
H-France Review Vol. 16 (August 2016), No. 149

Jay R. Berkovitz, *Protocols of Justice: The Pinkas of the Metz Rabbinic Court 1771-1789*, 2 vols. Leiden and Boston: Koninklijke Brill, 2014. Vol. 1 xx + 222 pp. Maps, glossary, notes, bibliography, and index. Vol. 2 viii + 1084 pp. Notes, appendices, and index. \$330 U.S. (hb). ISBN 978-9-0042-6515-8.

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Works of history often offer quite disparate gifts to the community of scholars they seek to reach. Transcribed, annotated, organized, and printed archival sources prove extraordinarily useful, if not particularly graceful. Their very blandness becomes a virtue, leaving the analysis for those who come later, often much later. Monographs dependent on close reading of archival sources can offer graceful, or even groundbreaking analysis, but are often more useful as springboards and correctives to other monograph writers, who must then grapple themselves with obscure, paleographically-challenging primary sources. In *Protocols of Justice; The Pinkas of the Metz Rabbinic Court, 1771-1789*, Jay R. Berkovitz gives us both, a monumental archival source that should further the work of countless scholars in various fields of history, and a bold work of synthesis and analysis that challenges prevailing views and opens new lines of inquiry.

The two volumes of this project come in the form of a 1084-page Hebrew transcription of the Pinkas register, and a 222-page companion volume in English offering Berkovitz's own significant exploration of this voluminous and compelling material. This review is addressed primarily to Berkovitz's English volume, but thanks are also due to my colleague Jason Gaines for his help with the Hebrew archival source that is the central element of Berkovitz's project: a register of civil cases that came before the rabbinic court or Beit Din of Metz in the nearly two decades before the Revolution. [1]

A hint to how the project evolved is offered in Berkovitz's introduction, in which he outlines his effort to transcribe and understand the manuscript, leading him to consult a small but important group of related primary sources and a wide array of secondary material. One gets the impression of a scholar with a tiger by the tail who hung on valiantly for our sake as well as his own. We should be grateful to him for delivering the fascinating creature in a far more tractable state.

Berkovitz's facility with Hebrew, French, Yiddish, and their early modern variants common in northeastern France has proven essential in preparing the large volume, and important to his shorter English analysis. His sophisticated and deep familiarity with the layered law of the region, including Roman forms, customary laws, regional variations of these, and Jewish law, are the hallmark of the companion volume. Here the author shows us a Beit Din that increasingly accommodated its rulings to French judicial procedures and changing communal norms. He explores this accommodation as the product of complex processes: protracted political centralization in this frontier area first annexed by the French crown in 1552; the evolution of French law with its dynamic of both centralism and pluralism; the contention with restrictions still borne by this minority Jewish community; and (his most interesting assertion) a new expression of longstanding Jewish legal tradition. In Metz, he writes, we see "principles of legal flexibility and openness to external influences," that "have been enlisted by

Jewish legal authorities regularly to promote fairness, high ethical standards, and the public welfare” (p. 189). Taken together, Berkovitz writes, these processes created a dynamic environment in Metz and the *pays messin* in which law reflected cultural change. Confidently, he asserts that “the posture of the Metz rabbinic court, as is evident in the Pinkas, represents a fundamentally new approach signifying nothing short of a paradigm shift in the two decades prior to the French Revolution and the bestowal of citizenship” (p. 182). In five carefully argued chapters with useful maps, contextual notes, and an extensive glossary and bibliography, Berkovitz leads readers to his central thesis. “Decades before the Jewish population of France was admitted to citizenship,” he writes, “the realm of law generated new rules of engagement between the Jewish minority in Metz and the surrounding society and culture. The records of the Metz court challenge the very idea of an insular Jewish legal system and an insular Jewish culture” (p. 192).

Along the way, Berkovitz makes his case for the Pinkas as a source with implications for a broad array of scholarship: French (and particularly *messin*) Jewish history, general Jewish history, French legal studies, general legal history, and, most broadly, considerations of “the interplay between law, society, and culture” (p. 85). Because so many of the cases brought before the Beit Din were initiated by women or involved women (e.g., inheritance, guardianship, and commercial disputes), scholars of early modern women’s history will also find this work provocative and illuminating. Scholars in all of these areas should find his slim analytical volume exciting and the prospect of digging into the Pinkas for those with Hebrew even more so.

Berkovitz’s introduction and early chapters provide a concise but thorough overview of Metz’s place in France and Ashkenaz (the central European Jewish world) as well as an introduction to the Pinkas, its possibilities and limitations as a source. Composed of some 1063 civil cases, the register does not routinely list decisions. Cases that brought litigants before the court on several occasions over time are more likely to flesh out aspects of daily life than the many other entries, but even here the record is incomplete. Throughout, he reminds readers of what the archival record does and does not show. The time span covered in the Pinkas is similarly somewhat accidental: the years covered in two leather-bound volumes acquired by the YIVO Institute for Jewish Research after World War II. Though the rabbinic court of Metz met for a far longer period, its cases were not systematically recorded until the later 1700s (p. 4).

Most of Berkovitz’s chapters are structured similarly, opening with a relatively broad observation, explaining each of the steps that led to that conclusion, and then a recapitulation that places the chapter’s findings in a broader context. Historiographical context and debate are consistently provided both in the text of each chapter and in thorough explanatory footnotes that will prove highly useful to scholars. Somewhat remarkably in such a short treatment, Berkovitz provides non-specialists with most of what they will need to understand his source, including terminology from Jewish law and communal practices and from the French political and legal realms. The extensive glossary makes the English volume particularly easy to use. More essentially, his expertise and fluency with the elements of Talmudic law and Jewish communal legislation as well as French law and political history keep the work grounded in its many overlapping contexts.

In chapter one, Berkovitz explains the nature of the Pinkas in detail, including how, when, and why it may have been compiled when it was. Leaders of the Jewish community, he argues, expected the Pinkas to be read, and not just by future members of their own community. In chapter two, we begin to learn more of the individual cases within a general treatment of the Jewish communal law that served as one of the foundations of Beit Din rulings. Other foundations, most notably French judicial procedures and principles, are surveyed directly here and indirectly in chapters three, four, and five. Although cases reveal tensions within the Jewish community, outright challenges to the authority of the rabbinic court do not appear in the Pinkas. Berkovitz sees this anomaly as intentional and suggests the Pinkas should be viewed as a political document forged by Jewish authorities even as it reveals detailed aspects of daily

life beyond their management. Over time, a notable number of Jewish litigants sought recourse to French courts, and women, Berkovitz finds, used French courts when doing so might work to their advantage.

The exciting promise of Berkovitz's work becomes most apparent in chapter three, in which he seats his close reading of the primary material within larger and more important considerations of modernization and Jewish acculturation. "Evidence of Jewish-gentile economic interdependence," he writes, "ranging from routine business dealings to occasional collaborations, challenges the stereotypic image of the Jews as alien to the society around them" (p. 104). Dissecting the language and details of his primary source, Berkovitz lays the foundation for a new picture of Jews before their formal citizenship. Recognizing that the integration indicated by the Pinkas cases did not create what Jacob Katz has called a "neutral society," Berkovitz still sees extensive social, economic, and legal interaction (p. 105). Further, "the unmistakable imprint left by the surrounding culture on Jewish life was not limited to the elite alone," he writes, "but extended to the broader urban Jewish population. This is reflected in the assimilation of French language and linguistic patterns into everyday affairs, the familiarity with general legal concepts and technical terminology, the affinity with French material culture, and the complexities that were attendant on economic interaction between Jews and non-Jews" (p. 105). Berkovitz explores each of these areas in detail with cases from the Pinkas.

Chapter four considers the relationship between legal centralism and pluralism in Metz where the Jewish court and its efforts to navigate between the two offer intriguing material for legal scholars, particularly in France. According to Berkovitz, "Three procedural trends in the Metz Beit Din reflected a clear acknowledgment of legal pluralism, which it could scarcely deny, and a positive orientation toward legal centralism, which was largely the product of pragmatic considerations: 1) The pervasiveness of French law in specific areas such as the appointment of guardians, the division of marital property, and inheritance promoted cooperation with the French civil courts and authorities. 2) The close acquaintance of the Beit Din with documents and procedures of the French legal system...contributed to a broadly conceived approach to law... 3) Aware of the limits of its authority, the Beit din was willing to rein in its own judicial powers while conceding the validity and even the advantage of French civil procedures... The Beit Din recognized that occasionally redress would be better achieved in the French civil court system" (p. 114).

This last quotation points out one constant stylistic element that, while welcome at first, becomes somewhat grating over the course of the entire book: Berkovitz's propensity to assign numbers and letters to his observations. This detracts somewhat from the grace of the otherwise fine prose, though it does maintain a high degree of clarity.

More satisfying is his deft use of rich examples plucked from his source. Though he warns that short case listings can never achieve the narrative detail of memoirs or personal letters, fragmentary stories emerge nonetheless within the limits of the primary source. And this leads to another strength of the book, its treatment of women within the Pinkas records. Refreshingly, Berkovitz weaves material relating to women organically into his English volume and also provides, in chapter five, a more focused treatment with interesting results. While women, or at least individual *named* women, are often absent from French judicial records, represented only by husbands and fathers, he writes, in the Pinkas, women are named and appear frequently as the initiators of legal cases, particularly those related to their inheritance or dower rights and guardianship arrangements. In many instances, they argued their own cases. They also appear as independent commercial actors, either as widows taking over their husbands' business activities or as independent businesswomen.

The author notes that twenty-five percent of the civil suits brought before the Beit Din were initiated by women. Forty percent involved women as claimants or defendants. In addition, twenty percent of the money lenders who appeared before the Beit Din were women. Women participated in commercial

partnerships and regularly served as witnesses, especially in the increasing number of paternity suits filed as the century wore on. Berkovitz writes of “the remarkable degree to which women across the spectrum of social class and marital status took an active part in the pursuit of justice through litigation” (p. 135).

Berkovitz fits this material into the context of work on French women’s participation in credit markets by scholars such as Elise Dermineur, and he integrates his findings on women neatly into his larger analysis, including those about Jewish and French legal overlap.^[2] “Fully alert to the advantages available to them under French law,” he writes, “Jewish women occasionally approached the civil courts in order to become appointed guardians of their children. In this way they played a decisive role as mediators between the two judicial systems” (p. 156). Finally, here as in other chapters, Berkovitz proves himself adept at fitting his use of this source into larger historiographical debates. In one example from this last chapter, he writes, “[p]aradoxically, economic developments that created new professional opportunities for women and enhanced their position in the family failed to protect them from the perils of financial hardship or ruin. In fact, the role of women in the expanding economy of the eighteenth century exposed them in some instances to financial risks and pressures of a new sort. The Beit Din records contain abundant evidence of the economic vulnerability to which women were unavoidably susceptible” (p. 180).

Berkovitz ends his work with a succinct conclusion that offers fellow scholars a variety of questions for further study, as well as a recapitulation of his main points infused with his most far-reaching conclusions. And his claims for his source are bold. “In my judgment, the records of the Metz Beit Din contain the rudiments of a new historical narrative that varies substantially from traditional accounts of the relationship between Jews and the general society that dominate Jewish historiography... Overall, the Jews of Metz were far more engaged with the cultural and economic dimensions of the society around them than is generally assumed” (p. 184).

More intriguing is his claim for our understanding of law itself. “Law,” he writes, “by its very nature, is entrenched in the normative structures and cultural particularities of diverse groups within society... [L]aw is a bottom-up, decentralized process that is responsive to social and political realities while also mirroring the creative impulses of the wider population...neither the Beit Din nor the records it kept were at all removed from the community it served... Particularly impressive,” he adds, “is the degree to which the proceedings of the Metz Beit Din evince the culture of the consumers of law as prominently as the culture of its producers” (p. 185).

In compiling not only the source itself but also in providing his sweeping analysis and contextual orientation, Berkovitz invites readers into a conversation at once particular and specific as well as resonant well beyond this chamber of rabbinic justice.

NOTES

[1] The Hebrew volume is arranged clearly and logically, with the register of cases divided in chronological sections by volume, and with a useful explanation of abbreviations in the notes and one of five appendices. A list of judges who served on the Beit Din appears in another appendix, and other supporting material rounds out this monumental project.

[2] Elise M. Dermineur, “Female Peasants, Patriarchy, and the Credit Market in Eighteenth Century France,” *Proceedings of the Western Society for French History* 37 (2009): 61-84.

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ISSN 1553-9172