

BOOK REVIEWS

Rabbenu Ephraim: Perushim Pesakim Uteshubot (Commentaries, Legal Decisions, and Responsa), by ISRAEL SCHEPANSKY (Jerusalem: Mossad Harav Kook, 1976).

Reviewed by
Norman M. Bronznick

The field of talmudic studies has been inundated in recent years by an increasing flow of publications of *Rishonim* that have been preserved solely in manuscript. While the greater part of the literary production of the *Rishonim* has come down to us, a significant portion thereof was lost in the course of time. We are, however, aware of their existence from references to them and citations from them in the works of their contemporaries or in those of subsequent generations. The writings of Rabbenu Ephraim, a younger contemporary of the Rif (Rabbi Yitzchak Alfasi), shared such a fate.

While the serious talmudic scholar of today is aware of the importance of Rabbenu Ephraim—especially because of his widely quoted view that, with the introduction of the astronomically calculated calendar, the Jews of *Eretz Yisrael* are not required to observe *Rosh Hashanah* for 2 days—pitifully little is known of the vast scope of his teachings. Painstakingly locating and carefully identifying all extant references and citations and all available talmudically

related manuscripts of that era, Israel Schepansky, a highly regarded scholar, eminently known in both talmudic literature and Judaic thought, produced a definitive collection of all that has been preserved of Rabbenu Ephraim in the works of close to 200 authors, including 18 in manuscript. All told, Schepansky succeeded in recovering 157 excerpts plus an additional 27 likely ones and 47 passages from his commentary on *Mishnah Avot*. These citations are systematically arranged and provided with elucidatory annotations, supplemented by analytically incisive discussions of some of the salient views of Rabbenu Ephraim.

If the author had done no more, it would have constituted a major contribution to talmudic scholarship. What makes his book especially valuable is its masterly 10-chapter introduction where all the historical and literary problems relating to the life and work of Rabbenu Ephraim are critically and exhaustively examined. In this section of the book, Schepansky makes a substantial con-

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tribution to the study of Judaic development and talmudic history in eleventh-century North Africa and Spain. In the first chapter he presents an exhaustive study of the Maghrebian (North-African) Jewish centers and their outstanding scholars prior to their liquidation by the hordes of the Almohade Islamic zealots in mid-twelfth century. In the subsequent two chapters the author describes the community of Kalat el Hammad, the Algerian town where R. Isaac Alfasi and Rabbenu Ephraim lived and worked, proving in the process that Alfasi, contrary to the prevalent belief among talmudists and historians, never headed an academy in Fez or even lived there. Sifting all the available evidence, he comes, in Chapter IV, to the startling conclusion that, despite the commonly held view that Rabbenu Ephraim was a disciple of the Rif, he was instead his colleague and collaborator or, at best, a *talmid-haver* (disciple-colleague) of his.

The greater part of his introduction is devoted to the clarification of the literary nature of Rabbenu Ephraim's works. Following an exacting examination of all the primary and secondary sources, Schepansky draws with a fair degree of certainty the parameters of Rabbenu Ephraim's writings. He concludes, for example, that Rabbenu Ephraim's annotations on the *hilkot ha-Rif* (Alfasi's compendium of talmudic law) did not primarily consist of strictures but contained many amplifications and supplements as well. Schepansky proves that surprisingly, some of those annotations were subsequently incorporated into the text of the *hilkhot ha-Rif*, either by the Rif himself, in his revised edition, or by later copyists.

Despite the fragmentary nature of the extant material, Schepansky skillfully constructs, in Chapter X, an integrated profile of Rabbenu Ephraim, showing him to have been not only a great *halakhic* authority, but also a Hebraist and moralist. As a *halakhic* authority, he was an independent *Posek* who did not

hesitate to employ judicial reasoning in arriving at an *halakhic* ruling. There is a widely-known talmudic dictum that on *Purim*, a Jew must reach a state of inebriation in which he will become so stupefied as to be unable to tell the difference between "cursed be Haman" and "blessed be Mordechai" (*Megillah* 7b). However, basing himself on the story subsequently reported in the Talmud that as a result of such a level of intoxication Rabba slit R. Zera's throat, Rabbenu Ephraim concludes that the above dictum is not to be taken literally. This conclusion he reinforces with an impassioned exhortation against excessive levity. Schepansky proves that this decision of Rabbenu Ephraim (and a number of others) was adopted by Maimonides even against the views of Alfasi, whom he considered his "teacher."

Every nook and cranny in the literary world of Rabbenu Ephraim is brilliantly illuminated by Schepansky's vast scholarship, couched in vivid and lucid Hebrew. Hardly anything of importance escaped his searching and thorough inquiry, and there is little left for me to add with the exception of one comment.

Rabbenu Ephraim's ruling that a *Sheliach tzibbur* (cantor) is forbidden to recite the *amidah* prayer from a written text, which is left unexplained, is rather enigmatic and requires an explanatory footnote. The reason for this ruling is based on the prohibition of reciting the oral law from a written text (*Gittin* 60b), which also applies to the liturgical benedictions (*Shabbat* 116b.). Rabbenu Ephraim, however, construes this prohibition to apply only to recitation in public for public consumption. This view is apparently accepted by Maimonides in his introduction to his *Mishneh Torah*, where he states: "Since the days of Moshe to Rabbenu ha-Kadosh no treatise in the oral law was composed to be taught in public. . . ." It is worth adding that this interpretation also applies to the companion prohibition of reciting by heart words from the written law which, accor-

ding to Tosafot (Temurah 14), refers to their being recited for the sake of helping the listener fulfill his obligation to recite them.

To conclude, Schepansky's *Rabbenu Ephraim* represents a first-rate contribution to the field of historico-Talmudic scholarship that is of equal importance to the serious student of traditional talmudic learning.

It should be added here, parenthetically, that Schepansky's contributions in the field of talmudic law and Judaic thinking are vast and multifaceted. His encyclopedic work, *Israel in the Responsa Literature*, in three volumes, the last of

which appeared in Jerusalem early this year, and his many indispensable articles on Jewish self-government (*Takanot*), have earned him a reputation as a serious, accomplished scholar in the academic as well as in rabbinic worlds. These works appear on the required reading lists of the universities in Israel for students in the fields of *Eretz Yisrael*, *Responsa Literature*, and *Takanot*. A bibliographic volume, for example, on Hebrew law, *Ohzar ha-Mishpat (A Treasure of Law)*, by Dr. Nachum Rakover of the Israeli Ministry of Justice, shows Schepansky to have one of the greatest numbers of entries.

Rabbi—The American Experience, by MURRAY POLNER (New York: Holt, Rinehart & Winston, 1977).

Reviewed by
Yacov Lipschutz

The promise of reading a discussion that delves deeply into the nature of the American rabbinate is enough to tempt the conscientious reader to part with the purchase price of Murray Polner's book. However, as one begins to peruse the chapters the reader becomes aware that the author has failed to provide an objective review of the position of the American rabbinate.

The entire first third of the volume is dedicated to detailing the origins and formation of the Conservative and Reform movements and their seminaries. Obscure institutions such as the Hebrew Union College of the West Coast and interviews with some of its students are reviewed and described. It is not until the fifth chapter that the Orthodox movement and its rabbinate appear. His limited research and knowledge on the subject, however, are quickly revealed.

Although Mr. Polner states that the "large Orthodox rabbinate rarely

undergoes public scrutiny and self-criticism"—as if to promise that here, for the first time, public scrutiny and an in-depth study is about to take place—he, too, fails to deliver more than a bare outline of the Orthodox rabbi's personality and role. Mr. Polner is obviously a victim of the same prejudices of the authors he chastises who failed to make proper note of the true nature of Jewish life and its institutions under the guidance of the Orthodox rabbinate.

The great *yeshivot* and historic rabbinic institutions, such as Yeshiva University and Torah Vodaath, receive only passing mention. Mr. Polner limits his in-depth survey to several conversations with Agudat Israel, to whom he refers to constantly as the "Agudat organization." It is obvious that the author's view of the Orthodox Jewish community has been left to a few snide remarks by the philosopher Milton Himmelfarb, who stated: "After all, who went to America? It was not the elite of learning, piety or money, but the *shneiders* (tailors), the *shusters*

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(shoemakers) and the *ferd-ganovim* (horse-thieves).”

Could one conceive of authoring a volume describing the Orthodox Jewish community and its rabbis and yet fail to mention the Young Israel movement, National Conference of Synagogue Youth, and the Mizrahi movements and their respective leaders. Although Orthodox Jewish communities are on the rise from coast to coast, Mr. Polner fails to even describe the largest congregations in New York City. He notes one of the most unique Orthodox communities, the German-Jewish community of Washington Heights, in one sentence.

No volume describing Orthodox rabbinic leadership should fail to discuss the role of the Hasidic rabbeyim both in New York City and elsewhere. Here, too, the author falls victim to his habit of selecting chosen paragraphs from the press wherein he highlights the Satmar opposition to Lubavitch. This is the extent of the “Hasidic survey.”

Typical of the prejudiced attitude is the description of the *Bet Din* office of the Rabbinical Council of America on the “ninth floor of a shabby building.” As many who have preceded him in the past, the author has attempted to create the classic Yiddish image that an Orthodox edifice is always in a broken-down, semi-abandoned state.

The spicy comments of Rabbi Moshe Bick of Brooklyn that appeared in the press regarding the rise in divorce rates among Yeshiva and Hasidic couples did not escape the author’s pen, and the excerpts are presented. Even though a per-

sonal interview with Rabbi Bick and a discussion of his role as an Orthodox rabbinic leader in Brooklyn would have certainly provided an insight to the position of rabbi in that area, it is missing.

The section on the Orthodox community is typical of the shrill clichés of the non-Orthodox world, and numerous quotes from Charles Liebman and Gilbert Rosenthal dot the paragraphs. As so many others in the past, the author refuses to recognize the vibrant brilliance of the Orthodox rabbi.

Vital factors essential to the role of a rabbi are missing from this volume. Mr. Polner fails to portray the role of a rabbi’s wife, “the *rebbetzin*,” who is often the key in his personal contacts with the congregation and community. Statistics such as the rabbi’s living condition, salary, size of family, and success of children are not presented. Unfortunately, such matters are reduced to irrelevant and untrue clichés such as “rabbis have a high divorce rate” and “insurance companies refuse to insure clergy.” It is obvious that the author’s affinity for the superficial is not limited to the statistical area. His statement that “the trouble with Orthodoxy is that it is made up of non-Orthodox people” is a most painful prejudicial slur.

Rabbi—The American Experience has its merits. For a fleeting moment it allows us to see ourselves as others see us—and Mr. Polner exhibits the myopic view of those others. Perhaps in the days to come a more objective work will appear on the scene and produce a volume that will enable us to see ourselves as we truly are.

A Guide to Jewish Religious Practice, by ISAAC KLEIN (New York: JTS, 1979).

Reviewed by
Martin Lockshin

This is a book whose time has come.

Great numbers of American Jews who wish to live lives based on Torah principles will find Rabbi Klein’s work more relevant to the twentieth-century Jewish

condition and more readable than standard works such as the *Qitsur Shulhan 'Arukh* or the *Mishnah Berurah*. It is a shame that Rabbi Klein did not live to see the popularity and acclaim that this volume will undoubtedly receive.

Perhaps Rabbi Klein's greatest accomplishment is the way in which Jewish thought and halakhah were interwoven in this book. Halakhic literature tends all too often to be dry and tedious and accordingly of interest only to the most committed Jews. The lucid way in which halakhot were combined with theological and philosophical insights of diverse figures such as Abraham Kook, Abraham Heschel, Mordecai Kaplan, and Paul Tillich makes reading this book an unusual pleasure.

It is the rare *posek* who has such a mastery of all aspects of halakhah as to be able to write a code that encompasses all facets of Jewish religious life. It is therefore not surprising that certain factual errors can be found in this book. For example, when Rabbi Klein writes that if even one thread of a *tsitsit* is missing, the *talit* should not be used¹, he is certainly misinterpreting or, at best, overstating the halakhah.²

Certain other misleading statements can be best attributed to the sometimes inconsistent way in which Rabbi Klein picks and chooses among halakhot. We are told that the laws of *niddah* apply to a pregnant woman only during the first 3 months.³ Halakhah in fact states that a woman could, theoretically, become *niddah* at any time during her pregnancy.⁴ The only halakhic distinction that exists between the various stages of pregnancy is that during the first 3 months alone the couple must observe the rule of *'onah* and refrain from intercourse on the day of the expected menses. Once 3 months have passed without menstruation, the rule of *'onah* is no longer applied.⁵ Since Rabbi Klein decided, for whatever reason, to expurgate the rule of *'onah* from his code, consistency demands that he also refrain

from distinctions between the various stages of pregnancy.

The book is generally very well written and easy to understand. A few of the more technical chapters would have been more comprehensible if Rabbi Klein had included illustrations, as has been the custom in many recent halakhic handbooks. It is quite difficult to learn how to make *tsitsit*, how to build a *mikva*, or how to identify animal *treifot* simply by reading Rabbi Klein's descriptions. It is also rather doubtful whether a two-page description of the process of *shehita*⁶ is of any serious practical use.

The most interesting aspect of the book is that it represents a pioneering effort of codifying the halakhah of Conservative Judaism. As one who is not privy to the inner workings of the Rabbinical Assembly and its various committees, I found this book to be most enlightening. The candor with which Rabbi Klein presents the lack of consensus within the Rabbinical Assembly on issues such as the recognition of Reform conversions⁷ is most laudable. Rabbi Klein has succeeded in portraying a vibrant attempt by Conservative rabbis to come to terms with both halakhah and modernity. Happily this book often is less like a final, ossified code and more often Talmud-like in its recording of divergent views—a true exercise in *torah shebe'al peh*.

It has long been a tenet of Conservative Judaism that Orthodox halakhah is inappropriate today since it ignores the needs of catholic Israel and is relevant to perhaps only 1 million living Jews. It is therefore interesting to examine this code with an eye to the question of just how many twentieth-century Jews would find this code relevant. While I am not an expert in Jewish sociology, I find it hard to believe that there are more than 100 Jews living today who would refrain from carrying something in public on Shabbat⁸ but would feel justified in using electrical appliances on Shabbat.⁹ How many Jews who get married with Rabbi Klein's

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begrudging blessing on *erev Tisha B'av*¹⁰ will find his ruling that they must refrain from intercourse for 11 days after the wedding night¹¹ meaningful?

In general, it can be said that Rabbi Klein was somewhat out of touch with the realities of North American Jewish religious practice. He claims that the bride walking around the groom at a wedding ceremony is a "custom rarely seen today";¹² I have personally seen it at many Conservative and virtually all Orthodox weddings. *Kiddush levana* is also called "an all but forgotten ritual"¹³—forgotten by whom? It seems that according to Rabbi Klein not only does Orthodox Judaism not have *exclusive* rights to the title of catholic Israel, it has no rights to be even included in that select group.

Another basic explicit assumption of Conservative Judaism and of this book is that Conservative "*aharonim* are within the tradition of halakhic development and should be accorded the same consideration"¹⁴ as Orthodox authorities. It is accordingly instructive to see just what status Klein delegates to both Conservative and Orthodox *posekim* in this book. It is amazing to see the dozens of times that authorities such as Rabbis Felder and Feinstein (both Orthodox) are cited as sole authority on many modern problems of halakhah. Conservative authorities seem to be cited only when their opinions are more lenient than Orthodox practice. Does the Rabbinical Assembly perhaps feel that day-to-day dealing with modern halakhic problems can be left to the Orthodox? Do they perhaps see themselves not as equals within a tradition but as a policing body, a Jewish Supreme Court whose job is simply to override obscurantist Orthodox *pesakim*?

It is also uncertain whether Rabbi Klein was intellectually honest in his use of Orthodox sources as bases for his lenient rulings. His *heter* for the use of a microphone on Shabbat is based, in his

own words, on "Grunfeld, Maharshag, 2:118, in the opinion of the questioner."¹⁵ An entire Pandora's box of bizarre halakhic possibilities is opened if halakhah can be learned from the opinions that are expressed by questioners in halakhic responsa.

At first blush, one of the most impressive aspects of this book is the way in which Rabbi Klein studied and made use of contemporary scientific knowledge to understand difficult areas of halakhah. Works on secular law, astronomy, obstetrics, gynecology, and animal and human physiology were all consulted by the rabbi and are used liberally in the text. It is sad, however, that the book also falls short in this area.

It is astonishing to me that a responsible modern code of Jewish law, published in 1979, could recommend the pill as the best form of birth control.¹⁶ Was the rabbi unacquainted with the vast medical literature on the dangers of the pill?¹⁷ It is certainly ironic that while in the earliest Jewish sources birth control is condoned as a measure for the protection of the mother's health,¹⁸ Rabbi Klein suggests that the halakhic Jewish woman endanger her health by using the riskiest of all birth control methods.

At other points in the book Rabbi Klein seems to quote indiscriminately medical textbooks that have no relevance to his halakhic discussions. No fault can be found in his introductory definitions of the vagina, uterus, fallopian tubes, and ovaries (some might find fault with his gratuitous statement that "most women exhibit increased nervousness" when they menstruate),¹⁹ but only one of these terms appears in his discussion of the laws of *niddah*.

A particularly telling paragraph is his discussion of the relationship between lactation and menstruation.²⁰ The rabbi informs us that classical Jewish sources feel that the nursing mother does not menstruate and that certain (unidentified) later authorities feel that "this

law" (?) is inapplicable. Rabbi Klein ignored the perfect opportunity to make his readers aware of modern scientific studies that discuss the efficacy of breast-feeding as a contraceptive.²¹ He would thus have been able to promote the only method of birth control without halakhic objections. Instead, the rabbi finishes off his paragraph with an overly long, irrelevant quotation from an outdated medical

textbook²² that discusses the physiology of nursing without even mentioning its correlation to infertility, the issue that Rabbi Klein was ostensibly discussing.

It is sincerely hoped that future authors of codes of Jewish law, both Orthodox and Conservative, will learn from Rabbi Klein's effort—both from its valuable contributions and from its obvious shortcomings.

NOTES

1. P. 5, no. 14.
2. See *Shulhan 'Arukh*, 'Orah Hayyim 12:1.
3. P. 514.
4. See *Shulhan 'Arukh*, Yoreh De'ah 189:33.
5. Ibid 189:34.
6. P. 310-311.
7. P. 447. The blanket statement on that same page that Orthodox Judaism rejects all Conservative conversions is patently inaccurate.
8. P. 82.
9. P. 87.
10. P. 410.
11. P. 514.
12. P. 401.
13. P. 267.
14. P. xxv.
15. P. 92.
16. P. 415. It should perhaps be noted that the Hebrew word for pill is *gelulah*, not *gelilah*.
17. A good collection on this subject is *The Medical Hazards of the Birth Control Pill*, ed. H. Ratner (Oak Park, Ill.: Child and Family Reprint Booklet Series, 1969). One actually does not have to read medical journals to know of the dangers of the pill; reading the morning paper should suffice. For example, "It [the Pill] has been linked to cancer, blood clots, high blood pressure and gall bladder problems." (*The New York Times*, August 7, 1979).
18. TB, *Yevamot* 12b.
19. P. 513.
20. P. 515.
21. See S. Kipley, *Breast Feeding and Natural Child Spacing* (New York: Penguin, 1974).
22. B.A. Houssay, *Human Physiology* (New York: McGraw-Hill, 1955).

Taz: Rabbi David Halevi, by ELIJAH J. SCHOCHET (New York: Ktav, 1979).

Reviewed by
Emanuel Feldman

This is more a long essay than a book.

Although there are 79 numbered pages, these include 16 pages of footnotes (albeit excellent ones) and other obvious padding, so that there are in fact only 42

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pages of wide-margined text. While brevity itself is not by definition a negative, there are numerous areas of the life of the Taz that call for further elaboration and in-depth analysis. Asher Siev's definitive volume on R. Moses Isserles would have been a good model to follow.

Among the more salient points made by the author are his contrasts of the Taz and Shakh and their views of R. Yosef Karo's *Shulhan Arukh*; the Taz's love for *pilpul* as the essence of *halakhah*; his personal saintliness; tales of his miracle-working powers; and the fact that Hasidim have traditionally venerated him.

One might take issue with some of the author's translations and interpretations of original sources. For example, he writes that Gershon Ashkenazi (*the Avodat Hagershuni*) "sarcastically observes (that the Shakh) is followed by most rabbis who have no other books to

consult." Schochet wants to make the point here that the Gershuni is critical of the central role given to the Shulhan Arukh by the Shakh—but the fact is that the words "*asher ein byadeyhem sefarim l'ayen bahem*" reflect an economic and sociological fact; there were many rabbis who had to work without recourse to abundant source material. There are also some disconcerting stylistic deficiencies. Page 43 contains five consecutive sentences ending with exclamation points.

Despite these reservations, this book is a valuable addition to the scholarly library; it presents fascinating and insightful glimpses into the religious, economic, and social conditions of the seventeenth century. The author, who has already published a similar study of the Bach, should be encouraged to continue his enlightening research into the lives of our codifiers.

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