

AJS Review

<http://journals.cambridge.org/AJS>



Additional services for **AJS Review**:

Email alerts: [Click here](#)

Subscriptions: [Click here](#)

Commercial reprints: [Click here](#)

Terms of use : [Click here](#)



Downloaded from <http://journals.cambridge.org/AJS>. Published online by Cambridge University Press

Steven D. Fraade. *Legal Fictions: Studies of Law and Narrative in the Discursive Worlds of Ancient Jewish Sectarrians and Sages*. Leiden: Brill, 2011. 627 pp.

Ra'anan Boustan

AJS Review / Volume 38 / Issue 02 / November 2014, pp 458 - 460

DOI: 10.1017/S0364009414000415, Published online: 01 December 2014

Link to this article: http://journals.cambridge.org/abstract_S0364009414000415

How to cite this article:

Ra'anan Boustan (2014). AJS Review, 38, pp 458-460 doi:10.1017/S0364009414000415

Request Permissions : [Click here](#)

Book Reviews

the idea of the subaltern and references, via Cynthia Baker, to Homi Bhabha's idea of colonial mimicry.

A note on historiographical method: Lapin's approach is clearly strongly structuralist, but unlike many of our contemporaries in these perhaps overly theory-centric times, he also stresses, explicitly and otherwise, the contingency, if not quite the randomness, of history and the need to explain events as they happened in terms of particular facts and circumstances. This is an approach too rarely articulated and employed.

I disagree with Lapin on several small points—including his ideas that the Patriarch Judah Nesiah's appointment of R. Hiyya bar Abbah as his apostle has something to do with *minui* and that there is meaningful evidence of rabbinic hostility to Palmyra—and doubtless he disagrees with me on points other than these. But this is trivial, since Lapin's is a big book.

Rabbis as Romans should be read by everyone interested in the rabbinic movement and in late antique Jewry, and also by everyone interested more generally in the history and politics of the provinces of the Empire, especially those in the east. I hope Oxford University Press is making the book known outside its Jewish Studies audiences. It is a book that should be not only read but owned by all of us who also try to write the history of the Jews in late antiquity, since we will want to go back to it again and again to see what Lapin has to say about each of the issues we address.

Alan Appelbaum
Yale University
New Haven, Connecticut



Steven D. Fraade. *Legal Fictions: Studies of Law and Narrative in the Discursive Worlds of Ancient Jewish Sectarrians and Sages*. Leiden: Brill, 2011. 627 pp.
doi:10.1017/S0364009414000415

Legal Fictions collects much of Steven Fraade's work over the past two decades on the legal cultures of the early rabbinic movement, especially as seen in the halakhic midrashim and the sectarian community at Qumran. Fraade frames the twenty-two previously published articles with an introduction and an afterward and embeds a new historiographic essay at the center (chapter 6). The book as a whole thus offers a sustained investigation of the mutual constitution of the legal and narrative orders in a pivotal period in the development of Judaism.

Fraade opens the book with a programmatic introduction (chapter 1) and an appraisal of Robert Cover's seminal 1982 essay "*Nomos* and Narrative" (chapter 2), which together anchor the collection in a unified and far-reaching analytical framework. Fraade follows Cover in challenging the notion that laws and the narratives in which they are embedded can be cleanly distinguished from each other or, in fact, could ever exist in isolation. But he fine-tunes Cover's dichotomy between law and story by proposing what he calls "nomo-narrative worlds," in which practices of (re)narration—especially through the ongoing interpretation of authoritative textual

traditions—play a constitutive role in the formation of community and the ongoing normative force of the law.

As the introduction makes clear, Fraade's method is to interpret legal texts from within their immediate performative contexts—the Qumran community and early rabbinic disciple circles—and only then to work cautiously “outwards” from specific cases in order to arrive at a broader account of socio-cultural developments within early Judaism. He sharply contrasts his own micro-level and textually grounded methodology with approaches that begin from macro-historical schema before moving “inward” toward the textual evidence. In rejecting what he views as “the systemizing inclinations toward rhetorical flattening and thematic totalizing typical of some recent meta-narratives” (6), Fraade aims to avoid the twin pitfalls of linearity and teleology.

The main body of the book is divided into three overlapping sections. The first consists of three articles that examine the dialectic between hermeneutic practice and legal authority among the Qumran sectarians (chapters 3–5). The third section addresses a comparable, if somewhat broader, range of issues in early rabbinic texts, especially the tannaitic midrashim (chapters 15–24), while the middle section of the book (chapters 6–14) compares and contrasts the two communities and their literary corpora.

The previously unpublished chapter 6 reviews the history of comparative work on the two corpora and thus serves as the central axis around which the structure of the book turns. For much of the past sixty years comparative work on the Dead Sea Scrolls has been dominated by scholarship that primarily looks either backward toward the “Old Testament” or forward to the “New.” In recent years, however, this canonical bias has begun to give way to other—often more fruitful—lines of comparison, including but not limited to rigorous research into differences and continuities between the legal traditions and practices of the Qumran community and the early rabbis. Fraade attributes this development to the controversy surrounding access to the Cave Four fragments as well as to the secularization of the scholarly community researching the scrolls. The future of comparative work, as Fraade sees it, is as bright as it has ever been. But Fraade is also acutely aware of the methodological problems inherent in comparing corpora that are separated by the cataclysmic destruction of the Second Temple and the possible shattering of traditional Jewish forms of life (a theme to which he will return toward the end of the book). Fraade cautions against focusing solely on either similarities or differences between the *corpora* and instead recommends that scholars rigorously compare particular combinations of similarities and differences in *specific texts or groups of texts*. This cautious methodology, when coupled with a stance of intellectual humility, will, he hopes, enable scholars to avoid imposing a superficial historical narrative on the evidence.

Looking to his own comparative methodology as a guide, Fraade places texts from the two corpora in productive dialogue in order to elucidate the responses of each community to structurally similar problems. For example, in chapter 10, Fraade compares the Damascus Document and the tannaitic midrash Sifra, to show how the Qumran sectarians and the early rabbis, seemingly independent of each other, transferred the authority to diagnose and treat skin disease from

the exclusive domain of the Jerusalem priesthood to learned experts whose power rested primarily in their interpretative authority. Fraade argues, however, that this shift from priestly prerogative to non-priestly expertise ought not to be interpreted simplistically as successive stages in a linear progression of ever-widening access to power and authority. Instead, he concludes that the two communities wrestled with a problem that was common to various forms of late Second Temple and post-Temple Judaism, namely: in the face of changing institutional and sociological circumstances, how might emergent groups reassign the cultic and scholastic functions of the priestly caste to new figures of authority, all while affirming the integrity and ongoing relevance of pentateuchal law?

In the final third of the book, as Fraade shifts his focus away from problems of comparison to consider the nature of rabbinic discourse within the broader history of Judaism in late antiquity, he gradually begins to shed some of his characteristic cautiousness. Chapter 23 (“The Temple as a Marker of Jewish Identity before and after 70 C.E.: The Role of the Holy Vessels in Rabbinic Memory and Imagination”) represents perhaps Fraade’s most far-reaching attempt to construct a historical narrative of the transformation of Jewish piety across the cataclysm of the destruction of the Jerusalem temple. This textured exploration of the ongoing importance of the temple vessels in late antique Judaism runs counter to the dominant narrative that sees a direct correlation between the rise of rabbinism and the fading salience of the sacrificial cult and its accoutrements. Fraade argues that rabbinic reports regarding the public ritual display of the temple vessels during festivals are not historically accurate, but instead imaginative or “remembered” reconstructions of a now absent institution meant to serve present purposes. Fraade suggests that, paradoxically, it was only with the destruction of the temple that Jewish narrative, liturgy, and artistic imagery rendered the temple and its *sancta* fully accessible to the vast majority of Jews, reflecting the enhanced importance that these objects assumed as enduring markers of Jewish identity in post-temple Judaism. Here, however, Fraade comes close to advocating a species of the “democratization” thesis about which he expresses skepticism elsewhere in the book (esp. 209 n. 38).

The tension between the methodological strictures of the book’s explicitly comparative chapters and its gestures, however tentative, toward a broader historical account of the transformation of Judaism after the destruction is perhaps a lingering sign of Fraade’s attempt to integrate articles written over many years and on a variety of occasions into a single, overarching framework. Still, this rich collection of textured studies succeeds in isolating and describing the micro-mechanics of scriptural interpretation and narrative reinvention that enabled two exemplary early Jewish communities to ground striking acts of religious innovation in long-standing traditions.

Ra‘anan Boustan
University of California at Los Angeles
Los Angeles, California

