

Chapter 1

Rabbinic Conceptions of Marriage and Matchmaking in Christian Europe

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Recent studies have traced the parameters of matchmaking in medieval European Jewish society, seeking as well to identify attitudes toward marriage more broadly in both the northern and southern regions (Ashkenaz and Sepharad).¹ Based on the many texts that have been published or are still in manuscript, it is possible to propose an overarching theory that accounts for differences between the two regions, encompassing both those that have been noted heretofore and others that have not yet received attention. I first present the differences and amplify them, and then suggest some larger perspectives to clarify points of divergence.² Comparisons between these leading Jewish cultural entities have long been seen as illuminating, especially given the increasing contacts between Ashkenaz and Sepharad in the period under discussion.

The Presence of Matchmakers

Modern scholarship has detected a striking difference between Sepharad and Ashkenaz regarding the use and prevalence of matchmakers (*shadkhanim*). Spanish rabbinic literature during the twelfth and thirteenth centuries barely refers to matchmakers and does not discuss their function.³ At the same time, a leading northern French tosafist, Samson ben Abraham of Sens (Rash mi-Shants, who emigrated to Israel c. 1210, where he died in 1214), points to

effective *shadkhanim* who were operating freely in northern France by the late twelfth century.⁴ Moreover, the German tosafist Simḥah of Speyer (d. c. 1230) writes that it was “common to pay *shadkhanim* quite handsomely,”⁵ while a parallel ruling by R. Simḥah’s contemporary, Barukh ben Samuel of Mainz (d. 1221), along with that of Barukh’s son, Samuel Bamberg, confirm the regular presence of such figures.⁶ *Sefer Ḥasidim*, the compendium of piety and ethics that reflects Jewish life in Germany at this time, also acknowledges the role of *shadkhanim*.⁷

Indeed, precisely because matchmaking had become so entrenched in Ashkenaz by the thirteenth century, Meir ben Barukh (Maharam) of Rothenburg (d. 1293) sought to diminish the exorbitant payments that were being made even to less effective *shadkhanim*, especially in light of an incident that had occurred in Erfurt.⁸ Nonetheless, while Maharam’s recommendation, to pay the *shadkhan* only a base fee for his time, is recorded first in *Sefer Mordekhai* (composed by Mordekhai ben Hillel, Meir’s student), the (earlier) view of Simḥah of Speyer, that the *shadkhan* must be paid whatever he was promised, is then cited as a counter-position. Moreover, *Sefer Mordekhai* indicates that additional support for R. Simḥah’s position emerges from a ruling by Isaac ben Samuel (R”I) of Dampierre (d. 1189), that a diviner who adjured demons (*shedim*) in order to locate a lost object is entitled to receive the overly large sum that he had been promised, since this is what people expect to pay for such an important and unusual service. As reported by his student R. Judah Sirleon, R”I similarly applied his approach to allow for the overly generous payment of doctors or healers as well.⁹

A subsequent passage in *Sefer Mordekhai* shows that Maharam’s insistence on the successes and standing of a *shadkhan* as the determinants of his compensation mirrored the thinking of Joseph ben Abraham, the son-in-law of one of R. Meir’s northern French teachers, Yeḥiel of Paris.¹⁰ Maharam’s conclusion, however, was questioned by another of his own students, Ḥayyim ben Isaac Or Zarua’. Indeed, Ḥayyim broke with his teacher in this matter and supported the position of Samson of Sens, as his father Isaac ben Moses Or Zarua’ had presented it: matchmakers are to be paid the agreed upon amount in any case. They are entitled to the large payments proposed by their clients since they possess special abilities.¹¹

The discussions that took place between Meir of Rothenburg and his students about the payment of *shadkhanim* document the functioning of matchmakers within Ashkenazic society through the end of the thirteenth century and beyond. Indeed, by the end the fourteenth century, in both

Germany and northern France (in the aftermath of the Black Death), the role of *shadkhan* was often assumed by rabbinic leaders, who commanded large fees.¹²

Matchmakers were welcomed throughout medieval Ashkenaz because they increased the possibilities for finding appropriate mates, irrespective of what parents and other family members were doing. Indeed, in the initial passage presented above from Samson of Sens, the matchmaker was not hired by the parents but by the prospective bride. As with medical treatment and the locating of lost objects where a specialized agent could accomplish things that others could not, the successful matchmaker, by dint of his charisma, savvy, and persistence, was worth a great deal to his client. However, as noted above, rabbinic authorities in medieval Spain had no discussion of the *shadkhan* and his role, because their communities did not typically employ them.¹³

The Parental Role

Several responsa by Solomon ben Abraham ibn Adret (Rashba) of Barcelona (c. 1235–1310) stress that it was the parents (and grandparents) who were tasked by Hispano-Jewish society with finding a mate for their children. Rashba rules that the bond or surety that parents often pledged when a proposed marriage was agreed upon (to limit the possibility that either side would withdraw) did not have to be forfeited when a young lady rejected the groom selected by her parents, since this was a rare and unexpected occurrence (*ones*). In Rashba's words, "Jewish girls are modest, and do not go over the line by choosing their husbands without their fathers' consent."¹⁴

Similarly, a grandfather was released by Rashba from forfeiting the bond that he had pledged in Estella when his granddaughter refused to marry the groom that he had selected, since "he could not have foreseen the possibility of his granddaughter's refusal, because all girls, with rare exception, abide by the wishes of their parents and relatives." Rashba characterizes the (grand) daughter's refusal as an "unexpected occurrence of the highest order" (*ein lekha ones gadol mi-zeh*).¹⁵ Although Yom Tov Assis is undoubtedly correct in his finding, based on archival evidence, that a greater number of daughters disagreed with their parents' choice than Rashba's various responsa suggest,¹⁶ parents (and grandparents, or other immediate relatives) are the only ones involved in seeking a mate for their child, as confirmed by the near total absence of references to *shadkhanim* in medieval Spanish rabbinic literature.¹⁷

Parents and other family members were involved in trying to marry off their children in medieval Ashkenaz as well but, as we have seen, *shadkhanim* were quite active there already by the second half of the twelfth century.

Moreover, there is an additional dimension of rabbinic thought in each region that supports these distinctions regarding *shadkhanim* and the parental role. The leading Spanish authorities during the thirteenth century, Ramban (d. 1270), Rashba, and Ritva (Yom Tov ben Abraham ibn Ishvili, d. c. 1325), justified the large payments to which medical doctors were entitled (where the patient agreed to make such a payment) in accordance with a talmudic discussion (Yevamot 106) about making good on inflated payments promised in exchange for relief from acute physical circumstances. Nahmanides comments that a doctor is paid as much as he was promised since when healing the patient, “he sells his wisdom which is worth quite a lot,” as opposed to one who provides a patient with medications but does not devise any therapeutic plan, who receives compensation only for the price of those medications.

Not surprisingly, these Spanish rabbinic authorities do not refer to *shadkhanim* in this context, or to diviners.¹⁸ Ashkenazic talmudists and halakhists, on the other hand, link the high payment of doctors directly to the exorbitant payments that were given to *shadkhanim* and magical diviners as noted above.¹⁹

In sum, Spanish rabbinic authorities considered medical treatment to be a highly developed science or skill, while finding marriage partners or lost objects was not. Parents were fully capable of securing marriage partners for their children. Ashkenazic rabbinic authorities believed that effectively arranging for marriage partners (like seeking cures and finding lost objects) could be enhanced by turning to someone with unique skills that included a great deal of personal rapport and perhaps even a measure of magical arts.²⁰ Employing a gifted matchmaker provided for the greatest possibility of a suitable partner being found, beyond the efforts of parents and other family members. As we shall see below, these differences between Ashkenaz and Sepharad with regard to making *shidukhim* are also linked to the question of how much responsibility (and choice) a bride and groom had in arranging their own marriage.

Marriage of Minor Girls Under the Age of Twelve

Avraham Grossman has proposed other reasons that might explain the dichotomy between Sepharad and Ashkenaz regarding the use of *shadkhanim*. The emphasis on impeccable lineage (*yibus*) throughout Germany and northern France meant that the stature and economic viability of a family were greatly valued. Matchmakers were able to verify these criteria in the family of the proposed mate, and to locate suitable partners in places near and far whose families possessed these traits. Grossman also suggests that the young ages at which many marriages took place (in particular with brides who were below the age of twelve), and the fact that “for the most part, parents did not consult their children at all but rather suggested matches for them based on their own considerations of what was best,” meant that one set of parents might turn to a matchmaker to assess the suitability of the match before moving forward.²¹

However, if matchmakers were particularly necessary (and effective) in overseeing marriages that involved younger couples, we would expect to find matchmakers operating in Spain as well, where evidence for the marriage of girls under the age of twelve is quite extensive (as Grossman had also noted), extending back to the geonic period.²² Moreover, as Elisheva Baumgarten has argued, the incidence of girls below the age of twelve getting married within medieval Ashkenaz during the thirteenth century appears to have been much more limited than Grossman and others have imagined. Baumgarten supports her claim about such limitations in northern France with a passage in a Tosafot gloss to Tractate Kidushin, and a ruling of Rabbenu Perets that will be discussed presently (both of which, as she noted, were associated with the tosafist academy at Evreux), in addition to arguing for the absence of such marriages in Germany based on two responsa by Meir of Rothenburg, one of which (regarding the marriage of R. Meir’s own daughter) will be discussed below.²³ In light of its important implications, the history of this rabbinic allowance and societal practice needs to be carefully examined.

The Tosafot gloss to BT Kidushin 41a is the best-known rabbinic text about child marriage in northern Europe. The amora Rav ruled that one should not marry off his daughter until she reaches the age of twelve (even though a father is permitted to do so earlier according to Torah law), since, as the tosafist commentator explains, she might not have agreed to this choice were she of age. The commentator then adds: “But nowadays we are

accustomed to marrying off our daughters even under the age of twelve (*ketanot*), because each and every day, the weight of the exile overcomes us. If someone currently has the funds to provide a dowry for his daughter, he may not have enough money later, which will cause his daughter [not to be married and] to remain an *'agunah* forever."²⁴

Grossman cites a similar justification recorded in the anonymous *Sefer Kol bo*, from Perets ben Elijah of Corbeil (d. 1297) in the name of R" M, whom Grossman identifies as Rabbenu Perets's senior colleague, Meir of Rothenburg: "This ruling [of Rav] was applicable in their day, when many Jews lived in one place. But nowadays when we are small in number, we regularly permit the marriage even of a *ketanah*, lest [when she becomes of age] another will marry her first."²⁵ Both of these justifications refer to the diminished position of Jews within medieval society. The Tosafot passage seeks mainly to protect brides, while the ruling of Rabbenu Perets is more concerned with the disappointment of the potential groom. Nonetheless, there is quite a bit of common ground between them.

The Tosafot to Kidushin were produced (in large measure) in the tosafist study hall at Evreux, which was headed by the brothers Moses, Samuel, and Isaac ben Shne'ur during the second quarter of the thirteenth century. All three are mentioned in these Tosafot, as is the student of Isaac who apparently edited them. Moses ben Shne'ur is referred to a number of times in these Tosafot by the initials R" M and, as suggested by Baumgarten, it is he, rather than Meir of Rothenburg, who is referenced to as R" M in the *Kol bo* formulation by Rabbenu Perets.²⁶ This formulation originated in Rabbenu Perets's glosses to *Sefer mitsvot katan* by Isaac ben Joseph of Corbeil (d. 1280); like Isaac, Rabbenu Perets had also been a student at Evreux.²⁷

Moreover, the precise section of the Tosafot Kidushin passage under discussion is named, in a gloss to the published text of the *Sefer Mordekhai* to Kidushin (at sec. 505), as Tosafot Shitah, a textual title or appellation that applies, as far as I can tell, exclusively to Tosafot Evreux or to Tosafot Rabbenu Perets.²⁸ A more muted form of this allowance is found in Abraham ben Ephraim's *Kitsur semag* (composed c. 1265), in the name of his teacher, Tuvyah of Vienne, along with a less nuanced version of the reasoning enunciated by the tosafist commentator from Evreux. R. Tuvyah was a younger contemporary (and close colleague) of the brothers of Evreux.²⁹ As Baumgarten suggested, the thirteenth-century justification for the marriage of *ketanot* in northern France was expressed solely in the tosafist academy at Evreux and was adopted by its devoted student, Rabbenu Perets of Corbeil, in slightly

different form. Indeed, this allowance does not appear (in either of its forms) within any of the other Tosafot collections to Kidushin that were compiled before Tosafot Evreux.³⁰

An unremarked twelfth-century justification for the marriage of *ketanot* is found in *Sefer Mordekhai* in the name of Elijah ben Judah of Paris, an older contemporary of Rabbenu Tam (d. 1171).³¹ R. Elijah's name, however, is not mentioned by Tosafot Evreux or in the passage by Rabbenu Perets just discussed, even as the reason that he provided accords precisely with the one given by Rabbenu Perets. Thirteenth-century northern French tosafists were apparently unaware of this earlier justification. Moreover, Rabbenu Tam's leading student and successor in the late twelfth century, R"l of Dampierre, explicitly disapproved of such marriages in most cases; only when the father of a *ketanah* had died could she be married before the age of twelve. In all other instances, R"l held that the ruling of Rav was to be followed, and her father was required to wait until she turned twelve so that she could fully acquiesce to the marriage.³²

Three twelfth-century tosafist discussions involving Rabbenu Tam touch upon the marriage of minor girls. Rabbenu Tam questioned an interpretation of Rashi (to BT Ketubot 57b), that the passage at hand can be understood only according to the view of Rav. There is no indication here, however, that Rabbenu Tam thought that Rav's ruling should be not followed in practice.³³ In a case that came before him, Rabbenu Tam's student, Menaḥem ben Perets of Joigny, maintained that a mother and brother could not marry off a young daughter while her father was traveling far away from home, since it is possible that the father had already betrothed her in another locale. Rabbenu Tam argues that if R. Menaḥem's concern was well founded, the subsequent marriage of all daughters at any age would be problematic. Rabbenu Tam's formulation does not suggest that *ketanot* were typically married off by their fathers, only that there were many instances of men who traveled and subsequently died while away from home, leaving young daughters behind.³⁴ Rabbenu Tam and Menaḥem of Joigny also argued about an uncommon instance of marital confusion, in which someone had betrothed the daughter of a wealthy individual from a distant land without properly specifying which daughter he intended to marry, where it turned out that all three of this individual's daughters were minors.³⁵

The sum of the evidence indicates that while justification for the marriage of *ketanot* was initially proposed in northern France during the twelfth century, the phenomenon did not become entrenched in any region until

somewhat later. And given the narrow scope of the tosafists who offered justifications during the thirteenth century, it is difficult to argue that this practice was widespread in northern France even then.

Moreover, even if one were to assume more substantive activity in northern France already during the twelfth century, which was then expanded further during the thirteenth century, nothing of this marriage practice involving minor girls can be found in any German tosafist sources, and German rabbinic figures are hardly mentioned even in theoretical discussions about marrying a *ketanah*. A passage by Avigdor ben Elijah Katz of Vienna—who was likely born in northern France and lived for a good deal of the thirteenth century, studying mainly in Germany with Simḥah of Speyer and teaching there and in Italy before becoming the rabbinic leader of Vienna³⁶—demonstrates that the silence in German lands was not coincidental.

In his commentary to the Torah, which includes many halakhic rulings, R. Avigdor writes (on Gen. 24:51, in which Rebecca's family tells Abraham's servant Eli'ezer to take Rebecca and return to Israel so that she could become the wife of Isaac): "[She was sent] even though she was still a *ketanah*. This is the basis for the practice in northern France to marry their daughters off when they are minors, for purposes of modesty."³⁷ R. Avigdor, who was aware of Jewish practices throughout northern Europe, asserts that marrying minor girls was done only in northern France. This was pointedly not the case in Germany, even though *shadkhanim* were visibly active there from the days of Simḥah of Speyer and throughout the thirteenth century, no less than in northern France. It would seem, then, that the need to oversee the marriage of young girls (*ketanot*) cannot explain the use of *shadkhanim* as Grossman had posited. The strong presence of *shadkhanim* in Germany (where *ketanot* were rarely married), and their near total absence in Spain (where *ketanot* were regularly married), belies this suggestion.

Indeed, the single documented, straightforward case of the betrothal of a minor girl from late thirteenth-century Germany reflects the hesitation of German rabbinic figures to allow the marriage of minor girls, while requiring the bride's full acquiescence at any age.³⁸ Meir of Rothenburg writes that when he married off his daughter who was a minor, he "instructed her to accept her *kidushin* (betrothal) only if she so desired." Maharam explains that although it is prohibited for a father to betroth his minor daughter in accordance with the view of Rav, it is permitted to have her accept the *kidushin* for herself. This is precisely what he did in the marriage of his daughter, making certain that she firmly agreed to the betrothal and that she controlled it.³⁹

Such an approach fully honors the halakhic theory behind Rav's position—albeit not the practice that he had advocated—and is supported by the analysis of an earlier thirteenth-century German tosafist as well.⁴⁰

Cancellation of a Marriage Commitment

Another significant difference in attitudes toward marriage between Ashkenaz and Sepharad is evident regarding the cancellation of a marriage commitment (known as *bitul shidukhin*). In Spain, the termination of a *shidukh* was not seen as cause for undue regret or embarrassment. This is enunciated most clearly in an early responsum which, as Avraham Grossman has suggested, was likely composed by Joseph ibn Avitur (c. 1000): “In this era, there is no embarrassment or blemish [for a terminated *shidukh*], for it is customary that several men speak to Jewish daughters about marriage, but they only marry the one who is meant for them (*sbe-‘olot be-goralan*). For the matching of a woman to a man is surely a heavenly undertaking. The man who had been trying to marry this woman [but failed], what can he do—this was not the one intended for him (*lo’ haytah be-goralo*). As the rabbis said, ‘A person does not touch what has been set aside for another.’” The larger halakhic context of this passage is that a groom who does not betroth the woman with whom he had a marriage commitment does not have to pay any penalty.⁴¹

Indeed, the notion that the cancellation of a marriage commitment should not be met with deep concern had already been expressed in a more understated way by Sa’adia Gaon, in a situation where it was unclear as to which daughter the groom had intended to offer marriage: “The first offer by Simeon is to be ignored and no explanation need be provided; for if he had wished to back out of a marriage commitment [in any case], he may do so.”⁴² The implication is that guaranteeing the establishment of a match is ultimately beyond the control of either the bride or the groom. As such, the dissolution of a match (before the wedding) is considered an acceptable reality rather than a negative occurrence. To be sure, Sephardic rabbinic authorities may have been seeking to cultivate behavior that was not naturally inherent within the larger societal group, but the rabbinic values are clear—this is a matter of fate (*goral*), which is within the divine purview.

A passage in *Sefer ha-Shetarot* by Judah ben Barzilai of Barcelona (c. 1100) notes that a financial condition was commonly imposed on the families of the bride and groom to dissuade either side from backing out, and

funds or bills of indebtedness were often placed in escrow for this purpose. This was, however, a monetary arrangement with no other ramifications, as was the *shtar pesikta*, a document that was signed by the parties to ensure that the wedding would not be postponed and that the various financial commitments would be executed. These sanctions were not treated as fines for improper interpersonal behavior, nor were they imposed in every locale.⁴³ The purely monetary nature of these arrangements in the Sephardic world emerges quite clearly from a formulation of Maimonides in *Mishneh Torah* about economic commitments.⁴⁴

This approach to the payment of fines for breaking a *shidukh*, and the related question of whether there is any embarrassment (*boshet*), is roundly contradicted by a series of tosafists in both northern France and Germany. Simcha Emanuel has conclusively demonstrated that in northern France, the fine for breaking a *shidukh* was supplemented by a strong communal ban (*berem*).⁴⁵ Ashkenazic sources further assert that the fine represents payment for inflicting personal damages and embarrassment (characterized as *pegam* and *boshet*, respectively), and is not merely compensation for wedding costs or other payments that might have been lost. By consistently referring to these payments as *demei boshet* (payment for embarrassment), Ashkenazic sources indicate that a canceled wedding commitment is a form of real damage that must be made good according to talmudic law. The Talmud rules that embarrassment by words alone is insufficient to obligate the payment of *boshet*; the embarrassment inflicted has to be physical or at least visceral.⁴⁶ In the view of Ashkenazic halakhists, a potential mate who has been rejected experiences palpable feelings of shame (as does the larger family) and must be compensated for this damage.

A passage by Samson of Sens describes the handing over of pledges at the time that a *shidukh* was agreed upon, in order to bind the two families to carry out the wedding and to support the young couple. R. Samson insists, however, that the fine that results from withdrawing from this arrangement (which the security pledges also helped to cover) is not simply an effective means of ensuring that these commitments be honored. Rather, it was meant to redress the embarrassment experienced by one father (or groom or family) if the other backed out. R. Samson compares this to the hiring of a tutor, which is accompanied by a formal commitment that the tutor will be fined if he quits and there is no appropriate replacement, since this disruption causes the student to suffer.⁴⁷ Elsewhere, Isaac Or Zarua' makes the same point about establishing binding marriage agreements: "Even if there is not a full

monetary obligation (*kinyan*) that binds the two wedding parties, the potential fine is accepted by both sides since the one who reneges embarrasses his friend; [avoiding] this embarrassment is what causes both parties to accept these terms.⁴⁸ This conceptualization is also found in Tosafot ha-Rosh (which often reflect Tosafot Shants),⁴⁹ and in Moses of Coucy's *Sefer mitsvot gadol* (in the name of R"l of Dampierre), which also includes the comparison to a tutor.⁵⁰ In addition to these formulations by northern French tosafists, *Sefer Mordekhai* cites this approach in the name of the German tosafist Eli'ezer ben Joel ha-Levi (Rabiah, d. c. 1225),⁵¹ as does *Hagahot Maimuniyot*.⁵² Interestingly, this approach is found already within a responsum by Rashi, who indicates that it preceded him and goes so far as to suggest that an ad hoc penalty of corporal punishment might also be appropriate, given the broad embarrassment generated (*she-lo' levayesh bnot Yisra'el*).⁵³

Hayyim ben Isaac Or Zaru'a wonders whether the monies disbursed when a *shidukh* is terminated should be given to the parent or to the child, since both are embarrassed when the engagement is broken. It was suggested to him that the payment should go to the child who suffers the rejection of the future in-laws; parents always puts the suffering of their child ahead of their own.⁵⁴

Joseph Ibn Avitur and other Sephardic rabbinic scholars sought to establish that there was no cause for *boshet* in the breakup of an agreed upon *shidukh*. The fines associated with canceling *shidukhin* in Spanish Jewish society were purely monetary, and were not ubiquitous in any event. The overwhelming opinion in Ashkenaz, however, was that the cancellation of a marriage commitment was a source of palpable embarrassment and suffering. These feelings were substantial enough to provide an iron-clad means of obligation (*kinyan*) for imposing the fines found throughout Germany, as well as the impetus for the additional *herem* that was in vogue in northern France, which considered the cancellation an affront to the community as a whole. These penalties were imposed, at least in part, because it was not easy for a young man or woman to find another mate after this kind of traumatic breakup, which was therefore seen as causing them real damage. As Meir of Rothenburg put it, "If one backs out on the *shidukhim*, his fellow acquires all of the funds put aside for that purpose since he was embarrassed by the other, and will not be able to easily find as fitting a match moving forward, as would have been the case had this not occurred."⁵⁵

Accounting for the Differences

A significant conceptual distinction concerning the nature of Jewish marriage appears to underlie the series of halakhic and procedural differences between Ashkenaz and Sepharad presented here. All agree that the *shidukh* enterprise is a partnership or an amalgam between the people who were most closely involved with it—the bride and groom, the parents and grandparents, perhaps even siblings—and the Almighty. Spanish rabbinic authorities, going back to the Muslim period and to at least several Geonim in the east as well, maintained that the divine role in bringing husband and wife together was the predominant factor in determining the existence of a marriage. The task of the parents and grandparents was to arrange the marriage within the earthly realm, of which they were quite capable. However, it was ultimately the divine agency that allowed the marriage to move forward.

Since the parents and family were charged with this responsibility, even the couple themselves had little input. Thus, it was expected that a daughter would always agree to the choice of her father (or grandfather). This also serves to explain why Solomon ibn Adret, as Avraham Grossman has pointed out, remained steadfast in his view that a father could force his minor daughter to marry the man of his choosing,⁵⁶ despite the fact that the trend in Christian Europe, from the twelfth century onward, was to give the couple themselves more choice and a greater say in the matter.⁵⁷ For the Sephardic rabbinic conception, the determination of whether a betrothal and wedding would come to fruition was made and directed within the divine realm, with the parents serving as emissaries. Thus, if a commitment to marry was broken, there was no cause for regret or embarrassment. This was a matter of the heavenly *goral* (fate) of the bride and groom that was not particularly given to human intervention.

Ashkenazic rabbinic authorities, on the other hand, in both northern France and Germany, believed that the driving force behind marriage consisted of the will and efforts of the bride and groom, along with those of others (parents and family members, as well as matchmakers) who acted on their behalf. The Almighty obviously played a crucial if inscrutable role in this process, but it was up to the human participants to expend whatever efforts and means available to bring about a marriage that was appropriate in their view. The cancellation of a marriage commitment was seen as a source of deep disappointment and embarrassment, and was to be avoided at almost any cost.

Since the bride and groom were the key actors on their own behalf, the bride had to agree explicitly to her *kidushin* (and even in the not altogether common case that she was still a *ketanah*) in accordance with the position of Rav, which was accepted as normative by an impressive array of tosafists. Although *Sefer ḥasidim* advised fathers to marry off their children at a relatively young age so that they would accept the choice of a mate presented to them,⁵⁸ it also strongly supported the concept of a marriage entered into on the basis of love or at least on the desire of the couple to marry one another. And, as has been noted, *Sefer ḥasidim* was among the many Ashkenazic works that approved of the use of *shadkhanim* as facilitators to help achieve that goal.⁵⁹

An unnoticed halakhic statement by Rabbenu Tam may also reflect these values. An engaged woman (a *meshudekhet*), whose wedding party had already been invited to the impending marriage ceremony (*ḥupah*), suffered the loss of her brother. Rabbenu Tam allowed her to marry within the initial thirty-day mourning period since if the groom could not marry this woman, he would marry no other and his obligation to procreate would remain unfulfilled. Indeed, Rabbenu Tam asserts that even if this couple were not yet formally committed to each other, he would have allowed them to marry in this situation “since she wants only him, and he wants only her.” Because the groom was committed to this woman and would not marry another, Rabbenu Tam was prepared to allow the couple to be married at this time under any condition.⁶⁰

The two disparate conceptions in medieval Ashkenaz and Sepharad on the nature of Jewish marriage can be detected within the talmudic corpus,⁶¹ and are manifest in other exegetical contexts as well. As noted above, Avigdor Katz of Vienna commented that northern French Jews derived support from the betrothal of Rebecca for allowing a *ketanah* to be married. At the same time, however, Samuel ben Kalonymus he-ḥasid of Speyer, father of Judah he-ḥasid, maintained, on the basis of a series of midrashic passages (as did several tosafist Torah commentaries), that Rebecca was actually fourteen when she married Isaac, an interpretation consonant with the practice throughout Germany of not typically allowing *ketanot* to be married.⁶²

Rashi, while accepting the standard approach of the *Seder ‘olam* that Rebecca was three years old when she was betrothed to Isaac, nonetheless stresses that Rebecca’s family made it a point to ask her if she wanted to marry Isaac. Indeed, Rashi asserts that this action demonstrates that a woman can be married only with her consent (*mi-da’atab*), which suggested to others that his approach is fully aligned with the talmudic view of Rav, that a father

should not marry off his daughter as long as she is a *ketanab*. Even in this unique situation, it was necessary for Rebecca to acquiesce and to represent herself (as in the case of Maharam and his daughter noted above).⁶³ Similarly, while Rashbam understands Genesis 24:50 (“from the Almighty the result has emerged”) to mean that it is difficult to extrapolate from Rebecca because there was an explicit divine intervention that chose her for Isaac,⁶⁴ he explains that Rebecca was nonetheless asked if she wanted to return with Eli’ezer to marry Isaac (Gen. 24:58–59) because this was the common practice (*derekh erets*) for all marriage proposals.⁶⁵

On the other hand, Baḥya ben Asher, a student of Ibn Adret in Spain in the early fourteenth century, interprets Genesis 24:50 to mean that this is the way that all matches are made; they emerge from the divine realm and are determined there. Baḥya adduces a series of talmudic and midrashic passages to show that the bride and groom, and even their parents, have little to do with initiating or determining who their mate will be. All is in the hands of Heaven, and they can only deal with what comes their way.⁶⁶

In a similar vein, Ashkenazic sources interpreted the talmudic concept of *shema yekadmenu aḥer be-rah’amim* (BT Mo’ed Katan 18b), “lest another, through the power of his prayers, precede [the intended groom] in marrying this woman,” to mean that through prayer, an individual can subvert the heavenly process that designates a woman to be the marriage partner of a particular man. According to the commentary to Mo’ed Katan attributed to a student of Yeḥiel of Paris, this tactic is effective even with regard to a first marriage, where it surely seems that the heavenly determination, rather than any human action, should be the controlling factor,⁶⁷ an approach found also in a Tosafot gloss to Sanhedrin.⁶⁸ For these Ashkenazic interpreters, intense efforts undertaken by the suitor can be highly effective.

Spanish commentators, on the other hand, understandably had a difficult time squaring this talmudic passage with their conception of marriage, since individuals should have no ability to interfere with the heavenly match of others, which is their “religious fate” (*goral*). How is it possible, then, for one man to take away another’s chosen match through prayer? Ritva interprets this passage to mean that only on the basis of improved actions over the long term can a person aspire to a “better” match from Heaven; increasing one’s merits over time can cause the original heavenly decree to be redirected. The *rah’amim* of which the Talmud speaks does not connote prayer (as it often does) for Ritva, since there is no immediate way for a person to redirect a *shidukh*, an understanding that accords with the larger Sephardic mindset.⁶⁹

Nissim ben Reuven (RaN) of Gerona (d. 1376) and his student, Yosef Ḥaviva (author of *Nimukei Yosef*), point to an ensuing talmudic passage which suggests that although the prayers of the man who was not intended by the Almighty to marry this particular woman might be heard to an extent, they will ultimately fail. Reflecting the unequivocal approach found in the Jerusalem Talmud, that the newly constructed marriage will never last, RaN and *Nimukei Yosef* explain that divorce, or even the death of the interfering male, will surely follow, allowing the originally decreed marriage to take place.⁷⁰

With regard to marriage, the Spanish rabbinic posture confidently rendered unto the Almighty what was his, and charted the human response accordingly. This is not the only instance in which Ashkenazic and Sephardic authorities (and societies) expressed such differences about individual choice in the face of divine will, suggesting that these differences regarding marital choice and matchmaking reflect more than diverse interpretations of the underlying talmudic and biblical texts.⁷¹ There were significant intellectual linkages between Ashkenazic and Sephardic communities during the medieval period, and each cultural area also developed in the context of the majority culture in which it was embedded. However, some differences in social practice between the two regions cannot be attributed to transmission or adaptation or to differing majority contexts, but rather were due to features internal to the development of *halakhah* and religious values in these areas. This study has shown that the choice of marriage partner is one such example.

45. Görgé K. Hasselhoff, *Dicit Rabbi Moyses: Studien zum Bild von Moses Maimonides im lateinischen Westen vom 13. bis zum 15. Jahrhundert* (2nd ed.; Würzburg, 2005).
46. Sarah Stroumsa, “The Muslim Context,” in *The Cambridge History of Jewish Philosophy*, vol. 1, ed. Steven Nadler and T. M. Rudavsky (Cambridge, 2008), 41; David Berger, “Judaism and General Culture in Medieval and Early Modern Times,” in *Judaism’s Encounter with Other Cultures: Rejection or Integration?*, ed. Jacob J. Schacter (New York, 1997), 57–141, reprinted in David Berger, *Cultures in Collision and Conversation: Essays in Intellectual History of the Jews* (Boston, 2011), 21–116, esp. 51–78.
47. Yossef Schwartz, “Images of Revelation and Spaces of Discourse: The Cross-Cultural Journeys of Iberian Jewry,” in *Christlicher Norden – Muslimischer Süden: Ansprüche und Wirklichkeiten von Christen, Juden und Muslimen auf der Iberischen Halbinsel im Hoch- und Spätmittelalter*, ed. M. Tischler and A. Fidora (Münster, 2011), 267–87, here 270–76.
48. See Charles Homer Haskins, *Studies in the History of Mediaeval Science* (2nd ed.; Cambridge, 1927); Charles Burnett, ed., *Adelard of Bath: An English Scientist and Arabist of the Early Twelfth Century* (London, 1987); Biancamaria Scarcia Amoretti, ed., *La diffusione delle scienze islamiche nel medio evo europeo* (Rome, 1987); Colette Sirat, “Les traducteurs juifs à la cour des rois de Sicile et de Naples,” in *Traduction et traducteurs au Moyen Âge*, ed. Geneviève Contamine (Paris, 1989), 169–91; Norman Roth, “Jewish Collaborators in Alfonso’s Scientific Work,” in *Emperor of Culture: Alfonso X the Learned of Castile and His Thirteenth-Century Renaissance*, ed. Robert I. Burns (Philadelphia, 1990), 59–71; Marie-Thérèse d’Alverny, *La transmission des textes philosophiques et scientifiques au Moyen Âge*, ed. Charles Burnett (Aldershot, 1994); Charles Burnett, *Arabic into Latin in the Middle Ages: The Translators and Their Intellectual and Social Context* (Aldershot, 2009).
49. See esp. Gad Freudenthal, “Arabic into Hebrew: The Emergence of the Translation Movement in Twelfth-Century Provence and Jewish-Christian Polemic,” in *Border Crossings: Interreligious Interaction and the Exchange of Ideas in the Islamic Middle Ages*, ed. David Freidenreich and Miriam Goldstein (Philadelphia, 2011), 124–43; Mauro Zonta, “Medieval Hebrew Translations of Philosophical and Scientific Texts: A Chronological Table,” in *Science in Medieval Jewish Cultures*, ed. Gad Freudenthal (Cambridge, 2011), 17–73.
50. In addition to Zonta, “Medieval Hebrew Translations,” see Gad Freudenthal, “Arabic and Latin Cultures as Resources for the Hebrew Translation Movement: Comparative Considerations, Both Quantitative and Qualitative,” in his *Science in Medieval Jewish Cultures*, 74–105; Alexander Fidora, Resianne Fontaine, Gad Freudenthal, Harvey J. Hames, and Yossef Schwartz, eds., *Latin-into-Hebrew: Texts and Studies* (Leiden, 2013).
51. And, according to S. J. Pearce’s chapter in this volume, perhaps also because it excluded the less learned.
52. Joseph Shatzmiller, “Contacts et échanges entre savants juifs et chrétiens à Montpellier vers 1300,” in *Juifs et judaïsme de Languedoc* (Cahiers de Fanjeaux 12) (Toulouse, 1977), 337–44.
53. See the chapters by Rami Reiner and Luke Yarbrough in this volume.

CHAPTER I. RABBINIC CONCEPTIONS OF MARRIAGE AND
MATCHMAKING IN CHRISTIAN EUROPE

1. See, e.g., Avraham Grossman, *Ḥasidot u-mordot* (Jerusalem, 2001), 88–117; idem, *Ve-hu yimshol bakb? Ha-Israh be-mishnatam shel ḥakhmei yisra’el bimei ha-benayim* (Jerusalem, 2011),

59–61, 193–96, 268–72, 329–31; Simcha Emanuel, “Bitul shidukhin,” *Mehkarim be-toledot yehudei Ashkenaz*, ed. G. Bacon et al. (Ramat Gan, 2008), 157–202.

2. I am grateful to Elisheva Baumgarten, David Berger, Judah Galinsky, and Ronnie Warburg for commenting on an earlier draft of this study.

3. See Shmuel Shilo, “Ha-Shadkhan ba-mishpat ha-ivri,” in *Law, Morals, and Equity in the Jewish Legal System*, ed. B. Lifshitz et al. (Hebrew; Jerusalem, 2006), 361–63; A. A. Neuman, *The Jews in Spain: Their Social, Political, and Cultural Life During the Middle Ages* (Philadelphia, 1944), 2:25 (cited in Grossman, *Hasidot u-mordot*, 111n.86). Neuman (2:282n.37) mentions the appearance of a *shadkhan* in a late fourteenth-century responsum by Isaac ben Sheshet Barfat (Rivash, no. 193), but notes that this responsum deals with a German community. In one of Rashba’s response (2:79), the questioner refers to an agent (*sarsur*) for both business and *shidukhim* purposes; and see also *Teshuvot ha-Rashba*, 4:258. Cf. Asher ben Yehiel (Rosh), *Piskei ha-Rosh ‘al masekhet Kidushin* 2:4; and Isadore Epstein, *Studies in the Communal Life of the Jews in Spain as Reflected in the Respona of Rashba* (New York, 1968), 79–82. Rosh’s responsum about the *shadkhan*’s role (below, n. 19) composed in Spain after 1305, cites (only) his Ashkenazic teachers.

4. See Isaac ben Moses, *Sefer Or Zarua’, piskei Bava Kama* (Jerusalem, 2010), sec. 457, vol. 3, fol. 151a.

5. See *ibid.*, fol. 151b.

6. See *Sefer Mordekhai ‘al masekhet Bava Kama*, ed. A. Halpern (Jerusalem, 1992), sec. 172, pp. 213–14; *Teshuvot Mahram defus Prague*, #706; A. Grossman, *Hasidot u-mordot*, 111–112; cf. S. Emanuel, *Shivrei luhot* (Jerusalem, 2006), 128n.110, 137n.149.

7. See *Sefer Hasidim* (Parma) [hereafter: *SHP*], ed. J. Wistinetski (Frankfurt, 1924), sec. 1131, p. 286. Cf. *SHP*, secs. 1890–91, p. 458.

8. See *Teshuvot Maharam defus Prague*, #952, which mentions the Erfurt incident but does not describe it. This ruling is also cited at the beginning of Meir ha-Kohen’s *Teshuvot Maimuniyot le-Sefer Nezikin*, #22, based on Maharam’s talmudic writings. Cf. A. Grossman, *Hasidot u-mordot*, 112 (end).

9. See *Sefer Mordekhai ‘al masekhet Bava Kama*, ed. Halpern, sec. 172, pp. 212–13 (and note that R’I was the teacher of Samson of Sens). R. Judah Sirleon’s formulation is cited by his student, Moses of Coucy, in *Sefer mitsvot gadol* (Venice, 1547), ‘aseh 74, fol. 153a. See also *Teshuvot Maimuniyot le-sefer Nezikin*, #22; *Sefer tashbets* (Jerusalem, 2011), 319 (sec. 583). Although Maharam was made aware of the full extent of R’I’s allowances, he did not modify his view, even as the Tosafot of Joel ben Isaac ha-Levi of Bonn (d. c. 1200) also reflect the position of R’I and Simḥah of Speyer; see S. Emanuel, *Shivrei luhot*, 82 (n. 140), and 84 (n. 149).

10. See *Sefer Mordekhai*, ed. Halpern, sec. 173, pp. 214–15. Cf. S. Shilo, “Ha-Shadkhan ba-mishpat ha-ivri,” 362n.11. On Joseph ben Abraham and his writings in *Sefer Mordekhai*, see S. Emanuel, *Shivrei luhot*, 215–18.

11. See *Teshuvot Maharab Or Zarua’*, ed. M. Abittan (Jerusalem, 2002), no. 3, pp. 3–5. See also I. A. Agus, *Teshuvot ba’alei ha-tosafot* (New York, 1954), nos. 123–24, pp. 226–30.

12. See Grossman, *Hasidot u-mordot*, 113.

13. See above, n. 3.

14. See *Teshuvot ha-Rashba*, 1:1219. The desire of parents and other family members to control the choice of a husband is also evident in *Teshuvot ha-Rashba*, 1:549. See also S. D. Goitein, *A Mediterranean Society: The Jewish Communities of the Arab World as Portrayed in the Documents of the Cairo Geniza* (Berkeley, Calif., 1978), 3:79.

15. See *Teshuvot ha-Rashba*, 3:211. See also *Teshuvot ha-Rashba*, 1:771, 2:35, and *Ḥidushei*

ba-Ritva 'al masekhet Gitin, ed. A. Lichtenstein (Jerusalem, 1979), 1:185 (end, 30a), citing Nahmanides. Cf. *Teshuvot ha-Rashba*, 1:550, 1:1206, 4:314; *Teshuvot ha-Rosh*, 35:1; *Teshuvot zikbron yehudab le-R. Yehudab ben ha-Rosh*, ed. A. Y. Havazelet (Jerusalem, 2005), no. 81, fol. 78a; *Teshuvot ha-Rashba* 4:174, discussed below in n. 22.

16. See Yom Tov Assis, *The Golden Age of Aragonese Jewry* (London, 1997), 255–59.

17. See A. A. Neuman, *The Jews in Spain*, 2:24–27.

18. See *Ḥidushei ha-Ritva* to BT Yevamot 106a, ed. R. A. Jofen (Jerusalem, 1989), 2:1476; *Ḥidushei ha-Ramban*, ed. S. Dickman (Jerusalem, 1987), 352–53. Ritva demurs, since a doctor is required to share his knowledge to save lives without receiving significant compensation, but he agrees that payment may be warranted because medical knowledge is an invaluable form of wisdom. See also *Ḥidushei ha-Rashba*, ed. S. Dickman (Jerusalem, 1995), 552–53, and Nahmanides' *Torat ha-adam* in *Kitvei ha-Ramban*, ed. C. B. Chavel (Jerusalem, 1968), 2:44. Cf. the comment by Ramban's predecessor, Meir ha-Levi (Ramah) Abulafia of Toledo (d. 1236), in *Shitah mekubetset* to BT Bava Kama 116a, s.v. *ve-zu*; Moses Isserles's gloss to *Shulḥan 'arukh*, *Ḥoshen mishpat* 264:7; and Bernard Septimus, *Hispano-Jewish Culture in Transition* (Cambridge, 1982), 86–87.

19. See above, n. 9. See also Tosafot BT Yevamot 106a, s.v. *ein lo*; and *Tosafot Maharam ve-Rabenu Perets 'al masekhet Yevamot* 106a, s.v. *tol dinar ve-ha'avireni*, ed. H. Porush (Jerusalem, 1991), 236, where R'I's reasoning is extended to include someone who can communicate effectively with the ruling powers on behalf of others. Cf. *Teshuvot ha-Rosh*, 105:1.

20. On R'I of Dampierre's interest in magic, see my *Peering Through the Lattices: Mystical, Magical, and Pietistic Dimensions in the Tosafist Period* (Detroit, 2000), 191–95. This interest was shared by several of the other tosafists who discussed *shadkhanim*, including Barukh of Mainz and his son Samuel Bamberg, Simḥah of Speyer, Isaac Or Zaru'a, and Meir of Rothenburg; see *Peering Through the Lattices*, 102–6, 208, 221–26, 234–39. For Ashkenazic descriptions of miraculous medical practices (typically on the part of Christian healers), see Joseph Shatzmiller, “Doctors and Medical Practice in Germany Around the Year 1200: The Evidence of Sefer Hasidim,” *Journal of Jewish Studies* 33 (1982): 583–93; Ephraim Shoham-Steiner, “‘This Should Not Be Shown to a Gentile’: Medico-Magical Texts in Medieval Franco-German Jewish Rabbinic Manuscripts,” in *Bodies of Knowledge: Cultural Interpretations of Illness and Medicine in Medieval Europe*, ed. S. Crawford and C. Lee (Oxford, 2010), 53–59; S. Emanuel, “Ivaron ke-'eilah legerushin,” *Masekhet 6* (2007): 31–42. Cf. Joseph Shatzmiller, *Jews, Medicine, and Medieval Society* (Berkeley, Calif., 1994), 66–67, 122–23; E. E. Urbach, *Ba'alei ha-tosafot* (Jerusalem, 1980), 1:262–63; Aryeh Leibowitz, “Doctors and Medical Knowledge in Tosafist Circles,” *Tradition* 42 (2009): 19–34; Tosafot BT Mo'ed Katan 11a, s.v. *kavra*'.

21. See Grossman, *Ḥasidot u-mordot*, 113–15. Additional reasons proposed by Grossman (115–17) are the increasing number of divorces in Ashkenaz from the mid-thirteenth century—which would not explain the proliferation of *shadkhanim* already in the second half of the twelfth century—as well as the development of the professional rabbinate which accounts, as Grossman notes, only for developments in the late fourteenth and fifteenth centuries. Cf. S. Shilo, “Ha-Shadkhan ba-mishpat ha-'ivri,” 363–64; Y. Y. Yuval, *Ḥakhamim be-doram* (Jerusalem, 1989), 33–34, 327–28, 398–400. Marriage of grooms below the age of thirteen was uncommon in most areas of medieval Europe. The allowance issued by northern French tosafists (see Tosafot BT Yevamot 62b, s.v. *samukh*; BT Yevamot 96b, s.v. *nasa*'; Tosafot BT Sanhedrin 76b, s.v. *samukh*; *Sefer mitsvot katan le-Yitshak mi-Corbeil* [Constantinople, 1820], sec. 183, fol. 22b; and cf. Grossman, *Ḥasidot u-mordot*, 65, דלא הוּא בעילתו בעילה זנות) appears to be a mitigating argument rather than support for a prevalent policy, and German halakhists were even less

permissive. See, e.g., *Ma'aseh ha-geonim*, ed. A. Epstein (Berlin, 1910), 61–62; *Sefer Rabiab*, ed. D. Deblitzky (Bnei Brak, 2008), 3:173–77 (#940). Maimonides' explicit prohibition (*Mishneh Torah*, *hilkhot isurei bi'ab*, 21:25) impacted the scholars of Sepharad; see, e.g., *Teshuvot ha-Rashba*, 1:803, 1:1181, and 4:207; Grossman, *Hasidot u-mordot*, 99–100 (and n. 22, below); and cf. Y. D. Gilat, “Nisu'ei katan: Halakhah u-metsi'ut,” *Mehkerei Talmud* 3, ed. D. Rosenthal and Y. Sussmann (Jerusalem, 2005), 153–68. On balance, Grossman's assessment (*Hasidot u-mordot*, 80–81) that the marriage of *ketanim* was a “rare phenomenon” seems quite accurate; although cf. Pinchas Roth, “Ḥakhmei Provens ha-me'uḥarim: Halakhah u-foskei halakhah bi-derom Tsarfat, 1215–1348” (Ph.D. diss., Hebrew University of Jerusalem, 2012), 221–29, 236, for more widespread evidence within southern France during the thirteenth century, despite the disqualification of the *kidushin* of a *katan* in the late twelfth century by Isaac ben Abba Mari of Marseilles in his *Sefer ha-'itur, ot kuf—kidushin* (Warsaw, 1885), pt. 2, fol. 77d.

22. See Grossman, *Hasidot u-mordot*, 63–64, 69–75; idem, “Mi-morashatah shel yahadut Sefarad: Ha-yahas el ha-ishah ha-'katlanit' bimei ha-benayim,” *Tarbiz* 67 (1998): 539–40; A. A. Neuman, *The Jews of Spain*, 2:22–23; Y. T. Assis, *The Golden Age of Aragonese Jewry*, 257–58. Grossman (71n.25) notes the numerous Spanish responsa from the twelfth and thirteenth centuries that refer to the marriage of girls under the age of twelve. Indeed, Rashba rules in a responsum (4:174) that if someone swore that he would marry off his daughter as a *ketanah*, he should do so even if she refuses; see also *Teshuvot ha-Ran*, no. 32, and *Teshuvot ha-Rivash*, no. 198. Only Rashba's student, R. Moses Ḥallawa, suggested that it was preferable for the father gently to convince his daughter to get married and not to force her, even though he would be within his halakhic rights. See *Teshuvot Maharam Ḥallawa*, ed. M. Hershler (Jerusalem, 1987), no. 129, pp. 129–31. (On R. Moses's keen awareness of Ashkenazic materials, see Israel Ta-Shma, *Minbag Ashkenaz ha-kadmon* [Jerusalem, 1992], 301.) For the geonic roots of the Andalusian and Spanish rabbinic view to permit the marriage of *ketanot*, see, e.g., *Teshuvot ha-geonim sha'arei tsedek*, 1:10, סי' יב, ס' יג, חלק ג', שער ג' (p. 40, in a responsum by Sa'adia Gaon): מעשה שהיה במקומו: ראובן היו לו שתי בנות ושידך שמעון לאחת מהם ונתרצה לו. וכן המנהג במקומו בשעה שהוא רוצה לקדש את הנערה. אם בוגרת היא, מרשת את אביה לקבל קידושיה. ואם קטנה היא מקבל קידושה מדעתה כמנהג חכמים. ובאין הקהל לבית הכנסת שמתפלל שמה אבי הנערה ומקבל קידושי בתו בבית הכנסת. See also *Otsar ha-Geonim*, ed. B. M. Levin, *Yevamot* (Jerusalem, 1925), 7:190–94. Maimonides held that marrying off a *ketanah*, while technically permitted, was not a good idea (*ein ra'ui la'asot ken*; see *Mishneh Torah*, *hilkhot ishut*, 3:10, 10:15, and *Beit Yosef to Even ha-'ezer* 56, end), but he does not appear to have been influential in Spain in this instance. Cf. *Ḥidushei ha-Ritva* (below, n. 33); and Goitein, *A Mediterranean Society*, 3:76–79.

23. See below, n. 39. Baumgarten's unpublished paper was delivered at the University of Pennsylvania's Center for Advanced Jewish Studies in December 2012. She also cited evidence from *Sefer ḥasidim* and *Sefer ha-ma'asim* that will not be discussed here. I was present at Prof. Baumgarten's talk, and I thank her for providing me with a copy.

24. See Tosafot BT Kidushin 41a, s.v. *asur le-adam* (Grossman, *Hasidot u-mordot*, 76).

25. See Grossman, *Hasidot u-mordot*, 76n.39, citing *Kol bo*, ed. D. Avraham (Jerusalem, 2001), sec. 75, p. 78: והר"פ כתב וה"מ בימיה' שהיו ישראל רבים במקום אחד. אבל עתה שאנו מתי מעט, רגילין אנו: 78. לקדש אפי' קטנה שמה יקדמונו אהר' בשם הר"מ ז"ל (*hilkhot kidushim*, sec. 6), where this passage appears in the names of ר"ף and רבינו פרץ ר"ף and רמ"ע [ר"מ נחוה עדן].

26. See Urbach, *Ba'alei ha-tosafot*, 2:632 (nn. 47–48).

27. See *Hagabot rabenu Perets le-sefer mitsvot katan*, 183.4, *yom rev'i*, fol. 21a. Dr. Judah Galinsky was kind enough to provide me with photocopies of this passage from the earliest

manuscripts of the *Hagabot rabenu Perets* (Bodl. 877; Nimes 26; Paris 643; Parma 1940), which attribute the ruling to הר"מ (or הר"ם; the ruling is unattributed in Leipzig 9). Based on other references within *Hagabot rabenu Perets*, it is clear that the reference to ר"מ here is to R. Moses of Evreux, in whose *beit midrash* Rabbenu Perets studied (see, e.g., Urbach, *Ba'alei ha-tosafot*, 2:576; and Emanuel, *Shivrei luhot*, 193–97), rather than to R. Perets's senior colleague, Meir (Maharam) of Rothenburg. Indeed, later in this same section (183.4, fol. 22a), R. Perets refers to Maharam by name, as R. Meir. See also, e.g., *Hagabot rabenu Perets*, 11.3 (fol. 4b); 11.2 (fol. 4a); 93.4 (fol. 84b); 144.5, 146.2 (*yom shlishi*, fols. 7a–b); 185.1 (fol. 42a); 193.6 (fol. 48a); 196.2 (fol. 51b); 221.1 (*yom hamishi*, fol. 20b). Cf. my *Peering Through the Lattices*, 236n.46. The sixteenth-century *Shitah mekubetset* (to BT Ketubot 57b, s.v. *ein poskin*) cites a version of this ruling in the name of *rabanei Tzarfat/talmidei ha-R"l*. See Urbach, *Ba'alei ha-tosafot*, 1:480, who suggests that Moses and Samuel of Evreux studied with two of R"l's leading students, R. Samson of Sens and his brother, Ritsba of Dampierre, respectively. In any case, no immediate student of R"l is associated with this ruling. In a responsum composed in Padua in the late fifteenth century (see *Teshuvot Maharit Mints*, ed. A. Siev [Jerusalem, 1995], no. 2, pp. 4–6), Judah Mintz maintains that Rav's position (not to betroth a *ketanab*) should be followed in practice. He cites the gloss of Rabbenu Perets to *Semak* (in the name of Moses of Evreux) that allowed the betrothal of minor girls, but concludes that its application is limited (*sbe-bistama' ein lomar ken*). Cf. Y. Y. Yuval, *Hakhamim be-doram*, 254–55; and Shim'on ben Zemah Duran, *She'elot u-teshuvot tashbets* (Lemberg, 1891), pt. 4, fol. 6b (*ba-tur ha-rishon*, no. 19).

28. See Urbach, *Ba'alei ha-tosafot*, 1:482–84, 2:632; I. Ta-Shma, *Kneset mehkarim* (Jerusalem, 2004), 2:112–17; and see also *Teshuvot u-piskei Maharik ha-hadashim* (Jerusalem, 1970), 14–15 (ותדע שכן הוא שהרי מצינו בתו' שיטה תלמידי רבינו פרץ שכתבו וכו'); ms. Vercelli C235, fol. 308d; ms. Cambridge Or. 71, fol. 24r (=ms. Bodl. 672, fol. 21v, and ms. Hamburg 194, fol. 20v) = Tosafot Evreux le-Bava' Batra', in *'Olat Shelomoh le-zikbro shel S. D. Stuzki* (Petach Tikva, 1989), 1:68–69; ms. Bodl. 672, fol. 54r (=ms. Hamburg 194, fol. 55r) = Tosafot BT Beitsah 22a, s.v. *ein mekhabin* (Urbach, *Ba'alei ha-tosafot*, 2:612, identifies Tosafot Beitsah as Tosafot rabenu Perets, and notes the phrase *ube-shitah me-Evreux tirets*, which appears in Tosafot BT Beitsah 3a, s.v. *R. Yohanan*); ms. Bodl. 672 (=Tosafot BT Beitsah 9a, s.v. *galgal*, end); ms. Hamburg 194, fol. 57r: עוד מצאתי שם משם ר' יצחק מאיבידא . . . כל זה לשון שיט' (=Tosafot BT Beitsah 34a, s.v. *ein nofhin*); ms. Bodl. 672, fol. 73r and fol. 74r: תוס' שיט' . . . עכ"ל תוס' שיט'. See also my "Between Ashkenaz and Sefarad: Tosafist Teachings in the Talmudic Commentaries of Ritva," in *Between Rashi and Maimonides: Themes in Medieval Jewish Thought, Literature, and Exegesis*, ed. E. Kanarfogel and M. Sokolow (New York, 2010), 262–70.

29. See *Kitzur Semag*, ed. Y. Horowitz (Jerusalem, 2006), sec. 32, pp. 79–80: הר"ם עבשו כי ידי השרים מושלות עלינו בעוונותינו אין לאסור הדבר הזה, לפי שכל אחד משיא בתו בעוד שהיכלת טוביה עכשו כי ידי השרים מושלות עלינו בעוונותינו אין לאסור הדבר הזה, לפי שכל אחד משיא בתו בעוד שהיכלת בידו. On R. Tuvyah, see Urbach, *Ba'alei ha-tosafot*, 1:486–92, and my "R. Tobia de Vienne et R. Yehiel de Paris: La créativité des Tossafistes dans une période d'incertitude," *Les cahiers du judaïsme* 31 (2011): 5–9. Another contemporary of the brothers of Evreux, Moses of Coucy, supports the ruling of Rav, but then suggests that there is ample halakhic justification for a father to marry off his minor daughter. This appears, however, to be a theoretical discussion of underlying talmudic sources rather than a practical ruling. See *Sefer mitsvot gadol*, 'aseh 48, fol. 12.4d.

30. *Tosafot ha-Rosh* (which is based in large measure on Tosafot Rash mi-Shants, below, n. 49), ed. D. Metzger (Jerusalem, 2006), 325–26; Tosafot R. Samuel ben Isaac, in *Shitah ha-kadmonim 'al Kidushin*, ed. M. Y. Blau (New York, 1970), 109; *Tosafot Tukh Kidushin*, ed. A. Z. Scheinfeld (Jerusalem, 1982), 85. (On the provenance of these collections, see Urbach, *Ba'alei ha-tosafot*, 2:630–33, and Binyamin Richler, "Kitvei ha-yad shel tosafot 'al ha-Talmud," *Ta-Shma*:

Studies in Judaica in Memory of Israel M. Ta-Shma, ed. M. Idel et al. [Alon Shevut, 2011], 811–14.) As a typical example of what appears in earlier Tosafot texts, see ms. Rome Angelica 73 (IMHM no. 11692), fol. 21a. This passage begins with the issue of *tan du* (just as the standard Tosafot to Kidushin does), ending with the phrase מתרצית לא היתה גדולה לא היתה מתרצית, which is precisely where the reference to the present-day situation begins in the standard Tosafot. Shalem Yahalom, “Mokh: Tikhnun ha-mishpahah be-Tsarfat uve-Kataloniyah,” *Pe’amim* 128 (2011): 117, links a theoretical formulation by Rabbenu Tam (see *Mordekhai li-Yevamot*, sec. 3) to a passage in *Tosafot Yeshanim ha-shalem ‘al masekhet Yevamot* (12b, s.v. *gimel nashim*), ed. A. Shoshana (Jerusalem, 1994), 74–75, which assumes that marriages to *ketanot* actually occurred. However, this collection of Tosafot is also associated with the *beit midrash* at Evreux (see the editor’s introduction, 24–26), and there is no evidence that Rabbenu Tam ever presumed this practice.

31. See *Sefer Mordekhai le-masekhet Ketubot*, sec. 179 (to BT Ketubot 57b): “בפ”ק דמכליתא: ופירש ר’ אליהו טעם משום שאנו עתה מעוטי עם חיישינן שמא יקדמנו אחז. לכן נוהגין לקדש כשהיא קטנה. See also *Mordekhai ha-gadol*, ms. Sassoon 534 (=Toronto Feinberg 5–101 [IMHM no. 9334]), fol. 171r, in a marginal gloss: משום שאנו עתה מעט עם. (R. Elijah’s comment is not found in a number of the earliest manuscripts of *Sefer Mordekhai to Ketubot*. See ms. Vatican Ebr. 141 [IMHM no. 11627], fol. 189v; ms. Budapest [National Library] 1 [IMHM no. 31445], fol. 286v; ms. JTS Rab. 674 [IMHM no. 41419], fol. 143r; ms. Vienna 73 [IMHM no. 1470], *Mordekhai ha-gadol*, fol. 373v.) This *Mordekhai* passage refers to the statement by R. Elijah as a part of his comments to the first chapter of Tractate Ketubot; I have not been able to identify an earlier source for his comment there. (*Sefer Mordekhai* typically cites R. Elijah of Paris simply as R. Elijah; cf. *Sefer Mordekhai le-masekhet Gittin*, ed. M. A. Rabinowitz [New York, 1990], sec. 204, p. 788; *Sefer Mordekhai ha-shalem ‘al masekhet Pesahim*, ed. Y. Hurwitz [Jerusalem, 2008], sec. 571, p. 55; *Sefer Mordekhai ha-shalem ‘al masekhet Megilah*, ed. Rabinowitz [Jerusalem, 1997], sec. 65, p. 102.) Nonetheless, R. Elijah is mentioned several times in Tosafot Ketubot. See Urbach, *Ba’alei ha-tosafot*, 1:123, Samuel Cohen, “R. Mordekhai b. Hillel ha-Ashkenazi,” *Sinai* 14 (1944): 316; Tosafot BT Ketubot 54b, s.v. *af ‘al pi*; *Tosafot ha-Rashba mi-Shants*, ed. A. Liss (Jerusalem, 1973), 131; *Tosafot ha-Rosh*, ed. A. Lichtenstein (Jerusalem, 1999), 367–68, s.v. *im ratsaf le-bosif*; *Piskei ha-Rosh*, 5:1; *Sefer Mordekhai le-masekhet Ketubot*, sec. 174. See also Tosafot BT Ketubot 58a, s.v. *hanbu*; Tosafot BT Ketubot 63a, s.v. *be-omer*; *Tosafot Shants*, 167; *Tosafot ha-Rosh*, ed. A. Lichtenstein, 434; *Piskei ha-Rosh*, 5:3. On R. Elijah’s position about the kind of occupation a husband must undertake to support his wife (and the competing view of Rabbenu Tam), see my *Jewish Education and Society in the High Middle Ages* (Detroit, 1992), 28–30. This series of comments by R. Elijah on aspects of marital commitments suggests that he may well have composed his own Tosafot to parts of Ketubot. On his involvement in the tosafist enterprise more broadly, see my *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz* (Detroit, 2012), 99–101, 452–53.

32. R”T’s ruling is recorded in *Hagabot Maimuniyot, hilkhot gerushin*, 11.1.1. See also *Teshuvot Maimuniyot le-sefer Nashim* no. 14 (= *Teshuvot Maharam defus Prague*, no. 569). Cf. A. Grossman, *Hasidot u-mordot*, 80, and S. Yahalom, “Kovtsei ha-tosafot le-Kidushin be-sifriyat ha-Ramban,” *Sidra* 27–28 (2013): 158.

33. See *Sefer Mordekhai to Ketubot* (above, n. 31, prior to the formulation of Elijah of Paris). See also Rashi to BT Ketubot 57b, s.v. *aval poskin*, as well as Tosafot BT Ketubot 57b, s.v. *bagrab*; *Tosafot ha-Rosh*, ed. Lichtenstein, 392–93; *Tosafot Rash mi-Shants*, ed. Liss, 145, s.v. *poskin*; cf. *Hidushei ha-Ritva*, ed. M. Goldstein, 454–55. These tosafist texts all presume that it is either prohibited for a *ketanah* to be married or that it was not commonly done. Regarding their provenance, see Urbach, *Ba’alei ha-tosafot*, 2:625–29; B. Richler, “Kitvei ha-

yad shel tosafot,” 801–5. Rashi to Genesis 24:57 comments that “from here we learn that one does not marry a woman without her consent,” another instance in which his interpretation supports the position of Rav; see below, n. 63. The *Mordekhai* passage also records a comment by Barukh ben Samuel of Mainz, who offered support for Rabbenu Tam’s questioning of Rashi from another talmudic passage toward the end of Tractate Nidah; see also ms. Vatican 141, fol. 189v; ms. Vercelli C235, fol. 308d. For Barukh of Mainz’s responses to positions taken by Rabbenu Tam, see S. Emanuel, *Shivrei luḥot*, 108–9, 115, 133n.137, and my “The Development and Diffusion of Unanimous Agreement in Medieval Ashkenaz,” *Studies in Medieval Jewish History and Literature*, ed. I. Twersky and J. Harris (Cambridge, Mass., 2000), 3:28. Cf. *She’elot u-teshuvot tashbets*, above, n. 27. Another formulation by Barukh of Mainz in a related matter also reflects a theoretical, interpretive position rather than a practical one; see below, n. 40. On the practice in Germany, which was indeed different than in northern France, see below, n. 37. For Rabbenu Tam’s positive view of marital choice, see below, n. 60.

34. See Grossman, *Ḥasidot u-mordot*, 78 and 104n.66, based on *Sefer ha-yashar*, *ḥelek ha-teshuvot*, ed. Schlesinger, 209–10 (no. 101). A version of this discussion is also found in *Kitsur Semag*, ed. Horowitz, sec. 32, p. 79; Tosafot BT Kidushin 45b, s.v. *be-ferush*; *Sefer Mordekhai ‘al masekhet Kidushin*, ed. Roth, sec. 518, pp. 227–28. Cf. S. Yahalom, “Kovtsei ha-tosafot le-Kidushin be-sifriyat ha-Ramban,” 155; *Sefer Kol bo*, ed. Avraham, sec. 75, 84–85. E. E. Urbach notes (*Ba’alei ha-tosafot*, 1:147–48) that this was put forward by R. Menaḥem of Joigny as one of three questions against positions of *Halakhot gedolot* that he considered to be “beyond his understanding.” Thus, his main interest was to question geonic methodology and not merely to address an unusual situation in his own day; see also *Sefer ha-yashar*, 209n.3.

35. Several versions of this discussion make no reference to a minor; see Tosafot BT Kidushin 52a, s.v. *ve-bilkbeta’*; *Sefer mitsvot gadol*, ‘aseh 48, fol. 125d; *Sefer mitsvot katan*, sec. 183, fol. 22a; S. Emanuel, “Bitul shidukhin,” 162n.13; *Hagabot Maimuniyot, bilkhot ishut*, 9.1.1 (=ms. Moscow 157, fols. 60a–61a, sec. 42), citing Rabiah and R. Simhah of Speyer; *Teshuvot ha-Geonim sha’arei tzedek*, סי' יב, חלק ג', שער ג', 42–43, end). Rabbenu Tam held that any prior indication of which daughter was involved (including the assumption that the oldest daughter was intended) is sufficient to remove the element of doubt, while Menaḥem of Joigny contended that such clarifications are insufficient and a *get* (bill of divorce) must be given to each of the sisters. The Tosafot passage concludes, however, that Rabbenu Tam had second thoughts, and did not act according to his suggested lenient approach in practice. Eli‘ezer of Metz, another student of Rabbenu Tam, describes a situation in Troyes (which is apparently a fuller version of the case alluded to by Tosafot Kidushin) that came before the rabbinic court of Rabbenu Tam involving an Isaac ben Oshayah, the grandson of R. Menaḥem. Isaac committed himself to marry the minor daughter of the wealthy R. Morel of Ingletira (אינגליטיר), who actually had three such daughters. See *Sefer yere'im ha-shalem*, ed. A. Schiff (Vilna, 1892), sec. 7; and *Hagabot Maimuniyot, bilkhot ishut*, 9:1.1. Ingletira most likely connotes England, although it may refer to a portion of southwestern France (south of the Loire River) that was under English rule (the house of Plantagenet) around this time. See S. Emanuel, *Shivrei luḥot*, 309–10, and Joshua Prawer, *Ha-Tsalbanim: Deyokna shel ḥaverab koloni'alit* (Jerusalem, 1975), 303. Some wished to allow the marriage to proceed on the presumption that the groom had in mind that daughter to whom he had committed originally, but those who did not allow the marriage to take place prevailed, and a *get* was given to each of the three minor daughters. The *Hagabot Maimuniyot* passage concludes with its compiler, Meir ha-Kohen, relating a similar episode that was brought before his brother-in-law, Mordekhai ben Hillel, in which the groom had designated one

daughter to be his bride, but then said at the point of betrothal only that “your daughter is betrothed to me,” without specifying her name. In this instance as well, the father had three minor daughters. Meir of Rothenburg ruled in accordance with the view of Eli’ezer of Metz, requiring the groom to give a *get* to all three.

36. See S. Emanuel, *Shivrei lubot*, 180–81, and my *Peering Through the Lattices*, 107–9, 225–27.

37. See *Perushim u-pesakim le-R. Avigdor Katz*, ed. Harerei Qedem (Jerusalem, 1996), 6 (*pesak* 15): אע”פ שהייתה עדין קטנה, מכאן נהגו בצרפת להשיא בנותיהם כשהן קטנות ולקדשם משום צניעות: (15 *pesak*). See also *Sefer Hasidim* (Parma), sec. 1084, p. 275, which instructs against marrying *ketanot*; A. Grossman, *Hasidot u-mordot*, 81n.60 and below, nn. 62, 63, 64, 65.

38. See above, n. 35, for the more complex case involving minor daughters brought before Maharam’s student, Mordekhai ben Hillel.

39. See *Teshuvot Maharam defus Berlin*, 45 (no. 293): נ”ל דמותר לקדש בתו קטנה. דאע”ג דאמרי’: 293 (no. 45). דאסור לאדם לקדש בתו כשהיא קטנה, ה”מ כשהוא בעצמו קבל הקידושין. אבל נתן לה רשות לקבל את קדושה והיא מקבלתה, מותר. וכן עשייתו בבתי הקטנה אמרתי לה בתי קבלי קדושך אם את חופצת. ושלוס מאיר בן ברוך שיח’ Since Maharam was also a student at Evreux (Urbach, *Ba’alei ha-tosafot*, 2:528), it is tempting to suggest that he was following northern French sensibilities here, but R. Meir’s insistence that his daughter had to agree appears to move beyond what the Evreux passages formally required when marrying off a *ketanab*. See also *Teshuvot ha-Rashba*, 1:867; and S. Emanuel, *Teshuvot Maharam mi-Rothenburg ve-haverav*, 281n.7, who notes that this *kidushin* occurred when Maharam’s father was still alive. This perhaps suggests that Maharam conducted himself in this way in this instance in order to allow his elderly father to be present at his granddaughter’s wedding. Cf. *Teshuvot ba’alei ha-tosafot*, ed. Agus, 176–78 (no. 92). Maharam’s approach is noted by Israel Isserlein in *Terumat ha-deshen*, no. 213; and in *Pesakim u-ketavim*, sec. 33. Cf. Grossman, *Hasidot u-mordot*, 75–76.

40. Barukh of Mainz, in another theoretical context (in this instance, to correlate tannaitic positions), maintains that a *ketanab* must explicitly agree to her father’s choice of a husband for her before the *kidushin* can be accepted. See *Mordekhai ‘al masekhet Kidushin*, sec. 517, ed. Roth, 222–25 and above, n. 33.

41. See *Teshuvot geonei mizrah u-ma’arav*, ed. J. Mueller (Berlin, 1888), sec. 195, p. 52 (end): שאין בדור הזה לא בושח ולא פגם, שנהוג העולם כמה אנשים מדברים בבנות ישראל לקחתן ואינן נשאות אלא למי שעולות בגורלן. לפי שזיווג אשה לאיש אינו אלא מעשה שמים. וראובן זה שחותר אחריה לקחתה מה לעשות, לא היתה On Ibn Avitur as the author of this responsum, see A. Grossman, “Teshuvot ḥakmei Sefarad she-nishtamru bi-ketav yad Montefiore 98,” *Atarah le-ḥayim (Zalman Dimitrovsky)*, ed. D. Boyarin et al. (Jerusalem, 1980), 279–80; idem, *Hasidot u-mordot*, 91, 96n.32.

42. See *Teshuvot ha-Geonim sha’arei tsedek*, ס’ יב, שער ג’, חלק ג’; S. Emanuel, “Bitul shidukhin,” 164–65.

43. See *Sefer ha-shetarot le-R. Yehudah bar Barzilai ha-Bartseloni*, ed. S. Z. H. Halberstam (Jerusalem, repr. 1967), 72–73, 128; A. Grossman, *Hasidot u-mordot*, 91; A. A. Neuman, *The Jews of Spain*, 27–29.

44. See *Mishneh Torah, hilkhot mekhirah*, 11:8, כשהיו חכמי ספרד רוצים להקנות באסמכתא כך היו, ובכל דברים הדומים להם עושין. . . . על דרך זו היינו עושין בכל התנאין שבין אדם לאשתו בשידוכין ובכל דברים הדומים להם “Bitul shidukhin,” 158.

45. See above, n. 1.

46. See BT *Bava Kama* 91a; *Mishneh Torah, hilkhot ḥovel u-mazik*, 3:5; *Piskei ha-Rosh to Bava Kama*, 8.14; cf. *Ketsot ha-ḥoshen*, 207.7.

47. See *Sefer Or Zarua'*, *Piskei Bava metsi'a* (65b), sec. 188, ed. Machon Yerushalayim, vol. 3, fol. 264a; S. Emanuel, "Bitul Shidukhin," 158n.3; Grossman, *Ḥasidot u-mordot*, 92n.16.
48. See *Sefer Or Zarua'*, *Piskei Sanbedrin*, sec. 28 (vol. 3, fol. 525a, end): כשחזרו בו מבייש את: חבירו ומשום דמתבייש חבירו גמרי ומקני אהדיי.
49. See *Tosafot ha-Rosh le-masekhet Sanbedrin* 24b, s.v. *kolki* (=Sanbedrei gedolah 'al masekhet Sanbedrin, vol. 3, ed. Y. Lifshitz [Jerusalem, 1970], 97). On the relationship between Tosafot ha-Rosh and Tosafot Rash mi-Shants, see Israel Tà-Shma, *Ha-sifrut ha-parshanit la-Talmud* (Jerusalem, 2000), 2:81–82, 103–7.
50. *Sefer mitsvot gadol*, 'aseh 82, fol. 159c. See also Tosafot BT Bava Metsi'a 66a, s.v. *manyumei*; Tosafot BT Nedarim 27b, s.v. *ve-hilkbeta'*; *Mordekhai ha-shalem 'al masekhet Sanbedrin*, ed. Y. Horowitz (Jerusalem, 2009), sec. 691, pp. 39–42.
51. See *Sefer Mordekhai 'al masekhet Bava Metsi'a*, sec. 322 (כ"ב ראב"י העורר). See also ms. Vatican 141, fol. 56v; ms. Vercelli C 235, fol. 46c; ms. Sassoon, fol. 37r; ms. Paris BN 407 (IMHM no. 27901), fol. 94r; ms. Parma 929 (IMHM no. 13795), fol. 144r. Cf. ms. JTS Rab. 674, fol. 39c (where Rabiah is not mentioned by name); ms. Budapest 1, fol. 132v.
52. See *Hagabot Maimuniyot, hilkbot mekhirab* 11.13.8. This passage indicates that Rabiah's formulation comes from his (no longer extant) *Sefer Avi'asaf*.
53. See *Teshuvot Rashi*, ed. Elfenbein, 266 (no. 238): וכ"ש על שידוכי אשה שהנהיגו הראשונים כן. שלא לבייש בנות ישראל יש מן הדין לקנותו [ב]ממון וברידיו הגוף above, n. 52; A. Grossman, *Ve-hu yimshol bakh*, 60–61.
54. See *Teshuvot R. Ḥayyim Or Zarua'*, ed. Abittan, no. 152, fol. 141. In another responsum (no. 242, fol. 230), R. Ḥayyim notes that the payment to be made by those who back out was ordained already by (unidentified) Geonim. Since, however, there is no evidence within geonic literature for this fine as a reflection of *boshet*, and R. Ḥayyim refers only to Ashkenazic rabbinic figures in this responsum (Rashi, R'I, and his teacher, Meir of Rothenburg), it would seem that the term "geonim" here refers to R. Ḥayyim's venerable predecessors in Ashkenaz, who strongly supported this approach; see above, nn. 52, 53, 54, 55, 56, 57, and 58. For the use of the term "geonim" in a broader, more generic way, see Isadore Twersky, *Introduction to the Code of Maimonides* (New Haven, Conn., 1980), 82; Septimus, *Hispano-Jewish Culture in Transition*, 88. On the absence of such a conception during the geonic period, see, e.g., Goitein, *A Mediterranean Society*, 3:69–88; M. A. Friedman, "Shidukhin ve-'erusin le-fi te'udot ha-geniza ha-Kahirit," *Proceedings of the Seventh World Congress of Jewish Studies—Talmud, Halakhah and Midrash* (Jerusalem, 1977), 157–63; Menahem Ben-Sasson, *Tsemīḥat ha-kehilah ha-yebudit be-artsot ha-Islam, 800–1057* (Jerusalem, 1997), 111–14.
55. See *Sefer tasbbets*, ed. Machon Yerushalayim, sec. 458, pp. 255–56: לפי שבייש אותו שלא יכול: 255–56 (sec. 18); A. Grossman, *Ḥasidot u-mordot*, 96; idem, *Ve-hu yimshol bakh*, 329–31; S. Emanuel, "Bitul shidukhin," 160–61; A. A. Neuman, *The Jews of Spain*, 28–29.
56. See above, n. 22. Menahem ha-Meiri of Perpignan maintained a similar position; see A. Grossman, *Ḥasidot u-mordot*, 100, 105–6.
57. See Grossman, *Ḥasidot u-mordot*, 106–10, and idem, *Ve-hu yimshol bakh*, 268–69.
58. See *Sefer Ḥasidim* (Parma), sec. 1084, p. 275, and sec. 1894, p. 458; A. Grossman, *Ḥasidot u-mordot*, 81, 100.
59. See *SHP*, sec. 1102 and 1104, p. 280, sec. 1131, p. 286, sec. 1897, p. 459; Grossman, *Ḥasidot u-mordot*, 101–3; idem, *Ve-hu yimshol bakh*, 193–96; above, n. 7.
60. See *Tosafot Maharam ve-rabenu Perets 'al masekhet Yevamot*, ed. Porush, 117. Cf. Tosafot BT Yevamot 43b, s.v. *shani*, and Tosafot BT Ketubot 4a, s.v. *aval*.

61. See Michael Satlow, *Jewish Marriage in Antiquity* (Princeton, N.J., 2001), 111–16; Adiel Schremer, *Zakhar u-Nekevah Bera'am: Ha-Nisu'im be-shilbei yemei ha-bayit ha-sheni ubi-tekufat ha-Mishnah veha-Talmud* (Jerusalem, 2003), 42–47; below, nn. 67, 69, 70. Cf. Israel Abrahams, “Marriages Are Made in Heaven,” *Jewish Quarterly Review*, o.s., 2 (1890): 172–77, and E. E. Urbach, *Ḥazal: Pirkei emunah ve-de'ot* (Jerusalem, 1983), 247. See also the short treatise בענין יומת בשמיים, by Meir ben Moses (a teacher of Zedekiah ben Abraham ha-Rofe', author of *Shibolei ha-leket*), published in *Seder erusin ve-kidushin*, ed. S. E. Stern (Bnei Brak, 1990), 11–15, from ms. Vatican 285 (IMHM no. 8632), fols. 127v–129a (=ms. JTS 2499 [IMHM no. 28752], fols. 29r–33r). This text is also found in *Shibolei ha-leket, helek sheni*, ed. M. Z. Hasida (Jerusalem, 1969), sec. 50, pp. 107–9 (=din 'inyan kidushin), and was published from the JTS manuscript in *Menorat ha-ma'or le-R. Yisra'el al-Nakawa*, ed. H. G. Enelow (New York, 1932), 4:561–66.

62. See Tosafot BT Yevamot 61b, s.v. *ve-khen*; *Tosafot yeshanim*, ed. Shoshana, ad loc., 569–70: מכאן קשה לפירוש הקונטרס בדפירושו בחומש כתב הרבקה בת ג' שנים היתה, הדכא משמע גדולה היתה. 70: לכך הגיה ה"ר שמואל החסיד בסדר עולם שהיתה בת י"ד שנים ומייתי ראה מספרי וכו' (= *Tosafot Maharam ve-rabenu Perets*, ed. Porush, 178–79); ms. Paris BN 167, fols 55r–v (=ms. Moscow 362, fols. 128r–v; *Tosafot ha-shalem*, ed. Gellis [Jerusalem, 1984], sec. 4, vol. 3, p. 6); *Perushei ha-Torah le-R. Yehudah be-basid*, ed. Lange, 35–36; *Perush ha-Rokeaḥ 'al ha-Torah*, 1:177–78; ms. JTS Lutzki 794, fol. 2v; ms. Florence, Laurenziana, Plut. 2.20 (IMHM no. 20365), fols. 159v–160r; *Perushei R. Hayim Palti'el 'al ha-torah*, ed. Y. S. Lange (Jerusalem, 1981), 66–67; *Moshav zekenim*, ed. S. Sassoon (Jerusalem, 1982), 36 (= *Tosafot ha-shalem*, ed. Gellis, sec. 3, vol. 3, p. 5). See my “Mid-rashic Texts and Methods in Tosafist Torah Commentaries,” in *Midrash Unbound: Transformations and Innovations*, ed. M. Fishbane (Oxford, 2013), 300–305, for further discussion of these exegetical works and their approaches in this matter.

63. Although *Bereshit rabbah* (60.12) derives from Genesis 24:57 (“let us call the *na'arab* and ask her”) that an orphaned girl may be married only with her consent (*mi-da'atab*), Rashi on this verse asserts more broadly that consent is required of all women, i.e., even if she has a father. This passage again suggests that Rashi supported the position of Rav (BT Kidushin 41a), that a man should not betroth his minor daughter; see above, n. 33. Two northern French tosfist Torah commentaries from the mid-thirteenth century and beyond, ms. JTS Lutzki 794, fol. 2v, and *Moshav zekenim*, ed. Sassoon, 34 (and see also *Tosafot ha-shalem*, ed. Gellis, vol. 2 [Jerusalem, 1983], sec. 1 and 5, pp. 278–79), note the change from the *Bereshit Rabbah* passage made by Rashi in his commentary, but argue that since Rebecca was only three (according to the standard reckoning of the *Seder 'Olam*, which Rashi accepts), she could have been married off by her father even against her will. These tosfist Torah compilations therefore suggest that since Bethuel had died (as recorded also by Rashi to Gen. 24:55), Rebecca was an orphan, and it is (only) for that reason that her consent was needed. In cases where her father is alive, however, a minor girl's consent is not required, in accordance with the opinion of Samuel at the end of Kidushin (81b–82a) which runs counter to the view of Rav, and supports “the extant practice of one betrothing and marrying off his minor daughters.” As far as I can tell, these are the only Ashkenazic sources that reject the view of Rav in legal terms (and not because of deteriorating temporal conditions). See also *Perushei R. David Kimḥi 'al ha-torah*, ed. M. Kamelhar (Jerusalem, 1970), 131; *Seder 'olam*, ed. C. J. Milikovsky (Jerusalem, 2013), 1:220–21; 2:14–18.

64. See *Perush ha-torah asher katav Rashbam*, ed. D. Rosin (Berlin, 1882), 24, and similarly, *Perushei R. Yosef Bekhor Shor 'al ha-torah*, ed. Y. Nevo (Jerusalem, 1995), 41.

65. See *Perush ha-Rashbam*, ed. Rosin, 25.

66. See *Perush rabenu Bahya 'al ha-torah*, ed. C. D. Chavel (Jerusalem, 1994), 1:214–15.

67. See *Sbitah 'al Mo'ed Katan le-talmido shel R. Yehi'el mi-Paris* (Jerusalem, 2010), 207, although note the more circumspect formulation in Tosafot ha-Rosh.

68. See Tosafot BT Sanhderin 22a, s.v. *arba'im yom*. See also Tosafot ha-Rosh (ed. Lifshitz, 85); Tosafot BT Sotah 2a, s.v. *ba*.

69. See *Ḥidushei ha-Ritva 'al Mo'ed katan*, ed. Z. Hirshman (Jerusalem, 1975), 165. For further contextualization of Ritva's approach, see Shim'on ben Zemah Duran, *She'elot u-teshuvot Tashbets*, 2:1.

70. See *Ḥidushei ha-Ran 'al masekhet Mo'ed Katan*, ed. S. B. Verner (Jerusalem, 1993), 75; *Nimukei Yosef* (to Alfasi's *Halakhot*, fol. 10b, s.v. *be-rah'amim*): אף שבסוף תק"ם הגוירא שיגרשנה; והאיש שהתפלל עליה או ימות במהרה וישאנה איש שהוא בן זוגה אח"כ (אפילו כן לא קיימת).

71. See G. D. Cohen, "Messianic Postures of Ashkenazim and Sephardim," *Studies of the Leo Baeck Institute*, ed. M. Kreutzberger (New York, 1967), 117–56. For a more precise analogue to the Ashkenazic position described here, see my "Ashkenazic Messianic Calculations from Rashi and His Generation Through the Tosafist Period," in *Rashi: The Man and His Work*, ed. A. Grossman and S. Japhet (Hebrew; Jerusalem, 2008), 2:381–401. A more intuitive explanation for at least some of these differences might be proposed, based on the smaller size of the communities in Ashkenaz. However, references to this distinction appear only as a factor in justifying the marriage of minor girls in northern France (above, nn. 25, 31). Moreover, as noted, this practice was actually more prevalent in the generally larger communities of Spain (above, n. 22), suggesting that communal size was not a defining consideration in these matters.

CHAPTER 2. NAHMANIDES' FOUR SENSES OF SCRIPTURAL SIGNIFICATION

1. See, e.g., David Berger, *The Jewish-Christian Debate in the High Middle Ages* (Philadelphia, 1979); Sidney Griffith, *The Church in the Shadow of the Mosque* (Princeton, N.J., 2008); Sarah Kamin, *Jews and Christians Interpret the Bible*, 2nd ed., ed. Sara Japhet (Hebrew; Jerusalem, 2008); Daniel Lasker and Sarah Stroumsa, *The Polemic of Nestor the Priest* (Jerusalem, 1996); Hava Lazarus-Yafeh, *Intertwined Worlds: Medieval Islam and Bible Criticism* (Princeton, N.J., 1992).

2. See, e.g., Mordechai Cohen, *Opening the Gates of Interpretation: Maimonides' Biblical Hermeneutics in Light of His Geonic-Andalusian Heritage and Muslim Milieu* (Leiden, 2011); Rina Drory, *The Emergence of Jewish-Arabic Literary Contacts at the Beginning of the Tenth Century* (Hebrew; Tel Aviv, 1988).

3. See, e.g., Gilbert Dahan, *Les intellectuels chrétiens et les juifs au Moyen Age* (Paris, 1990); Kamin, *Jews and Christians Interpret the Bible*; Deanna Klepper, *The Insight of Unbelievers: Nicholas of Lyra and Christian Readings of Jewish Texts in the Later Middle Ages* (Philadelphia, 2007); Frans van Liere, "Andrew of St. Victor, Jerome, and the Jews: Biblical Scholarship in the Twelfth-Century Renaissance," in *Scripture and Pluralism: Reading the Bible in the Religiously Plural Worlds of the Middle Ages and Renaissance*, ed. Thomas Heffernan and Thomas Burman (Leiden, 2005), 59–75; Eva de Visscher, *Reading the Rabbis: Christian Hebraism in the Works of Herbert of Bosham* (Boston, 2014).

4. This Christian delineation was hardly set in stone, as the four senses are classified differently by different interpreters, with even the exact number of senses varying. See Henri de Lubac, *Exégèse médiévale: Les quatre sens de l'écriture* (Paris, 1961), in English as *Medieval Exegesis: The Four Senses of Scripture*, trans. M. Sebanc (Grand Rapids, Mich., 1998).

ENTANGLED HISTORIES

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