

The Appointment of *Hazzanim* in Medieval Ashkenaz: Communal Policy and Individual Religious Prerogatives

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I

During the pre-Crusade period in medieval Ashkenaz, a cantor or prayer leader (*hazzan, shaliah zibbur*)¹ was considered to be not only an important communal functionary, but also a veritable repository of prayer. The *hazzan* knew the prayers thoroughly and, to a large extent, by heart; he knew the traditions of the complex religious poems, *piyyutim*, which the community recited (and was often capable of adding to those *piyyutim*); and he was a source of law, practice and instruction with respect to prayer.² Indeed, even during the twelfth and thirteenth centuries and beyond, the cantor was frequently a leading rabbinic scholar of the community, who combined the necessary areas of knowledge and the requisite set of cantorial skills, together with a reputation for unassailable observance, piety and devotion to the community.³

- 1 Within the texts cited in this study (and in medieval rabbinic literature generally), these terms are used almost interchangeably. On occasion, the performance of other synagogue functions (such as the reading of the Torah) is intended. Cf. below, nn. 5, 14, 27, 50. For the connotation of these terms during the talmudic and rabbinic periods, see, e.g., L. Levine, *The Ancient Synagogue*, New Haven 2000, pp. 352-56, 410-17, 466-67.
- 2 See I. Ta-Shma, *Ha-Tefillah ha-Ashkenazit ha-Qedumah*, Jerusalem 2003, pp. 29-32; T. Fishman, 'Rhine-land Pietist Approaches to Prayer and the Textualization of Rabbinic Culture in Medieval Europe', *Jewish Studies Quarterly* 11 (2004), pp. 313-31; and my 'Prayer, Literacy and Literary Memory in Medieval Europe', R. Boustan (ed.), *Jewish Studies at the Crossroads of History and Anthropology: Tradition, Authority, Diaspora* (University of Pennsylvania Press; in press).
- 3 See Ta-Shma, *Ha-Tefillah ha-Ashkenazit*, pp. 33-35, 51-53, and idem., *Knesset Mehqarim*, v. 1, Jerusalem 2004, p. 319. See also M. Breuer, 'Shaliah Zibbur shel Ashkenaz Bimei ha-Benayim', *Dukhan* 9 (1972), pp. 13-25; A. Grossman, *Hakhmei Ashkenaz ha-Rishonim*, Jerusalem 1981, pp. 42, 260, 274, 292-96, 387, 390-91, 395-96; idem., *Hakhmei Zarefat ha-Rishonim*, Jerusalem 1995, pp. 126,

R. Eliezer b. Yo²el ha-Levi (Rabiah, d. c. 1225) mentions a custom to appoint outstanding communal leadership figures, *parnasim* ‘who protect their generation’, to serve as prayer leaders on the High Holidays. Although these *parnasim* were not necessarily Talmud scholars, Rabiah justifies their appointment on the basis of a passage in tractate *Ta²anit* (10a-b), which equates such *parnasim* (‘whose actions are exemplary and who enjoy the approbation of the community’), with Torah scholars in this regard.⁴

As the size and number of the Ashkenazic communities grew, however, *hazzanim* of this level and caliber were not available in every instance or locale, and the choice of a communal cantor was not always so clear. Scholarship, command of the liturgy, and piety were still the most crucial criteria, but these characteristics were not present to the same extent in each cantorial candidate. A series of Ashkenazic responsa and rabbinic letters from the late twelfth and early thirteenth centuries (preserved as a unit in *Sefer Or Zaru²a* by R. Isaac b. Moses of Vienna, d. c. 1250) address the key issues surrounding the appointment and retention) of a communal cantor. The first such letter was composed by R. Eliezer b. Isaac of Bohemia (who had studied in northern France with Rabbenu Tam, and is also known as R. Eliezer of Prague), in response to a position expressed by his younger colleague R. Judah he-Hasid (d. 1217; the text of R. Judah’s initial statement is not extant). R. Eliezer argues that synagogue officiants should be compensated (against the position taken by R. Judah, that the holy work of the cantor should remain uncompensated), as a means of insuring the availability of the best candidates.

173-74, 255-59; M. Ben-Ghedalia, ‘Hakhmei Speyer Bimei Gezerot Tatnu ule-Ahareihen’ (Ph.D. diss., Bar-Ilan University 2007), pp. 259-60; E. E. Urbach, *Ba²alei ha-Tosafot* Jerusalem 1980, v. 1, p.145, 379-81, 388-89, 464, and v. 2, pp. 518-19; my *Jewish Education and Society in the High Middle Ages*, Detroit 1992, pp. 56-57, 158, n. 32; S. Emanuel, *Shivrei Luhot*, Jerusalem 2007, pp. 181-82, 216-17, 238-39; I. Agus, *R. Meir of Rothenburg*, Philadelphia 1947, v. 1, pp. 25-27; I. J. Yuval, *Hakhamim be-Doram*, Jerusalem 1989, pp. 25, 67, n. 65, 74, 97-98, 122; and below, n. 16.

4 See *Sefer Rabiah*, A. Aptowitzer ed., Brooklyn 1983, pt. 2, v. 3, pp. 599-600, and cf. *Tosafot Ta²anit*, ad loc., s.v. *‘eizehu ya²hid*; H. H. Ben-Sasson, *Peraqim be-Toledot ha-Yehudim Bimei Ha-Benayim*, Tel Aviv 1958, pp. 138-39; and M. Ben Ghedalia (above, n.3).

To be sure, R. Eliezer's discussion focuses on the outlying areas of Ashkenaz at this time, in central and eastern Europe (referred to by R. Eliezer as Poland, Russia and Hungary), where (as R. Eliezer also points out) there were not so many Torah scholars. He earnestly suggests, diverging from the view held by R. Judah he-Ḥasid, that the established and prevalent practice in those areas of giving cantors and other officiants various payments and donations (in a manner that did not overly tax the members of each community) ought to be continued. In R. Eliezer's opinion, the prayer leader is akin to those who performed services in the Temple who were (nonetheless) assigned various gifts by the Torah (which were indeed structured in such a way as not to place undue or sudden economic burden on the individual supplicants).⁵ It would appear, however, that the general policy in the Rhineland at this time (as well as in northern France), where a larger pool of qualified *ḥazzanim* was available, severely limited all forms of compensation for cantors, just as it did for academy heads and other rabbinic functionaries.⁶

The next set of texts preserved in *Sefer Or Zaru'a* deals with the case of R. Hezekiah b. R. Jacob of Magdeburg, who wished to succeed

5 See *Sefer Or Zaru'a*, Zhitomir 1862, pt. 1, sec. 113; Urbach, *Ba'alei ha-Tosafot*, v. 1, pp. 212-15; Ta-Shma, *Knesset Mehqarim*, v. 1, pp. 224-26, 241-43, 250-53; R. Reiner, 'Rabbenu Tam: Rabbotav ha-Zarefatim ve-Talmidav Benei Ashkenaz' (M. A. thesis, The Hebrew University of Jerusalem 1997), pp. 125-27; and my 'R. Judah he-Ḥasid and the Rabbinic Scholars of Regensburg: Interactions, Influence and Implications', *JQR* 96 (2006), pp. 20-21. Cf. *Sefer Or Zaru'a*, pt. 4, *pisqei 'avodah zarah*, sec. 128, fol. 19a; ms. Bodl. 696, fol. 43v; S. Emanuel, *Shivrei Luhot*, p.170, 242; and *Sefer Rabiah le-Massekhet Hullin, Zevahim, Menahot*, D. Deblitzky ed., Bnei Brak 1976, p.169 (sec. 1128, end) [= *Sefer Or Zaru'a*, pt. 1, *Hilkhot Terefot*, sec. 413, fol. 59b], citing the text of a ruling by (Rabiah's father) R. Yo'el b. Isaac *ha-Levi* of Bonn: יצחק בן משה נתווכח עמי בהרב ר' יצחק בן משה נתווכח עמי באלו הדברים ואמר כי היה גברא רבה ר' יצחק מביהם חזן והיה מתיר אותו שומן שטמון ממש בכפל הכרס. On the communal *ḥazzan* serving also as a ritual slaughterer, see also below, n. 40.

6 See, e.g., my *Jewish Education and Society* (above, n. 3), pp. 42-54; my 'Compensation for the Study of Torah in Medieval Rabbinic Thought', R. Link-Salinger (ed.), *Of Scholars, Savants and their Texts*, New York 1989, pp. 135-47; J. Katz, 'Rabbinical Authority and Authorization in the Middle Ages', I. Twersky (ed.), *Studies in Medieval Jewish History and Literature*, Cambridge, Mass. 1979, pp. 48-49; Urbach, *Ba'alei ha-Tosafot* (above, n. 3), v. 1, p. 201; *Sefer Ḥasidim* [Parma], J. Wistinetski ed., Frankfurt 1924 [hereafter *SHP*], sec. 471; *Sefer Rabiah*, v.3, pp. 260, 487; and cf. Yuval, *Ḥakhamim be-Doram* (above, n. 3), pp. 13-14, 60.

his beloved father as cantor of the Magdeburg community (in eastern Germany) in the early 1230's,⁷ as an opportunity to review and to formulate proper procedures for the appointment of the *shaliah zibbur*. At first blush, the appointment of a *hazzan* by the community ought to be governed by the standing rules of communal self-government which had already been established to a large extent in pre-Crusade Ashkenaz,⁸ and which had recently been discussed anew (at the end of the twelfth century) by several of the leading rabbinic courts and authorities in the Rhineland.⁹ According to the dominant opinion held by German rabbinic

7 Later in his career, Hezekiah was in contact with a series of German and northern French Tosafists. He composed oft-cited *pesaqim* and perhaps *tosafot*, as well as a *sefer minhagim* which is no longer extant; see S. Emanuel, *Shivrei Luhot*, pp. 219-28. Emanuel argues that Hezekiah's father (and predecessor as the cantor of Magdeburg), R. Jacob, was not the R. Jacob b. Nahman whose rulings and practices are mentioned on several occasions in this work. On R. Hezekiah and his writings, see Urbach, *Ba'alei ha-Tosafot*, v. 2, pp. 564-66; E. Kupfer, *Teshuvot u-Pesaqim*, Jerusalem 1973, pp. 272-79; my 'Religious Leadership During the Tosafist Period: Between the Academy and the Rabbinic Court', J. Wertheimer (ed.), *Jewish Religious Leadership: Image and Reality*, New York 2004, pp. 291-92; and U. Fuchs, 'Shalosh Teshuvot Hadashot shel R. Yizhaq b. R. Mosheh Ba'al Or Zarufa, *Tarbiz* 70 (2001), pp. 111, 117-21. One of the responsa published by Fuchs (from ms. Cincinnati 154) was sent by R. Isaac Or Zarufa (in the years following the case of Hezekiah's appointment) to R. Hezekiah, and another refers to the time when these two scholars subsequently sat together on the rabbinic court of Magdeburg. See also my 'Religious Leadership', p. 277; *Sefer Or Zarufa*, pt. 1, sec. 744; and I. Agus, *Teshuvot Ba'alei ha-Tosafot*, New York 1954, p. 118 (sec. 47a = ms. Parma 86, sec. 301).

8 See, e.g., A. Grossman, 'Yahasam shel Hakhmei Ashkenaz ha-Rishonim 'el Shilton ha-Qahal', *Shenaton ha-Mishpat ha-Ivri* 2 (1975), pp. 175-99, and idem., *Hakhmei Ashkenaz ha-Rishonim* (above, n. 3), pp. 60-62, 130-47, 189-95.

9 In the last years of the twelfth century, the rabbinic court in Worms (led by R. Eleazar b. Judah, author of *Sefer Roqeah*) sent a question concerning an individual's right to contest the communal tax levy to the rabbinic court of Mainz (led by R. Judah b. Qalonymus and R. Barukh b. Samuel) and to Rabiah (R. Eliezer b. Yo'el ha-Levi). See *Teshuvot Maharah (R. Hayyim Eli'ezer b. Isaac) Or Zarufa*, no. 222, M. Abittan ed., Jerusalem 2002, pp. 207-10. The Worms court suggested in their question that a majority of the members of the community has the power to determine the policy to be pursued, a view with which Rabiah heartily concurred, while the Mainz court held that an individual may contest the assessment. See also *Teshuvot Rabiah*, D. Deblitzky ed., v. 1 Jerusalem 1997, sec. 997, and v. 2 Jerusalem 2000, sec. 1025; Y. Handelsman, 'Hashqafotav shel Rabiah 'al Darkei Hanhagat ha-Qehillot u-Meqoman be-Hipathut ha-Zibburit shel Hakhmei Ashkenaz Bimei ha-Benayim', *Zion* 48 (1983), pp. 21-54; S. Goldin, *Ha-Yihud veHa-Yahad* Tel Aviv 1997, pp. 145-56; and my 'Unanimity, Majority and Communal Government in Ashkenaz During the High Middle Ages', *PAAJR* 58 (1992), pp. 79-106.

decisors and leaders, that a majority was able to set the policy within the Jewish community,¹⁰ the will of the majority should be sufficient to elect a cantor as well. However, it is also possible to argue that unanimous agreement should be required for the installation of a *hazzan*, for two distinct reasons. There were German rabbinic authorities who held (as Rabbenu Tam did in northern France) that in light of various halakhic considerations, a (unanimous) consensus was required in order to render valid communal decisions,¹¹ an approach that could be extended to the appointment of the *shaliaḥ zibbur* as well.¹²

Moreover, unanimous agreement might also be indicated as a critical dimension of the selection process for a cantor in particular, irrespective of the standard policies of communal government and decision-making. Since a cantor must represent the community as a whole in prayer, he would need to be acceptable, at least initially, to the entire community.

The fact that the communities in medieval Ashkenaz were not identical in terms of composition or membership also impacts this issue. In some Ashkenazic communities (if not most), qualified laymen (in addition to any available rabbinic figures) were able to lead the daily, regular services throughout the year.¹³ At the same time, however,

10 How the majority was constituted, and which members of the community were polled, were also matters of contention and negotiation. See, e.g., M. Ben-Sasson and A. Grossman, *Ha-Qehillah ha-Yehudit Bimei ha-Benayim*, Jerusalem 1988, pp. 54-57; Handelsman, 'Hashqafotav shel Rabiah', pp. 30-41; and Goldin, *Ha-Yihud ve-ha-Yahad*, pp. 148-52.

11 See my 'The Development and Diffusion of Unanimous Agreement in Medieval Ashkenaz', I. Twersky and J. Harris (eds.), *Studies in Medieval Jewish History and Literature*, vol. 3, Cambridge, Mass. 2000, pp. 21-44, and cf. Y. Kaplan, 'Qabbalat Hakhra'ot ha-Qehillah ha-Yehudit le-Da'at Rabbenu Tam la-Halakhah ule-Ma'seh', *Zion* 60 (1995), pp. 277-30.

12 On communal government in medieval Ashkenaz (in addition to the studies cited above, n. 9), see I. Agus, 'Ha-Shilton ha-^cAzmi shel ha-Qehillah ha-Yehudit Bimei ha-Benayim', *Talpiyyot* 5 (1950-52), pp. 305-20; S. Morell, 'The Constitutional Limits of Communal Government in Rabbinic Law', *Jewish Social Studies* 33 (1971), pp. 83-119; Y. Blidstein, 'Le-Hilkhot Zibbur shel Yemei ha-Benayim: Meqorot u-Musagim', *Dinei Yisra'el* 9 (1979-80), pp. 126-64 [= Blidstein, 'The Individual and the Many in the Communal Law of the Middle Ages', D. Elazar (ed.), *Kinship and Consent: Jewish Political Tradition and Its Contemporary Uses*, Jerusalem 1997, chap. 11]; and Y. Kaplan, 'Qabbalat Hakhra'ot ba-Qehillah ha-Yehudit Bimei ha-Benayim', *Shenaton ha-Mishpat ha-^cIvri* 20 (1995-97), pp. 225-259.

13 See *Sefer Or Zaru'a*, pt. 1, sec. 115 (in a responsum by R. Moses *Or Zaru'a*

the more complex and less familiar liturgies recited on the festivals and the High Holidays might necessitate a more learned *hazzan* to be designated.¹⁴ The present study will not consider all of these variables and possibilities. It will, however, trace and describe the negotiation between the concepts and procedures outlined above, those concerning effective communal government and decision-making on the one hand, and the religious position and prerogatives of the cantor and his congregants, on the other. Analysis of such a sensitive confluence, and the separation of the sometimes conflicting strands that were present in these deliberations, will contribute to our understanding of the nature and parameters of communal government in medieval Ashkenaz, while also tracing the preservation of the religious and personal sensibilities of the individual, as manifested in a decidedly public context.¹⁵

regarding one who purchased the honor of removing the Torah from the ark): 'It is an everyday occurrence that A leads the morning prayer, B reads from the Torah, and C leads the additional prayer'. This responsum of R. Isaac *Or Zaru'a* is also cited in *Sefer Mordekhai 'al Massekhet Megillah*, sec. 832, M. A. Rabinowitz ed., Jerusalem 1997, pp. 120-23. Cf. *Sefer Or Zaru'a*, pt. 2, sec. 42 (fol. 10b); T. Fishman, 'Rhineland Pietist Approaches to Prayer', and my 'Prayer, Literacy and Literary Memory' (above, n. 2).

- 14 *Sefer Or Zaru'a* also censures *hazzanim* for mistakes made while leading the services. See, e.g., *Sefer Or Zaru'a, Hilkhot Tefillah*, pt. 1, sec. 104 (fol. 19d): ואלו חזנים שמניחים מטבע [שלש] ברכות [הראשונות] ואומרי' קדושות לאו שפיר עבדי אבל המאריך ותיפח רוחם של חזנים העומד מברך: and pt. 2, sec. 42 (fol. 10c): באמצעות בתפלתו לית לן בה ולפניה ולאחריה והחזן קורא ועוד פעמים ששותק ומברך שתיים והצבור לא יצאו קריאת התורה לא יחשוב החזן: Cf. *SHP*, secs. 416-418, 1599; ms. Paris l'Alliance H 148A, fol. 17c: היורד להתפלל שישבחוני הקהל והנשים ואמצא חן בעיני הבחורות מפני שיש לי קול ערב. ולא יעזו פניו לעמוד בפני התיבה ויאמר אע"פ שלא נתן לי רשות הקהל להתפלל אתפלל בפניהם. כי כל מי שיודעים הקהל שיש בו מידות הללו אם יש כח בקהל להעבירו שלא יתפלל בעבורם לעולם לפני התיבה הרשות בידם להעבירו אע"פ שאין מי שבכל העיר שיש לו קול נעים כמותו. אבל אם הוא אלם ואין ביד הקהל להעבירו, מי שהוא ירא שמים לא יענה אמן אחר ברכתיו כי ברכתיו נאוצים שנא' בוצע בירך ניאץ הש' and below, n. 30 (end).
- 15 Note the reference by R. Yo'el *ha-Levi* of Bonn (recorded in *Sefer Rabiah*, pt. 2, p.255, sec. 549), to a convert who was prevented from serving as a *shaliah zibbur* in Wurzburg, an action with which R. Yo'el disagreed. This convert also raised the question (*ibid.*, v. 2, pp. 253-54) of whether he was permitted to study the Bible in Latin (characterized as גלחים לשון), since he was more familiar with Latin than he was with Hebrew. On this passage, cf. Urbach, *Ba'alei ha-Tosafot*, v. 2, pp. 210-11, and see the discussion on the latinity of the Jews in medieval Ashkenaz in my *The Intellectual History of Medieval Ashkenazic Jewry: New Perspectives* (Wayne State University Press, forthcoming), chap. 1.

II

As mentioned above, the case of the young R. Hezekiah b. Jacob, a scholarly but less compatible or sympathetic figure than his father (whom he wished to succeed as the *ḥazzan* in Magdeburg, despite a degree of opposition within the community), generated a number of rabbinic opinions about the requirements and guidelines for the appointment of a cantor. R. Isaac b. Moses *Or Zarua* (who was apparently asked by R. Hezekiah to render an opinion and to provide guidance), begins his responsum on this matter¹⁶ by calling attention to a ruling of his teacher, the German Tosafist R. Simḥah of Speyer (d. c. 1230), that even a single individual could stand in the way of a cantorial appointment (שיחיד יכול לעכב הזנות), since one cannot become a *shaliaḥ zibbur* without the united approbation of all of the community as one (שלא יעשה שליח ציבור כי אם מאגודה אחת).¹⁷

R. Isaac also states that the widespread practice throughout the Rhineland, as he observed it firsthand, was that a minority could prevent the majority from establishing a *shaliaḥ zibbur* (וראייתי הרבה מעשים ברייגוס). This formulation indicates, on the one hand, that the majority did not rule when it came to the installation of a *ḥazzan*, but it also suggests that R. Simḥah's position, by which even a single

16 *Sefer Or Zarua*, pt. 1, sec. 114. This responsum is found immediately after the responsum of R. Eliezer of Bohemia (above, n. 5). The unit which contains these responsa follows a section on *Hilkhot Tefillah* and precedes a section entitled *Hilkhot Shaliaḥ Zibbur*. It begins with a lengthy responsum by R. Isaac b. Moses (sec. 112) on the question of whether one who has killed someone inadvertently may serve as a *shaliaḥ zibbur*. This unit, minus sec. 112, and plus R. Eliezer of Bohemia's responsum presented toward the end of the unit rather than at its beginning, is found in *She'elot u-Teshuvot Maharam b. Barukh*, ed., N. N. Rabinowitz Lemberg 1860, secs. 109-113. Cf. below, nn. 32, 35; and A. Isaacs, 'Meqomo shel Beit ha-Knesset ba-Ḥevrah ha-Ashkenazit voha-Yahas 'elav Bimei ha-Benayim: Meḥqar Anthropologi ve-Histori' (Ph.D. diss., Hebrew University, Jerusalem 2002), pp. 245-55. On the inclusion of sections from *Sefer Or Zarua* in *Teshuvot Maharam defus Prague*, see S. Emanuel, 'Teshuvot shel Maharam mi-Rothenburg she-³Einan shel Maharam', *Shenaton ha-Mishpat ha-^cIvri* 21 (1988-2000), pp. 171-73.

17 On R. Simḥah of Speyer (and R. Isaac *Or Zarua*'s relationship with him), see Urbach, *Ba'alei ha-Tosafot*, pp. 411-19; S. Emanuel, *Shivrei Luhot*, pp. 154-66; and my 'Peering through the Lattices': *Mystical, Magical and Pietistic Dimensions in the Tosafist Period*, Detroit 2000, pp. 102-11, 225-28.

individual could object, was not widely accepted in the Rhineland at this time.

In assessing the nature of R. Simḥah's unique view, R. Isaac *Or Zarua* acknowledges that he never inquired from his teacher as to whether this position carried the weight of custom (*minhaga*), or whether R. Simḥah held this to be so according to the letter of the halakhic law (*dina*). R. Isaac himself goes on to suggest that this approach should be elevated to the highest level of law (דינא דאורייתא): 'I say that anyone who was appointed to be a *shaliaḥ zibbur* not by a monolithic bloc (שלא מתוך אגודה אחת), the spirit of the Sages is displeased with him (אין רוח חכמים נוחה הימנו)'. R. Isaac presents a number of talmudic proof texts to support his claim. Chief among them are a series of rulings by Rabban Gamliel (in tractate *Rosh ha-Shanah*), maintaining that a communal cantor is able, through his prayer, to fulfill the obligation of his congregants to pray. 'How can the cantor fulfill his mandate (היאך יהם אינם) if not all the congregants agree to his prayers (יוציא ידי חובתו (מסכימים לתפלתו)?'¹⁸ R. Isaac also adduces Rashi's similarly phrased interpretation of a talmudic passage in tractate *Ta'anit*,¹⁹ that a cantor must be 'acceptable to the people' (מרוצה לעם), to mean that they must 'agree to his prayers' (שמסכימים לתפלתו). R. Isaac concludes: 'Even if a sizable majority (תרי רובי) agrees to his prayers, but a minority still does not, how can his prayers be efficacious for them (even if offered with the proper intention), since they do not agree to his prayers?'

R. Isaac finds further proof for his stance within sacrificial procedures. If a *kohen* who is unacceptable to the owner (and beneficiary) of a sacrifice nonetheless offers the sacrifice on the owner's behalf, this sacrifice is considered to be completely invalid (even if it was offered properly from the technical standpoint).²⁰ With regard to prayer

18 For this conception of the role of the cantor, see Y. Blidstein, 'Shaliaḥ Zibbur: Tiv'ol, Tafqidav, Toledotav', Y. Tabory (ed.), *Me-Qumran 'ad Qahir: Mehqarim be-Toledot ha-Tefillah*, Jerusalem 1999, pp. 40-45.

19 On the commentary to *Ta'anit* attributed to Rashi in the standard editions of the Talmud, see *Sarei ha-Elef*, M. M. Kasher and Y. D. Mandelbaum eds., Jerusalem 1979, v. 1, p.225; Z. Warhaftig, 'Devarim ki-Peshutam: He'arot 'al Massekhet *Ta'anit*', *Ha-Ma'ayan* 36 (1996), pp. 42-43; A. Schlossberg, 'Perush Rashi le-Massekhet *Ta'anit*', *Hagigei Giv'ah* 8 (2000), pp. 51-66; and *Sefer Rashi Ta'anit*, Y. H. Dayyan ed., Jerusalem 2004, pp. 3-21.

20 R. Isaac derives this proof from the reason given by the Talmud (*Ta'anit* 27a)

as well, R. Isaac therefore concludes that a cantor may not pray without the unanimous agreement of the congregation (אין לשליח ציבור להתפלל אלא בהסכמת כולם). It should be noted that in his prior responsum about whether someone who had accidentally killed another person may serve as a *shaliaḥ zibbur*, R. Isaac also stresses the linkage and parity between cantors and *kohanim* who served in the Temple: ‘As to whether such a person [an accidental killer] may be appointed a *shaliaḥ zibbur*, it seems to me that if a *kohen* in this condition may not offer sacrifices, this person cannot be appointed as a cantor [...] since prayer has taken the place of the sacrificial rite [...] Since, however, a *kohen* in this condition may in fact offer sacrifices [as R. Isaac goes on to demonstrate], this person may also be designated as a *shaliaḥ zibbur*’.²¹ R. Eliezer of Bohemia, as cited by R. Isaac *Or Zarufa*, had also linked the compensation of cantors to the apportionment of priestly gifts,²² confirming this association between cantor and *kohen* as a *leitmotif* within R. Isaac’s approach to the status of the *shaliaḥ zibbur*.²³

for the designation of shifts of overseers (*mishmarot*) in the Temple (as per a decree of the ‘early prophets’), who were required to stand over the *kohanim* (עומדים על גבם) on behalf of the owners of the sacrifices. R. Isaac reasons that since the members of the *mishmarot* were required to do this even if the owners did not appear to have any difficulty with the *kohanim* in the cohort whose turn it was to serve in the Temple, the wish of an owner who did not want a particular *kohen* to serve would have to be respected. This entire passage in *Sefer Or Zarufa*, beginning with the ruling of R. Simḥah, is re-produced *verbatim* in *She’elot u-Teshuvot Maharil*, Y. Satz ed., Jerusalem 1980, pp. 182-184 (sec. 97). Some manuscript texts place Maharil’s name at the end, suggesting a strong endorsement of this approach. M. Breuer (above, n. 3), pp. 18-19, perceptively points to the potential clash between this approach and the standard policies of Ashkenazic communal self-government, although he adds that rabbinic scholars would have no problem being confirmed as cantors in any case, thereby limiting the conflict to scattered local venues. (Breuer incorrectly identifies R. Simḥah in the responsum of the *Or Zarufa* as R. Simḥah of Vitry.)

21 *Sefer Or Zarufa*, sec. 112. Cf. Blidstein, ‘Shaliaḥ Zibbur’ (above, n. 18), pp. 67-68.

22 See above, n. 5, and cf. *SHP*, sec. 502.

23 In his annotations to *She’elot u-Teshuvot Maharil*, Y. Satz (above, n. 20), cites a *Tosafot* passage (to *Yoma* 19b, s.v. *mi ikka*, and see also *Kiddushin* 23b, s.v. *de-amar*) which indicates that the question of whether the owner designates or controls the *kohen* (or whether the *kohen* is a heavenly representative) is raised by the Talmud itself and remains largely unresolved, a conclusion seemingly at odds with the position taken by R. Isaac *Or Zarufa*. A careful reading of both these *Tosafot* passages reveals, however, that they deal with the issue of whether

Toward the end of his responsum to R. Hezekiah, R. Isaac briefly considers the possibility that those who do not want Hezekiah to serve as their cantor should choose another individual more to their liking, and should pray with him (as a separate group). This solution is judged, however, to be impractical or even inappropriate, since it may entail two different services taking place simultaneously within one synagogue, or it may cause one group to expel the other from the synagogue. Thus, R. Isaac reiterates that only a cantor chosen by all (מתוך אגודה אחת) is acceptable and a candidate who is satisfactory to all must be found.

R. Isaac next cites another of his teachers, R. Judah he-Ḥasid (החסיד הגדול מורי הרב רבינו יהודה החסיד).²⁴ R. Judah is quoted as having told R. Isaac that a *shaliaḥ zibbur* must be beloved to the congregation (*ʿahuv la-zibbur*). For if this is not the case, such a situation may lead to danger (*sakkanah*), especially when the ‘portion of admonition’ (*tokheḥah*, found in Leviticus, chap. 26, and Deuteronomy, chap. 28) is read publicly. If one who does not get along with the cantor (who also served as the Torah reader) is called to the Torah for this reading, he should not ascend, for he will fail (and thus become afflicted) if he ascends (יכשל אם יעמוד). Therefore, R. Judah explains, it is wrong for one to be appointed as the *shaliaḥ zibbur*, except with the unanimous agreement of the entire congregation (אלא בהסכמת כל הציבור).

The formulation attributed by R. Isaac *Or Zarufā* to R. Judah he-Ḥasid with regard to the need for unanimous agreement on a *hazzan* is reflected in two sets of passages in *Sefer Ḥasidim*. *Sefer Ḥasidim* recognizes the power invested in the *shaliaḥ zibbur* to bless or to

the owner of the sacrifice has a right to go outside the *mishmar* assigned, and to pick a *kohen* of his own choosing. R. Isaac *Or Zarufā* is arguing that a particular *kohen* who is disliked may be replaced at the owner’s request, but only by another *kohen* in that *mishmar* (who is not necessarily of the owner’s choosing at all). The issue is not that the owner wants *kohen* X; it is rather that he does not want *kohen* Y. Granting this more limited request would not challenge the parameters of talmudic law in any way. See also R. Aryeh Leib Ginzburg, *Gevurot Ari to Yoma*, ad loc. (repr. Jerusalem 1973), p. 40.

24 See E. E. Urbach, *Baʿalei ha-Tosafot*, v. 1, p. 437; U. Fuchs, ‘Iyyunim be-Sefer Or Zarufā le-R. Yizḥaq b. Mosheh me-Vienna’ (M. A. thesis, The Hebrew University, Jerusalem 1993), pp. 18-19, 29, 33-40; my ‘Peering through the Lattices’, pp. 128-30, 221-25; and cf. Ta-Shma, *Ha-Nigleh shebe-Nistar*, Tel Aviv 2001, pp. 29, 122, n. 64.

otherwise affect the members of his congregation.²⁵ The presence of these special powers requires the *shaliaḥ zibbur* to be able to pray on behalf of each and every congregant with a full heart. If, however, the *shaliaḥ zibbur* is too interested in honor or in compensation, he may well bless those who promote or who pay him to a greater extent than those who do not, which is undesirable. Moreover, if the *shaliaḥ zibbur* becomes angry with a congregant, the power of his prayers can harm that person. An exemplum is presented concerning someone who was often called to the Torah for the reading of the ‘portion of admonition’ (היה רגיל לעמוד בתוכחה בספר תורה). On one occasion, it happened that the cantor was upset with this person (who in turn reacted badly), which ultimately resulted in dire consequences for the one who had been called to the Torah.²⁶ In the second set of passages, *Sefer Ḥasidim* simply instructs that ‘if the *ḥazzan* hates someone, or if another person has a quarrel with him, the *ḥazzan* should be careful not to call such a person to the *Sefer Torah* for the *tokheḥah*, lest this person think that the *ḥazzan* intends to curse him’.²⁷

25 On this aspect of the cantor’s mission and nature (referred to as התפילה הסגולית של שליח ציבור), see Y. Blidstein, ‘Shaliaḥ Zibbur’, pp. 45-59.

26 *SHP*, secs. 409-10, 471, 770.

27 *SHP*, secs. 1594-95. The *Zohar* rules that a *kohen* who does not like someone in the congregation may not offer the priestly blessing (*duchenen*), which is why the blessing recited by the *kohanim* before pronouncing the words of the priestly blessing concludes with the word *be-ʿahavah*, to signify that the *kohanim* are required to fulfill this precept ‘with love’. In the absence of any compatible talmudic sources, I. Ta-Shma, *Ha-Nigleh shebe-Nistar* (above, n. 24), pp. 28-29, regards the source of this Zoharic concept and practice as the statement of R. Judah he-Ḥasid recorded in this passage of *Sefer Or Zarua*, that a cantor must be loved by the congregation lest certain problems ensue. This is one of many medieval Ashkenazic sources for Zoharic practices that Ta-Shma presents in his study, and one of several that relate specifically to the performance of the priestly blessing. See also *Ha-Nigleh shebe-Nistar*, p. 25 (the designation of a *levi* to wash the hands of the *kohen*); pp. 28, 51 (whether a single or widowed *kohen* may participate in the blessing); p. 29 (the *kohen* places his right hand above his left while reciting the blessing). At the same time, however, R. Isaac Or Zarua’s compatible line of reasoning in this same passage of his work (above, n. 23) suggests that there is at least an implicit talmudic source for the *ʿahavah* that is required for the priestly blessing. Just as the owner of the sacrifice must like or accept the *kohen* who offers his sacrifice (as per talmudic law), so too there must be a positive relationship between the *kohen* and the congregants in order to allow the priestly blessing to proceed.

A final ruling included by R. Isaac *Or Zaruf'a* in his responsum concerns the removal of a cantor who had been appointed unanimously. R. Isaac writes that if one or two, or even three or four people state that they would not like the cantor to continue, he should not be removed (assuming that the cantor has not committed any sinful or negligent act, of the type that can be characterized as פשיעה שלא כהוגן), since he had been appointed originally by unanimous acclaim. Nonetheless, the cantor must endeavor to ensure that the members of the congregation continue to love and respect him. He must be solicitous and tolerant of them on a personal level (מכל מקום צריך שליח ציבור לעסוק (שיאהבו אותו ולהחניף הציבור ולהעביר על מדותיו מכל מקום צריך שליח ציבור לעסוק)). At the same time, however, the cantor must still be able to rebuke them for their failures in areas of observance or behavior. In short (and on the basis of the views of two of his teachers), R. Isaac *Or Zaruf'a* believed that even a single individual could block the initial choosing of someone as a *shaliaḥ zibbur*. As such, the potential candidate must do his best to receive unanimous approbation, and must endeavor to maintain a high degree of good will and mutual respect even after he had been accepted into the position.²⁸

As a follow-up to this responsum, R. Isaac *Or Zaruf'a*'s son, R. Ḥayyim Eliezer, was queried about the right of an individual to veto the appointment of a cantor. R. Ḥayyim expressed consternation and issued a rebuke (כעס הרבה והוכיחו על כך) upon hearing the claim made by some, in the name of his father R. Isaac *Or Zaruf'a*, that an individual had the right to object to a particular person without providing any reason for his objections (שהיחיד מוחה אפילו בלא טעם). R. Ḥayyim stresses that according to his father, the individual who wished to dissent had

28 Both R. Yosef Caro in his *Beit Yosef*, and R. Moses Isserles (Ramo) in his *Darkhei Mosheh* to the end of *Orah Ḥayyim*, sec. 53, demonstrate the extent to which the requirement for unanimity in appointing a *hazzan* (as proposed by R. Simḥah of Speyer, R. Judah he-Ḥasid and R. Isaac *Or Zaruf'a*) was adopted or supported by leading Ashkenazic authorities in the late Middle Ages. See *Beit Yosef*, sec. 53, s.v. *katav ha-Agur*, and *u-Mahari-Qolon*, and *Darkei Mosheh*, sec. 6 (citing Maharam Padua, Mahariq and Mahari [Ya'akov] Weil). See also *She'elot u-Teshuvot Maharam Mintz/Maharam Padua*, A. Siev ed., New York 1995, pp. 754-55; *She'elot u-Teshuvot Rabbenu Mosheh Mintz*, Y. S. Domb ed., Jerusalem 1991, v. 2, pp. 396-97 (sec. 81); *Shulḥan 'Arukh, Orah Ḥayyim*, 53:19 with Ramo's gloss; above, n. 20; and the next note.

to present the reason for his objection to the *tuvei ha-^cir*, the sitting board of communal leaders. Only if they are convinced that the reason for the disapproval is appropriate and credible should they proceed accordingly and reject the cantorial candidate (יעיזע טעמו ודבריו לפני טובי) (העיר אם יראו דברים ניכרים שראוי למחות עליהם כפי זה יעשו).²⁹

Similarly, a *précis* of R. Simḥah's position as it was presented by R. Isaac *Or Zaru^ca*, found in the *Sefer Mordekhai* (whose author, R. Mordekhai b. Hillel, was a contemporary of R. Ḥayyim *Or Zaru^ca*) employs a key phrase not found in R. Isaac's original exposition: כתב ('R. Isaac *Or Zaru^ca* wrote in the name of R. Simḥah that an enemy [of a congregant] may not be installed as cantor').³⁰ As indicated by R. Ḥayyim *Or Zaru^ca*, this formulation suggests that there must be a deep-seated or long-standing enmity between the potential *shaliaḥ*

29 See *Dinin va-Halakhot le-Mahari Weil*, sec. 60, published together with *She'elot u-Teshuvot R. Ya'aqov Weil*, Jerusalem 1988, fol. 169. R. Shabbatei b. Samuel, another rabbinic leader at that time, added his own opinion that it is inappropriate to allow an individual to object for any reason, without providing a solid reason. Cf. Hida, *Shem ha-Gedolim*, Warsaw 1896, *Ma'arekhet Gedolim*, p. 112, sec. 6. See also Y. Kaplan, *Mishpat Zibburi 'Ivri Bimei Ha-Benayim* (Institute for Research in Jewish Law of the Hebrew University of Jerusalem, forthcoming), sec. 3.1.4.5.

30 See *Sefer Mordekhai 'al Massekhet Hullin*, sec. 597 (to *Hullin* 24a, end chap. 1). Ri (ר"י) refers here to R. Isaac b. Moses *Or Zaru^ca*, as confirmed by the evidence from various early and authoritative *Mordekhai* texts in manuscript. See, e.g., ms. Parma 929 (Ashkenaz 1391), Fol. 14v: וכתב ה"ר יצחק באור זרוע מש"י; ms. fol. Vienna 72 (Ashkenaz 1392), fol. 192v, col. 2, ms. Budapest 2⁰¹ (Ashkenaz 1373), fol. 243v, col. 1, ms. Vatican 141 (Italy, fourteenth century), fol. 242r, col. 23: וכתב ה"ר יצחק בשם; and ms. Vercelli C235 (Italy 1452): וכתב ר"י בשם רבי שמחה ששונא לא יתמנה שליח ציבור והאריך בתשובתו. It should be noted that *Sefer Mordekhai* elsewhere cites *Sefer Or Zaru^ca* as the product of Ri *Or Zaru^ca*. See, e.g., *Sefer Mordekhai 'al Massekhet Megillah*, sec. 832 (and cf. above, n. 13): השיב ה"ר מויאנא בספר אור זרוע; ms. Parma 929, fol. 101r: השיב רבינו; ms. Vienna 72, fol. 81v, col. 2: ויצחק מויאנא בספר אור זרוע; ms. Vercelli C235, fol. 267r, col. 1: השיב ה"ר יצחק א"ז; ms. Vat. 141, fol. 314r, col. 3: תשובת ה"ר יצחק א"ז אשר שאלתם; ms. Budapest 2⁰¹, fol. 80r, col. 2: תשובת ה"ר יצחק א"ז אשר שאלתם. Note also the formulation attributed to R. Simḥah's son, R. Shemaryah (cited in S. Emanuel, *Shivrei Luḥot*, 168, from ms. Bodl. 671): 'If one takes it upon himself to lead the prayers without acquiescence [of the congregation], but only by dint of his forcefulness and haughtiness (וכל המתפלל שלא ברשות מחמת אלמות וגיאות, no one should answer *amen* to his blessing', and see also ms. Paris l'Alliance H 148A, above, n. 14.

zibbur and the congregant in question for this congregant to be able to block the appointment. This detail also serves to highlight a nuanced difference between the approach of R. Isaac *Or Zaruf'a* and R. Judah he-Hasid's statement. For R. Judah, the cantor who is less than beloved (or the cantor who does not love every member of his flock) can be an imminent source of danger to his congregants, and should therefore not be officiating.³¹

R. Isaac *Or Zaruf'a* also preserves a brief responsum from his older Tosafist contemporary, R. Moses b. Hisdai Taku (d. c. 1235), concerning the cantorial position of R. Hezekiah b. Jacob.³² R. Moses, who served for a time as the rabbinic leader of Regensburg, was asked by (unidentified) rabbis in Magdeburg (perhaps the local *beit din*) to try to resolve this controversy.³³ R. Moses suggests to his rabbinic colleagues that R. Hezekiah had attained sufficient wisdom and piety to serve as an appropriate representative of the community before God, even if he did not have the same measure of these characteristics as did his saintly father. Nonetheless, just as the role of the cantor is to put forth prayers that are desirous before the Almighty and commend the congregation to Him (לרצות בין ישראל לאביהם שבשמים), so too the community must truly desire this person as their cantor (כך שורת הדין) (והמשפט שירצה בו הציבור). R. Moses therefore urges that R. Hezekiah should literally 'knock on doors' in order to placate the members of

31 See above, n. 26.

32 *Sefer Or Zaruf'a*, sec. 115. Cf. Urbach, *Ba'alei ha-Tosafot*, v.1, p.420-21, v. 2, p. 564; my 'The Development and Diffusion of Unanimous Agreement' (above n. 11), pp. 29-31; and I. Z. Kahana, *Meḥqarim be-Sifrut ha-Teshuvot*, Jerusalem 1973, pp. 451-52. As Urbach did, I have corrected some of the readings in the version found in *Sefer Or Zaruf'a* on the basis of *Teshuvot Maharam*, Lemberg, secs. 110-11, or provided both variants.

33 R. Moses Taku composed *Tosafot*, responsa (see, e.g., *Teshuvot Maharam* [Lemberg], sec. 114 = *Teshuvot Maharaj Or Zaruf'a*, sec. 179) and other rabbinic writings (much of which are no longer extant), as well as an unusual treatise on anthropomorphism and related issues, *Ketav Tamim*, which has survived only partially. Like R. Isaac *Or Zaruf'a*, he too posed halakhic questions to R. Simḥah of Speyer). On R. Moses and his corpus, see, e.g., Urbach, *Ba'alei ha-Tosafot*, pp. 420-25; I. Ta-Shma, *Ha-Sifrut ha-Parshanut al ha-Talmud*, v. 2, Jerusalem 2000, p. 116; S. Emanuel, *Shivrei Luḥot*, pp. 222 n. 18, 312, 315; Joseph Dan's introduction to the facsimile edition of *Ketav Tamim*, ms. Paris H711, Jerusalem 1984, pp. 7-27; and my 'Varieties of Belief in Medieval Ashkenaz: The Case of Anthropomorphism', M. Goldish and D. Frank (eds.), *Rabbinic Culture and Its Critics*, Detroit 2008, pp. 122-25, 147-50.

the minority who do not want him to continue in his father's position. Moreover, the rabbinic establishment, which supported Hezekiah and provided him with a majority, should also join in persuading the naysayers (*hame-ma'anim*) to come over to their view, since it would certainly be best if argument and controversy could be avoided (הריב לא) (נכון להם ולגבר המחלוקת). This effort, if successful, should lead to the formation of a united bloc (ויתרצו באגודה / ויתרצו להיות באגודתם), a development that calls to mind the key expression, *ʿagudah ʿehat*, employed by R. Simḥah of Speyer in his formulation.

Indeed, at this point, R. Moses cites the view of Rabbenu Simḥah (which had been sent to him directly by R. Simḥah, וכבר שלח רבינו שמחה), to the effect that in the cases of both right of settlement (*herem ha-yishuv*) as well as the appointment of a cantor, even the objection of a lone individual is efficacious (כי היישוב והחזנות אפילו היחיד יכול לעכב). Unlike R. Isaac *Or Zaru'a*, however, who embraced and further buttressed R. Simḥah's standpoint, R. Moses expresses a degree of frustration with R. Simḥah's position, going so far as to call it a bad custom, *minhag ra'*: 'If there are a number of people who object, and even if they constitute only a small group of three or four, it is reasonable not to go forward with the nomination (כי איני חולק עליו כשיש רבים ממאנים) (אפילו הם מועטים שלשה או ארבע[ה] בני אדם). But how can the dissent of a single individual be given such weight?' R. Moses also introduces a responsum by the venerable Riba ha-Levi of Speyer (d. 1133), in which Riba ruled that a majority of the community is sufficient to allow a newcomer to settle there (רוב ציבור אם התירו לאחד היישוב רובו) (ככילו),³⁴ against the view held (later) by R. Simḥah of Speyer that a single individual can block the settling of another.

R. Moses next cites two pieces of textual evidence from northern France, which strongly suggest that Rabbenu Tam (who generally held

34 On the identity of Riva in this and in a related passage, see my 'The Development and Diffusion of Unanimous Agreement', pp. 43-44, nn. 70-71. The reading in *Teshuvot Maharam*, Lemberg, sec. 111, of ריב"ם (rather than ריב"א) is erroneous, for a variety of reasons. Urbach (above, n. 32), without comment, retains the reading of Riva here as well. See also R. Meir b. Barukh mi-Rothenburg, *Teshuvot, Pesaqim u-Minhagim*, I. Z. Kahana ed., v. 1 (1957), p. 52 (sec. 21); S. Goldin, *Ha-Yihud ve-ha-Yahad* (above, n. 9), p. 229, n. 17; and cf. Urbach, *Ba'alei ha-Tosafot*, v.1, p.441; and M. Ben-Ghedalia (above, n. 3), pp. 106-07.

that unanimity was required for effective communal decisions), like Riva, did not require unanimity with respect to at least certain aspects of the *herem ha-yishuv* within a community. The first text is a (no longer extant) *Tosafot* passage to *Bava Batra*, asserting that Rabbenu Tam would not have required unanimous consent to allow the settlement of a law-abiding, non-threatening individual. The only type of *herem ha-yishuv* for which unanimity was required in order to allow settlement, concerned the right of settlement of dangerous or duplicitous individuals (אלמים ומוסרים), who did not wish to follow the regulations and enactments of the community, or to pay taxes together with the community.

R. Moses further cites a responsum from R. Eliezer of Orleans he had in his possession, which asserts that R. Eliezer heard this very statement from the mouth of Rabbenu Tam as he left the synagogue in Troyes. The notion, however, that the settlement of someone whose presence benefits the community (שיש בו צרכי ציבור), and whose presence does not harm the economic viability of other members of the community (ואינו יורד לחייהם) can be prevented by (sinful) individuals (אנשים חטאים) who demur, was considered to be highly objectionable according to Rabbenu Tam (מי שעושה את זה יש בו מדת סדום ולא יזכה במחיצתו של צדיקים).³⁵

Writing a generation after R. Moses of Taku, R. Meir of Rothenburg added a postscript to R. Moses' responsum.³⁶ R. Meir takes the position that if a cantorial candidate is acceptable to most of the community (רצוי לרוב אחיו), as per the final verse in the Book of Esther), he ought not be altogether prevented from serving as a cantor just because any one member of the community hates him (אין לעכבו מלהתפלל באקראי בשביל).

35 On Rabbenu Tam's limited support for the institution of *herem ha-yishuv*, as reflected in this passage and elsewhere (including *Sefer Mordekhai 'al Massekhet Bava Batra*, sec. 517), see Urbach, *Ba'alei ha-Tosafot*, v. 1, p. 91. Attention should be called to the fact that the *Mordekhai* passage cites Rabiah, a German Tosafist contemporary of R. Moses Taku, who included (in his no longer extant *Sefer Avi'asaf*) another (similar) aspect of Rabbenu Tam's approach to *herem ha-yishuv*, which he had seen 'in the commentary of Rabbenu Tam' (כתב אביאסף). (ראיתי בפירוש של רבינו תם). See also S. Schwarzfuchs, 'Hishtalsheluto shel Herem ha-Yishuv - Re'iyah mi-Zavit Aheret', A. Oppenheimer et al. (eds.), *Sefer Yovel li-Shlomo Simonsohn*, Tel Aviv 1993, pp. 105-17.

36 See the end of *Teshuvot Maharam*, Lemberg, sec. 111. The postscript is signed Meir b. Barukh *she-yihyeh*. Since the year of R. Barukh's death is accepted to be 1276 (see Urbach, *Ba'alei ha-Tosafot*, v. 2, p. 523), this piece was composed no later than that date.

אחד מן הקהל שהוא שונא.³⁷ For Rosh ha-Shanah and Yom Kippur, however, the prevalent practice (*nahagu*) was not to appoint a cantor unless he was acceptable to the entire congregation, and this is the case for public fast days as well. The Talmud in tractate *Ta'anit* specifies that the cantor on fast days must be, among other things, acceptable to the community (מרוצה לעם; which is taken to mean to the entire community). It is not completely clear from R. Meir's postscript, however, as to whether the objection of a small minority (more than one person, but still a minority) could be effective (except on the various special occasions mentioned) although it would appear that a noticeable majority (רוב אחיו) can overcome the remaining minority in these cases as well.

Indeed, a broader responsum by R. Meir on the parameters of communal government lists the selection of cantors, together with other communal decisions that are in the category of מילתא (i.e., issues related to religious life and practice which were governed by talmudic law, and were intended to improve the religious, social and economic status of the community as a whole),³⁸ that can be accomplished through the will of the majority.³⁹ Similarly, a more recently discovered responsum of R. Meir, on whether the members of a town can compel each other (through majority agreement) to hire a cantor to lead the prayers (and to serve as a ritual slaughterer) states that this question is governed by the oft-cited talmudic passage (*Bava Batra* 8b) and *Tosefta* (*Bava Mezi'a* 11:12) on the matter of communal government. R. Meir therefore rules that community members may force each other to build a synagogue, to purchase a Torah scroll, scrolls of the Prophets, and so on. The cantor must be a suitable figure, and an expert in the prayers (throughout the year and not only on fast days and other special occasions). As R. Meir further asserts, it is difficult to rely on members of the community to serve as cantors each week, since some of them may not be qualified or may not be

37 Cf. above, n. 30.

38 See I. Agus, *R. Meir of Rothenburg*, v. 1, pp. 119-22; S. Goldin, *Ha-Yiḥud veḥa-Yahad*, pp. 152-53; and S. Morell, 'The Constitutional Limits of Communal Government', pp. 87-107.

39 See *Sha'arei Teshuvot Maharam b. Barukh*, M. A. Bloch ed., Berlin 1891, p. 320 (sec. 865, pt. 1 = *Teshuvot Maimuniyyot le-Sefer Qinyan* 27, and *Haggahot Maimuniyyot le-Hilkhot Tefillah*, 11:1, sec. 2).

desirable to all (רצוי לכולם). Therefore, it is appropriate for the majority to compel the minority to secure the services of a proper *shaliaḥ zibbur* from outside the community. Indeed, R. Meir concludes, even if many members of the community are qualified to serve, there would likely be quarrels about who is best suited, and those members who are less qualified might become embarrassed.⁴⁰

On one occasion, Maharam became upset about a *ḥazzan* who was picked by the majority, while a local nobleman (דוכס) tried to get the resisting minority to go along with this appointment. The problem in this instance, however, seems to have resided solely with the involvement of the nobleman in this appointment (as had occurred in a case in Cologne involving Rabiah, to which Maharam refers), and not with the method of selection per se.⁴¹ For Maharam, the majority

40 See S. Emanuel, 'Teshuvot Hadashot le-Maharam mi-Rothenburg', *Ha-Ma'ayan* 33 (1993), pp. 12-13 (and the parallels cited in n. 5). See also *Mordekhai 'al Massekhet Bava Batra*, sec. 479, and *Teshuvot Ba'alei ha-Tosafot*, I. Agus ed., p.175 (sec. 91). On the payment of *ḥazzanim*, cf. *Teshuvot ha-Rashba*, v. 1, #450; v. 3, #381; *Teshuvot ha-Rosh*, 6:1; and above, nn. 5-6. Rashba, who was Maharam's younger Spanish contemporary, ruled (*Teshuvot*, v. 1, #300) that a son could succeed his father as communal *ḥazzan* (with which the majority of the community in question was in agreement, despite the availability of others who might be more qualified), due to the fact that the son of the *kohen gadol* typically succeeded his father, as per the verse in Leviticus 6:15, והבן המשיח תחתיו, מבניו. Although Maharam represents a certain degree of leniency or even a lowering of standards within the Ashkenazic orbit on the issue of cantorial appointments, the approach of Rashba appears to be representative of the approach in Christian Spain throughout the twelfth and thirteenth centuries. To be sure, however, this result may be related to differences in the structures and policies of communal government, as well as to the level and place of prayer within the Jewish communities of Iberia. Cf., e.g., *Teshuvot ha-Ramah*, sec. 241; *Teshuvot ha-Rashba*, v. 5, #283; *Teshuvot ha-Rosh*, 58:4; *Teshuvot Zikhron Yehudah*, sec. 87; S. Albeck, 'Yesodot Mishtar ha-Qehillot bi-Sefarad 'ad ha-Ramah', *Zion* 25 (1960), pp. 120-21; Y. T. Assis, *The Golden Age of Aragonese Jewry*, London 1997, pp. 137-39; and D. Guttenmacher, 'The Legal Conception of Political Obligation in Medieval Spanish Jewish Law', *Dine Yisra'el* 15 (1989-90), pp. 63-95.

41 See *R. Meir b. Barukh*, *Teshuvot*, Kahana ed., v. 1, p. 51 (sec. 20); the sources for this responsum noted there, esp. *Mordekhai 'al Massekhet Bava Qamma*, sec. 107; and cf. Urbach (above, n. 3), pp. 379-81. Maharam's responsum was addressed to R. Isaac [b. Jonathan] of Wurzburg. [On R. Isaac b. Jonathan, see I. Ta-Shma, *Knesset Mehqarim*, v. 1, p. 161, and S. Emanuel, *Shivrei Luhot*, pp. 236-37.] The responsum, as it appears in the *Mordekhai* passage, is cited by *Beit Yosef* to *Orah Hayyim* sec. 53, s.v. *katav ha-Mordekhai*. It was codified by R. Yosef Caro in his *Shulḥan 'Arukh* as follows: 'A *shaliaḥ zibbur* should not be appointed

ultimately prevails in the matter of a cantorial appointment, just as it does for all aspects of communal government included in the rubric of *migdar milta*, even though it is always best to strive for someone who is agreed upon by all (which was, in fact, the practice on the High Holidays and special occasions). Maharam does not cite or endorse the view of R. Simḥah of Speyer, or R. Judah he-Ḥasid, or even that of his earliest teacher, R. Isaac *Or Zaru'a*, on the need for unanimity in appointing a *shaliaḥ zibbur*.⁴²

III

In order to properly understand the nuanced Ashkenazic positions concerning the appointment of a *shaliaḥ zibbur* outlined above (and to account for the differences between them), it is necessary to move beyond a simple dichotomy between Tosafists and German Pietists with respect to matters of prayer. Employing this dichotomy in the

on the basis of a nobleman (על פי שר), even if most of the community wants him'.

42 See S. Goldin, *Ha-Yihud ve-ha-Yahad*, pp. 150-52, and I. Agus, *R. Meir of Rothenburg*, pp. 108-15. Only in the case of a cantor who openly stated that he would not pray on behalf of someone (*Teshuvot*, Kahana ed., v. 1, pp. 52-53, sec. 22: (ש"ץ אמר איני מוציא איתך בתפילתי), did Maharam (assuming that this unsigned responsum is indeed from his hand) cite a piece of the responsum of R. Isaac *Or Zaru'a* (above, n. 16), on the comparison of the cantor to the *kohen* who offers a sacrifice. However, the passage from *Sefer Or Zaru'a* is cited here only for the comparison itself and for the purpose of the *ma'amadot*, in order to demonstrate (as a final proof) that the worshipper in question had thus not fulfilled his obligation at all (contrary to what some others had suggested). There is no reference to R. Isaac *Or Zaru'a*'s position, based on this comparison, that unanimity is required to appoint a cantor. Although the full *Or Zaru'a* passage is cited as part of the unit found in the Lemberg collection of Maharam's responsa, R. Meir only responded and related to the position of R. Moses Taku in this unit (see above, nn. 33-36). Moreover, since the responsa collections attributed to Maharam were compiled for the most part by his students and not by him (see, e.g., S. Emanuel, *Shivrei Luhot*, pp. 321-24), the inclusion of the full *Or Zaru'a* unit in the Lemberg collection does not indicate that he endorsed the unanimity position in any way. Indeed, given that Maharam does not agree with the ruling of R. Simḥah of Speyer, R. Isaac *Or Zaru'a* and R. Judah he-Ḥasid, (asserting that unanimous agreement is required in order to appoint a cantor in all situations), and that Maharam does not himself use the phrase *'agudah 'ahat* in this context, the suggestion of J. Lifshitz, 'The Political Theology of Maharam of Rothenburg', *Hebraic Political Studies* 1 (2006), pp. 383-412, that the notion and implications of *'agudah 'ahat* (as this phrase appears in the passage in *Sefer Or Zaru'a*) are central to R. Meir's overall conception of communal government and its policies, is difficult to accept (despite the broader affinities for *Ḥasidut Ashkenaz* displayed

present instance will in fact lead to inaccurate results, as we shall see. Rather, each position must be understood against the backdrop of communal decision-making in medieval Ashkenaz.

R. Isaac *Or Zaru'a*'s presentation of the practice of the Rhineland communities, to act according a minority of congregants who objected to the appointment of a cantor, suggests that this was considered to be part of the standing policies of communal government. Although many communities in Germany abided by the principle of majority rules, the policy with regard to the selection of a cantor was widely held to be that the objections of even a small number of congregants or community members could effectively block an appointment, and the prerogatives of the majority were to be modified in this sensitive area of communal life. The view of R. Simḥah b. Samuel of Speyer, that the objection of one person alone was sufficient to prevent an appointment since an *ʿagudah ʿahat* (a unified bloc) is mandatory, would appear to remove this appointment from the category of standard communal government procedures and practices. Indeed, this may have been at the core of R. Isaac's question, regarding whether R. Simḥah issued his ruling as a matter of law (the halakhic requirements for appointing a *ḥazzan*) or as a custom (the established procedures for communal decision-making).

It is important to consider R. Simḥah's opinion on the power of the majority in communal matters more broadly. R. Isaac *Or Zaru'a* elsewhere cites a lengthy responsum by his teacher R. Simḥah, concerning an individual's responsibility to share in the tax burden to be paid to the local ruler (הגמון). An individual who received an exemption directly from the ruler must nonetheless find a way to contribute to the communal levy, even when other community members do not lose directly by his non-participation. R. Simḥah describes the situation of his uncle, R. Qalonymus, who was exempted by the king (as a member of his entourage, מבני פלטיין) from paying taxes, but who nonetheless submitted his share of taxes together with the community (היה חזיר ונותן). Initially, R. Simḥah thought that his uncle was doing so only as act of kindness or as a measure of piety (מדת חסידות). He concludes, however, that this was incumbent upon him (מדת הדין), since all of the members of the community are responsible to bear 'the yoke of the exile' and every one must participate together with the other members

by Maharam; cf. below, nn. 44, 57).

of the community.⁴³ In this basic or commonplace area of communal policy (the distribution of the tax burden), R. Simḥah held that the individual is bound to the will of the majority, and cannot separate himself from their will. His stance concerning cantorial appointments will be more fully clarified below, when the formulation of R. Moses Taku is analyzed.

The notion that a cantorial appointment was to be treated as a unique circumstance, completely removed from the realm of communal government, certainly animated the position of R. Judah he-Ḥasid (that an individual may object to a cantorial appointment because the cantor must be beloved to all).⁴⁴ Although *Sefer Ḥasidim* consistently expresses a strong theoretical preference that prayer leaders should be chosen from among the ranks of the German Pietists or their associates,⁴⁵ *Sefer Ḥasidim* was also well aware of actual situations and conflicts involving the officiants in existing communal synagogues, who were not typically Pietists. Indeed, R. Judah he-Ḥasid (together with his rabbinic colleagues on the *beit din* in Regensburg) took a mixed approach toward these issues, seeking to balance the best interests of the

43 See *Sefer Or Zaru'a*, pt. 3, *pisqei Bava Qamma*, sec. 460 (fol. 37c) [= *Teshuvot Maharam*, Prague, sec. 932; *Sefer Mordekhai 'al Massekhet Bava Qamma*, sec. 177.] See also *Perush ha-Rosh, Bava Qamma*, v.10, p.25; E. Kupfer, *Teshuvot u-Pesaqim*, p.157; and Urbach, *Ba'alei ha-Tosafot*, v.1, p.414. Maharam added to the responsum by R. Simḥah that he believed that the uncle (R. Qalonymus) did in fact act according to *middat ḥasidut* in this instance.

44 Although I will ultimately conclude below that R. Simḥah of Speyer was not motivated principally by pietistic considerations in mandating unanimity for the appointment of *hazzanim*, R. Simḥah's pietistic affinities should nonetheless be noted. See, e.g., Y. Sussmann, 'Perush ha-Rabad le-Massekhet Sheqalim? Hiddah Bibliografit - Be'ayah Historit', E. Fleischer et al. (eds.), *Me'ah She'arim: Studies in Medieval Jewish Spirituality in Memory of Isadore Twersky*, Jerusalem 2001, pp. 131-70; my 'Peering through the Lattices' (above, n. 17); and my 'Returning to the Jewish Community in Medieval Ashkenaz: History and Halakhah', M. A. Shmidman (ed.), *Turim: Studies in Jewish History and Literature Presented to Bernard Lander*, New York 2007, pp. 76-89. Generally speaking, R. Simḥah's positions were not always disseminated so widely; see S. Emanuel, *Shivrei Luḥot*, pp. 163-66. Cf. A. Grossman, *Ḥasidot u-Moredot*, Jerusalem 2001, pp. 163-65, 325-26, 390-96, and idem., 'Ha-Ishah be-Mishnato shel R. Simḥah mi-Shpira', *Mayyim mi-Dalyav* 13 (2002), pp. 177-89.

45 See H. Soloveitchik, 'Three Themes in the *Sefer Ḥasidim*', *AJS Review* 1 (1976), pp. 330-38; I. Marcus, *Piety and Society*, Leiden 1980, pp. 98-101.

communities together with pietistic considerations and concerns.⁴⁶ Similarly, in the absence of distinct Pietist communities, *Sefer Ḥasidim* urged its adherents to participate in the decisions of the community at large wherever possible. *Sefer Ḥasidim* (not surprisingly) appears to prefer that these decisions be made on the basis of unanimous agreement or consent.⁴⁷

Nonetheless, the selection of *hazzanim* for R. Judah he-Ḥasid (as reported by R. Isaac *Or Zarua* and reflected within *Sefer Ḥasidim*) entails a separate and distinct spiritual issue or process. Unanimous agreement is not indicated here as a requirement of communal decision-making. Rather, a unanimous nomination signifies that the cantor has the necessary (minimum) relationship with each and every member of the community, as well as a harmonious relationship with the community at large.⁴⁸ Failure to attain (or to maintain) this harmony could have deleterious effects for the congregation, since the *shaliaḥ zibbur* is invested with certain spiritual powers on behalf of his congregation, which could also be turned against the congregation and its members. Although R. Judah he-Ḥasid is the most explicit (and radical) when it comes to the use (and abuse) of these powers, other customs and practices in medieval Ashkenaz suggest a broader awareness of this dimension as well.⁴⁹

46 See e.g., *SHP*, secs. 1592-93, and my 'Rabbi Judah he-Ḥasid and the Rabbinic Scholars of Regensburg' (above, n. 5), pp. 17-37.

47 See, e.g., *SHP*, secs. 911-914, 1234, 1294-97, 1425, 1613; the position of R. Eleazar of Worms in *Sefer Mordekhai* ^c*al Masskehet Shavut* ^{ot}, sec. 755; Urbach, *Bḥalei ha-Tosafot*, v.1, p.407; Y. Baer, 'Ha-Megammah ha-Datit ha-Hevratit shel Sefer Ḥasidim', *Zion* 3 (1938), pp. 41-48; H. H. Ben-Sasson, 'Ḥasidei Ashkenaz ^cal Ḥaluqat Qinyanim Ḥomriyyim u-Nekhasim Ruhaniyyim Bein Bnei ha-Adam', *Zion* 35 (1970), pp. 61-68; Y. Handelsman, 'Temurot be-Hanhagat Qehillot Yisra'^l be-Ashkenaz Bimei ha-Benayim meha-Me³ah ha-Yod Alef ^cad ha-Me³ah ha-Tet Vav' (Ph.D. diss., Tel Aviv University 1980), pp. 283-84; T. Alexander-Frizer, *The Pious Sinner*, Tübingen 1991, pp. 4-14 (and esp. her references to V. Turner's *Dramas, Fields and Metaphors: Symbolic Action in Human Society*); J. Lifshitz, 'The Political Theology of Maharam of Rothenburg', pp. 406-10; I. Marcus, *Piety and Society* (above, n. 45), pp. 59-74, 115-20; idem., 'Ha-Politiqah u-Milḥemet ha-^cArakhim shel Ḥasidut Ashkenaz', I. Marcus (ed.), *Dat ve-Hevrah be-Mishnatam shel Ḥasidei Ashkenaz*, Jerusalem 1987, pp. 253-78; and my 'The Development and Diffusion of Unanimous Agreement' (above, n. 11), p. 32.

48 Cf. *SHP*, secs. 400, 550, 1528-29.

49 See I. Ta-Shma, *Ha-Tefillah ha-Ashkenazit ha-Qedumah* (above, n. 2), pp. 52-53,

R. Judah he-Ḥasid's approach to the selection of a cantor is followed by R. Isaac *Or Zaru'a* himself, albeit for a different reason. The requirement for a cantor to be able to fulfill the prayer obligations of all of his flock, based on the necessary and complete acceptability of the cantor as delineated in various talmudic contexts and as reflected by the parity between a *shaliaḥ zibbur* and an officiating *kohen*, meant that unanimity, and an *ʔagudah ʔaḥat*, were necessary as a matter of halakhic dictate (*dina*), irrespective of any structures of communal government (*minhaga*). This is the way R. Isaac *Or Zaru'a* understood (or interpreted) the ruling of R. Simḥah of Speyer as well.

As seen above, Rabbenu Tam (d. 1171) was one of the most forceful Ashkenazic proponents of the view that unanimity (or consensus) was necessary in order to ensure that communal decisions as a whole comport with the complex halakhic principles that govern the transfer of funds and rights among the members of the community, whose association is akin to a partnership in which each of the partners must have his say. On the basis of a talmudic formulation concerning the nature of the prayer leader, Rabbenu Tam states simply that 'the *shaliaḥ zibbur* is the finest or choicest [person] of the community (ש"ץ זה המובהר שבקהל)'.⁵⁰ As was the case for *Sefer Ḥasidim*, it would appear that Rabbenu Tam saw the selection of a cantor as reflecting an uncontested choice to be determined not according to the principles of communal government as he understood them, but rather as a matter of spirituality. The efficacy of his prayer required the cantor to be the most obviously qualified person available, who was appointed to his post without recourse to a voting or selection process by individual members of the community.

The existence of this approach on the part of Rabbenu Tam would help to explain the complete absence of any discussion in the rabbinic

and idem., *Minhag Ashkenaz ha-Qadmon*, Jerusalem 1999, pp. 182-85 (ברכת חזק) (בסיום הקריאה ובחתימת הפיוט).

50 See *Sefer Or Zaru'a*, pt. 2, *Hilkhot Nesi'at Kappayim*, sec. 411 (fol. 83b-c), and *Sefer Mordekhai 'al Massekhet Megillah*, sec. 817, M. A. Rabinowitz ed., pp. 165-66 (citing *Sefer ha-Yashar*), and *Sefer Rabiah le-Massekhet Ḥullin* (above, n. 5), Deblitzky ed., pp. 266-67 (sec. 1155). On Rabbenu Tam's approach to unanimity in communal government, see above, n. 12, and cf. Y. Handelsman (above, n. 9), pp. 41-48.

literature of northern France during the twelfth and thirteenth centuries concerning the procedures for appointing a *hazzan*.⁵¹ To be sure, the Jewish communities in northern France were (considerably) smaller than those in Germany during this period.⁵² Moreover, whether or not other northern French rabbinic figures agreed with Rabbenu Tam's point of spirituality in regard to the choice of a cantor, a number of important northern French authorities, ranging from R. Yosef Tov Elem in the first half of the eleventh century through several students of Rabbenu Tam including Ri (d. 1189) and R. Eliezer of Metz (d. 1198), and Ri's student Rizba (d. 1209) among others, agreed with Rabbenu Tam's position that unanimity was required for communal decision-making.⁵³ As such, the need for unanimous agreement in the

- 51 Ya'akov Blidstein has suggested that there is a significant degree of similarity between the view of Rabbenu Tam and that of Maimonides in *Hilkhot Tefillah*, 8:11 ('only the greatest in the community in wisdom and deed should be appointed as a *shaliah zibbur*'). See Blidstein, 'Shaliah Zibbur: Tiv'o, Tafqido, Toledotav' (above, n. 18), p. 58, and his *Ha-Tefillah be-Mishnato shel ha-Rambam*, Jerusalem 2002, pp. 181-87 (and esp. p. 299, n. 169). Note that for Maimonides as well, the appointment of a *hazzan* (based on his abilities and characteristics alone) is discussed only in the laws of prayer, and not at all in the context of communal government. The affinity that has been seen here between R. Judah he-Hasid and Rabbenu Tam also fits within Blidstein's framework.
- 52 See, e.g., S. Albeck, 'Yahaso shel Rabbenu Tam li-Be'ayot Zemanno', *Zion* 19 (1954), pp. 104-05; S. W. Baron, 'Rashi and the Community of Troyes', in his *Ancient and Medieval Jewish History*, New Brunswick 1972, pp. 273-77; B. Blumenkrantz, 'Quartiers juifs en France (XIIe, XIIIe, XIVe siècles)', *Mélanges de philosophie et de littérature juives* 3-5 (1958-62), pp. 77-86; W. C. Jordan, *The French Monarchy and the Jews*, Philadelphia 1989, pp. 4-8, 59-61, 114, 152-54; and cf. A. Grossman, *Hakhmei Ashkenaz ha-Rishonim*, pp. 6-9, and M. Ben-Ghedalia (above, n. 3), pp. 189-92.
- 53 See my 'The Development and Diffusion of Unanimous Agreement' (above, n. 11), pp. 25-28. As indicated there, R. Samuel b. Barukh of Mainz (author of *Sefer ha-Hokhmah*), on behalf of the Mainz rabbinical court which argued for unanimous agreement (above, n. 9, against the view of the Worms court and Rabiah), found support for this position from a passage in Rabbenu Tam's *Sefer ha-Yashar*. Cf. A. Grossman, *Hakhmei Zarefat ha-Rishonim*, pp. 59-61 (regarding R. Yosef Tov Elem) and pp. 147-50 (regarding Rashi). Grossman's sense is that Rashi supported the notion of majority rules, even though the phrase *she-hiskimu kol ha-qahal* appears in one version of the responsum by Rashi. Aside from Rashi's own background as a student in Mainz and Worms, it should be noted that the oft-cited case in Troyes (found, e.g., in *Sefer Kol Bo*, sec. 142), which helped put forward the principle of majority rules in eleventh-century Ashkenaz, was handled by two leading rabbinic scholars from Mainz, R. Judah *ha-Kohen* and R. Eliezer *ha-Gadol*. See Grossman, above, n. 8.

selection of cantors in northern France may have been an obvious and fairly common point that required no discussion, whether it was based on considerations of individual spirituality, or whether it was just another aspect of the prevalent mode of communal decision-making in northern France.

In providing the fuller context of R. Simḥah of Speyer's original ruling, on the other hand, that undivided agreement was required both for implementing *ḥerem ha-yishuv* and for appointing *ḥazzanim*, the formulation of R. Moses Taku suggests that R. Simḥah held that the procedure for appointing a *ḥazzan* should be viewed fundamentally within the framework of communal government, rather than as a stand-alone issue of prayer and spirituality (as R. Isaac *Or Zarua* had understood R. Simḥah). The installation of a cantor was linked by R. Simḥah to another sensitive communal issue, the *ḥerem ha-yishuv*, in that both required unanimous agreement (and were not subject to the will of the majority). Although R. Simḥah of Speyer held, as noted above, that the majority prevails in basic communal matters such as tax apportionment, he held that in cases of cantorial appointment and the application of *ḥerem ha-yishuv*, the typical communal model of majority rules does not apply because of additional considerations (such as the need for *ʔagudah ʔahat* when it comes to communal prayer), and the communal policy in these cases therefore reverts to a requirement for unanimity.

R. Moses Taku, for his part, commends and agrees with R. Simḥah's approach, that the designation of a *ḥazzan* is fundamentally a matter of communal policy (as was the application of *ḥerem ha-yishuv*). He strongly disagrees, however, with R. Simḥah's view as to what the actual communal policy should be in both of those cases. R. Moses held that it was sufficient from the perspective of communal policy to allow a recognized minority to block cantorial appointments (similar to the attested, widespread practice in the Rhineland), just as granting the right of settlement did not typically require unanimous agreement.

Indeed, to further weaken R. Simḥah's position that unanimous agreement was required to select a cantor (which he found to be an unreasonable position), R. Moses Taku points to two leading early Tosafists, Riba of Speyer and Rabbenu Tam, who did not agree at all

with R. Simḥah's parallel requirement for total unity in allowing new communal settlement (*yishuv*), at least according to the texts and reports that R. Moses possessed. This strategy by R. Moses, however, has a possible flaw. Although we have no direct evidence for Riba's view in the matter of selecting a cantor, the formulation of Rabbenu Tam presented above concerning the designation of the *shaliaḥ zibbur* as the choicest representative of the congregation suggests that Rabbenu Tam did not link the cases of *herem ha-yishuv* and *shaliaḥ zibbur* as R. Simḥah of Speyer (and R. Moses Taku) did. Rabbenu Tam expected the unanimous approbation of the cantor as a matter of spirituality (as did R. Judah he-Ḥasid, albeit from a different perspective), not as a matter of communal government or policy, and this issue appears to have been completely detached from any consideration of communal settlement and the *herem ha-yishuv*.⁵⁴

Nonetheless, R. Meir of Rothenburg, who openly follows the stance taken by R. Moses Taku, viewed the appointment of a cantor as a matter of communal government. Moreover, seeing that the possibility for securing truly excellent cantors further erodes as the thirteenth century and its vicissitudes unfold,⁵⁵ R. Meir plays down to some extent (for the first time within medieval Ashkenaz) the exceptional nature of this appointment within the realm of communal government. The choosing of a cantor is subsumed by R. Meir under the larger communal category of *migdar milta* (and the will of the majority), even though R. Meir does try to preserve the somewhat unique status

54 It should be pointed out that R. Isaac *Or Zarua*, who studied extensively in both northern France and Germany (see, e.g., Urbach, *Ba'alei ha-Tosafot*, v.1, pp. 436-39) cites Rabbenu Tam's formulation in context (above n. 50), concerning the *shaliaḥ zibbur* as the choicest member of the community. At the same time, R. Isaac includes neither this position (perhaps because the view of his teacher, R. Judah he-Ḥasid, was all that was necessary to make his point), nor that of any other northern French Tosafist, in his responsum on the appointment of a cantor (above, n. 16).

55 On the perceived decline in the intellectual and spiritual capacities among Ashkenazic rabbinic scholars from the mid-thirteenth-century onward, see, e.g., my *Jewish Education and Society* (above, n. 3), pp. 73-74, 171-72, n. 49; my 'Preservation, Creativity and Courage: The Life and Works of R. Meir of Rothenburg', *Jewish Book Annual* 50 (1992-93), pp. 249-59; and above, nn. 29-30.

of the cantor for the High Holidays and other special occasions by recommending that a congruous choice be found.⁵⁶

Once the larger parameters of communal government in medieval Ashkenaz had been discussed and re-affirmed quite openly and clearly in the Rhineland in the last years of the twelfth century (following the nuanced argument for unanimity that had been put forward by Rabbenu Tam), specific issues that tested the limits of these systems could be raised and debated. The Rhineland communities had a communal policy in place for the selection of *ḥazzanim*, in which the minority could have its say. R. Simḥah of Speyer boldly suggested that unanimous agreement was required in this instance as a matter of communal policy, matching the view of R. Judah he-Ḥasid that focused (not surprisingly) on spiritual rather than communal considerations.

The case of Hezekiah of Magdeburg brought two additional rabbinic leaders (from central Germany and Austria) into the discussion. At stake were the religious rights and privileges of individuals - those of the congregants and of the cantor himself - against the rules of broader communal policy that were intended at their core to protect and promote religious observance and communal harmony at the same time. Several of the rabbinic figures involved held that the religious prerogatives of the individual were paramount, and must be carefully preserved. It was left to R. Meir of Rothenburg to walk something of a fine line between the different views of his predecessors, although the setting of the sun on the Jewish communities in medieval Ashkenaz may have been the single most important factor in his deliberations.⁵⁷

56 See above, n. 4, and n. 37; and *SHP*, secs. 395, 397, 1591. For R. Meir's attitude toward the *herem ha-yishuv* (which was not linked in any way to his position on the appointment of *ḥazzanim*), see, e.g., S. Goldin, *Ha-Yiḥud veḥa-Yahad*, pp. 168-74.

57 On Maharam's general tendency to try to meld or affect a kind of compromise between conflicting halakhic opinions and practices, see my 'Peering through the Lattices', pp. 118-22, 235-43.

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