

BOOK REVIEWS

Paul Heger. *The Three Biblical Altar Laws*. Beihefte zur Zeitschrift für die alttestamentliche Wissenschaft, 279. Berlin: Walter de Gruyter, 1999. xi, 463 pp.

In this monumental book, Paul Heger attempts to explain how synagogue recital of biblical texts replaced the sacrificial cult (p. 366). He posits that gradual disaffection with the Temple enabled the rabbis to institute synagogue ritual for sacrifice even while the second Temple stood. The work is wide-ranging, yet focused, and provides a detailed history of the cult from the Bronze Age until the destruction of the second Temple. The first half is a diachronic study of the three biblical altar laws. The second half investigates the impact of Ahaz, Josiah, Ezra and Nehemiah, the Maccabees, and finally the rabbis on attitudes toward temple sacrifice.

Perhaps it is unavoidable in a work which spans the time from the Bronze Age to the Rabbinic period that much is left out. Heger relies heavily on a Persian period dating for P, and does not attempt to engage other views.¹ The three biblical altar laws Heger refers to are Exod. 20: 24–26 (which he mysteriously refers to as vs. 21–23), Deut. 27: 2–8, especially 4–7, and Exod. 27:1–8. He assumes these laws were known by the populace and binding on them. He does not discuss Westbrook's work (nor the large amount written generally on the role of law codes in the ancient Near East) that suggests law codes were confined to scribal schools.²

Heger argues for a progressive weakening in lay attachment to the sacrificial cult. Ahaz instituted the first step when he substituted the bronze altar (a presentation altar) by a great altar for burnt offerings (2 Kings 16: 10–16). Prior to Ahaz, altars throughout Israel were for presentation offerings only; burnt offerings were made on an *ad hoc* basis (p. 262). Ahaz encouraged burnt-offering altars in the towns, and instituted a regular daily burnt-offering ritual in the temple (p. 264). This reform changed the relationship between the deity and the people—it forever removed the theological necessity of feeding the god.

Heger derives evidence for Ahaz's inauguration of burnt-offering sacrifices from two sources. The first source is the biblical text. The description of Solomon's temple does not mention a burnt-offering altar, so there was none in the temple pri-

1. Several scholars have argued recently that P is early and precedes D (the many articles and books by A. Hurvitz; I. Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School*, Augsburg Fortress Press, Minneapolis, 1995; J. Milgrom, *Leviticus*, Anchor Bible Commentary, Doubleday, New York, 1991). Others want to do away with the documentary hypothesis entirely (e.g. R. N. Whybray, *The Making of the Pentateuch: A Methodological Study*, JSOT Supp. 53, Sheffield: Sheffield Academic Press, 1987).

2. See especially, J. Bottero, "The 'Code' of Hammurabi," in idem., *Mesopotamia: Writing, Reasoning, and the Gods*, Chicago: University of Chicago Press, 1992, pp. 156–184; B. M. Levinson (Ed.), *Theory and Method in Biblical and Cuneiform Law: Revision, Interpolation and Development*, JSOT Supp. 181, Sheffield: Sheffield Academic Press, 1994; and R. Westbrook's article in that book "What is the Covenant Code?," pp. 15–36.

in a way that creates a development of the common themes of the stories, the editors give these collective works meaning that transcends the messages of the individual narratives.

Valler also demonstrates how these aggadic compilations are often in tension with their Halachic contexts. For example, in Chapter Three, she shows how a series of stories brought in the *sugya* in Ketubot 8b–10b serves to undermine the Talmud's previous statements that a husband is to be believed if he claims that he found that his wife was not a virgin on their wedding night. The story collection shows that this ruling is correct only in theory. In practice, the rabbis never annulled a marriage on the basis of such a claim.

Valler's ultimate argument is that the implicit message of the Stammaitic editors is often more sensitive to the woman's perspective than the explicit statements of the earlier Tannaitic and Amoraic sources of the Talmud. This is a bold claim that certainly warrants further study. If correct, it represents an important contribution to the study of rabbinic Judaism. However, we should be cautious of claims that rabbinic Judaism evolved along a trajectory that brought it more in line with modern values. Valler also suggests that aggada is somehow a more female-friendly mode of discourse than halacha. This is a difficult claim to back up. There is no shortage of halachic texts which show great sensitivity towards women and many aggadic texts fail to do so.

Finally, a note on the translation. While Betty Sigler Rozen shows herself to be an able translator of Valler's modern Hebrew text, the same cannot be said with regard to her work on the rabbinic texts cited by Valler. In her renderings of passages from the *Bavli*, Rozen makes unattributed use of the Soncino translation. This is a potential source of confusion for the reader because the Soncino translation of the standard printed edition does not always correspond to the manuscript traditions presented by Valler. Rozen's translations of the *Yerushalmi*, which appear to be original, contain numerous mistakes and inconsistencies. It is a pity that the translation does not live up to the high standards of the original work.

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Menachem Elon, Bernard Auerbach, Daniel D. Chazin, and Melvin Sykes. *Jewish Law (Mishpat Ivri): Cases and Materials*. Casebook Series. New York: Matthew Bender, 1999. xxiv, 746 pp., Glossary, Table of Authorities, Table of Cases, Index.

Jewish Law (Mishpat Ivri): Cases and Materials is a comprehensive and lucid analysis of Jewish law as it is used in the Israeli Supreme Court as part of Israeli secular law, exhaustively detailed and clearly written. It is designed to be used as an American law school textbook and is published by a law school publishing house—Matthew Bender—as part of its casebook series. The book begins with two questions: “How is it possible that a legal system bereft of territory and police power has not only persevered but flourished? Whence do the Jewish legal au-

thorities derive their tradition-embedded answers to what appear to be novel, contemporary questions?” The book seeks to answer these queries with an exposition on the nature and purpose of Jewish law, followed by a chapter-by-chapter integration of the uses of Jewish law into Israeli secular law.

The book is divided into five parts. The first two provide the essential structure and decision-making process of Jewish law (*halakhah*), as well as its ethical underpinnings. Parts Three through Five explore a small number of legal topics that arise in Jewish and secular law and the relevant texts for each. All of the chapters in each part have a series of notes at the end containing leading questions and information for further discussion or study.

Part One, entitled “Basic Characteristics of Jewish Law,” clarifies how *halakha* operates with respect to both “civil” and “religious” law. The authors point out that a sharp, modernistic divide between these types of law is not necessarily helpful in understanding Jewish law, where the lines of distinction are less clear. Elements of civil law like agency are present in matters of Jewish ritual law such as the slaughtering of sacrifices. Hence, a proper understanding of *halakha* must carry with it an appreciation for the interrelated nature of the civil and the religious. The book also uses this opening section to establish the absolute authority of the *halakhic* process (such that even God accepts it) and to explore the gap between law and ethics, remarking that a hallmark quality of Jewish law is its attempt to “juridify” ethics and morals whenever possible.

In Part Two, “The System of Jewish Law,” the book enumerates the legal sources of *halakha* and how these are used to render decisions in Jewish law. The authors identify six such sources, with the Torah as their touchstone: tradition (*kabalah*), interpretation (*midrash*), legislation (*takkanah* and *gezerah*), custom (*minhag*), case or incident (*ma’aseh*), and legal reasoning (*sevarah*). The first is described as static; however, the other five are “inherently dynamic, and in fact a significant aspect of their function is to continue the creativity and development of Jewish law” (p. 62). The authors then analyze each legal source, using textual examples of its methodology.

Parts Three through Five investigate a variety of legal topics, focusing heavily on human rights (Part Four) and bioethics (Part Five). The chapters therein share the same basic structure: The book explores the relevant *halakhic* texts on the subject in question, then proceeds to (secular) Israeli court cases on the same where Justice Elon’s opinions examine Jewish law’s view of the particular matter. Each chapter is crafted to display how *halakha*—a “religious” form of law—impacts on or relates to Israeli “civil” matters, be it property, contracts, or evidence. With some topics the need for a morally grounded form of law is more obvious—abortion and capital punishment are two such examples—but the book does an excellent job demonstrating that Jewish law can—and does—have a voice on nearly every imaginable legal subject. This casebook synthesizes *mishpat ivri* (Jewish law as it is used in Israel) with secular Israeli law. It is a very good—indeed, excellent—synthesis of Israeli law and *mishpat ivri*.

This summary of the book thus far has not addressed a crucial question: Is this work a successful casebook for an American law student? Defining what

exactly is a successful casebook for American law schools is no easy feat. Essentially, these writers sense that a successful casebook in any discipline taught in American law schools (which is not in an area of law obviously relevant to students) must seek to accomplish three difficult tasks. First, a casebook must seek to explain to students why this area of study should be relevant to them. Thus, a casebook teaching Jewish law, or space law, or law and literary fiction, must court the student's interest in ways that constitutional law, securities law, and property law need not. Second, a casebook must compare and contrast that which it wishes to teach with that which it expects the students already to know. Thus, when teaching Russian law to American law students one tends to compare Russian law to American law, as the compare-and-contrast process eases the pedagogic burdens. Third, a casebook should choose to present topics within its field for which American law students have a natural instinct because of their legal training, and natural questions about because of the flow of American law. Thus, when teaching Jewish law one should select topics that appeal to the natural curiosity of American law students, focusing on areas where American law is weakest, or where Jewish law speaks to the American legal mind or culture.

This question, a matter of pedagogy concerning what exactly a course entitled "Jewish Law" (or perhaps "*Mishpat Ivri*"?) should aim to teach, is a complex one that is worthy of greater discussion. Book reviewers, however, should not ask, "Why did the authors of this book not write the book following the pedagogic method that I wanted?" and thus discussions of methodology for teaching Jewish law in America will have to wait for some other forum.

In sum, this book, whose lead author, Justice Menachem Elon, is the senior scholar of *mishpat ivri* in Israel, is a brilliant work with thoughtful notes designed to address the use of *mishpat ivri* in contemporary Israeli law. It is a sign of the strength in the field that there is now a casebook in *mishpat ivri* in English. Hopefully this will open the gates for many other casebooks and teaching aids for Jewish law in American Universities.

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Jeremy Cohen. *Living Letters of the Law: Ideas of the Jew in Medieval Christianity*. Berkeley: University of California Press, 1999. x, 451 pp.

Living Letters of the Law: Ideas of the Jew in Medieval Christianity traces the development of Jeremy Cohen's scholarship over almost two decades. Without