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## Section I: **Rabbinical Literature in Yiddish**



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# On the Corpus of Yiddish Court Testimonies in the Responsa Literature and Its Reliability as Specimens of Spoken Language

## 1 Introduction

Data on spoken language and its evolution over time and space are precious treasures coveted by linguists. Systems of minute transcription have been developed towards the end of the nineteenth century to render in writing as precisely as possible oral speech. The portable tape recorder from the 1930s onward and much later the portable video camera allowed fieldwork linguists to capture speech in most of its dimensions. For earlier periods, however, one has to rely exclusively on written sources, and from among those the most valuable for insights on the spoken language are sources that can offer a written version of speech. In the case of Yiddish, such sources are the testimonies found in the responsa literature.

Oral testimonies in the vernacular, given in rabbinic courts and written down verbatim, mostly by the communal scribe, constitute an important source for our knowledge of the languages spoken by Jews throughout their places of dispersion. They are available to us mainly from the printed responsa literature, in cases where the court or one of its members turned to another rabbinic authority with a question, asking advice or approval, and the question, followed by an answer, was subsequently published in a *responsum*, sometimes together with excerpts of the protocol materials attached to it. Testimonies are also found in court protocols preserved in communal records (*pinqasim*), but these remain mostly unpublished. Testimonies in the vernaculars current among Jews are attested from the fifteenth century onward, mostly in Yiddish, but also in some other Jewish languages, such as Judeo-Spanish and Judeo-Arabic.<sup>1</sup>

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<sup>1</sup> For discussion of responsa passages in Judeo-Spanish see the article by David M. Bunis in this volume.

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## 2 Previous Scholarship

The historical importance of the linguistic data contained in the testimonies was evident to scholars since the nineteenth century, as witnessed by the debate about the original language of Eastern European Jews. Thus Abraham Harkavy (1865 and 1867) quotes evidence from testimonies in order to corroborate his claim that as late as the seventeenth century there were still autochthonous Jews in Eastern Europe whose mother tongue was Slavic and who still had not adopted the language of the Ashkenazic newcomers—Yiddish. In 1909 Simon Dubnow quotes from the testimonies to show that already in the sixteenth century Yiddish is the predominant language of the Jews in Eastern Europe, whereas Slavic is quoted only from the mouth of non-Jews.

The first to explicitly point out the linguistic importance of the Yiddish testimonies *per se*, as reflecting the spoken language, was the literary scholar Elazar Schulmann. In a long unnumbered footnote (beginning on page 128 and continuing on the bottom of the following pages) of his essay ‘On the history of the Jargon literature’ published in Kiev, in the second volume of Sholem Aleykhem’s *Yidishe Folksbibliotek* in 1889, he posits the difference between spoken and written language, emphasizing the value of testimonies written down verbatim, and gives several examples from the responsa. Dov-Ber Borokhov, the father of Socialist Zionism, in his seminal programmatic essay *Di oyfgabn fun der yidisher filologye* (*The tasks of Yiddish philology*), published in the Vilnius volume *Pinkas* in 1913, together with a 66 page appendix of annotated bibliography *Di bibliotek funem yidishn filolog* (*The library of the Yiddish philologist*)—both reprinted in 1966 in Tel Aviv—discusses the responsa and quotes short excerpts from a few of them (those by Rabbi Solomon Lurie, Rabbi Meir Katz, Rabbi Yoel Sirkis, Rabbi Yosef Katz, Rabbi Meir Lublin, see Borokhov 1966:127–128). Borokhov stressed the importance of the testimonies as an essential source for the investigation of vernacular Yiddish and recommended that they be studied attentively, but he himself did not have the time (he died in 1917) to study them.

Shneur Zalman Rubashov (later Shazar, the third president of the State of Israel) who during World War I was assembling Yiddish materials from the responsa for a study, under the supervision of Simon Dubnow, on the history of Jews in Poland in the seventeenth century, had noticed, too, the linguistic importance of these sources, and subsequently published in 1929 a paper in Yiddish (republished in Hebrew in 1971 as a chapter in Shazar’s *Ore Dorot*) with a large selection of Yiddish testimonies, but without any linguistic analysis. In the 1920s Hayim Lunski published two papers on the Yiddish language of two rabbinic responsa, one in 1924 on the responsa of Rabbi Israel Isserlin (Regensburg, 1390–1460), and one in 1926 on the *responsa* of Rabbi Jacob Weil (Germany, first half of the fifteenth century), but these papers deal exclusively with the lexicon. Max Weinreich’s impressive body of work, starting in

the 1920s and culminating in his monumental *Geshikhte fun der yidisher shprakh* (*History of the Yiddish Language*) published posthumously in 1973, contains considerable materials from the responsa, mainly on lexical matters and on orthographic details relevant to the historical phonology of Yiddish which he so masterfully reconstructed, as well as on dialectal variation in Yiddish (cf. e.g., M. Weinreich 1958), but hardly anything on syntax. Papers by Saul Lieberman and Isaac Rivkind on the pages of the journals *YIVO Bleter* and *Yidishe Shprakh* in the 1950s and 60s contain much old material, including materials from the responsa, but are limited in the scope of their linguistic discussion to lexical and phraseological topics. Joseph Bar-El's 1973 publication *Old Yiddish in the Responsa Literature* (in Hebrew) is limited to lexical matters. Samuel Kerner's 1994 paper on the Yiddish in the communal registers of Metz and Odratzheim contains but a few lexical and orthographic remarks.

As of today, there are no historical grammars of Yiddish available, whereas general grammars, such as Neil G. Jacobs (2005), confine their historical chapters to questions of orthography, sound system and lexicon, omitting syntax altogether from the history of the language. Studies on the morphosyntax of the spoken language (e.g., Kiefer 1994, 1995; Reershemius 1997; Reershemius and Eggers 1999) treat only twentieth century recordings, whereas studies on Yiddish syntax with a diachronic dimension to them do not cite evidence from the testimonies. Nokhem Shtif (1879–1933) in his 1932 paper in Yiddish 'On the threshold of the nineteenth century' and Judah A. Joffe (1873–1966) in his 1939 Yiddish lecture published in 1940, '150 years of Yiddish', are the first to illustrate by evidence from testimonies in the responsa several developments in Yiddish vocabulary and grammar, including syntax, among them the gradual loss of the simple preterite and its replacement by the compound past form, the merger of accusative and dative in the personal pronoun, the replacement of relative pronouns by a relative conjunction, the leveling of word-order to verb-second in subordinate and main clauses.

After a long period during which Yiddish, and Jewish topics in general, were banned from scholarly investigation, in 1961 and 1968 M. Fridberg was able to publish in the Soviet Union two papers on the history of subordinating conjunctions in Yiddish, excerpted from his dissertation, written at the Institute of Linguistics of the Leningrad branch of the Academy of Sciences of the USSR. He states (e.g., 1968:158) that already in the fifteenth century the conjunctions *az* and *das* are confused in vernacular texts, e.g., in testimonies found in the responsa, but in the paper he gives neither examples nor specific references to support this statement (they can however be found in the unpublished dissertation itself, 52–55). A paper by Dovid Katz (1986, 1991), based on a lecture he gave in 1979, shows that the Semitic component of Yiddish is not the result of input from books by learned Jews, but an integral part of Yiddish from its very beginning, inherited from former stages of the languages spoken by the first Jews who settled in German-speaking

areas in Europe. He demonstrates this with the help of data from various sources, among them testimonies in responsa, private letters in Yiddish, Ashkenazic Hebrew vocalized manuscripts, and observations on Yiddish pronunciation by seventeenth- and eighteenth-century Christian authors. Beatrice Santorini (1989), in her University of Pennsylvania dissertation (whose findings are taken up in her subsequent publications 1992–1995), traces the spread of the verb-second pattern from main into subordinate clauses throughout the history of Yiddish, basing her study on an impressive corpus of literary and vernacular texts, including court testimonies. This sums up, as far as I know, all that has ever been written on the language of Yiddish testimonies in rabbinic courts.

### 3 The Corpus of Evidence

The digitized, searchable database of the *Judaic Responsa Project* of Bar-Ilan University, begun in 1963 and developing to this day, is a precious, indeed indispensable tool for our research. The printed editions of responsa on which this database has been established are of course available and occasionally have to be scrutinized in order to verify the exactitude of the digitized texts. As for manuscripts of responsa, as well as of court-protocols in communal registers (*pinqasim*) that were never printed, these are listed in the database of the Institute of Microfilmed Hebrew Manuscripts in The National Library of Israel in Jerusalem. The database lists 4311 manuscript items containing responsa, with ‘only’ 887 of them being in Ashkenazic handwriting and thus likely to contain Yiddish material. Of communal records, the library catalogue announces over eighty items of Ashkenazic provenance, but it is as yet unclear how many of them contain court protocols. The potential corpus is thus very large.

### 4 A Short Review of Yiddish Testimonies in the Responsa Literature

The penetration of Yiddish into Ashkenazic rabbinic legal literature, written, like rabbinic literature everywhere, in what is known in Yiddish as *Loshn-koydesh* (‘sacred tongue’)—the learned mixture of Hebrew and Aramaic—is slow and gradual. Isolated Yiddish words appear early on, and are preserved at least from the thirteenth century onward in the works of Ashkenazic rabbis, in the form of glosses (cf. Kosover 1967; Bar-El 1973) which elucidate in the vernacular a Bibli-

cal or Talmudic word. Their aim is to explain in a language familiar to the reader the meaning of legally important lexemes, such as the names of animals that are proper or improper for eating by Jews who maintain kashruth.

As for the specific sphere of court protocols, these, too, only gradually come to reflect the penetration of Yiddish material. The earliest testimonies with Yiddish portions are preserved in responsa dating from the fifteenth century, where we find lone phrases in Yiddish as glosses of phrases from the testimony reported in *Loshn-koydesh* by the author of the *responsum*, namely in instances where the exact words pronounced by the witness are critical for the legal decision. It is only from the sixteenth century onward that the testimonies begin to be reported in full in the responsa, thus allowing insight into the syntax of sentences and strategies of narrative structuring.

However, also in that period, and even later, there are instances where the testimonies are only partially and imprecisely reproduced. Sometimes a reason is given for this failure to present the evidence in full. Here is an example from the new responsa of Rabbi Yoel Sirkis (Poland, 1561–1640), response 68.

(1)

**שות בח [בית חדש] החדשות סימן סח.** שאלה: אשה אחת יושבת עגונה מבעלה שנהרג במלחמת מאסקווע כפי המבואר בגביו' עדות שהוגבה אם האשה מותרת או לא ואלו הם העדות. במיתב תלתא ב"ד [בית דין] כחדא הוינא ואתא לקדמנא כמר אהרן בן כמר יוסף והגיד בת"ע [בתורת עדות] באליו"ע [באם לא ידע ונשא עווננו] כו': הגביות עדות לא העתקתי כי ממילא מובן מתוך התשובה:

Question: A certain woman is sitting 'anchored' (*aguna*) by religious marriage to her husband who was killed in the Muscovy war, as clarified in the testimonies collected; is the woman allowed to remarry or not? And these are the testimonies: We were, the three of us, in session as one court and there came before us Mr. Aharon son of Mr. Yosef, and said in testimony under oath, etc.: The testimonies collected I have not copied since in any case it is understood from the answer.

It seems then that Rabbi Yoel started writing down the protocol in full and then changed his mind since, as he writes, the important portions of the testimonies are reproduced *in extenso* in his answer.

## 5 Yiddish in the Response as an Exception Requiring an Explanation

The rabbinical discussion itself, as said, is conducted in *Loshn koydesh*—the Holy Tongue. There are some rare exceptions to this rule, and the two instances below exemplify such exceptions from the fifteenth century.

## 6 A Response in Yiddish Written from a Woman to a Woman

The first is a response to a question sent through a gentile messenger by an anonymous Jewish woman to Schoendlin, wife of the famous scholar Rabbi Israel Isserlin (1390–1460), and since the question (not preserved) was in the ‘language of Ashkenaz,’ and the woman assumedly was not familiar with *Loshn koydesh*, the rabbi’s wife replied in Yiddish. The response is preserved in the collection of *responsa* by Isserlin edited by his pupil with the title *Leqet Yošer*.

(2)

**לקט ישור חלק ב (יורה דעה) עמוד יט ענן ב**

[כתב הנעלם כי הגוי אין רוצה להגיד לנו מאיזו מקום הוא] גר וויל גוטר יור, די מושן דיר ווערדן וואר, ווי דו גנט בישט, אז דו מיר האשט לאשן שרייבן, איך זול מיין מן ר' איסרלן שיח' ברוגן בון איינש ברוך וויעגן, דען דו' אן דיר האשט. דאש האן איך גיטון אונד האון אים גזייט, אלש דש דו מיר גשריבן האשט. אונד מיין מן שיח' שפ' ריכט, וואז דו בור וליקן גבונדן האשט אוף דעם ליילך, דש הט דיר ניכצט גשט. אונד אז דו מיר גשריבן האשט וויא דו דיר בורבש האלטן זולט, וויש, מיין מן שפריכט, דו זולט דען ברוך קריפטליכן רייבן צו גייטיר מוש אונד אוך נישט צו בשט. גיט דען בלוט אוש דעם ברוך, זו שט דיר ניכשיט אונד אנפישט דו האלט אן דיר זעלבר בלוט אודר דיין מן וינדט אן אים בלוט וויען ער ביא דיר לייט, דש שט דיר אלש נישט וויען דש איינר איקליכרן ברוויאן שט אל חדש וויען איר צייט אישט. גיט אבער קיין בלוט אוש דעם ברוך וויען דו אין רייבישט אז איך גשריבן האן, אונד וויען דיין מן דער נוד ביא דיר לייט אונד דו אנפישט דש בלוט אן דיר זעלבער אז בלד אז דער מאן ביא דיר גלעגן אישט אודר וויען ער נוד ביא דיר לייט, דש שט. אבער דו בדרפשט דיר גיט בזוכן אז זיך דיא ברוויאן בזוכן וויען איך צייט איזט וויען דוא ניכשיט אנפישט וויען דיין מן ביא דיר ליגט. אנדרש וויען אנדרן ברוויאן טונד די קיין ברוך האבן. אונד בינט דיין מן אים זעלבר בלוט וויען ער ביא דיר לייט דש שט אויך. אבער וואז דו וינדט וליקן אן דעם ליילך דש שט דיר נישט, וויא וואל דש קיין בלוט אוש דעם ברוך גיט. וויען דו אין רייבישט אז איך גשריבן האן אונד דו בדרפשט דעם ברוך נישט מיא וויען איין מול רייבן. אונד וואס דו מי בדרפשט צו ליב, דש שרייב מיר איך ווייש נישט מיא צו שרייבן. גוט לוש דיר גזונד בלייבן, דש ביט איך שונדלין אשת מהר"י יצ"ו.

[writing (to?) unknown, since the gentile refuses to tell us where he is from] Very many good years may come true to you, whatever you are named, for your having written to me that I may ask my husband R. Isserlin about a hernia which you have. This I have done and told him everything you had written to me. And my husband says that whatever spots you may have found on your bed-sheet in the past, this is no harm (sc. has no detrimental legal significance) to you. And as for what you have written to me regarding the question of how you should behave in the future, know that my husband says, that you should intensely rub your rupture to a good measure, and also not to harm. If there is blood coming out of the rupture, then there is no harm for you, and if you find blood on yourself, or your husband finds blood on himself when he lies with you, this too is of no harm to you, as it does to every woman each month when her period comes. But if there is no blood coming out of the rupture when you rub it as I have written to you, and when your husband lies with you, you find blood on yourself soon after your husband has lied with you or when he is still lying with you, this harms. But you have to check yourself well as women do when their period arrives. If you find nothing when your husband is lying with you, different from what other women do who do not have a rupture, and if your husband finds blood on himself when he is lying with you, this too is harmful. But as for your finding spots on the bed-sheet, this is of no harm to you, although



there is no blood coming out of the rupture, if you rub it as I have written to you. And you need not rub the rupture more than once. And whatever more you may need, write to me. I don't know what else to write, may God keep you healthy, this I ask, Schoendlin, wife of MAHARI [Moreynu Horav Rabbi Isserlin] may God protect and preserve him.

## 7 Explanation for Using Yiddish Supplied by the Author of the Response

The second example of such an exception stems from the responsa of MAHARAM Mintz (Rabbi Moše Bar Yiṣḥaq Segal Ha-Levy Mintz, 1408–1480), response 90, which begins with a discussion in *Loshn koydesh*, but after quoting several testimonies, including citations from letters in Yiddish, the scholar sums up his discussion in Yiddish. He precedes this with an explanation justifying his decision:

(3)

מהר"ם מינץ סימן צ'

חיים ושלום וכ"ט לכ' הדיינים האהובים והנעמים האלופי מהר"ר יעקב ש' ומחוי הנכ' יוסף ש' בתחילה אתחיל לכתוב בלשון הקדש ואח"כ אבא בקיצור גם הדברים בלשון אשכנז כדי שירוצו בו הקורא.

Life and Peace and all the best to their honors the judges, the beloved and liked R. Ya'aqov, may he live, and his in-law Yosef, may he live. In the beginning I will start writing in *Loshn koydesh* (Hebrew), and then will also explain briefly the matters in *Loshn Ashkenaz* (Yiddish), so that the reader may course fluently through it.'

This is an interesting justification, since it implies that the reader will more easily course through a Yiddish text than a *Loshn koydesh* one.

## 8 Yiddish in the Testimonies

Thus far regarding exceptions in the language of the answers. As for the testimonies in the questions themselves, here too Yiddish appears only gradually. In the earliest among the questions attested, we find isolated phrases in Yiddish as equivalents of phrases in Hebrew at points in the testimony where the precise wording is essential for the rabbinic ruling. In the remainder of the testimony, there is no strict preservation of the witness' actual wording, in terms of direct/indirect speech, and it is rendered in *Loshn koydesh* (marked in bold in Hebrew texts and in italics in English translations) like the bulk of the discussion.

Thus in the *new responsa* of MAHARIL (Rabbi Ya'aqov B. Moše Ha-Levy Moelin, Mainz c. 1365–1427), we find in section 182:

(4)

שו"ת מהרי"ל החדשות סימן קפב

ר' יחזקאל העיד בת"ע [בתורת עדות] שהיה הולך מכאן עד ביבור"ק, ופתח גוי אחד לפי תומו ואמר לגוים אחרים בלשון אשכנז, דער טובי"ל האו"ט חנכין מומבך וואל בשמישן מיט דעם יודן דער וינג דען יודן אין דעם גארין דש מורגיש בור טאג דען מאן דעש נחטש הט אין גוואורפן אונ' ער ווארף אין ווידר אין אונ' ליש אין ולישן

*R. Yozlin declared as testimony that he was walking from here to Biburg, and then a certain gentile started speaking of his own accord and said to other gentiles in the language of Ashkenaz (German): "The Devil must have played a dirty trick on Hänschen<sup>2</sup> Mombach with the Jew. He caught the Jew in his yarn this morning before dawn, the one that had been thrown in last night, and he threw him back in and let him float."*

This is a case where the tribunal has to decide whether a missing person can be declared deceased, so that his wife may remarry. We see that the account of the Jewish witness Rabbi Yozlin is not given literally, but is translated into *Loshn koydesh* and turned into the third person in indirect speech. Only the anonymous gentile's words in this account—hearsay testimony—are rendered verbatim, due to their importance for the ruling. In cases of an *aguna*—a woman likely to be forcibly chained to her marriage and unable to remarry since the corpse of her missing husband cannot be found—hearsay testimony about the circumstances of his death or about his corpse is acceptable, including from gentiles, provided it was produced spontaneously, without elicitation, in order for the court to declare that the missing husband is indeed dead. That is why the protocol states specifically that the gentile spoke “of his own account”.

Another witness in this case is quoted on the same matter:

(5)

זלמן כהן העיד בת"ע [בתורת עדות] שבא לביבורק יום ג' אחר ל"ג בעומר ושמע שאמר הדיין חנכ"ן מנב"ך לגוים אחרים שהיו מדברים משפתי ואמר להם בא ברשתי אתמול יום ג' בהשכמה וחזרתי והשלכתי לנהר רינו"ס כי יראתי להוליכו אל היבשה. ושאלנו את העד הנ"ל אמר שמצאו מת ואמר הן. ודברנו עוד מאותו עניין ואמר לא שאלתי לגוי בפ"י אם מת אך המשמעות היתה כן ולשון אשכנז אב"ר די מיינוג ווש אזא.

*Zalman Kohen declared as testimony that he had arrived in Biburg on the Tuesday after Lag Ba-Omer (the holiday on the 18 of Iyar = 33rd day from the second day after Passover), and he heard the fisherman Hänschen Manbach speak to other gentiles who were talking about Šabbēṭay (the missing Jew), and he (sc. Hänschen) said to them: he came into my net yesterday*

<sup>2</sup> Incidentally, a detail corroborated by this example is that the Jews living on the Rhine, traditionally called *bnay heth* (cf. Max Weinreich 1958), indeed failed to distinguish in their speech between the pronunciation of Hebrew *het* and *he*, spelling the first letter of Hänschen חנכן with a *het*.

*Tuesday at dawn, and I threw him back into the river Rhine, since I was afraid to carry him to land. And we asked the named witness: did he say he had found him dead? and he said yes. And we discussed further this matter and he said: I did not explicitly ask the gentile if he was dead, but the understanding was that he was, and in the language of Ashkenaz aber die meinung was aso ('but the meaning was so').*

We see that the main bulk of the testimony is given in Hebrew translation, including even the words quoted by the witness from the mouth of the gentile fisherman, some of it in indirect speech in the third person, without proper differentiation between the words of the witness and the comments of the tribunal, while only key phrases are given verbatim in the 'language of Ashkenaz.'

It is also noteworthy that the appellation 'language of Ashkenaz' refers here to the language of the Christians as well as to that of the Jews, which may suggest that German Jews at the end of the fifteenth century did not conceive of themselves as speaking a different language from their non-Jewish neighbors. This of course does not imply the validity of the converse assumption, namely that the Christians considered their Jewish neighbors to be speaking the same language as theirs.

Similar examples of the usage of the 'language of Ashkenaz' being reserved for choice phrases in the testimony and of switching from first to third person can also be found in other protocols of fifteenth-century responsa, e.g., those of Rabbi Yisra'el Isserlin (Regensburg, 1390–1460), Rabbi Yisra'el Ben Hayyim of Bruna (Brno/Brünn, 1400–1480) and Rabbi Ya'akov Ben Yehuda Weil (Augsburg/Erfurt, c. 1390–1456).

In the sixteenth century, with the emergence of new Jewish population centers in Poland, the period in which the rabbinic intellectual centers of Ashkenaz are no longer confined to the cities of Germany, Bohemia and Moravia, we witness the gradual expansion of the practice of rendering the testimonies in full, or almost in full, in the witnesses' actual wording, as written down in the court protocol.

## 9 The Reliability of the Testimonies Quoted "Verbatim"

Given that the testimonies recorded in writing are claimed to present authentic, spontaneous evidence, and assuming that they are (almost) completely unedited, we expect the examples to rather faithfully reflect the spoken language of their time and place. Our expectations seem to be mostly fulfilled, but not quite completely.

The reliability of the written recordings of these instances of speech is corroborated, *inter alia*, by the fact that when one and the same testimony is cited in different responsa, the differences are minimal. Thus, in a famous libel case concerning a sixteenth century Jew from Prague and his estranged wife whom he suspected of adultery, three of the eminent rabbinical authorities of the time who had been asked to pronounce their views and treat the case in their respective responsa, Rabbi Moše Isserles (response 12), Rabbi Šelomo Luria (response 33) copied also in Isserles' response 13, and Rabbi Yosef Katz (response 78; in Ziv's edition of *Šē'erit Yosef* response 71), cite the testimonies in practically the same words. They barely differ in the spelling of a single word here and there, and two of them replace, for the sake of privacy, the real names of the personae involved by generic ones (Mr. so-and-so, Ms. so-and-so), but on the whole the three offer an identical text.

The Yiddish testimonies in court protocols, whenever copied *in extenso* in the responsa, are preceded by an explicit formulaic indication, in *Loshn-koydesh* naturally, of their verbatim nature: 'on date X Mr/Mrs Y appeared before us and under oath testified in the language of Ashkenaz as follows'. At the end of the testimony a similar indication frequently appears, announcing: 'thus far the words of the witness'.

Nevertheless, a word of caution is needed here regarding the claimed literality and the distinction between Yiddish and *Loshn-koydesh* in the protocols. Thus Max Weinreich, in speaking of the distinct functions of the two languages remarks ([1973, vol. 1:259] 2008, vol. 1:255):

The essential difference in function between the two languages will become clear upon recalling that these same rabbis who, *as a matter of course*, conducted their oral discussions in Yiddish, conducted their correspondence on the same subjects, *as a matter of course*, in *Loshn-koydesh*. The oral question and answer were in Yiddish, but the written question and answer were in *Loshn-koydesh*, unless a witness was cited with the introductory phrase "and thus he spoke." This phrase was a means of protecting the rights of an individual from the authorities, whose task was the recording of testimony.

On the formula "and thus he spoke" he remarks in a note ([1973, vol. 3:265] 2008, A243):

*Veze leshoynoy* 'and thus he spoke': Even today, the opinion is still advanced that the Yiddish testimonies in the Responsa are an exact reproduction of the then-current spoken language. However, it would be more correct to say that these Yiddish texts contain strong colloquial elements. Our concept of stenographic exactness did not exist in the former days. The transcriber endeavored to give a representation of that which the witnesses said, but the transcript went through the prism of his conception of how the transcribing should be done. Thus, in a given context, we must look for a compromise between the witness's actual words and more or less established patterns of chancery language. A priori, we must not accept the *veze leshoynoy* at face value; linguists must first interpret such a text and deduce from it its distinctive elements.

## 10 Chancery-Style Conventions

The portions of the testimony where the court scribes depart from verbatim rendering are not always marked. This happens when the scribe inadvertently switches from Yiddish into Hebrew during the notation of the testimony, which is clearly an unintentional result of interference of the default language of the written register. Such switching is typical of the so-called “scribal style” (נוסח סופרים, sc. the ‘chancery language’ mentioned earlier in M. Weinreich’s example) which is attested also outside court protocols, e.g., in communal regulations, minutes, proclamations, etc. The modalities of this style have been brilliantly analyzed by Uriel Weinreich (1958). In the *responsa* literature we encounter numerous examples of such inadvertent switching.

Thus, in a 1605 example from the *responsa* of Rabbi Binyamin Solnik (or Slonik, Poland, c. 1550–1620), we read (the *Loshn-koydesh* portions are marked in bold the text and in italics in the translation):

(6)

שׁוֹת מִשְׁאֵת בְּנִימִין סִימֵן מֶה

בְּמוֹתֵב תִּלְחָא בִּי דִינָא כְּחֹדָא הוּינָא הַיּוֹם יוֹם א' ז' אֶלּוּל שֶׁס"ה וְאֵתָא לְקִדְמָנָא כְּמֶר מֶרְדֵּכִי מֶאֶרְדֻּשׁ בֶּן הַח"ר  
[הַחֲבֵר רַב] שְׁלֹמֹה וְהַגִּיד בְּת"ע [בְּתוֹרַת עֵדוּת] בְּאַלְיֹז"ע [בְּאֵם לֹא יֵדַע וְנִשְׁא עוֹוֹנִין] וְח"ל [זֶה לְשׁוֹנֵן] בְּל"א  
[בְּלֶשׁוֹן אֲשַׁכְּנִי] אִיד אֹנ' אִיין וועלשער יִהוּדִי זײַן גִּזְעִסִין צו יֵאָס אִין דֶּער וואַלֶּח"י אֹנ' אִין גִּיוועזִין בֵּיִיא אֹנ' אִיין  
יִהוּדִי פֿון לעלוב וְשִׁמּוֹ הִיָּא אִיזִיק גִּלְעֶזער עֶר הָאָט גֶּעֲרִיבֵט חֲמָאָה וְגִבְיָהּ. עֶר הָאָט אֵן גִּיהוּבִין מִיין בְּלִיבִין אִין  
הִיא נִיט. אִיד ווִיל פֿאַררִין קִיין גַּלִּיץ ווִיל לִקְרִיץ אויף קוִיפִין אֹלֵי ווער אִיד צווא וואָס קומען...

*We were, the three of us, in session as one court, today, Sunday 7 of Elul [5]365 [=21.08.1605], and there came before us Mr. Mordēkay Mordush, son of the Honorable Solomon and said, as testimony under oath, and these are his words in the language of Ashkenaz: I and a Wallachian Jew were sitting in Jasi, Wallachia, and there was with us a Jew from Lelov whose name was Ayzik Glezer. He produced butter and cheese. He started: there is no point in staying here any longer. I will go to Galich, buy up licorice, perhaps I will gain something [ . . . ]*

In order to disentangle the intricacies of the mixture named ‘chancery style’, we need to distinguish within the testimony the Hebrew elements that are part and parcel of Yiddish, “Merged Hebrew” in Weinreich’s 1954 terminology, from *Loshn koydesh mamesh* ‘actual/real holy tongue’, or “Whole Hebrew” as defined by Weinreich (1954), but with the broadening revision offered in Bunis (2013:45), denoting “the Hebrew language proper, in all of its historical, regional and stylistic varieties, and at all structural levels (including phonology, morphology, grammar, syntax, lexicon and semantics), as used by a particular Jewish subculture.”

Following the formulaic introductory sentence which is of course in *Loshn koydesh*, the short excerpt from the testimony quoted above presents instances of the second kind only (marked in bold), i.e., “Whole Hebrew” elements with which

the scribe, probably inadvertently, replaced the actual Yiddish forms uttered by the witness. Such are the forms יהודי instead of ייד for 'Jew', וישמו instead of און פוטער און קעז for 'butter and cheese', and most interestingly, אולי instead of אפער for 'perhaps'. The interest in the last form lies in the fact that אפער, the form replaced, is also of *Loshn koydesh* provenance, but unlike אולי it is the regular form in Yiddish for denoting 'perhaps', hence, it is "Merged Hebrew".

A further example illustrating the two kinds of Hebrew present in the 'chancery style' comes from the *responsa* of Rabbi Yoel Sirkis (Poland, 1561–1640). Here too we have marked the "Whole Hebrew" portions in bold and in italics, whereas the "Merged Hebrew" portions are underlined for clarity's sake. In his *Old Responsa* 105 we read:

(7)

שות בה [בית חדש] (ישנות) סימן קה

במכות תלמא ב' דינא כחדא הוינא ואתא לקדמנא כמר יודא במהור"ר ישראל מעיר גרידינג סמוך לסטנאב והגיד בתורת עדות ובליו"ע [ובאם לא יגיד ונשא עוונו] ח"ל [זה לשונו] בל"א [בלשון אשכנז] איך האב גוואנט אונטר סטנאב צו ק"ק גירדינג האב איך איין בלבל גיט האב איך גמוזט איין וועק פארין פון גירדינג לאקריי"נא הינטר דעם נעפר איז גיוועזן לעת הזאת איין גרוסה מלחמה דארטן זענין פיל יהודים נהרג גיווארן דא אריבער בין איך בדלות גיווארן האב מוזין פון דארטן אוועק פארין אונ' האבין מיד לייט גיפראגט ווא אהין איך פאר האב איך גזאגט מאחר דו איך מיינס לנד נישט אריינן טאר דא פאר איך אין בריסקר לנד און הרעדניר דא האט מן מיר איין ריסטר גיגעבין וועלכי לייט די דא זענן נהרג גיווארן איז דרויף גיחתמית גיוועזן חתן ושמש דק"ק פריטן אונ' נאך איין שלישי איז דרויף גיחתמית גיוועזן מק"ק פריטן הנ"ל איז ה' פרסאות מק"ק לוציק איז אין דעם ריסט"ר גישטנדן דו גישריבן דו אברהם בר שבתי מק"ק הרעדנה איז נהרג גיווארן לעת הזאת בשעת מלחמה איז דריין גשטאנדן גישריבן דו אברהם האט גזאגט דאז זיין ווייב היישט גנענ"ל אונ' דאש איז זיין אנדר ווייב אבר איך קען נישט לויטיר גידענקן וויא עש איז גשטנדן אין ריסטר וויא פיל יאר עז איז גיוועזן לעת הזאת דו ער איז אוועק גוועזן פון זיין ווייב גינגן אבר מיד דונגט עש איז גשטנדן וויא ער איז פון זיין ווייב שש או שבע שנים אויך איז גשטנדן אין דעם ריסטר הנ"ל דו אברהם הנ"ל האט איין מוטר צו ק"ק ויסקא עז איז דריין גשטאנדן אין ריסטר הנ"ל זיא היישט מיט דעם נאמן איך קאן נישט לויטיר גידענקן וואש פר איין נאמן דער ריסטר איז מיר פר לארין גיווארן עכ"ל לזה הגיד ביום ב' י' שבט שצ"א לפ"ק [לפרט קטן] פה ק"ק ווילנא:

*We were, the three of us, in session as one court and there came before us Mr. Yēhuda son of R. Yisra'el from the town of Griding near Satanov, and said in testimony under oath, and these are his words in the language of Ashkenaz: I was living beyond Satanov in the holy community of Griding, and I had some problems (with the law), so I had to leave Griding and go to Ukraine beyond the Dnepr. There was a great war going on there *at that time*, in which many *Jews* were killed, and I had therefore become impoverished and had to leave, and people asked me where I was going, so I said: *since* I may not enter my land, I am going to the land of Brisk and Hrodno. So they gave me a list of people that were killed, signed by the cantor (*hazzan*) and the beadle (*šammas*) of the holy community of Priten and a third party has signed it, also from the *aforementioned* holy community of Priten, which is *five miles* from the holy community of Luck, and in the list it was written that Avraham son of Šabbētay from the holy community of Hrodno had been killed at that time during the war, it was written in it (the list) that Avraham said that his wife was named Gnendl and that this was his second wife, but I cannot remember clearly how it was written in the list, how many years had passed at that time from when he had been*

away from his wife, but it seems to me it was written that he had been away from his wife *six or seven years*. It was also written in the *aforementioned* list that the *aforementioned* Avraham has a mother in the holy community of Visoko. It was also written in the *aforementioned* list that she is called by the name I cannot remember clearly what name, the list I lost. *Thus far his words on this, said on Monday tenth of Ševaṭ 391 of the small count [=5391] from creation [=03.01.1631 CE]] here at the holy community of Vilna.*

The recurring abbreviated Hebrew forms ק"ק 'holy community' (acronym of קהילה (קדושה), sometimes preceded by a Hebrew (or Aramaic) preposition, דק"ק 'of the holy community', מק"ק 'from the holy community', are certainly an addition by the scribe, not uttered by the witness, but deemed necessary in writing. Similarly, also the recurring forms הנ"ל 'the aforementioned', required in protocols for explicitly marking the co-referentiality of a name with its previous occurrences. All these are of course "Whole Hebrew". So are also the expressions לעת הזאת assumedly replacing צייט דיווער 'at that time', שש או שבע שנים 'six or seven years' replacing יאָר פינף מייל 'five miles' replacing פרסאות 'five miles' surely uttered by the witness. The same is valid for the mixed conjunction מאַחר דז 'since' (literally 'following that'), the first component of which is the "Whole Hebrew" preposition מאַחר 'following' (literally 'from-after'), whereas the second is the form דז 'that' of German stock. We have to assume that the witness said דז וויבילד.

On the other hand, compound verbal forms like גיזאגט 'was killed', גיזאגט גיזאגט 'was signed', גיזאגט גיזאגט 'became impoverished' contain a "Merged Hebrew" element combined with a German-stock auxiliary. The preposition בשעת 'during', as well as the nouns מלחמה 'war', חזן 'cantor', שמש 'beadle' are "Merged Hebrew" elements employed in everyday Yiddish speech.

The follow-up questioning of the witness, however, during his second appearance before the court, is reported in the protocol with much less precision. Instead of transmitting his words in direct speech in the first person, the protocol provides indirect speech in the third person, eventually switching back to the first person (the exponent of indirect speech and the switching are marked in the translation by *italics*). Here is the portion from the same protocol:

(8)

שוב העיד כמר יודא הנ"ל ביום הנ"ל דז דער חזן ושמש האבן פראגט דא דער אברהם הנ"ל אין גיזאגט דען זיא זינן ביי אים גיזאגט סמוך למיתתו דא האט זיא דער אברהם גיבעטן דא זיא זאלן אין דעם ריסטר איין שרייבן כפי דבריו כנ"ל און דער חזן ושמש האבן פראגט דא זיא זענן בייא דען קבורה גיזאגט של אברהם הנ"ל עכ"ל:

*Once again the aforementioned Mr. Yehuda testified on the aforementioned day that the cantor and the beadle said in his presence that the aforementioned Avraham had died, since they were with him shortly before his death, and then the Avraham pleaded with them that they write down in the list according to his aforementioned words, and the cantor and beadle said*

*in my presence that they had assisted at the burial of the aforementioned Avraham. Thus far his words.*

Here we also witness instances of “Whole Hebrew” elements added by the scribe, e.g., הנ"ל ‘the aforementioned’, as well as phrases in *Loshn koydesh* replacing Yiddish expressions, such as סמוך למיתתו ‘shortly before his death’, כפי דבריו כנ"ל ‘according to his aforementioned words’, and finally של אברהם הנ"ל ‘of the aforementioned Avraham’.

The language resulting from this kind of mostly inadvertent switching, a hybrid mixture of *Loshn koydesh mamesh* and Yiddish (including its merged *Loshn koydesh* component) is, as said, typical of the written ‘chancery style’, and has to be distinguished from special cases of intentional code-switching in the spoken language.

## 11 Intentional Switching to *Loshn koydesh*

Such switching normally occurs between two spoken languages, but in our case we have an unusual example where the matrix langue is Yiddish, but the meaningful lexical elements are taken from *Loshn koydesh*, a written language. This switching is something of which both speaker and listener are well aware of, and which is employed intentionally in order to dissimulate the meaning of the utterance by choosing the higher, written register. This can happen when Jews speak to one another in the presence of gentiles and do not wish them to understand. Here is an example of such switching from the responsa of Rabbi Menakhem Mendl Krochmal (Poland, Bohemia 1600–1661), response 42 from the year 1648.

(9)

שות צמח צדק (הקדמון) סימן מב

שוב ביום א' ב' שבט תא"ו ח"ת לפ"ק העיד כמר יהודא ליב בן מהור"ר אברהם דעקנוג. בבי דינא כד הוו במוטב תלמא בתורת עדות בעונש אליו"ע [אם לא יגיד ונשא עוונתו] ח"ל [זוה לשוננו] בלשון אשכנז איך אונד כמר שלום פשקיו זיין גיוועזן בכפר לאדין דארף האבן איין שקען טוך פר קויפט. זאגט דער שקען קומט מיט מיר צו דעם בעקין דארט האב איך מיין געלט זיין מור הין גאנגן זאגט כמר שלום הנ"ל זיך אין דעם בית איז אונד דער יודע איז מן הנאבדים בעו"ה [בעוונותינו הרבים] זיין מיר אריין קומן זא פראגט אונש דער בעק וואש מיר ביגערין האבן מיר גיזאגט איין שקען וויל אונש ביצאלין פר טוך זא זאגט ער עש איז גוט.

*Again on Sunday 2th of Shevat, [year] 408 of the small count [i.e., 5408 from creation = 26.01.1648 CE] Mr. Yehuda Leyb son of the Honorable Avraham Deknug testified [before us as] we were, the three of us, in session as one court, as testimony under oath, and these are his words in the language of Ashkenaz: I and Mr. Sholem Peshkes were in the village Lodendorf, we had sold cloth to a certain young gentile. Says the young gentile: come with me to the baker, there I*



have my money. So we went there. Says *the aforementioned Mr. Sholem*: Look, in this house there is *someone* who *knows about those who had vanished, for our many sins*. So we went in. Then the baker asks us what we desire, so we said: a young gentile wants to pay us for cloth. So he says: that's fine.

The sentence in which this dissimulation occurs is: 'Look, in this house there is someone who knows about those who had vanished, for our many sins.' In it, all the meaningful lexical items, בית 'house', אחד 'someone', יודע 'knows', מן הנאבדים בעו"ה, 'about those who had vanished, for our many sins' are in "Whole Hebrew", yet the sentence is in Yiddish, since the function words, such as the preposition (אי), the article (דעם), the relative pronoun (דער), and the auxiliary (איז) are Yiddish.

In sum, taking into account these kinds of departure from literality in well-defined circumstances, we now have at our disposition a large corpus of reliable and significant evidence on the spoken language of the Jews of Ashkenaz and its evolution over time and space. Preliminary results, which will be expounded elsewhere, suggest that most of the grammatical developments leading towards Modern Yiddish, presented in the literature (cf. Kerler 1999) as marking the eighteenth century, have their antecedents in the spoken language of earlier periods, as evidenced by the court testimonies.

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