literature of her subject matter with which she is unfamiliar, but rather in the context of her own personal vision. This does not constitute history, cultural or otherwise.

Moreover, arguing with such an author is difficult because she cannot handle the primary sources and, more often than not, she doesn’t understand what she reads in the secondary ones. Her evidence doesn’t say what she thinks it does, and one has to laboriously explain what the actual meaning of these passages is. Such an exposition would be long in Hebrew; in English (especially to an audience not versed in rabbinic sources), it would prove interminable.

The issue of misrepresentation of the book’s thesis is then beside the point. If *Becoming the People of the Talmud* is basically an imaginative rather than an empirical work, then whether my plot description or her plot description is correct is irrelevant, for we are arguing about literature and not history. Nevertheless, I would still like to reply, if only for appearance’s sake, to several of her charges

III. **Reply to Professor Fishman’s Objections**

1. Professor Fishman objects to my use of the term “normative” in describing the thesis of her book. Would “regulative”, “controlling” or “commanding” be better? If her book, as she now writes, simply “highlights changes in the ways the Talmud was used in different places and times,” what does the word “Becoming” in the title mean, and why does her book end with the thirteenth century? Those shifts continued. There is a far greater difference between the thirteenth and fifteenth century in “the ways the Talmud was used” than there was between the eleventh and the thirteenth.

2. Professor Fishman contends that she never stated that the Talmud was an open book: “I did not and would not use the term ‘open’ and ‘closed’ because this binary is insufficient to account for the types of reworking wrought by medieval copyists and readers.” I was characterizing her lengthy description of the status of the text in north European culture, both
Jewish and Gentile, in the introductory pages (124-126) of her central fourth chapter. She speaks of the “active, forceful, or, in the words of Yisrael M. Ta-Shma, ‘aggressive’ practice of reading….The alteration of written texts – perceived by later generations as ‘tampering’ was hardly unique to Jews in medieval, northern Europe, however; there is evidence that Hebrew manuscripts were emended by Jews in Italy, Muslim East and perhaps Andalusian Spain. Philological studies … support the conjecture that ‘forceful reading’ was the norm among medieval Jewish readers and demonstrate that recreation of traditions was part and parcel of the transmission process over centuries.” She then proceeds to quote Mary Carruthers as saying (and the elisions are Professor Fishman’s): “The medieval understanding of the complete process of reading doesn’t observe… the basic distinction we make between ‘what I read in a book’ and ‘what I experience’.” Professor Fishman’s concludes this section with a quotation from C. S. Lewis who wrote (again the elisions and brackets are hers) “We always tinker [with our drafts]… But in the Middle Ages you did as cheerfully to other people’s work, as to your own.” This is what I would call, perhaps simplistically, an “open book.”

3. When I said that Professor Fishman claimed that the tosafists “rectified,” altered and “improved on” the text of the Talmud that they possess, had primarily in mind her page-long exposition a few pages later from which, for reasons of space, I excerpt: “these tosafists then propelled the process of textual rectification into high gear by scrutinizing variant formulations of talmudic passages that were embedded in a broad array of old compositions. Linking their novel insights of the tosafists to their archival undertakings, the thirteenth century Catalanian scholar Nahmanides observed: ‘the tosafists were able to reveal that which is hidden because they were master collectors.’… The ability of the Tosafists to improve on the accuracy of the Talmud and their drive to do so distinguish their assumptions about the Talmud from those of their rabbinic predecessors…. even from Rabbenu Gershon, who observed, at the turn of the millennium that the talmudic text in front of him was not precise (lav davka kol kakh).”

I have already discussed in my review the merits of Professor Fishman’s description of the “textual rectifications” of the Tosafists and their improving upon the accuracy of the text of the Talmud. It pays, however, to look at a footnote or two for the other statements in this paragraph, beginning with the last one (95), as it sheds light on Professor Fishman’s use of sources. The passage invoked is taken as usual from a secondary source. The author, Y. M. Ta-

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25 P. 133.

26 Yisrael M. Ta-Shma, Talmudic Commentaries in Europe and North Africa (Hebrew) I (Jerusalem, 1999), 38.
Shma, cites a passage from the *Commentary of Rabbenu Gershom* (on *Bava Batra* 70a) which reads: “Our teacher remarked the four-word variant found in one manuscript beginning with ‘deledami’ was imprecise (*lav davka kol kakh*); therefore the version that is without those four words should be preferred.” A characterization of four problematic words in a specific talmudic passage has been transformed by Fishman into a general assessment by Rabbenu Gershom’s of the state of the talmudic text in his time, which of course fits in with the overall argument of that chapter. (It is difficult to grasp how Professor Fishman could have erred here, as Ta-Shma cites this passage as an example of the textual emendations that are found in Rabbenu Gershom’s commentary.27) Her citation of Nahmanides (n. 92) is no less mistaken, as I detail in the footnote,28 and the notion (which it allegedly documents) of “archival undertakings” has no

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27 See Photostat #13.

28 The citation from Nahmanides is found in the small poem that he wrote as introduction to his famed *Treatise on Direct Causation* (*Kuntres Garmi*). Where the line should be drawn between direct causation (for which one is liable) and indirect (for which one is not liable) is a question that has baffled jurists for centuries. The famous philosopher of law Herbert Hart teamed up in 1959 with Tony Honoré, one of the leading authorities on Roman law in the English-speaking world, to tackle the problem once again in their *Causation in Law*. The work was warmly received and has been often reprinted, but no one currently views the problem as having been solved. As good dialecticians, the Tosafists gathered all the cases of *gerama* (indirect causation) and *garmi* (direct causation) and sought to divine some controlling principle for the distinction. They offered a number of answers; however, the great R. Isaac of Dampierre, Ri, in whose school most of the Tosafot took shape, threw up his hands in perplexity and said that he could see no clear distinction between the cases called “direct” causes in the Talmud and those called “indirect” ones. His pupil, Rizba (R. Yizhak ben Avraham), turned his master’s perplexity into a solution. There is no distinction, he contended, between direct and indirect causation; liability is purely a matter of public policy and turns on frequency. All indirect damages that are frequent are ruled liable—so as to prevent their occurrence; the infrequent ones are held not liable.

Nahmanides was dissatisfied with this doctrine and decided to try his hand at formulating a differentiating principle. Ever modest, he prefaced in it with a short, rhymed “introduction”, where he writes that the ones who first broached the problem and gathered the contradictory statements of the Talmud on this subject were the French Tosafists; they also were the ones who forged the dialectic method which he and all others were using to discern new principles embedded in the contradictions discovered. It reads thus (Photostat #14):
support in any source known to me. If one adds that the next and last paragraph of that page argues that the Tosafists convincingly mimicked the Talmud’s language and style, when in reality, as I showed in the review, the Tosafists and the Talmud employ two distinct languages with differing syntaxes, one sees that the entire page is without foundation.\textsuperscript{29} To be sure, not all pages in the book are quite as imaginative as this one, but the reader can get a sense why I view the \textit{Becoming the People of the Talmud} as having little empirical basis.

4. Professor Fishman faults me for concentrating on the Tosafists. I had to review a book in a brief compass. I thought it proper to characterize her general familiarity with the subject she was writing about and instantiate it by discussing a central chapter. The title of the book was \textit{Becoming the People of the Talmud} which culminated in the twelfth and thirteenth century, so I concentrated on those two centuries, which is the era of the Tosafists. Professor Fishman protests that the chapter also treats the topics other than the Tosafists and even another century, the eleventh. Indeed, it does; but her portrayal of those other topics and of the eleventh century is, on the whole, cut of the same cloth as her portrait of the Tosafists. The alchemy performed on the remarks of Rabbenu Gershom is one example; her misunderstanding of what Rashi meant by writing “our generations” is but another. The same is true of her treatment of the Geonim, a chapter she also faults me for not addressing. The invocation of Lifshitz about the authority of Geonic responsa was the reverse of what he actually said, as I noted in my review. If one combines this misstatement with her above “proofs” from Danzig and Brody, one gets a sense of the caliber of her discussion of this period.

5. As for her treatment of Rabbenu Hananel of Kairouan, which I was equally criticized for not reckoning with, the main reason was, as I have said, the space restrictions of the

\textsuperscript{29} See Photostat #15.
Review. I would simply note here that Rabbenu Hananel is a talmudic commentator and, without studying Talmud, one cannot have any insight into his commentary.

6. The concluding chapter “Rhineland Pietism and the Textualization of Rabbinic Culture in Medieval Northern Europe” is based, in part, on non-rabbinic sources, and has, indeed, some very interesting points to make. However, as its title makes clear, it is the capstone of Professor Fishman’s overall argument. If, as evidenced here and in my review, the textualization of rabbinic culture occurred centuries before in Babylonia, there is little for that chapter to cap.30

7. Finally, Professor implies that the reason for my critical essay may be in part because her book takes issue with some writings of mine. Anyone who has been publishing, as I have, for some forty-five years has garnered his fair share of critics and dissenters. I would put the number of scholars who have, in Professor Fishman’s phrase, “locked horns” with me at a dozen or so; however, I have never written criticisms of any of their books.

Appendix

Traditionally, one is introduced to Tosafot at an early age. Jewish educators through the ages protested at this and contended that a longer exposure to the Pentateuch (Humash) or to

30 In her letter to the Jewish Review of Books, Professor Fishman writes: “Similarly unsupportable is his [Soloveitchik’s] claim that the thousands of responsa written by Geonim ‘attest to the normative standing of the Talmud by the beginning of the ninth century, if not somewhat earlier.’ The impressive number of responsa attests to a quest for guidance, but they tell us precious little about the ways in which the geonim used the Talmud, or about the reception accorded the responsa by their recipients.” The inquiries, indeed, tell us nothing “about the way the Geonim used the Talmud.” The thousands of replies of the geonim most certainly do, and what they attest to contradicts the central argument of her book. Professor Fishman is, indeed, correct that we know nothing of the reception accorded to the response by their recipients in geonic times. The same ignorance, however, obtains with regard to the reception of the responsa of the post-geonic era--of the past thousand years. The consensus among historians is that tens of thousands of individuals would not have taken the considerable trouble and suffered long delays to request halakhic guidance from distant centers unless most of them intended to follow it. Until evidence is adduced to the contrary, what seems reasonable to assume about the reception of the responsa throughout the second millennium of the Common Era would seem an equally reasonable assumption about their reception in the closing centuries of the first.
the Mishnah would be a far better use of a nine- or ten-year-old’s time. There was, however, a method to the tradition’s madness. To understand it, one has to understand the difference between a rhetorical mode of presentation and a glossatorial one.

An essay is a good example of a rhetorical presentation. It opens with an introductory paragraph or two, then presents the writer’s argument step by step. It finishes with a paragraph summing up the major points of the argument together with its results, preferably with a memorable sentence or two so as to imprint the conclusions on the mind of the reader. The presentation is self-contained and, properly done, constitutes both a logical and aesthetic whole. Judicial decisions are such rhetorical presentations; and decisions of a divided court represent conflicting essays, each presenting in full and in the round the view of the author. This mode of presentation was developed by the speakers in classical Greece, employed by both orators and writers in Rome. It was revived in the Renaissance and has become the accepted mode of presentation to this day.

In the Middle Ages, a glossatorial mode of presentation also obtained both among Jews and Christians, and the Tosafot are a classical example of this. One has a central text (the Talmud) which is being explicated by the classic commentator, Rashi, with whom the Tosafists are not in agreement. There are, shall we say, eight steps in the talmudic argument. Tosafot will criticize Rashi’s interpretation of steps three and seven. Rarely will Tosafot spell out for the reader what the conclusion is of these disagreements. It is expected that the reader will on his own combine steps one, two, four, five, six, and eight of Rashi’s interpretation with steps three and seven of the Tosafists and arrive at their legal holding. Tosafot often offers alternative solutions (ve-od yesh lomar). The second proffered solution will accept Rashi’s understanding of steps one, two, five, and six, as well as the interpretation of first solution of steps three and seven, but have its own interpretation of steps four and eight. It too will not spell out the conclusion. The same will be true of the third solution, if one is offered. One then turns to Rashba or Ritva, great medieval Spanish commentators and staples of yeshivah study, each of whom has his own mix of the various steps of the argument. In each case, the reader is expected to run swiftly through the sequence of the talmudic argument on his own and arrive at the holdings of the different writers.

In a rhetorical tradition, you know exactly what the different conclusions are. What students have to be trained is in seeing what the points of difference in the reasoning are. Whence the incessant question in first year law “Wherein do the three justices differ?” In a glossatorial tradition, you know exactly what the points of difference are, but you generally don’t know the holding. Whence the incessant question in early training in Talmud, “What is the shittah (opinion, holding) of Tosafot?” “What is the shittah of Rashba?” Any serious class
(she’ur) in Talmud assumes the mastery of this technique. The teacher (rosh yeshivah) can remark *en passant* “Not to speak of Nahmanides [another classic commentator], who interprets step four in the talmudic discussion altogether differently, as referring to ‘such and such,’” and takes for granted that the students understand immediately the implications that this difference has for Nahmanides’ holding.

Thinking ‘glossatorially’ means acquiring the skill of seeing swiftly and precisely how the conclusion of an argument is altered by a change in any link in a chain of argument. It is a skill which has to be so deeply engrained that it becomes a constituent part of one’s thinking. The swifter one knows the author’s holding, the sooner one can begin evaluating its merits; the swifter one has mastered the technique required to play a sonata, the more time and energy is left to address its interpretation. Like any technique which must become reflexive and performed automatically, whether of piano, ballet, chess, or Talmud, it best if it instilled when the mind and body are most pliable, namely, in early youth. A late beginner can achieve mastery of the glossatorial mode of thinking only by exceptional efforts.
PHOTOSTATS
פרק שני

#1 Frankel

שנтяזת על רשיי מובח אלו ולקראת "הרודריך" והמסתת לבנות. אולם בשתייה היא עצמה כצלות ראה את הפרשים בත nokדית López קשת ש Ive שיבר בעשים, יכונן ח(infile הלועזיים התערובת ואמץ התעב

ברבורי אל בשך. לאל לבך ותקיפה גם לשון התוכופים התלמוד (פרידרים

d ח"ש), נמעת על שלג חות רישי על הפרשים התלמוד.
ספרות הנ個人資訊 וה kısıפסים התллерדנס

יריסיאל ברודי

אף "גרססה הגרוזסי" וא "גרססה הגרוזסי"? זה לא餮ת, של流れות, או נשלטים בקירות פשושות: מהד קין גוזה

החללים של הסה פליפ גוזסיים, בינתי ניסים להחללים אם אתה מובר רל מקורד

אחות, מאריה ויתר – באירדגי פיסים, קצףغني, שלמרות הביפיר

הארטימס? גלים גוזסי והפיס,h ספג והגה ספג

עומת, עליה ולולב בקצףות את מזרחית והפיבחרה, הקישו נכילו למעשה

מכבר "נסים התллерדנס של פליפ גוזסיים". הוא נישט הצלח שלט

במפורים מהקוק, אליין פידיקיסי – אצט משותBirth הקיקו, שדות קק

אשת להחליל

אליו, לא הוא לוגני בבל תוקס איה על שלехалם. לא קוש להlogue

[237]
יזהר ואתם רואים מים מפגעים. כך שנו הפוך בינכם, והם גורמים למתניעים במקום. ה澳大ה קדום, ומצה שלום עם רוחם של התערבות. }

אנא שורטס ברוח ולהדר, או מים חמים טבעיים. }

א绐י את הוא, והמים מתחמים כמו חרב, או מים חמים טבעיים. }

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א绐י את הוא, והמים מתחמים כמו חרב, או מים חמיםطبيعי.
המאמר thờך, ראה נוגית, יואל ובריה

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10. אוחיות, שלום, מ"ע, כ-11.
11. בולבל, מגרוב, צ"א, מרחב, שער, עיתונות, הלשון העברית.
12. כותב, מ"ע, מ"ע, יואל ובריה, המשותף, היה, הלשון העברית, פעמים כ-14.
14. כותב, מ"ע, מ"ע, יואל ובריה, המשותף, הלשון העברית, פעמים כ-16.
נתונים ונתונים
מלוחמים על פה הלהמורי בכותב
על דרכו מסירות הלהמורי הבכורהоляדרו כים הבניים

A. הקדמה

ובזכוכו, והushmanם הבכורותגלגול עגמי, מזון פיתוח וה MUTED וראית
והญาהתו.ת עבורה, והושחמון הלהמורי נלוגר כותבים Moos של העתקים


A. הPräs.

.200 BCE-400 CE, Oxford University Press 2001

.יד כארוב, י. Requirements (הולנדית: "מלים: ניו 695–697; נצ抜け.
111 (1988), pp. 51–71; M. S. Jaffa, Torah in the Mouth: Writing and Oral Tradition

A. הPräs.

.200 BCE-400 CE, Oxford University Press 2001

.יד כארוב, י. Requirements (הולנדית: "מלים: ניו 695–697; נצ抜け.
לא ניתן לקרוא את התוכן המוצג בדף זה.
הנה התובעה ותת הסכינן

ונעばかり את;br"כ את מחוז הנעלת וחבר הירד השמיע את השם הים השופך וספגה לונין ו. על
השבחיו נוספים 퍼היצים ומחוקים שאלים של התדה מירב השומע שיאזיד אל הברוחлан ויבוא כל פה
שאנן אשתו_frontים ונעלת מבנה cada ומפלות ובחオリジナル השושן יד שונא.

שתו: הק"ג

ה; (בר Nicholson שולף פריד).
a priori, as a guide to applied law,\textsuperscript{138} and if they were heirs to the "Sefardi" recension of Sherira's Epistle, according to which Rabbi Judah the Patriarch had committed the Mishnah to writing, then they may have thought that the Talmud and Mishnah, like the Torah itself, were authoritative guides to applied legal practice. Other texts of oral matters, which had not been inscribed with the same purposeful intention—whether midrashim, the geonic era Masekhet Sofrim, or post-talmudic writings like Halakhot Gedolot—might have been conceived as mere megilot sefarim, that is, as "phantom texts," works that did not possess comparable authority. (The fact that a later Provençal scholar, R. Menahem HaMeiri [1249–1316], claimed that post-talmudic halakhic writings were never intended for circulation, and were not to be treated as prescriptively authoritative,\textsuperscript{139} may offer a sliver of support for this speculation.)

By contrast, Rabbanu Tam, a resident of northern France who was not privy to the Sefardi tradition declaring "our Talmud" a work explicitly inscribed as a guide to applied law, could not as easily discount the importance of other sources of Jewish tradition.\textsuperscript{140} Though he, too, regarded Talmud as the consummate source of Jewish law, Rabbanu Tam may have shared the geonic assumption that legal traditions preserved in the Talmud could not be vetted as halakhah le-ma'aseh, applied law, unless there was corroboration that they had been implemented in practice.\textsuperscript{141} Whereas the geonim (like the tannaim before them) expected living masters to supply this corroboration, Rabbanu Tam sought the evidence of lived Jewish practice not in human embodiments of tradition but in older texts, like midrashim and the written legacies of earlier scholars. In his view, these sources, which he referred to as "old books," offered insight into what had actually been practiced by earlier Jews, who, after all, knew Talmud. According to Rabbanu Tam, it was this documentary trove that supplied the needed corroborating testimony, and that vetted a given received legal tradition (halakhah) as one that was to be implemented in practice (halakhah le-ma'aseh).\textsuperscript{142} Because he regarded extra-talmudic writings such as midrashim, works of the geonic period, texts written earlier in Ashkenaz, Sefer Yosippon, and even the apocryphal book of Judith as necessary complements to Talmud,\textsuperscript{143} Rabbanu Tam insisted that they play a role in the adjudicatory process:

Whoever is not proficient in the Seder Rav 'Amram and in Halakhot Gedolot and in Masekhet Sofrim and in Pirqe de-Rabi Eliezer, and in Rabbah and in Yelammedenu,\textsuperscript{144} and in the other books of aggadah,
must not destroy the words of the Early Ones and their customs... And many of the customs that we possess follow them.  

Indeed, for Rabbenu Tam, these writings were far more trustworthy than any verbal claims: “Anyone adducing a support requires seeing [a text] and not [simply] hearing [a teaching], for some offer the defense that such and such a great man said this, and that so-and-so recited it. And often, this is not found [in writing].” According to Rabbenu Tam, the Talmud itself affirmed the necessity of consulting extra-talmudic Jewish tradition, for both the anonymous redactors of this corpus and their successors in the geonic yeshivot regarded communal practice—and not the Babylonian Talmud—as the touchstone of applied law:

For we have seen that the sages of Talmud chose for themselves the Talmud of Jerusalem, as we say [BT BM 85a], “R. Zera undertook 100 fasts to forget the Babylonian Talmud.” . . . And again we say [BT BB 15b], “the atmosphere of Ereẓ Yisrael makes one wiser.” And our minhag [custom] is Torah. And our minhag in Babylonia accords with the Sages in the Land of Israel, who are the prime [authorities] in applied legal instruction. And for this reason, we must rely on our geonim and on our masters the savoraim.

Notwithstanding its collation of anti-Babylonian tepo, it would be a mistake to read this passage as an expression of (putative) northern European Palestino-centrism. Both “Babylonia” and “the Land of Israel” function here as synecdoches; the former refers to theoretical or academic learning devoid of practical application, and the latter refers only to practical legal decisions. In this passionate outburst, Rabbenu Tam affirms that northern European Jews, like their Babylonian role models, hold living instruction about applied law in higher esteem than any theoretical or academic statement in the Talmud. If savoraim and geonim, Jewish scholars who were knowledgeable in the Babylonian Talmud, deferred to a different source as one that imparted information about actual practice (in which Jews of ancient Palestine were expert), claimed Rabbenu Tam, then anyone (like R. Meshulam) who would rely more heavily on talmudic teachings than on those preserved in “old books,” repositories of lived practice, was actually flouting the Talmud! In Rabbenu Tam’s formulation, the appreciation that northern
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גוני שעכברים

אמר רבד: ויסק בר מיניים מק, רב ונחמן ריהט שיקוקה הדוד.
שתחמתו סדה, אמר רבא והיה מביך בברכה ומא, לו.
אבל עוד לא באתי, ועשב ראית ואלא רביך, ואין להם שופר חלומא.
אמר מייקא: אמר רבא, אמר חכמים במגילה, על רב בר נבון עמא
יאוש המלך שניה יבש ו-opacity, וסימון בעל ומקמה חכמים
לא לבלולו איה וואלבול. ויארמל לשבכה מנה גבעה בריאה
מקס התושב לגן ושל קכאדוה ויכ🤔 תשקובה את יהו. 10
אמר גון מיכה עילויה והופה שלבר. ובכשרא על וברב
אמרו אמר, אמר חכם שלשלו מחמתם פייה / בריאה ואני כירד
ברון דניק איה על גבעה עם חיזי / ושי התוכ פסלו
גו נר מיתר, רב חכם הלוך והו כנף איה סמח.
10 giorni אמ, מר ו GridView ואל שיאללב
אחות בר אפרת, הכל אלה בר שיש לא רָאִי
וכן התלמוד והמדת הכלל למשעה, מוב רבד.
ל交流合作ים המונים עד שזוшла עד הד', ולא ימסור ייעשה מעשה
וג'אמר: "א', אפי' ל', ויהיהכי אם גוזר ל' הלבגוably מעשה
ואפי' ל', לא ימסור ייעשה מעשה, עביד מעשה עביד מעשה
לא מעבריו עביד מעשה ויהי', ויהי'.

וביא' שיא' אמר: "א', אם ימסור ייעשה מעשה, עביד מעשה עביד מעשה.
ול交流合作ים המונים עד שזוшла עד הד', ולא ימסור ייעשה מעשה.

וכל交流合作ים המונים עד שזוшла עד הד', ולא ימסור ייעשה מעשה.
ככ שוהי בכם, וזאת מבטיחות טובות, אם יمكافאכם יצאה נשימה Ferry הוצאת דרכו, והם Clamp שלח על כל המתמטיקה שלח, מכנסים חלון המחיצות, בחקירות אחרים, זה הם מעמדה, רואים עמלים,뇴 ר鮮ת. עמלים,_ftבשדERIC YELL, שטעים על נ ontvangst בברטנאות, שלוקים של אפיון בו, רוח ואחיות, הפעם-only על ההdeclspecים. מעמד, דרך ש ksi מה vbCrLfים, גוברים על בעיות ה大全, בהודעה זו...

המשקדר מצורף יא, והמנוחות משמשיםfuck את הקדמאות שלם, וazure את המ号线ית

ליצוד המסר בטלו, וערוך בזון מוצאם乐意, פאש על זה וניבוד מיתון בלע

fullName חמש אימונות מחולקל המאה יrho, ומסיים על ריבוי רביי באפומ, שהתחדש

הترنتות ינו (ביקי זאוז). בקנט רמאיו למושך את כך,رفع פיתוחים, ומעノー

ה않ה ינואר (רקון זאוז). السوريים万吨ו ינואר, וכסלחתו הרündig צבע

שמכרו מרהיב ביריעה שני זוראהattice, לא ממענה בדים של טריזים

כמוKRי מים ינואר החול, הפרדכ מתמטית, שכר צעדה של להתו

שגרילה томמחרת של שחיב, במיס, ובון, ראו שישים וערדפים חזירה, מהגר

כיים ימי מצורף בלע, עם שני זנודים, החול וה焞, חלוד מצורף בלע, כאן

לא כתוב את המוסיף, ולأنشא את המ었, וה<Appover לchers, השיא מש שמות

באמצעות תלתניקר, שלה תמונות האספה,CxPhoenix דיאגון, ואמורה כולם.

ברקע, על פי מערכות מעמדות, תוכאים עון הקובער שｵופנ"ן.

ישאם המסר התתנית לולא, שנחל בים פעישה במיתון הכנ由於י

התמונות..SelectSingleNode דע שלם, התמתיק, ושהelah תקפוצו בידים והן

ברקע, או שלא היה מבצע כל (פעוט לקפקוק המעמד של המעמדות, וה)

שלב אחר והתו ביד,ขาว יפרוש מגנט, למכתבת מעשה, צור, זה,

נ coerce מצורף התתנית לשון רשלן, ביאו, חלוד: ממיתון

עם מספר, כדי והד. רוחיכם כמבעי מגריצים, בגיבלה עם, בציבור

 Mascuch, אלא שלא בנה החוצה לייד להלך, ושלמשו, ב, או,

פעור שנ بالإטריםJPEG ש realise, עיבר על🌟อง ניוקס, ומפרידים — ומפה

נוף לביקורי שופר את המקרה, על כל היצירות ומכתבת, שられない

לא יתבשלו הקורות במיתון מבוגר: ברכות, ומברך, בב, כופרים, ומברך

 Utils, הקורות, ב, שנה, מברך, ומברך עבורה, וה.顏寫ックス משער

למכתבת אתל, אשר חיו ויודע דרים, בין ההדידים, ż, שניאור של

おかげ, דגון המ픈 המיתון, על שלפם התליון, כשה, וה. מברך.
cplusplus שמוסיאו

ר"פ אֶרֶן הַרֵּדֶנִי

gesprich בְּפִי עֲנָיָתָן: רַוְשׁוּ לֶאָד

אֵוֵי לְבַרְגָּה אֵלֶּה פָּתַא: יִיצְאַוְיָא אֶלָּב שִׁימַיָא. וַאֲנָה

בְּלַא בְּלַא הָלוֹא שָׁמַעְתִּי אֶלָּב שִׁימַיָא וַאֲנָה

חֲבִלְּתִי דִּרְשָׁנִי. שְׁלֹא נָתַתִּי אֶלָּב שִׁימַיָא אָטִיק וּרְמָשׁ

כְּלֹא מַאֲסַגְּתֵנִי אֶלָּב שִׁימַיָא, אַלָּב שִׁימַיָא אֶלָּב שִׁמַיָא

יִשְׁלָמֵנִי אֶלָּב שִׁימַיָא, אַלָּב שִׁימַיָא אַלָּב שִׁמַיָא

שְׁלֹא נָתַתִּי אֶלָּב שִׁימַיָא אַלָּב שִׁימַיָא, אַלָּב שִׁימַיָא.

כְּלֹא מַאֲסַגְּתֵנִי אַלָּב שִׁימַיָא, אַלָּב שִׁימַיָא, אַלָּב שִׁמַיָא

לְבַרְגָּה אֵלֶּה פָּתַא: יִיצְאַוְיָא אֶלָּב שִׁימַיָא, אַלָּב שִׁמַיָא.
The Tosafists' Comments on the Talmud

Though Rashi's commentary on the Talmud had the effect of "authorizing" this specific version of the text, Rabbi's grandsons and their disciples, the talmudic glossators active in France and Germany in the twelfth and thirteenth centuries, felt that the most correct formulation of the talmudic text had yet to be identified. Following in the path initiated by Rashi, these tñosafists, so-called because of the Tosafot or "additions" that they composed, propelled the process of textual rectification into higher gear by scrutinizing variant formulations of talmudic passages that were embedded in a broader array of old compositions. Linking the novel insights of the Tosafists to their archival undertakings, the thirteenth-century Catalan scholar Nahmanides, observed: "The Tosafists were able to reveal that which was hidden because they were master collectors." It has been suggested that the Tosafists undertook their unique project when they did because the older compositions they consulted had just become available in northern Europe, but (as discussed above) this claim relies on an unproven assumption. We cannot be sure whether the eleventh-century Qaraonian Talmud commentary by Rabbenu Hananel was cited in early twelfth-century France because Jews in this area now had access to it, or because they were now more keenly interested in textual evidence from the past. Either way, both the ability of the Tosafists to improve on the accuracy of the Talmud's formulation and their drive to do so distinguish their assumptions about Talmud and its uses from those held by their rabbinic predecessors. Tosafist concerns and activities contrast dramatically with those of the transmitters of Oral Torah portrayed in Sherira's Epistle, who had focused on relaying the meaning of tradition, but not on specific wording—and even with Rabbenu Gershom, who observed, at the turn of the millennium, that the talmudic text before him was not precise ("lav davka kol kakh"). The Tosafists' quest for older compositions that could bear witness to talmudic phraseology, and their comparison of lexical variants speak volumes about their assumption that there was a correct formulation to be recovered, and that this iteration (and not merely the ideas it expressed) was of crucial importance.

The Tosafist's mimicry of the Talmud's language and style was so convincing that later scholars portrayed them as amoraim redivivus. Their fluency in this regard points to the importance of memorization in the Tosafist classrooms and to their "total immersion" in the talmudic oeuvre. The comfortable adoption of talmudic phraseology that was evident in Shmuel Ha-