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The History of the Tosafists and their Literary Corpus According to Rav Soloveitchik's Interpretations of the *Qinot* for *Tishah B'av*

I

Although Rav Soloveitchik was well aware of the events of his day and of important events from both the Jewish past and from the broader history of the world, he evinced little interest, at least in his published works and public lectures, in pursuing the details of history with any depth. Historical events were sometimes used to flavor his discourses, but his main interaction with them (and with historical theory more broadly) was to incorporate them into his philosophical and theological teachings and categories, in order to learn from them about the human condition and obligations, in both the halakhic and philosophical realms.¹

A telling model for this type of engagement with history is Maimonides' treatment of the development of monotheism at the beginning of *hilkhot 'avodah zarah* in *Mishneh Torah*. Even as Maimonides, in his *Introduction to Perek Heleq*, openly declares his lack of interest in (if not disdain for) "the history of the kings and how and when

1. See Jeffrey Woolf, "Time Awareness as a Source of Spirituality in the Thought of Rabbi Joseph B. Soloveitchik," *Modern Judaism* 32 (2012), 54–75 [= "Historiyyah ve-Toda'ah Historit be-Mishnato ha-Hilkhatit shel ha-Rav Soloveitchik," *Rav ba-'Olam he-Ḥadash*, ed. A. Rozenak and N. Rothenburg (Jerusalem, 2010), 324–38.] I am grateful to my friends and colleagues, Professors Charles Raffel (z"l), Jacob J. Schacter and David Shatz, who were kind enough to read a draft of this study and offer a number of helpful comments and suggestions.

they were succeeded,” he deftly mobilizes details about the life and career of Avraham *Avinu*, as found in biblical, talmudic and midrashic sources, in order to form a historical picture whose goal is not to teach or analyze history, but rather to speak to the intellectual and spiritual development of Judaism and mankind.²

In terms of the history of talmudic studies and interpretation, the Rav would relate, on occasion, to the methodology of a particular *rishon* in some kind of historical context. He might note, for example, the way that Ri Migash, the main teacher of Rambam’s father and thus a very important influence on Maimonides as well, adumbrated Rambam’s thinking about or formulation of a particular interpretation or approach. At the same time, however, the well-known description presented by the Rav about how various *rishonim* and ‘*aharonim* – from Rashi and *Tosafot* to Rambam and Rabad, to his grandfather R. Hayyim Soloveitchik and his father R. Moshe – would metaphysically enter the *beit midrash* as he unfolded their teachings in the course of developing his own shiur, while chronologically accurate, was intended to make the point that the continuum of talmudic study represented by this progression of rabbinic scholars (the *hakhmei ha-masorah*) transcended history, and is not inherently affected by the historical process.³

Indeed, the Rav did not often discuss, in the course of his talmudic discourses, the provenance, history or historical context of a particular *rishon*. At least in my day in the Rav’s shiur, R. Menahem *ha-Meiri* of Perpignan alone came in for special mention – more for criticism than for anything else – which was centered on Meiri’s “congenital inability” to maintain consistency in the sobriquets that he developed for citing his various predecessors (rather than referring to them by name). The Rav certainly knew that Meiri (ca. 1249-1316) was among the last of the *rishonim* and that his work of summation (in which his Provencal background afforded him a commanding overview of what had come before him in Sefarad, Ashkenaz and southern France, even

2. I first heard this insight many years ago from my distinguished teacher and colleague, Prof. Arthur Hyman. See also Isadore Twersky, *Introduction to the Code of Maimonides* (New Haven, 1980), 153-54, 220-28, 389-91; and Y. H. Yerushalmi, *Zakhor: Jewish History and Jewish Memory* (Seattle, 1982), 32-33, and 114-115 (n. 5).
3. See A. R. Besdin, *Man of Faith in the Modern World: Reflections of the Rav*, vol. 2 (Hoboken, 1989), 21-23.

as Maimonides played a particularly significant role in Meiri's work) had potentially important implications.⁴ At the same time, however, the relatively late publication of Meiri's corpus meant that his work had not been properly evaluated or utilized in a significant way by the greatest among the *'aharonim*, a point that was very important for the Rav, and one to which we shall return.⁵

Some have suggested that the Rav's dismissal of the Meiri actually had more to do with Meiri's broad method of summation. Well before the advent of Rabbi Adin Steinsaltz's commentaries to the *Gemara*, or the Schottenstein Artscroll Talmud, the Rav did not want his students to rely on Meiri's gathering and analysis of the various *rishonim* who were available on a particular *sugya*. Rather, he wanted to ensure that the students discovered and discussed these interpretations on their own, so that they would be better prepared to understand and to interact with his own analysis that would follow. In any case, while the Rav was acutely aware of the provenance of the various *rishonim*, and occasionally framed disputes between them in terms of geographic differences (such as *Hakhmei Ashkenaz* versus *Hakhmei Sefarad* and the like), he did not typically focus on the historical development (or spread) of their positions.

One area or realm of endeavor in which the Rav does appear to have been more interested in and open to pursuing the *sitz im leben* as well as the methods of various *rishonim*, was that of *hespedim* and other testimonies about the rabbinic figures with whom he had meaningful contact. I recall, for example, that in his 1982 *hesped* for Rabbi Professor Michael Bernstein – who had served for a number of years as a Rosh Yeshiva at the Rabbi Isaac Elchanan Theological Seminary until the onset of a degenerative illness that compelled him to forego giving a daily shiur and instead to teach Semitics, biblical interpretation, and other courses in the languages and texts of the ancient Near East at the Bernard Revel Graduate School, which he taught at his home for quite a number of years, and even from his

4. See e.g., Israel Ta-Shma, *Ha-Sifrut ha-Parshanim la-Talmud*, vol. 2 (Jerusalem, 2000), 158–73.

5. See e.g., *Igrot ha-Grid ha-Levi* (Jerusalem, 2001), fol. 57a; and below, n. 15. The Rav also noted that the method and content of the *Beit ha-Behirah* (including the lack of clear citations and its relative verbosity) suggest that its author was not as highly regarded as someone such as the contemporary Rashba.

sick-bed – the Rav invoked the image and achievements of R. Sa'adyah Gaon, whose commanding expertise was evident not only in the study and interpretation of Talmud and *halakhah*, but also in the areas of grammar and syntax and scriptural exegesis and analysis, among other linguistic and literary fields. Once the Rav had briefly described the protean achievements of Sa'adyah, he started to quickly and effusively list a series of like-minded and oriented scholars such as Menahem ben Saruq, Dunash Ibn Labrat, Judah Ibn Ḥayyuj and Jonah Ibn Janah, and what they had written,⁶ as paradigms for the exceptionally high-level and variegated categories of Torah study and mastery that characterized the accomplishments of Rabbi Bernstein as well.

The Rav clearly knew all of these figures and their works, and their ability to achieve greatness in multiple disciplines surely impressed him. In this instance, he allowed himself to recount their schools and their achievements, in proper historical order and with sensitivity to what each individual had accomplished mainly because he wanted to thereby highlight what the *niftar* who lay before him had also aspired to and had taught. As we shall see in a moment when I turn to the main focus of this study, the Rav's interpretations of the *Qinot*, the Rav often stressed that it was necessary to describe in very specific and loving terms the beauty and spiritual greatness of Jerusalem and the Temple prior to their destruction, in order to understand and appreciate more fully what had in fact been lost with their destruction. In commenting on R. Yehudah *ha-Levi*'s *qinah*, ציון הלא תשאלי לשלום אסיריך, which is the first of several such Zionide poems extolling the virtues of Zion that are included in the standard *Qinot le-Tishah B'Av* (and *Ha-Levi* is acknowledged by subsequent Ashkenazic authors as the initiator of and inspiration for this genre),⁷ the Rav posited that there are two elements to the observance of Tishah B'Av and the recitation of the *qinot*. The first is to remember Zion in its state of destruction, while the second is to remember Zion in its magnificence prior to its destruction (as מה שמתה שם הייתה השכינה שרואה, והשיתה מכוננת נגדי שעיריו ירושלים של השם והשם העלונים). Both of these aspects emerge from the verse in *Eikhah*

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6. On these figures and their works, see e.g., Nahum Sarna, "Hebrew and Bible Studies in Mediaeval Spain," *The Sephardi Heritage* I (1971), 323–66.
 7. See Ezra Fleisher, *Ha-Yozerot be-Hithavvutam ve-Hitpathutan* (Jerusalem, 1984), 681, 704–07; and my *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz* (Detroit, 2013), 418, 438–40.

(1:7), זכרה ירושלים מי עניה ומרודיה כל מחמדיה אשר ה' מיימי קדם, “Jerusalem remembers the days of her affliction and her anguish, all her treasures that she had from the days of old.” In order to appreciate the magnitude of the *hurban* and the losses associated with it, one needed to be familiar with the beauty of the *Beit ha-Miqdash* and of Jerusalem before the disasters had occurred. Indeed with this *qinah*, the standard Tishah B’Av liturgy from Ashkenaz/Eastern Europe transitions to remembering Jerusalem before the *hurban*.⁸

To return to the Rav’s *hesped* for R. Michael Bernstein, although the Rav was surely aware that R. Sa’adyah Gaon was by far the most outstanding talmudist among this group of rabbinic scholars – his placing R. Sa’adyah at the head of the list and giving him the most attention was not simply a matter of chronology – he did not pause at that time to consider the talmudic levels of the other great grammarians and biblical exegetes, or to reflect upon any of the differences and difficulties that they had with their patrons or with the rabbinic establishment more broadly.⁹ The Rav’s working assumption was that all of these figures were Torah scholars by virtue of their trenchant contributions to our deeper understanding of the biblical corpus, and they could serve as appropriate paradigms for the *niftar* – there was not only the singular R. Sa’adyah Gaon, but also a larger cadre of elite rabbinic scholars with whom the *niftar* was to be identified. Specific historical details about the lives and careers of each figure were not significant in this context, but their basic orientations and major achievements most certainly were.

II

In similar fashion but to an even greater extent, the Rav felt the need to comment about the history and achievements of leading medieval rabbinic scholars in the course of his interpretations of and discourses

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- 8. See *The Koren Mesorat HaRav Kinot*, ed. S. Posner (Jerusalem, 2010) [hereafter cited as KMHK], 558–59; *The Lord is Righteous in All His Ways: Reflections on the Tish’ah be-Av Kinot by Rabbi Joseph B. Soloveitchik*, ed. J. J. Schacter (New York, 2006), 305–06; *Harerei Qedem: Me-Hiddushei Torato shel Rav Yosef Dov ha-Levi Soloveitchik*, ed. M. Shurkin vol. 2 (Jerusalem, 2010), 311; and below, n. 23.
 - 9. See e.g., *The Book of Tradition by Abraham Ibn Daud*, ed. G. D. Cohen (Philadelphia, 1967), xlvii, 101–02, 267, 280–81.

on the *qinot* of *Tishah B'Av*, just as he undertook to outline and to highlight the background of the *payyetanim* themselves. Given the weighty notion described above of retrieving and carefully describing the former glory of the religious institutions, as well as the leaders of Torah scholarship and comportment that had been lost during the *hurban* and other persecutions from both the ancient and medieval periods (in accordance with the talmudic and rabbinic dictum found initially in *Rosh ha-Shanah* 18b, *ש��ולה/קשה מיתן של צדיקים משריפת בית אלהינו*), the Rav felt that this imperative also included placing the authors of the various *qinot* in their historical and literary contexts.

Thus, for example, the Rav spent a great deal of time discussing and characterizing both the period and the literary achievements of Eleazar *ha-Qallir*. The Rav noted the view of *Tosafot* and other *rishonim* that Qallir was the Tanna R. Eleazar (or Eli'ezer) ben Simeon (a view that was associated with no less a figure than Rabbenu Tam), but he quickly shifted to the opinion of other *rishonim* that Qallir was more likely an Amora or one of the post-talmudic *qadmonim*, and that he lived in the sixth or seventh century CE. The Rav further noted that a number of *Tosafot* (and other passages in the literature of the *rishonim*) cite the *piyyutim* of Qallir in order to arrive at halakhic conclusions or to interpret a midrash, which indicates that Qallir was not only considered to be a great *payyetan* but also an authoritative rabbinic scholar whose *piyyutim* were to be examined quite closely in all of their literary and content aspects: “*Tosafot* quote R. Eleazar ha-Qallir many times when halakhic problems arise. Qallir was not simply a *payyetan*; he was one of the *Hakhmei ha-Masorah*.”¹⁰

Indeed, the Rav pointed to a passage within one of Qallir’s *qinot*, *רשות ה' הצדק* (that is recited toward the end of the opening unit of the *qinot* according to *minhag Ashkenaz*, all of which were composed by Qallir), which seems to suggest that Qallir lived during the tenth century, nine hundred years after the *hurban*. The Rav followed this proof with an even more explicit passage, found in a *gerovah* by Qallir for the *חזרה*

10. See *KMHK*, 198, 388; *The Lord is Righteous in All His Ways*, 137–38, 299; Perez Tarshish, *Ishim u-Sefarim ba-Tosafot*, ed. H. S. Neuhausen (New York, 1942), 110–12; Ruth Langer, “Kalir was a Tanna,” *Hebrew Union College Annual* 67 (1996), 99–100; I. Ta-Shma, *Knesset Mehqarim*, vol. 1 (Jerusalem, 2004), 105, 262 (n. 8), 292; vol. 3 (Jerusalem, 2005), 257–58, 290–91; and my *The Intellectual History*, 454.

צ"ה on the morning of Tisha B'Av (אביב ביום טבת), in which Qallir notes that nine hundred years have passed since the *hurban* (ענין תשואת שנה), and yet the תישׁוֹת has still not yet arrived. The Rav is then said to have remarked, "I do not know why historians have to explore when Qallir lived, when he himself states that nine hundred years have passed and the Messiah has not yet arrived. It means that Qallir lived in the tenth century."¹¹ Further historical evidence or investigation is not needed here since we have, in effect, a case of *הוזאת בעילין*.

The Rav perhaps preferred to locate Qallir early in the period of the *rishonim* (or just prior to that period) because this would further explain the steadfast reliance of the *rishonim* on his compositions as sources of *halakhah* on the one hand, and because Qallir then becomes, in addition, a kind of model for their own *piyyutim* and *qinot*. Qallir could be trusted to maintain absolute fealty to established halakhic practices in all of his compositions. Even as there are *halakhot* and *midrashim* reflected in Qallir's work that are seemingly unknown to us, and even though we do not always fully understand his poetic and literary constructions, the Rav's conclusion is that "there is hardly a sentence of R. Eleazar ha-Kallir that does not reflect *halakhot* or 'aggadot of Hazal.' In addition, the Rav felt that Qallir "was certainly well-acquainted with the Christian arguments against Judaism especially as indicated in the *qinah* beginning הטה אלהי אָמַר, and he clearly knew the so-called Byzantine theology very well." Moreover, Qallir understood that pagans were more tolerant than

11. *The Lord is Righteous in All His Ways*, 138. See also KMHK, 386–88. Prof. J. J. Schacter drew my attention to related passages by R. Ezekiel Landau (d. 1793) and R. Solomon Judah Leib Rapoport (Shi"R, d. 1867, both of whom coincidentally served as chief rabbi of Prague). In his commentary to *Berakhot* 34a (ענין לטפוחה [על ח"ה דע]), R. Landau asserts that the phrase in Qallir's *gerovah* for the morning of the ninth of Av, which maintained that nine hundred years had passed since the *hurban*, must have been inserted by a later rabbinic scholar as a means of sharpening the mourning in his own day, since in R. Landau's view (which he presents at some length), Qallir undoubtedly lived during the talmudic period. Shi"R, in a note on "the time and place" of Qallir that appeared in the periodical *Bikkurei ha-'Ittim* (1830), 100–01, contests the textual suggestion made by the Rav, noting that this phrase is an integral part of the literary fabric of the *gerovah* in question (and thus could not have been a later addendum), and pointing to the confirmation of the (later) period in which Qallir lived from the *qinah* לך ה' חיזקה (as the Rav did).

the Christians, which explains why the study of Torah was exiled to Babylonia after the destruction of the Temple and beyond, rather than allowing it to remain in Israel under Christian or Byzantine control (which reflected the beliefs of the Roman empire in that region). In short, whether Qallir actually lived in Israel or not, he was quite familiar with Jewish life in the Diaspora.¹²

Part of this initiative, to identify and extrapolate the historical status and religious awareness of Qallir, stems from the fact that the Rav held, as a given, that any accepted *piyyut* or *qinah* from the medieval period must have been authored by a rabbinic scholar of some note, whether or not we possess further information about the author. The deep knowledge of the biblical corpus and the larger bodies of talmudic and rabbinic teachings that the Rav often found embedded in these liturgical compositions, as he elucidated them in his comments and observations, meant that their authors had to be significant Torah scholars by definition. Only such authors were capable and worthy of composing liturgical poems – well after the period of *Anshei Knesset ha-Gedolah* – that could be included in the standard yearly liturgy of the various Jewish communities. “Later *piyyutim* were written by *Hakhmei Ashkenaz* and *Hakhmei Zarefat*. There is no doubt that the authors of the *piyyutim* mourning the destruction during the Crusades were of the *Ba’alei ha-Tosafot*. But the *Hakhmei Ashkenaz* and *Hakhmei Zarefat* were [also] the *Hakhmei ha-Masorah*. They were responsible not only for the *piyyutim* but also for the *shalshelet ha-qabbalah*.” Thus, for example, the Rav suggested that the medieval *qinah* about the brother and sister (the son and daughter of R. Yishma’el *Kohen Gadol*) who were taken as

12. *The Lord is Righteous in All His Ways*, 139–41. See also *KMHK*, 266–67, 366, 378, 410–12. The Rav also felt that the language in Qallir’s *qinot* for the ninth of Av became simpler as they unfolded (even within the first section of the standard Ashkenazic rite in which all of the *qinot* were composed by Qallir himself), and was surely simpler than the language of his *piyyutim* for other occasions (and in other liturgical genres), a concession perhaps to allow those who recited the *qinot* to understand them more easily. Of the *qinot* by Qallir that appeared later in the Tisha B’Av liturgy, the Rav asserted that “one would think that R. Yehudah *ha-Levi* wrote some of them, or maybe Ibn Ezra or Qalonymus or the *payyetanim* of Germany and France.” It is not surprising that here again, the Rav sought to delineate an element of similarity between Qallir and other leading medieval *payyetanim*.

slaves, וְאֵת נַי חֲטָאתִי הַשְׁמִימָה – which is attributed in one manuscript to – יְחִיאֵל – may have been composed by the Tosafist R. Yehi'el b. Joseph of Paris.¹³ Similarly, the Rav remarked that “the authorship of this *qinah* [אֲשֶׁר תֹּוקֵד בְּקָרְבֵי בְּצָאתִי מִצְרָיִם] is unknown, but it is fairly certain that the author was a *Rishon*.¹⁴

And so, in order to bring these authors alive and to recognize and underscore their worthiness, and even more importantly, to properly eulogize and learn from those rabbinic scholars who lived (and perished) during and after the First Crusade, along with those who were present during other medieval persecutions and traumatic events such as the burning of the Talmud – all of which are commemorated in the *qinot* of *Tisha B'Av* – the Rav devoted a recognizable and larger than usual share of his analysis of these texts to the rabbinic figures who were involved, and to their learning and literary achievements.

III

In doing so, however, it is my contention that with regard to the German and northern French rabbinic figures from the period of the

13. See *The Lord is Righteous in All His Ways*, 298–99; and KMHK, 442. As I have demonstrated in chapter five of my *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz* (375–443), a very large number of the *piyyutim* (including *qinot*) that were produced in Ashkenaz were composed by Tosafists, although there were also a number of *hazzanim* and other specialists who composed only *piyyutim* as far as we can tell. See *ibid.*, 22–23 (n. 83), and 442 (n. 333).
14. See KMHK, 520. The Rav derived further support for his larger contention from the fact that in this second section of the standard Ashkenazic rite of the *qinot* in which quite a number of medieval *qinot* begin to appear, these are interspersed with *qinot* by Qallir, in much the same way that the *qinot* in this section range from those about the destruction of the Temple to the impact of the First Crusade, to the suffering of individuals at that time of the *hurban*, and then back to the suffering in the communities of the Rhineland in 1096. These various authors and themes are thus meant to appear to be of equal footing and import. It should be noted that *אֲשֶׁר תֹּוקֵד בְּקָרְבֵי בְּצָאתִי מִצְרָיִם* appears to be of Sefardic origin, even as the identity of its author remains unclear. It was, however, included in western European Ashkenazic liturgies for the ninth of Av already by the thirteenth century, even as these rites recognized (and sometimes even noted) that it came from the Sefardic realm. See e.g., ms. Vatican Ebr. 312, fol. 61r; ms. Parma (de Rossi) 635, sec. 22; and ms. Prague (National Library), VI EA 2.

First Crusade and beyond – the Tosafists of the twelfth and thirteenth centuries and other *Hakhmei Ashkenaz* to whom he refers in his comments on the *qinot* – the Rav displays an almost uncanny awareness, owing to his unparalleled mastery of the talmudic literature from this period, of certain phenomena and aspects of the intellectual history of the period, including a series of important works that are no longer extant. As we shall see below, the existence and impact of these works and their authors have been highlighted by contemporary scholarship and academic literature and research only within the last thirty five years or so (and much of it only in the last two decades), long after the Rav first put forward his interpretations of the *qinot*. For someone who did not always seem to be particularly interested in the details and specifics of literary history, the Rav, in his comments to the *qinot*, offered some remarkable insights that were very much ahead of their time.

A final introductory comment is necessary, in order to place what follows into its fullest intellectual context and to further highlight what is unique. In his regular shiurim and talmudic analyses, the Rav did not typically search for unusual positions or views that did not appear in the standard, extant canon of medieval talmudic commentary. Following his grandfather R. Hayyim (whose library was not known to be particularly extensive, for one of two possible reasons – either because the Brisker practice that required checking each page of a rabbinic tome for ḥameẓ before Pesach would have rendered the possession of a large library as overly onerous and burdensome or, more likely, because the economic situation at that time did not allow for the acquisition of many books beyond the standard volumes that a leading European *talmid hakham* absolutely needed to possess – the Rav actually offered both of these reasons himself, although it is clear that the second one is the more compelling), the Rav did not cite variant texts of *rishonim* or little-known (or newly published) texts very often.

As many other leading rabbinic scholars did, the Rav made his case with the “standard *rishonim*” that anyone in early twentieth-century Europe (including his immediate predecessors) might have had available to them.¹⁵ Although this notion of basing talmudic scholarship

15. A perusal of the detailed index to *Igrot ha-Grid* illustrates this point quite well. In addition to many references to *Gemara*, *Rashi*, *Tosafot* (as well

on widely known and available texts rather than on lesser known texts or variants was especially valued with regard to halakhic decision-making (and is sometimes referred to as *הכוֹר המבחן של הווילכה*), the Rav (and his ancestors) followed this pattern as well with regard to talmudic *hiddushim* and other new insights that were beyond matters of practical *halakhah*.¹⁶ In light of its privileged place and the role in the Brisker *derekh* (and perhaps the fact that Maimonides and his followers were always concerned that the most accurate text of this work be available to all), Maimonides' *Mishneh Torah* is virtually the only classical text for which variant (manuscript) readings were welcomed and even sought out.

as R. Samson of Sens' commentary to *Zera'im* and *Tahorot*), Rambam (including Rabad's glosses to *Mishneh Torah*), *Arba'ah Turim* and *Shulkhan 'Arukha*, Ramban's talmudic *hiddushim* (and his *Milhamot* commentary on Alfasi's *Halakhot*, as well as his *Torah* commentary) are frequently cited, as are the *Hiddushim* of Rashba, *Hilkhot ha-Rif*, *Piskei ha-Rosh* and the *Sefer ha-Ma'or* by R. Zerahyah ha-Levi. There are a handful of references to *Hiddushei ha-Ritva* (the Rav once remarked that he did not see a printed version of these *hiddushim* until 1959), but any remaining *rishonim* are cited only once or twice. Of the two citations of *Sefer Mordekhai*, for example, the Rav notes that one was cited *la-halakhah* by R. Moses Isserles (Ramo); and the second was cited by the Rav's father, R. Moshe Soloveitchik, to confirm a new interpretation that the Rav had suggested for a *Tosafot* passage. The single Meiri passage cited by the Rav (see above, n. 5) was cited from memory, and he was unsure as to whether it was from Meiri's *Beit ha-Behirah* or from Ritva's *hiddushim* *וְהַנָּה בִּרְיבָּא אוֹ בְּמַאֲרִי, וְאֵין הַסּוּרִים תְּחִתְ יְדֵי וְלֹא אָכֶל לְדַעַת עַל נַכּוֹן* (cited; this appears to indeed be a citation from *Beit ha-Behirah* to *Bezah* 5a). In several additional instances, the words of an otherwise un-cited *rishon* were presented to the Rav by a questioner for his opinion of their interpretation or meaning. In the index to the latest volume of *Harerei Qedem*, ed. M. Shurkin (Jerusalem, 2013), which presents the Rav's *shiurim* to שבעה, the citation patterns of *Hiddushei ha-Ritva* and *Sefer Mordekhai* are virtually identical, although there is a bit more usage of Meiri's *Beit ha-Behirah*.

16. See the exchange between Rabbi Z. A. Yehudah and Prof. S. Z. Leiman on the attitude of the *Hazon Ish* toward the use of manuscripts and newly discovered rabbinic and halakhic works of yore in *Tradition* 18 (1980), 372–78, and 19 (1981), 301–10. One of the few instances in which the Rav cites and discusses the interpretation of a lesser-known *rishon* is his extensive treatment of a passage in the *Torah* commentary known as *Hiszequni* (composed by R. Hezekiah b. Manoah in northern France, c. 1275), regarding the form to be employed for framing the *sefirat ha-'omer*, and its relationship to the counting of the years in the *shemitah* cycle. See *Mesorah* 1 (1989), 11–16.

We now turn directly to the Rav's interpretation of the *qinot*, initially in order to review his theories about the authors of the *qinot* that were composed in medieval Ashkenaz, but ultimately to discuss his comments about the centers of Torah study in Ashkenaz and the literature that was produced in them. The Rav attributes the first *qinah* about the First Crusade found in the standard East European liturgy, החרישו ממי ואדברה, to R. Meir b. Yehiel, "who was, in all likelihood, one of the German Tosafists." There is no independent literary or anecdotal evidence to support this suggestion – modern scholarship has generally concluded that this *qinah* was composed anonymously – but the Rav apparently felt that this *qinah* about the events of 1096 was a continuation, in both style and approach, of *Arzei ha-Levanon*, the *qinah* that is found immediately prior in the standard liturgy for the ninth of Av which describes the עשרה הרוגי מלכות, the ten great Torah scholars who were martyred by the Romans, and which was certainly composed by R. Meir b. Yehiel.¹⁷

The author of the second *qinah* about that Crusade, מייתרashi מים, "was the famous Qalonymus ben Yehudah, the *payyetan* . . . He was a member of a family of *payyetanim*, an Italian family that settled in Germany." Rashi to *Beizah* (24b, s.v. *ule-'erev*) notes that he received a letter from Worms stating that a great scholar named R. Qalonymus (b. Shabbetai), who was thoroughly knowledgeable in the entire Talmud (בקי בכל הש"ס), had arrived therefrom Rome; the Rav assumed that the *payyetan* Qalonymus ben Yehudah (*ha-bahur*) of Worms was a descendant of the R. Qalonymus mentioned by Rashi.¹⁸ Although

17. See KMHK, 414, 418, 430; *The Lord is Righteous in All His Ways*, 258; and cf. below, n. 23. Alter Velner, 'Aseret Harugei Malkhut ba-Midrash uba-Piyyut' (Jerusalem, 2005), 344, cites Ozar ha-Gedolim, which asserts that R. Meir b. Yehiel lived in Halle (סולין, in Saxony) c. 1190, and that *Arzei ha-Levanon* is the only *piyyut* that he composed. Leopold Zunz, *Literaturgeschichte der synagogalen poesie* (Berlin, 1865), 488–89, lists several additional *piyyutim* under his name including a נזק נגילה וזרות for parashat Yitro (תמיימים); מעדד עדים הים בקעתם רביים for *Shabbat Shirah* (אהבה an); and another *qinah* משכנתך אליהם חוריבנו כוחרימי הרג ולא חמל). See also the description of ms. Bodl. 1151, according to the catalogue of the Institute for Microfilmed Hebrew Manuscripts at the Jewish National Library (film #11611): יצירות שכיחות לכל השנה כולל מר' חיים פלטייל, ר' מאיר מטולו, ר' שמואל ממזרוב, וכו' שמואל המכון. בלתי שכיחות כל שנה כולל מר' חיים פלטייל, ר' מאיר מטולו, ר' שמואל ממזרוב, וכו' שמואל המכון. In the context of this group of authors, R. Meir of Halle would seem to have lived somewhat later than 1190.

18. See *The Lord is Righteous in All His Ways*, 258; and KMHK, 460.

these two rabbinic figures were both members of the prestigious Qalonymide clan that originated in Italy and held sway in the Rhineland (and especially in Mainz) during the tenth and eleventh centuries, it is difficult at best to confirm that they were closely or directly related.¹⁹ Qalonymus b. Yehudah (d. 1126) clearly survived the First Crusade, but there is no evidence that he was also a talmudic scholar of note, even as the Rav assumes, as was his wont, that he must have been. Qalonymus b. Yehudah was also the author of the third *qinah* in the standard East European liturgy about the First Crusade, *אכרותינו שנו מני*,²⁰ בבכי אמרו.

The Rav identifies three distinct tragedies that are recorded and remarked upon in R. Qalonymus b. Judah's *Mi Yitein Roshi Mayym*: (1) the pogroms in Speyer, Worms and Mainz, which killed thousands of people, among whom were the greatest Torah scholars of the day; (2) the destruction of בתי מדרשונתיכנסיית, which constituted

19. See Avraham Grossman, *Hakhmei Ashkenaz ha-Rishonim* (Jerusalem, 1981), 37–38 (n. 44), 348–54, 379–80 (n. 83); and see also Zunz, *Literaturgeschichte*, 164, n. 11. R. Qalonymus of Rome produced materials in the realms of rabbinic and liturgical studies, including several *piyyutim* and a large number of *piyyut* comments; he was apparently killed סמך in Worms in 1096. See I. Ta-Shma, *Knesset Mehqarim*, 1:7. *The Lord is Righteous* (above n. 17) maintains that Qalonymus b. Judah “wrote the *piyyutim* מלען and many *piyyutim* אמור לאללים for Rosh ha-Shanah, and many *piyyutim* for Yom Kippur,” details that are also not easily confirmed. See the next note.

20. On this *qinah*, see below, n. 64. For R. Qalonymus b. Judah's *selihah* for the morning of Yom Kippur, אדבָרָה תְּחִנְנִים כֶּשׁ וְאַבְכָה, see *Maḥzor le-Yamim Nor'a'im*, ed. D. Goldschmidt, 2:277; and see ibid, 2:646–47, for his *selihah* for *minhah*, אֵת הַקּוֹל קָל יְעַקְבָּנוּם / בְּזִי רְשֻׁעָתֵם מִתְלָחָם, which is about the events of 1096. For R. Qalonymus' *qinot* on 1096, see also Avraham David, “Zikhronot ve-He'arot ‘al Gezerot Tatz” u – bi-Defus ube-Kitvei Yad ‘Ivriyyim,” *Yehudim mul ha-Zelav*, ed. Y. T. Assis et al. (Jerusalem, 2000), 198 (secs. 13, 14, 18); A. M. Habermann, *Gezerot Ashkenaz ve-Zarefat* (Jerusalem, 1945), 63–69; and Susan Einbinder, *Beautiful Death: Jewish Poetry and Martyrdom in Medieval France* (Princeton, 2003), 83–84, 163. Qalonymus' unpublished *selihah* for the eve of Rosh ha-Shanah (מעמקי איטן קראתך) is a direct imitation of Rabbenu Gershom b. Judah of Mainz' *Zekhor Brit* composition for that day (with the double refrain, והשׁב שבות אהלי יעקב/ישוב ברכחים על שרירות ישראל); see Daniel Goldschmidt, *Mehqerei Tefillah u-Piyyut* (Jerusalem, 1980), 341. Qalonymus composed approximately thirty *piyyutim* all told, most of which are penitential or commemorative compositions. See Zunz, *Literaturgeschichte*, 165–66; 255–56; and my *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz*, 391–92.

persecution aimed against the study of Torah as a religious act; (3) and the physical destruction of *sifrei Torah* and books of the Talmud.²¹ R. Qalonymus had undoubtedly visited Mainz, Worms and Speyer in the days when there used to be impressive Torah assemblies there. He survived the massacres (of the First Crusade) and came back to the places where just a few years earlier, he had seen much Torah study, many Torah lectures and many *yeshivot*. He visits the same places after the destruction and he asks, “Where are the Torah scholars? What happened to them? Where did they disappear to . . . what happened between my last visit and now? Behold, her place is desolate with none to dwell therein.”²²

The Rav perceptively notes that these *qinot* on the events of 1096 were a thematic continuation of *Arzei ha-Levanon*, the *qinah* for the ten (Tannaitic) martyrs composed by R. Meir b. Yeh’iel; the content, idea and basic nature of the catastrophe are the same. In both larger instances, the deaths in reality involved a double disaster, the killing of many Jewish people which included the greatest scholars among them. In the case of the Crusades, in which ‘hundreds of thousands’ of people were killed, the Crusaders also effectively destroyed Torah scholarship in Germany. In light of the principle of צדיקים מיתת צדיקין כשריפת בית אל-להינו, if the *Beit ha-Miqdash* was sacred, how much more sacred were entire Jewish communities that consisted of thousands of scholars?²³ The Rav perhaps arrived at these inflated figures through a comparison to the even greater magnitude of the losses during the Holocaust; he notes elsewhere in his *qinot* commentaries that *Hazal* themselves often mixed historical events and metaphors. Indeed, the Rav asserts early on that “the *payyetan* does not distinguish between the *galut* of the Ten Tribes by Sennacherib, the *galut* of the First Temple by Nebuchadnezzar or the *galut* of the Second Temple by the Romans. The *kinah* (Qallir’s) is not interested in classifying the events

21. See *KMHK*, 464. Note also that the *payyetan* includes here a list of several areas or bodies of Torah study that became desolate: הוּתְוָה וְמִקְרָא וְהַמְשָׁנָה וְהַאֲגָדָה וְהַלְמָדָה וְהַקּוֹנוּנוּ זאת לְהִגְיָה אֵת תּוֹרָה וְתָלְמָדָה. It would appear, as expanded upon in the prayer commentary of R. Eleazar of Worms (cited from ms. Paris BN 772, in ‘*Arugat ha-Bosem le-R. Avraham b.’Azri’el*, ed. E. E. Urbach, vol. 4 [Jerusalem, 1963], 411) that the term *migra* included in this *qinah* connotes גֶּרֶא as a distinct area of study.

22. See *The Lord is Righteous in All His Ways*, 297–98.

23. See *The Lord is Righteous in All His Ways*, 258–59; and *KMHK*, 430–31.

chronologically; it deliberately moves from event to event and from period to period, spreading an identity of events and destiny over thousands of years.”²⁴ In any case, as the Rav suggests, the death of righteous people is often even more devastating than the destruction of the physical *Beit ha-Mikdash*, and is thus understandably given to conflation as well.²⁵

IV

In the course of his interpretations of the *piyyutim* that memorialized the First Crusade of 1096 and its impact, the Rav undertook a lengthy discussion about the locations of Torah study in northern Europe during the twelfth and thirteenth centuries, the period of the Tosafists: “The first center of Torah in Europe was in Germany, not France, and the school of the Tosafists in Germany was older and more numerous than the Tosafists in France. Speyer, Mainz and Worms were densely populated with *Gedolei Yisra’el*. Yet we hardly know any of them. We know that they had traditions from Rabbenu Gershom (Mainz,

24. See KMHK, 207–08; and below, n. 57.

25. See *The Lord is Righteous in All His Ways*, 260; and KMHK, *ibid*. The Rav further noted that the purpose of the *qinot* in describing the deaths of the leading Torah scholars who were known as the *tzadikim* was to fuel and augment the *avelut* of Tisha B’Av; this was different than describing their deaths during the *selihot* portion of the *Musaf* of Yom Kippur (in the *selihah*) (אלת אורה), which was intended to achieve *kapparah* (as per *Mo’ed Qatan* 28a, מיתת צדיקים נופרת). As such, the *qinah* for the ninth of Av begins with a very explicit statement about the greatness of these scholars in learning, ארוי הלבון אזרוי תורה בעלי תריסין במשנה ובגמרא זדיקים נופרת, to stress that the loss of these is intensified by the strength of their erudition in Torah study. Here again, we find the notion that fully appreciating what the Jewish people once had serves to heighten the *avelut* at the point of loss. See *The Lord is Righteous in All His Ways*, 255–56; KMHK, 418–19; and *Harerei Qedem*, 2:309. In commenting on the fourth and final *qinah* about the First Crusade found in the standard liturgy for the ninth of Av, אבל אערור אוניות אגד ראייה לי (by R. Menaḥem b. Makhir, a member of another illustrious Ashkenazic rabbinic family of the eleventh century; cf. below, n. 30), the Rav pointed out that “it is noteworthy that there are four *qinot* describing the Crusades, but only one *qinah*, ארוי הלבון, for the Ten Martyrs.” See KMHK, 534. On p. 533, a stylistic similarity between this *qinah* and the one before it, אבל אערור אוניות נפל (by R. Barukh of Mainz) is also noted. Regarding R. Barukh and his *qinah*, see also below, n. 46.

d. 1028), Rabbenu Ḥanan'el (Kairwan, d. 1056) and R. Hai Gaon (Baghdad, d. 1038), and we know R. Ya'akov b. Yaqar, the teacher of Rashi [in Mainz, and a direct student of Rabbenu Gershom; Rashi died in 1105], and Rabbi Yizḥak *ha-Levi* [Rashi's teacher in Worms], but few other names and teachings have survived. The Torah scholars of Germany perished at the hands of the Crusaders, and their centers and many of their writings were destroyed.” The Rav pointed to a passage in *Pishei ha-Rosh*, עשותם תשר' קובלישית קעב' שברים פעמים, which discusses a “famous controversy” about blowing shofar that took place in Mainz and “mentions the names of the *Gedolei Yisra’el* who were involved in the controversy [R. Elyaqim b. Yosef and his son-in-law R. Eliezer b. Nathan (Raban) are mentioned, along with other unnamed members of the *qahal*], and all of them were killed.”²⁶

It should be noted that Raban, who lived in Mainz, was born shortly before 1090, and was thus a young lad during the First Crusade. Nonetheless, he refers to the First Crusade several times in his *Sefer Raban/Even ha-‘Ezer* as הגירה (“the decree”), which indicates that he considered this event to be a watershed in terms of both the halakhic and communal histories of German Jewry.²⁷ This was perhaps what

26. See *The Lord is Righteous in All His Ways*, 260; and *KMHK*, 431, and 463 (which emphasizes the presence of many early Tosafists in Speyer). The reference to the passage from *Pishei ha-Rosh* is found only in *The Lord is Righteous*, where it is identified as *Rosh ha-Shanah*, 4:14. It appears, however, that the intended section in *Pishei ha-Rosh* is 4:11. See also *Harerei Qedem*, ed. Shurkin, vol. 1 (Jerusalem, 2000), 34–39 (sections 19–20); and *Sefer Raban*, sec. 61. *Pishei ha-Rosh le-Rosh ha-Shanah*, 4:14 mentions a number of German figures in connection with *Rosh ha-Shanah* rituals and practices. These include R. Isaac b. Judah (of Mainz, d. c. 1084–1090) and R. Meshullam b. Qalonymus (also of Mainz, d. 1095), concerning the reciting of ברכת הדר over the *shofar* on the second day of *Rosh ha-Shanah*, which can be covered by intending this blessing for a new fruit as well (a solution that was later championed by R. Meir of Rothenburg, d. 1293). These figures are then followed by R. Isaac b. Judah and R. Isaac (b. Eli’ezer) *ha-Levi* of Worms (d. c. 1075–1080) regarding the recitation of ברכת השיאנו on *Rosh ha-Shanah* (who in turn are followed by positions in the name of later German rabbinic figures, R. She’aliti’el and Rabiah, d.c. 1225). This passage contains groupings of pre-Crusade German rabbinic scholars who died prior to the First Crusade, as well as a smaller number of later German scholars; but there is no reference here to any kind of public controversy.
27. See Joseph Hacker, “Li-Gezerat Tatn’u (1096),” *Zion* 31 (1966), 225–26.

prompted the Rav to make the assessment of Raban that he did – Raban was a German Tosafist who was deeply affected by the First Crusade, even as he ultimately survived it. As it turns out Raban's father-in-law R. Elyaqim (who was born around 1070 and was also one of Raban's main teachers) was already an active rabbinic scholar in Mainz at the time of the First Crusade, although he too managed to survive.²⁸

In any event, the Rav continues by making the larger point that when “we come across the names of *Ba'alei ha-Tosafot* in Ashkenaz, we do not know who they were. They simply died young and their manuscripts were destroyed. We have only a little quoted by Rashi and, much later, by the Maharam of Rothenburg and the Rosh. We have the *רַאֲבִיָּה* [the first part of whose *Even ha-'Ezer* or *Sefer Rabiah* was published from a Bodleian manuscript beginning only in the late nineteenth century, with the publication process being concluded only quite recently], and the *Or Zarua'* [by R. Isaac b. Moses of Vienna, d. c. 1250, about half of which was first published in Zhitomir in 1862, and the rest only later], and we have a few statements mentioned by the *רַאֲבִיָּה* and the *רַיְבָן*. But otherwise we have nothing, because they were destroyed.”²⁹

Raban composed several *qinot* about the events of 1096, as well as a lengthy and poignant chronicle. See Urbach, *Ba'alei ha-Tosafot* (Jerusalem, 1980), 1:182–83; my *The Intellectual History*, 396–97; and below, at n. 50.

28. On the date of R. Elyaqim's birth, see Avigdor Aptowitzer, *Mavo la-Rabiah* (reprinted, Jerusalem, 1984), 48. Raban refers to an episode in 1152, in which he had a dream involving his recently departed father-in-law and teacher, R. Elyaqim. See my “Dreams as a Determinant of Jewish Law and Practice in Northern Europe during the High Middle Ages,” *Studies in Medieval Jewish Intellectual and Social History in Honor of Robert Chazan*, ed. D. Engel et al. (Leiden, 2012), 112–13. As such, R. Elyaqim died at some point between 1145 and 1152.
29. See *The Lord is Righteous in All His Ways*, 260–61. R. Judah b. Nathan (*רַיְבָן*) was a son-in-law of Rashi; he is mentioned by the Rav just below as a representative of the new French center, along with Rashi's grandson Rabbenu Tam and his great-grandson Ri. It is unclear whether Rivan hailed from Germany, but he did have access to יירשי ריבש גרשט ומגנאא and may have studied there as well. See Urbach, *Ba'alei ha-Tosafot*, 1:38–41; and I. Ta-Shma, *Ha-Sifrut ha-Parshanim la-Talmud*, 1:52:53. Perhaps the reference at this point is to the early German Tosafist *רַיְבָן*, R. Isaac b. Asher *ha-Levi* of Speyer [*ha-Zagen*] (d. 1133); see Ta-Shma, *ibid.*, 1:66–70; my *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz*, 18–19; and below, n. 42.

The Rav goes on to note that even though the center of Torah in Germany was destroyed, the in-depth study of Torah fortuitously survived because newer centers had already been established in France – “Rabbenu Tam, the Ri and the Rivan were already French scholars, not German. It was an absolute miracle that once Germany was destroyed, France began to emerge as a center of Torah. By that time, people who wanted to study Torah had to go to France.” Rashi, who was a student prior to the period of the First Crusade, was forced to travel from France to Germany (owing to the paucity of such opportunities in northern France) to study under the *Hakhmei Ashkenaz*. As noted above, he went to Mainz and Worms to study with R. Ya’akov b. Yaqar and R. Yizḥaq ha-Levi because “Rabbenu Makhir and Rabbenu Gershom had established a center of Torah there.”³⁰

Having received excellent training in Germany, Rashi returned to his native northern France “and built it up and established it as a center of Torah . . . And then, because of the destruction wrought by the Crusades, the movement began to go in the opposite direction. The Torah centers in Germany were wiped out, and instead of traveling from France to Germany as Rashi did, the generations following Rashi had to leave Germany to go to France . . . to study in the *yeshivot* of Rashbam, Rabbenu Tam (d. 1171), Ri (d. 1189) and R. Yehi’el of Paris (d.c. 1260) . . . In time, France became the center of Jewish wisdom. We have no *Tosafot* on *Shas* from Germany; *Tosafot Tukh* is all French. By the time of Rabbenu Tam, there was already a strong school in northern France.” The Rav concludes his historical survey by noting that “the *Ba’alei ha-Tosafot* in Germany were annihilated during the First, Second, and Third Crusades . . . The Second Crusade, in approximately 1146, affected French Jewry as well. Many Jews were killed, but there was no total destruction as in Germany.”³¹

30. See A. Grossman, *Hakhmei Ashkenaz*, 102–05, 362–64. Rabbenu Gershom had a brother named Makhir who was, in the view of some, the progenitor of the so-called *Bnei Makhir*, a family of important German rabbinic figures during the late eleventh century.
31. See *The Lord is Righteous in All His Ways*, 261–62; and *KMHK*, 431–32. Although the number of Jews killed overall during the Second Crusade was significantly smaller than those who perished during the First Crusade, the Second Crusade nonetheless affected Germany (and particularly the area around Wurzburg) to a larger extent than it did northern France. The Third Crusade (c. 1190) affected English Jewry in the main, but a series of pogroms

The Rav also discussed the burning of the Talmud in 1242 and the implications for Torah study. He linked this tragedy to events that had occurred during the First Crusade – as described by R. Qalonymus b. Yehudah in his *qinah*, מֵי יִתְנַצֵּל רָאשֵׁי מִם – in which both *sifrei Torah* and volumes of the Talmud were burnt (למרום נִתְנִיתָה כְּמוֹכָן אֲזֶחָרָה, עַלְתָּה לְהָלָה לְמִרְוּם). Given that books of Jewish learning during this period existed only in manuscript form and were rather costly to produce, there was a real and imminent danger that Torah knowledge would be lost whenever book burnings occurred. Books could not simply be reproduced via printing, and although there were Jews endeavored to know all of the subject matter contained in them by heart, learning could not continue unabated in the face of the destruction of large numbers of books.³²

Thus, “the famous Maharam of Rothenburg,” whom the Rav notes was the last of the *Ba’alei ha-Tosafot* and the teacher of R. Asher b.

and persecutions that occurred in Germany (and to a lesser extent in northern France) before and after 1190 are often referred to as Crusade-related, at least in popular terms. See e.g. Robert Chazan, *Medieval Stereotypes and Modern Antisemitism* (Berkeley, 1997), 53–78; and Judith Baskin, “Rereading the Sources: New Visions of Women in Medieval Ashkenaz,” *Textures and Meanings*, ed. L. H. Ehrlich et al. (Amherst, 2006), 299–301 (regarding the wife and daughters of R. Eleazar of Worms who were killed in 1196). Those Tosafists who died ‘al *Kiddush ha-Shem* during the twelfth century (in both France and Germany), can be traced in Urbach’s *Ba’alei ha-Tosafot*. See pp. 119 (R. Solomon b. Yosef of Falaise, the brother-in-law of Rabbenu Tam); 142, 145 (two students of Rabbenu Tam, R. Jacob of Orleans and R. Yom Tov of Joigny, both of whom had gone to England and were killed there c. 1190; and see also 149–50 for R. Jacob of Corbeil); 225 (Rabbenu Peter b. Yosef, a student of Rashbam and Rabbenu Tam, who hailed from Austria and died during the Second Crusade); 253 (Ri’s son R. Elhanan, d. 1182); 338 (Ri’s student, R. Solomon b. Judah of Dreux; cf. below n. 59); 367, Riva *ha-Bahur* of Speyer, grandson of Riva *ha-zagen*, who perished in Wurzburg in 1196, at the same time as R. Eleazar of Worms’ family); 375 (for suggestive references to *qiddush ha-Shem* among the Tannaim, as found in *Sefer Yihusei Tanna’im va-Amora’im* by Rivaq of Speyer, d. 1199); 388 (R. Uri, a brother of Rabiah, who was burned at the stake in 1216); 432 (a student of R. Barukh of Mainz, d. 1221, who perished ‘al *Kiddush ha-Shem*); and see also below, n. 46. Cf. S. Einbinder, *Beautiful Death*, 55–59, and my *The Intellectual History*, 400 (nn. 104, 106), 408–09 (n. 144), for passages that commemorate the burning of two otherwise unknown rabbinic scholars who may have been Tosafist students of Rashbam and Rabbenu Tam.

32. See KMHK, 464.

Yehi'el (Rosh), “considered this tragedy [of the burning of the Talmud in 1242] to be a major catastrophe, for without these manuscripts . . . the Torah שבעל פה would indeed be forgotten, or at least would become limited to a very small group of people.” As described above (at n. 29), the Rav identified both Maharam and Rosh as among those few Ashkenazic rabbinic scholars who cited material from the virtually unknown *Ba'alei ha-Tosafot* of Germany, whose works were destroyed or otherwise lost.

According to the Rav, one can palpably sense Maharam’s fear in his *qinah* for Tisha B’Av, שאלין שורפה באש (which the Rav also pointed out was an imitation of R. Yehudah *ha-Levi*’s צין הלא תשאלין לשולם אסירין in terms of both its style and construction),³³ that the Torah might well come to be forgotten. “He and the other Torah scholars of his time considered this to be a catastrophe of a magnitude perhaps far greater and more menacing than the destruction of the Holy of Holies. Maharam equated the catastrophe of the burning of the Talmud with the burning of the *Beit ha-Mikdash* – without the Torah שבעל פה, there is no נינת ישראל. In fact, it was one of the greatest miracles in Jewish history that in spite of the burning of the Talmud, the Torah שבעל פה did survive and was not forgotten.” On the contrary, the tragic burning of the Talmud motivated the Jews to renewed commitment and dedication, and they devoted their financial resources and efforts to recopying the lost manuscripts.³⁴

V

Is there any evidence for the “lost writings of the German Tosafists” to which the Rav referred – with great concern and poignancy – in his comments on the *qinot*? Recent research has been able to identify and to retrieve isolated passages and even some larger remnants from a number of German *Tosafot* collections that have essentially been lost, or that have survived only in fragmentary form. These include *Tosafot R. Eli'ezer mi-Metz* (d. 1198);³⁵ *Tosafot R. Yehudah b. Qalo-*

33. On these similarities, see above, n. 7; and below, n. 52.

34. See *The Lord is Righteous in All His Ways*, 287–88; *KMHK*, 594. See also J. Woolf, “Historiyah ve-Toda’ah Historit,” (above, n. 1), 336; and my “Al Nosḥah u-Meqorah shel Tefillah Av ha-Rahamim,” *Yeshurun* 27 (2012), 878.

35. See Simcha Emanuel, *Shivrei Luhot: Sefarim Avudim shel Ba'alei ha-Tosafot*

nymus (*Rivaq*), *mi-Shpira* (d. 1199, author of *Sefer Yihusei Tanna'im va-Amora'im*);³⁶ *Tosafot R. Shmu'el b. Natronai* and *Tosafot R. Yo'el ha-Levi* (d. c. 1200);³⁷ *Tosafot R. Barukh b. Shmu'el mi-Magenza* (d. 1221);³⁸ *Tosafot Rabbenu Simḥah mi-Shpira* (d. c. 1230);³⁹ *Tosafot R. Mosheh Taku* (d. c. 1235, author of *Ktav Tamim*);⁴⁰ and *Tosafot R. Eleazar mi-Vermaiza* (d. 1237, author of *Sefer Roqeah*).⁴¹ As the Rav had theorized, these various German *Tosafot* collections were either destroyed or lost outright, or were at some point discarded or ignored in favor of the *Tosafot* collections from northern France (which further contributed to their near total loss). Indeed, all that remains from the *Tosafot* of R. Isaac b. Asher *ha-Zaqen* (*Riva ha-Levi*) of Speyer (d. 1133), who was arguably the first Tosafist overall, are fragments and some longer passages that are cited by the collections of French *Tosafot* to several tractates of the Talmud.⁴²

(Jerusalem, 2006), 293–97. Although R. Eli'ezer (author of *Sefer Yere'im*) was a student of Rabbenu Tam, Metz is a border locale that (moved in and out of the Holy Roman Empire and) often reflected German (or Rhenish) *minhagim*, and R. Eli'ezer's students were, for the most part, of German origin. See Urbach, *Ba'alei ha-Tosafot*, 1:25, 152–64; *Ta-Shma, Ha-Sifrut ha-Parshanim la-Talmud*, 1:82; Emanuel, *Shivrei Luhot*, 105–08, 127–29; and Avraham (Rami) Reiner, "Rabbenu Tam: Rabbotav (ha-)Zarefatim ve-Talmidav Bnei Ashkenaz," M. A. thesis, Hebrew University, 1997), 105–13.

36. See Urbach, *Ba'alei ha-Tosafot*, 1:378; and Ta-Shma, *Ha-Sifrut ha-Parshanim la-Talmud*, 2:118.
37. These were both sons-in-law of Raban; see Avigdor Aptowitzer, *Mavo la-Rabiah*, 46–47; Urbach, *Ba'alei ha-Tosafot*, 1:211–12; and Emanuel, *Shivrei Luhot*, 60–61, 81–86. Emanuel also makes note of the *Tosafot* by R. Yo'el's teacher, R. Moses b. Yo'el of Regensburg, and those composed by R. Moses' son, R. Abraham.
38. See Emanuel, *Shivrei Luhot*, 112–23.
39. See Ta-Shma, *Ha-Sifrut ha-Parshanim la-Talmud*, 2:116; and Emanuel, *Shivrei Luhot*, 157.
40. See Ta-Shma, *ibid*; and Emanuel, *Shivrei Luhot*, 315 (n. 34).
41. See Ta-Shma, *ibid*; and Emanuel, R. *Eleazar mi-Vermaiza—Derashah le-Pesah* (Jerusalem, 2006), 50–51. For the *Tosafot* of R. Meir of Rothenburg, much of which are no longer extant, see Urbach, *Ba'alei ha-Tosafot*, 2:563–64; Emanuel, *Shivrei Luhot*, 41–43; and Binyamin Richler, "Kitvei Yad shel ha-Tosafot 'al ha-Talmud," *Sefer Zikkaron li-Prof. Y. M. Ta-Shma*, ed. M. Idel et al. (Alon Shvut, 2011), 789 (secs. 55–56).
42. See my *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz*, 2–9; Yaakov Lifshitz, "Mavo le-Tosafot ha-Riva," *Sanhedrei Gedolah le-Massekhet Sanhedrin*, vol. 1, ed. Y. Lifshitz (Jerusalem, 1968), editor's

Moreover, a series of voluminous halakhic works composed by German Tosafists during the late twelfth and early thirteenth centuries have also been lost in large measure. Among these no longer extant German compendia are *Sefer Arba'ah Panim* by R. Ephraim of Regensburg (d. 1175);⁴³ *Sefer ha-Hokhmah* by R. Barukh of Mainz;⁴⁴ and *Seder 'Olam* by R. Simḥah of Speyer (d. 1230).⁴⁵ As the Rav had suggested, these are extensive, in-depth works from outstanding German *talmidei ḥakhamim* whom we barely know for the most part, even though they too were bona fide Tosafists who were considered to be of great importance in their own day.

In addition, the Rav's firm sense about the authors of the *qinot* from the medieval period, that many of them were *Ba'alei ha-Tosafot* (and Germany Tosafists at that), can also be confirmed in this context. Found within the standard East European *qinot* liturgy for Tisha B'Av are selections by R. Barukh b. Samuel of Mainz, the author of *Sefer ha-Hokhmah*, who also served as a leading *dayyan* on the Mainz *beit din* – his *qinah*, אַכְבָּעָתִי שָׁפֵלָו וְאַשְׁיוֹתִי נַפְלָו אֲוֹיוֹ, בְּנֵי צִוָּן גָּלוּ וְכָל אַוְיבִּי שָׁלוּ.

introduction, 16–29; and above, n. 29.

43. See Emanuel, *Shivrei Luhot*, 289–91. Cf. below, n. 53.

44. See *ibid*, 123–39.

45. See *ibid*, 158–66. A number of pieces from *Seder 'Olam*, along with material by R. Simḥah's student, R. Samuel b. Abraham of Worms (known as R. Bonfant), were published in *Tesbuvot u-Pesaqim me'et Ḥakhmei Ashkenaz ve-Zarefat*, ed. E. Kupfer (Jerusalem, 1993), from ms. Bodl. 692. An extensive collection of halakhic rulings and other comments following the order of the portions of the Torah, by another of R. Simḥah's students, R. Avidgor b. Elijah Katz of Vienna (found in ms. British Library 243 and ms. Hamburg 45) was published only in 1996 in Jerusalem (by Machon Harerei Qedem), under the title *Perushim u-Pesaqim le-Rabbenu Avigdor Zarefati*. These works can be contrasted with two of the very few large-scale German works of this period that have survived, *Sefer Rabiah* and *Sefer Or Zarua'* (both as noted by the Rav above, at n. 29), whose author, R. Isaac b. Moses of Vienna was also a student of R. Simḥah of Speyer (and of Rabiah in Germany, although R. Isaac *Or Zarua'* also studied extensively in northern France with R. Yehudah Sirleon and R. Samson of Coucy). See also *Sefer Assufot*, noted in the next paragraph. Awareness of these many (lost) German Tosafist works, which began to emerge in the revised edition of Urbach's *Ba'alei ha-Tosafot* published in 1980, was significantly heightened (and expanded) by Ya'akov Sussmann's in-depth review of Urbach's work that appeared twenty years ago. See Sussmann, "The Scholarly Oeuvre of Professor Ephraim Elimelech Urbach," [Hebrew], *E. E. Urbach: A Bio-Bibliography* [Supplement to Jewish Studies 1] (Jerusalem, 1993), esp. 39–40 (n. 63), 47–53.

או מה היה לנו, is structured according to Sefardic forms of meter and rhyme⁴⁶ – and another by R. Menahem b. Jacob of Worms (d. 1203, an uncle of R. Eleazar of Worms and the head of the *beit din* there, who is cited extensively in *Sefer ha-Assufot*, a lengthy halakhic compendium, extant in only a single manuscript, that was compiled by a student of Eleazar of Worms and of Rabiah).⁴⁷ According to the Rav, R. Menahem's *qinah*, which begins with the phrase *מעוני שרים שחיקם יובלין*, maintains “that the physical destruction of the edifice of the *Beit ha-Miqdash* symbolizes the more tragic destruction of the unique covenantal relationship between God and the Jewish people.”⁴⁸ As it turns out, both R. Barukh, who may also be the author of the author of the *zemer le-Shabbat*, בורך אל-עלין, and R. Menahem composed dozens of *piyyutim*, many of which have survived in manuscript and within communal liturgies that were actually recited as well.⁴⁹

However, these leading *dayyanim*, R. Menahem of Worms and R. Barukh of Mainz, did not have many students, which may account in part for their seemingly lower profiles as talmudists and halakhists. As has been noted, the lengthy and discursive nature of the German halakhic treatises, which were not as easily preserved – or as utilized – as the northern French glosses or *Tosafot*, appears to have been the most significant factor in this regard, even as the status of these German rabbinic scholars as prolific *payyetanim* has remained relatively intact. Among the other German Tosafists who wrote *qinot* for *Tish'ah b-e-Av* that focused specifically on the events of תחריז (even as they are not part of our present-day liturgy) were Raban,⁵⁰ his son-in-law, R. Yo'el ha-Levi (who was also a leading *dayyan* in Bonn), and his grandson

46. See KMHK, 525 (editor's note); and my *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz*, 420–23. Among the *qinot* (and *selikhot*) composed by R. Barukh were a lament for the martyrs at Blois (1171), and for those of Boppard and Speyer (1196), as well as a composition that marked a persecution that occurred in Wurzburg during which R. Isaac b. Asher ha-Levi ha-ba'hur perished (see above, n. 31).

47. See Aptowitzer, *Mavo la-Rabiah*, 382–84; and my *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz*, 40–41, 462–63. R. Menahem's tombstone reads: בראש צדיק יחיד בדור הוקמו, אשר למד ולימד דת תמיימה, רבינו מנחים בן יעקב אבי החכמה, תנא דורש ופייטן אין חסר נחומה, תלמיד ורב ובמשנה ידו הריכום, תתקס"ג לפרט ג' באירר נפשו השלימה, עם צדיקים עמדו ליום נחומה.

48. See KMVK, 509.

49. See my *The Intellectual History*, 423–26.

50. See n. 26 above.

צין הלאתשאי, *qinah*, לשלום עלובך, which has a similar rhyme scheme and meter to R. Judah ha-Levi's *הלא תשאלי צין* (as well as a single rhyme throughout), well before R. Meir of Rothenburg authored his similar-styled ode to the Talmud, *שאלי שופפה באש*.⁵²

Moreover, all of the medieval Ashkenazic *qinot* and *selihot* of which we are aware that commemorate the עשרה הרוגי מלכט (in addition to *Arzei ha-Levanon*, which is found in our standard *Tisah B'Av* liturgy as discussed above) were written by German rabbinic scholars. These include a *qsoton* that begins with the phrase יקרו רעיך رب מחולל by R. Yo'el ha-Levi; a *qsoton* that is entitled אל אלהים אצעה by R. Menahem b. Jacob of Worms; another, which begins חטאנו, and אכונה אגציחטאתי לה', both by R. Ephraim b. Jacob of Bonn (d. 1197), a *dayyan* and halakhist who served in Bonn and in Mainz.⁵³

51. See my *The Intellectual History*, 40, 403–05.

52. See *ibid.*, 416–18. Thirty-five of R. Eleazar's fifty liturgical poems were *qinot* or *selihot*. Among other events, his *piyyutim* marked the deliverance of the Worms community from persecution in 1201; the persecution of the Erfurt community in 1221; 'ofanim and *zulatot* for *Shabbat Hazon*; an elegy on the death of his wife and daughters who were killed in 1196–97; and an addendum to Qaloymus b. Judah's *מי ינון ראש מים* about the events of 1096 which begins קהילות קוזויש וריגאט הרים בזורה. For this addendum (found in ms. Parma [De Rossi] 586), see *Shirat ha-Roqeah*, ed. I. Meiseles (Jerusalem, 1993), 268–69; and my *The Intellectual History*, 418 (n. 183).

53. On these various compositions, see A. Velner, 'Aseret Harugei Malkhut', 302–42. R. Ephraim of Bonn's wide ranging *qinah* about the ten martyrs directly links them with the events of 1096, while also including references to the destruction of the First and Second Temples. This composition has a triplet form (איכה ישבה בדד עגונה / רבתי עם מקוננת קינה / הויא ריאיל קריית חנה), and each stanza concludes with a portion of a biblical verse; cf. *KMHK*, 497. The section relating to 1096 begins: בשנת תחננ' לטבח נתנו / עדות קדושין לשمر קדשו / יענו: and then continues: פשטו צוארים שכע ישראל כהשכיעו / יהוד רחוב והבן בהתחבטים, ולא הוחן לנו. The *qinah* is based overall on a passage in the *peticha* of *Eikhah Rabbah* (sec. 24), and was meant to be chanted according to the melody of a *qinah* commemorating the events of 1096 by Raban's teacher, R. Jacob b. Isaac ha-Levi, אויליעל שבוי. R. Ephraim also offered an elegy for those who were killed in Halle (קינה על קדושים סולין, נבי חללי לוי). He composed other *qinot* for the ninth of Av, as well as those that marked various persecutions which occurred in his lifetime. And of course, he composed his *Sefer Zekhirah* which commemorated in narrative form a series of persecutions that occurred throughout northern France, Germany and Austria during the twelfth century. On R. Ephraim's work as a *dayyan* and *pavyetan*, see my *The*

As part of his larger conception of the history of the *rishonim* and the *ḥakhmei ha-masorah*, the Rav sensed that the Germans began the Tosafist movement in the late eleventh century, and that Rashi and his northern French descendants, students and successors then took this enterprise over in light of the destruction visited by the First Crusade and beyond on the rabbinic scholars of Germany.⁵⁴ This awareness impacted his interpretation of the *qinah*, *חריש ממי ואדורה*, in a rather fascinating way. In assessing the loss of great Torah scholars during the First Crusade, the author of this *qinah* laments: *מי יפליא נזירותumi יפליא גדרים*. Since these are typically not such pressing halakhic issues – who will articulate [the effectiveness of] Nazirite vows and who will assess the value of your pledges (even as *hatarat ve-hilkhot nedarim* certainly requires the input of great Torah scholars) – the Rav suggested that this phrase refers instead to the talmudic tractates of *Nazir* and *Nedarim*, two particularly difficult tractates for which we do not possess the authentic commentary of Rashi himself. Indeed, to fill this gap, the *Tosafot* to *Nazir* serve as a direct commentary, and do not play the more familiar roles of posing questions and contradictions from other talmudic *sugyot*, and of offering and marshaling responses to these various questions.

Since many German Tosafists were killed, the Rav reasoned that we were left without the dialectical analysis that they normally would have provided, and thus the *qinah* is mourning these various losses. Had the massacres in Mainz, Worms and Speyer (*qehillot Shu”m*) not taken place, a great Torah scholar would have been able to provide an extensive commentary in place of Rashi, and the *Tosafot* and (the Tosafists) would have been left to do their usual job as well. The Rav notes that he and his father once attempted to study *Nedarim* with the existing pseudo-Rashi, but were unsuccessful. They were able to

Intellectual History, 24–25, 399–403; and cf. R. Chazan, above, n. 31. R. Yo’el ha-Levi’s טענת for the ten martyrs appears in the standard Ashkenazic editions of the *selihot* for the fast of Gedalyah shortly after an ‘akedah (אָקֵדָה וְנִכְעַת הַקּוֹן) by another German Tosafist (and author of more than thirty *piyyutim*), R. Ephraim b. Isaac of Regensburg. Ephraim of Regenburg studied with both R. Isaac ha-Levi of Speyer and Rabbenu Tam. On his *piyyutim*, see my *The Intellectual History*, 376–77; and see also above, n. 43.

54. On the development of nascent Tosafist dialectic in Germany during the late eleventh century, see e.g., A. Grossman, *Hakhmei Zarefat ha-Rishonim*, 439–54; my *The Intellectual History*, 89–103; and I. Ta-Shma, above, n. 29.

proceed only by relying on the fourteenth-century ר' ניסים (Rabbenu Nissim b. Reuven), who provided both the interpretation that was usually provided by Rashi, and the analysis usually provided by the Tosafists.⁵⁵

All of this, however, raises another larger question. How did the Rav know about the disappearing German Tosafists, and how did he develop this overarching theory? Did he simply extrapolate from the fact that the standard *Tosafot 'al ha-Shas* are almost exclusively French (in point of fact, the only complete tractates whose standard printed *Tosafot* are of German origin are *massekhet Sotah*, and the relatively brief *massekhet Horiyot*),⁵⁶ and that many of the *qinot* and related compositions that we have (such as *selihot*) were composed by German Torah scholars, suggesting that they were no strangers to these kinds of tragedies, and had apparently suffered from more of them – and in more extensive ways – than their French counterparts did? There are few known German talmudists from the death of Rabiah (d. c. 1225) through the days of R. Meir of Rothenburg (d. 1293). In northern France, on the other hand, one can easily name (and identify the comments or rabbinic writings of) a series of northern French Tosafists throughout this period, such as R. Samuel b. Solomon of Falaise, the brothers of Evreux (Rabbi Samuel, Moses and Isaac b. Shne'ur), R. Moses b. Jacob of Coucy, R. Yehi'el b. Joseph of Paris, R. Tuvyah b.

כלישראל שבאותו זמן: *KMHK*, 434–35; וראו גם *Harerei Qedem*, 2:310: הוי מצפים שראשונים אחרים יכתבו פירושים על נדירים ונזיר במקום ריש"ו ותוספות (שאין לנו פרש"י כלל, וגם התוספות אינם כמו התוס' בכל הש"ט כידוע). אלא שבגוזה ר' נהרגו ונטבחו ונעקרו הראשונים על קידוש שם ... ועי' סובבת קיון המקנון. The Rav also noted that *Nedarim* was not studied so thoroughly already during the Geonic period (as expressed by Rav Hai in one of his responsa), a limitation that went all the way back to an instruction of R. Yehudai Gaon. There are also a number of Geniza documents that confirm this situation; see, e.g., Robert Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* [New Haven, 1997], 45). I would add that the standard *Tosafot* to tractate *Nazir* are *Tosafot Evreux*, which do not always provide the full range of dialectical questions and responses that typified other *Tosafot* collections (see, e.g., my *Jewish Education and Society in the High Middle Ages* [Detroit, 1992], 75–79), ואכן.

56. See Urbach, *Ba'alei ha-Tosafot*, 1:428–29, 2:637–39, 660–61; and my *The Intellectual History*, 4 (n. 9), for German-based *Tosafot* that are classified as “addenda” to the main *Tosafot* (and are often referred to as *Tosafot Yeshanim*, or as some other form of marginal composition or *gilyonot*). To that listing should be added the *Tosafot Hadashim* to tractate *Keritot* which (partially) cover only the first fifteen folios; see Urbach, 2:672.

Elijah of Vienne, and R. Isaac b. Joseph of Corbeil, whose existence points to a more stable environment for ongoing Torah study.

I would suggest that in accordance with his strong commitment toward remembering and commemorating the losses of Torah scholarship and Torah scholars, the Rav also followed and embraced an approach in his study of the *qinot* that he did not typically follow in his talmudic learning and analysis, which further stimulated his awareness of the Tosafist losses suffered in Germany. Not only was the Rav preoccupied much more than usual with specific historical details, incidents and patterns,⁵⁷ but he perhaps also capitalized on his keen awareness of how some leading *'aharonim* operated. Unlike R. Aryeh Leib Gunzberg (d. 1785) in his *שאגת אורה* or R. Jacob Joshua Falk (d. 1756) in his *פנוי יתנשען*, R. Aryeh Leib Heller (d. 1803), in his *צוטה חושך* (following R. Shabbetai b. Meir *ha-Kohen*'s *ג"ש* commentary to the *Shulhan 'Aruk* as a model), made extensive use of the *Sefer Mordekhai* (whose compiler, R. Mordekhai b. Hillel died a martyr's death in Germany in 1298), in order to locate and make use of 'lost' or otherwise unknown earlier *shitot* of talmudic and halakhic interpretation. Through the *Sefer Mordekhai* (and the so-called *Haggahot Mordekhai*, as well as other related collections of the views of the

57. We would not, however, expect the Rav to be concerned about whether Rashi in fact composed the commentary to *Divrei ha-Yamim* that bears his name. The Rav cites this commentary (on II Chron. 35:25, s.v. תְּמִימָם לְמִימָם) as further support for his point that Tisha B'Av is the designated day to mourn for any and all Jewish tragedies of moment. See KMHK, 430–31; *The Lord is Righteous in All His Ways*, 213; and cf. J. Woolf, "Historiyyah ve-Toda'ah Historit," 332–33; and J.J. Schacter, "Remembering the Temple: Commemorations and Catastrophe in Ashkenazi Culture," *The Temple of Jerusalem: From Moses to the Messiah*, ed. S. Fine (Leiden, 2011), 278–84. This commentary was composed in Ashkenaz somewhere after 1150; see Eran Vizel, *Ha-Perush ha-Meyuhas le-Rashi le-Sefer Divrei ha-Yamim* (Jerusalem, 2010), 303–33. The Rav also suggested that Rashi, in his commentary to *Bava Batra* 3b, s.v. *hekha*, refers to Flavius Josephus himself; see KMHK, 280, and see also 369. This reference by Rashi, however, is likely to the so-called *ספר יוסטוף*, which was composed in Italy during the mid-tenth century (although its venerable origins perhaps caused them to believe that it had been composed by the historical Josephus). See e.g., I. Ta-Shma, *Knesset Mehqarim*, 1:137–38, 78; A. Grossman, "Bein 1012 le-1096: Ha-Reqa ha-Tarbuti ve-ha-Hevrati le-Qiddush ha-Shem be-Tatn'u," *Yehudim mul ha-Zelav*, ed. Y. T. Assis et al. (Jerusalem, 2000), 67–70; and cf. above, n. 24.

rishonim), the author of the *ת>New* knew, for example, of the German Tosafist, R. Barukh b. Samuel of Mainz, and of his (no longer extant) *Sefer ha-Hokhmah*,⁵⁸ just as he knew the view of a Tosafist student of R. Isaac b. Samuel (*Ri ha-Zaqen*) of Dampierre, R. Solomon b. Judah of Dreux (known as הקדש מזרחי) on issues of *שליחות* (which does not appear at all in the standard *Tosafot*), from its presence in the *Sefer Mordekhai*.⁵⁹ Similarly, the author of the *ת>New* knew of a significant position of R. Avigdor b. Elijah Katz of Vienna (a student of R. Simḥah of Speyer) concerning *qinyanim* from its appearance in a responsum of the Rosh,⁶⁰ and he gained access to the *Sefer Or Zarua'* (which was not printed until a half-century after his passing) through its citation in the *Terumat ha-Deshen* of R. Israel Isserlein (d. 1480).⁶¹

This was not the way that the Rav or R. Ḥayyim Brisker typically worked. They were familiar with the *Sefer Mordekhai* of course, although they did not cite it very much (as noted above). At the same time, however, the Rav knew the *קוזחן* quite well, due in no small measure to its excellent reputation among serious everywhere,

58. See e.g., *Qeẓot ha-Hoshen to Hoshen Mishpat*, 92:2 במדכי פ' שבועת הדין (ב"פ ב דע"ז כת' שהסביר רבינו שם); 306:4 (...); וכן נואה לרבע אביה העורי ולרבינו ברוך לפ"מ"ש המרדכי בשם ספר הוכמה בטעמא); 68:1 (לרבינו ברוך אין אמון קונה אלא לפי השם ע"פ שלטי) (וכתיב הר"ב בבשם ר"ה, ע"פ הגות אשרי). See also 157:4 and 46:14 (and the next note). Given the attention that he paid to these matters, the *ba'al ha-Qeẓot* (H. M., 212:4) was also aware of a different R. Barukh (who was a French student of *Ri ha-Zaqen* of Dampierre), as cited in *Tosafot 'Arakhin* 6b, s.v. 'ad. This reference is to R. Barukh b. Isaac, author of *Sefer ha-Terumah*; see Urbach, *Ba'alei ha-Tosafot*, 2:670.

59. See *Qeẓot* to H. M., 244:2. Although the name of R. Barukh b. Samuel of Mainz does not appear at all in the standard *Tosafot* on the Talmud, R. Solomon of Dreux is mentioned (in other contexts) a total of twelve times. See Urbach, *Ba'alei ha-Tosafot*, 1:337–40, 344; 2:515–16; and P. Tarshish, *Ishim u-Sefarim ba-Tosafot*, 67 (#254) and 69 (#261). It has been suggested, however, that R. Barukh of Mainz was the (unnamed) compiler of *Tosafot Sotah*; see above, n. 56. Interestingly, *Qeẓot* refers here to another (unnamed) position in the matter at hand, as recorded in R. Moses Isserles' gloss to H. M. 244:6, based on a passage in *Sefer Mordekhai le-Massekhet Gittin*. This position is attributed in the text of the *Sefer Mordekhai* (Gittin, sec. 420) to R. Barukh of Mainz and his *Sefer ha-Hokhmah* בזיל פ' בזיקושן בספר (הוכמה). Cf. my "The Meaning and Significance of New Talmudic Insights," *Why Study Talmud in the Twenty-first Century*, ed. P. Socken (Lanham, Maryland, 2009), 161–76.

60. See *Qeẓot* to H. M., 241:5 (based on *Teshuvot ha-Rosh* 35:2).

61. See *Qeẓot* to H. M., 209:10, 370:1, and 382:2.

and he had great familiarity with the work of the ג"ש and cited it often.⁶² The Rav would surely have been able to glean from these works quite a bit of information about the German Tosafists and their writings. In developing and presenting his *lomdus*, the Rav did not usually search for or discuss positions of the *rishonim* that had been lost, or that were otherwise not so well-known. But in composing and delivering *hespedim*, and in the recitation and study of *qinot*, he did, for the reasons that were enumerated at the beginning of this study.

VI

In several places in his interpretation of the *qinot*, the Rav takes up a critical issue involving martyrdom that is raised by a number of passages, which indicate that individuals committed suicide and even killed their children in order not to be forced to worship idolatry (through conversion to Christianity). The Rav points out that the question is raised in *Tosafot to Sanhedrin* (74a, s.v. טבנאות) as to why Jews felt obligated to kill themselves (and each other) in circumstances of forced baptism, since if they were physically taken and baptized completely by force without any action on their part, they were not committing any transgression of their own volition, and therefore were not obligated to take their own lives. “The answer is that in fact, they were not obligated to do so, but they considered even an involuntary gesture to idolatry as requiring them to suffer death rather than to submit.”

After noting that there is a dispute among the *Rishonim* as to

62. For citations of the *Qezot haHoshen*, see e.g., אגדות הגו"ד, 2, fols. 113a, 285a; and see the index, fol. 312, for references to the ג"ש. In his discussion of the requirement to act חוץ משלים פנויים as enunciated in *Bava Qamma* 99b–100a, the Rav noted the comments of ג"ש (*Hoshen Mishpat*, 259:3) and *Qezot ha-Hoshen*, ad loc., which present the view that a level of חוץ משלים פנויים can be demanded even in certain standard transactions; see *Reshimot Shi'urim she-ne'emru 'al yedei Maran ha-Grid 'al Massekhet Bava Qamma*, ed. Z. Y. Reichman (New York, 2000), 607. Both ג"ש and *Qezot* write that this is the position of Raban and Rabiah, as cited by *Sefer Mordekhai le-Bava Mezi'a* (sec. 257), although Rabiah's formulation does not appear in the extant *Sefer Rabiah* (*Aviha-'Ezri*). Cf. R. Aharon Lichtenstein, “Does Jewish Tradition Recognize an Ethic Independent of Halakhah,” *Modern Jewish Ethics* (Columbus, 1975), 74–75 (and n. 56); and below at n. 65, regarding Rabiah's no longer extant *Sefer Avi'asaf*.

"whether parents have the right to sacrifice their small children in order to prevent them from being converted to Christianity," the Rav asserts that the author of the *qinah*, מהר"ש מאיר אידובה (R. Meir b. Yehie'el), "apparently approved of this practice," and the Rav then presents two justifications for committing suicide and killing the children in such cases. The first is from the (positive) midrashic approach to King Saul's request to his aide to kill him before he could be captured, since he feared the impact of torture. "Our sages say that if it is certain that one will fall into the hands of the enemy, one is permitted to kill one's children and commit suicide. Second, the Jews did not trust themselves that they would be able to withstand the pressure of converting to Christianity under threat of death . . . Since the Jews were not sure that they would be able to withstand the pressure, they killed one another and themselves to avoid being exposed to temptation . . . the fathers killed them [their children] from fear that if they themselves were killed, the enemy would baptize the children and raise them as Christians."⁶³ Although no source is provided at this point for the Rav's second reason, it would seem that the Rav had in mind the position of Rabbenu Tam in *Tosafot 'Avodah Zarah* 18a, s.v. הוּא בְעַצְמוֹ, ולא יִחְבּוֹל [הוּא בְעַצְמוֹ], "Where they are afraid, however, that they would be compelled to transgress, e.g., via torture that they would not be able to withstand, it is then a *mizvah* for such a person to kill himself," and the passage in *Gittin* 57b (to be discussed immediately below) is cited as a proof text או"ת דהיכא שיראים פנ' עבדים עובדי כוכבים כי היה בא גדיון גבי לעבירה כגון עי"י יסורים שלא יכול לעמוד בהם אז הוא מצוה לחבל בעצמו כי היה בא גדיון גבי (ילדיים שנשבו לקלון שהטילו עצם לים).

מאמרי חז"ל Earlier on, in a *qinah* by Qallir that reflected various about the atrocities that the Roman legionnaires committed against the בית המקדש and the Jews of Jerusalem, there is explicit reference

63. See *KMHK*, 432–33. See also 552, and *The Lord is Righteous in All His Ways*, 264. On the source provided (in *KMHK*) for the dispute among the *rishonim* as to whether parents should sacrifice their children in the face of impending forced conversion, *Responsa Ba'alei ha-Tosafot*, 101 (=Teshuvot *Ba'alei ha-Tosafot*, ed. I. A. Agus [New York, 1954], 189, sec. 101), see the next note. The source given in *KMHK* for the view of "our sages," that it is permitted to sacrifice children if it is certain that they will fall into the hands of the enemy (and also to commit suicide), is *Pishei ha-Rosh le-Mo'ed Qatan*, 3:94.

to the passage in *Gittin* 57b, which describes the four hundred boys and girls (or young men and women, as described in parallel rabbinic passages such as *Eikhah Rabbah* to *Eikhah* 1:13, ed. S. Buber, 81) who were captured by the Romans and sent by ship to Rome for immoral purposes. Ultimately, all of them threw themselves into the sea before they could reach their destination. The Rav notes that for the Rambam (*Hilkhot Yesodei ha-Torah*, 5:2), there is a question as to whether the *girls* were required to commit suicide, since they might have the halakhic status of *עולם עקר*, passive participants. However, the Rav adds, it is quite possible that the purpose of shipping these boys and girls to Rome was not (only) for the purposes of the Romans satisfying their desires, but also for religious conversion. If that was the Romans intent, then the girls as well as the boys were required to sacrifice their lives. The Rav added that martyrdom of this nature occurred with even greater frequency in the Middle Ages and during the Holocaust as well, and he briefly recounts the story of a group of religious young women in Warsaw (or more precisely, Cracow) who were selected by the Germans for immoral purposes and who committed suicide rather than submit.⁶⁴

64. See KMHK, 371–72. See also 504–05, and *The Lord is Righteous in All His Ways*, 265. Cf. J. T. Baumel and J. J. Schacter, “The Ninety-three Beis Yaakov Girls of Cracow: History or Typology,” *Reverence, Righteousness, and Rahamanut: Essays in Memory of Rabbi Dr. Leo Jung*, ed. J. J. Schacter (Northvale, 1992), 93–130. In discussing a passage in R. Qalonymus b. Judah’s second *qinah* about the events of 1096, אמצעי ישועתי, the Rav noted that “one of the leading Ashkenazic rabbinic authorities tells the story of a righteous and pious Jew, who was faced with the Crusaders approaching his house where he and his family were hiding. He killed his wife and three children and was going to kill himself as well, but suddenly a group of soldiers appeared and drove the Crusaders away. The disconsolate survivor then asked whether he is required to do *teshuvah* or not.” This material appears in a responsum of R. Meir of Rothenburg that is only partially preserved in *Teshuvot Ba’alei ha-Tosafot*, ed. Agus (cited in the note above). In the full version of this responsum (see *Teshuvot, Pesagim u-Minhagim le-Maharam mi-Rothenburg*, ed. I. Z. Kahana, vol. 2 [Jerusalem, 1960], 54, sec. 59; and cf. *Teshuvot Maharam mi-Rothenburg ve-Haverav*, ed. S. Emanuel [Jerusalem, 2012], 996, n. 187), this episode is located in Koblenz, “the city of blood” (טברן רע), and can be dated to a pogrom that occurred there in the early 1260’s. In his response, Maharam emphasizes that expiation (*kapparah*) is not required, since this was indeed the practice of earlier Ashkenazic martyrs, as directed by their rabbinic leadership. For further discussion of

In light of these very sensitive explanations and analyses (which ostensibly could not have been undertaken at all according to the approach of Rambam in chapter five of *Hilkhot Yesodei ha-Torah*), one can only wonder about how the Rav would have reacted to the following rather remarkable passage, firmly attributed to Rabiah, and emanating in all likelihood from his lost halakhic work, *ספר אביאסף קיצור סמ"ג מצות* or, *סימני תרי"ג מצות*, composed *circa* 1265 by R. Abraham b. Ephraim. R. Abraham was a student of R. Yehiel of Paris' close colleague, the French Tosafist R. Tuvyah of Vienne, and he preserves nearly ten other pieces from this no longer extant work of Rabiah in his *Qizur Semag* and among the kudosim that he transmitted to his students like Yisrael Samet as well: *באבות אל תאמן בעצמך עד יום מותך והוא יראים שהיה שם שמי מחולל על ידם בפרהסיה*. *כולם יש להם חלק לעולם הבא כמו שעשינו בספריך ארך את דמכם לנפשותיכם אדרוש יכול כמעשה שאלת אליך ועוד מצינו פר' הנזקון ארבע מאות לידים שנישבו והטילו עצם לים שלא יהא שם שמי מחולל על ידם יצונה בת קול ואמרה כלכם מזוכנים לח'י העולם וזבא ואין להקשות מר' חנניה בן תרדיון וכי יודע שלא יהא שם שמי מחולל על ידו. כך פי באבי העזרי*⁶⁵

In this 'lost' passage, Rabiah (*Avi ha-'Ezri*) justifies and ratifies both suicide and the killing of one's children in instances where there is concern and fear that those involved would not be able to withstand the severe test (of torture) that was in the offing ("and they were fearful lest they come to be tested as the passage in *Avot* states, do not trust yourself until the day of your death, and they were fearful that they

this responsum and its place in the rabbinic thought of medieval Ashkenaz, see the next note.

65. See *Qizur Sefer Mitzvot Gadol*, ed. Y. Horowitz (Jerusalem, 2005), 31. See also the two earliest (thirteenth-century) manuscripts of this work, ms. Paris BN 392, fol. 5r; and ms. Paris BN 1408, fol. 175v; and *Haggahot Rabbenu Perez le-Sefer Mitzvot Qatan, mizvah* 3, sec. 5. On Rabiah's *Sefer Avi'asaf*, see S. Emanuel, *Shivrei Luhot*, 86–100. For the citation by *Qizur Semag* of passages from *Sefer Avi'asaf*, see my "Returning to the Community in Medieval Ashkenaz: History and Halakhah," *Turim: Studies in Jewish History and Literature Presented to Dr. Bernard Lander*, ed. M. Shmidman, vol. 1 (New York, 2007), 86 (n. 34). For the halakhic, literary and historical contextualization of the Rabiah passage (as well as the responsum of Maharam), see my "Halakhah and Mez'ut (Realia) in Medieval Ashkenaz: Surveying the Parameters and Defining the Limits," *Jewish Law Annual* 14 (2003), 193–224 (and esp. 201–16). Cf. Haym Soloveitchik, "Halakhah, Hermeneutics and Martyrdom in Medieval Ashkenaz," *JQR* 94 (2004), 98–104.

would cause the desecration of the Divine Name to occur.") Rabiah concludes that those who took this course of action are destined to be welcomed into the world to come, as further indicated by the cases of Saul and the four hundred young people who had been taken captive by Rome. In an irony of Jewish learning, history and life, the very passage that largely adumbrates the Rav's thoughts on this crucial matter of martyrdom appears to have originated in one of the lost works of a leading German Tosafist.

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