
Returning to the Jewish Community in Medieval Ashkenaz: History and Halakhah*

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In his pioneering study of Rashi's halakhic attitudes and posture toward Jews who had accepted Christianity either willingly or under duress, Jacob Katz argued that Rashi's interpretive expansion of the talmudic principle, *'af 'al pi she-hata Yisra'el hu*, had a decisive impact on subsequent halakhic policy in medieval Ashkenaz. On the basis of his understanding of this principle, Rashi ruled, for example, that it was forbidden to take interest from a *meshummad* (except for extreme situations in which the apostate had resorted to

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trickery in order to hurt a Jewish lender). Similarly, Rashi ruled (as did Rabbenu Gershom, against the regnant geonic position), that a *kohen* who had accepted Christianity but later recanted and returned to the Jewish community could resume his participation in the priestly blessing.¹

Rashi's rulings in instances such as these were not always novel, nor were his rulings or those of his Tosafist successors perfectly consistent.² Nonetheless, Rashi had two overall aims. First, he wished to dispel the notion that apostasy to Christianity constituted an irrevocable dislocation or separation of the individual from Judaism and the Jewish community. Baptism did not vitiate the individual's halakhic status as a Jew, even in cases where the apostate had accepted Christianity willingly. Second, many Jewish converts to Christianity in this period vacillated in their new religious commitment. In accordance with the status of a *mumar* in talmudic parlance (whose rejection of Judaism was perhaps only partial or temporary, and whose return to observance was always deemed possible if not imminent), Rashi and many leading halakhists in Ashkenaz during the twelfth and thirteenth centuries wished to encourage and ease the way for the apostate's return.

Nonetheless, on the popular level, members of Ashkenazic society intuitively felt that anyone who had undergone baptism should no longer be considered part of the community. Thus, despite the smooth and immediate process of return advocated by Rashi, Katz maintains that

¹ J. Katz, "Even Though He Has Sinned He Remains a Jew," [Hebrew] *Tarbiz* 27 (1958): 203-17 [=idem., *Halakhah ve-Qabbalah* (Jerusalem, 1986), 255-69]. See also idem., *Exclusiveness and Tolerance* (Oxford, 1961), 67-81.

² See, e.g., E. Fram, "Perception and Reception of Repentant Apostates in Medieval Ashkenaz and Premodern Poland," *AJS Review* 21 (1996): 300-04, and S. Emanuel, "Teshuvot ha-Geonim ha-Qezarot," *Atarah le-Hayyim: Mehqarim be-Sifrut ha-Talmudit veka-Rabbanit Likhvod Professor Haim Zalman Dimitrovsky*, ed. D. Boyarin et al. (Jerusalem, 2000), 447-49.

the popular view did not ... accept the view [of Rashi] that baptism did not affect the Jew's character *qua* Jew. Indeed, in contrast to the geonic period, the practice won acceptance that the repentant apostate must undergo a ceremony of purification in the ritual bath in the same way as a proselyte.³

Katz notes that this popular practice was occasionally referred to and recognized within rabbinic circles of the thirteenth century, by sources and authorities such as *Sefer Hasidim* and R. Meir of Rothenburg.⁴

Katz' characterization of the origins and status of ritual immersion for the returning apostate was adopted by several historians who came across other kinds of evidence for this immersion ceremony within medieval Europe. Yosef Yerushalmi, in his study of the French Inquisition in the time of Bernard Gui (c. 1320),⁵ presented several examples of otherwise unattested information on Jewish practices that surfaced in confessions obtained by the inquisitor Bernard from Jewish converts to Christianity who had subsequently lapsed. In reporting "on the manner in which apostates were received back into the Jewish community," Bernard offers a description of a ritual allegedly employed to re-judaize them. The returning apostate was stripped of his garments and sometimes bathed in warm water. The Jews would energetically rub him with sand over his entire body (but especially on his forehead, chest and arms, which were the places that received the holy anointments during baptism). The nails of his hands and feet would be cut (until they bled), and his head was shaved.

³ See Katz, *Exclusiveness and Tolerance*, 73.

⁴ See below, nn. 17, 41. Katz also refers (ibid., n. 3) to *Nimmuqei Yosef*, a fourteenth-century Spanish commentary on *Hilkhot ha-Rif* by R. Yosef Haviva (which in turn cites a formulation of Ritva), that records this practice in the name of *Tosafot Aharonot*. Cf. below, nn. 10, 44.

⁵ Y. H. Yerushalmi, "The Inquisition and the Jews of France in the Time of Bernard Gui," *Harvard Theological Review* 63 (1970): 317-76. Cf. the formulation in the *Sifra* commentary attributed (incorrectly) to R. Samson of Sens, below, n. 34.

He was then immersed three times in the waters of a flowing stream, and a blessing over this immersion was recited.⁶

Yerushalmi searched for Jewish legal sources that might confirm these practices. He writes that there is no such requirement found in “the standard medieval codes,” although he does point to the small number of medieval rabbinic passages that seem to acknowledge these practices (which had been noted by Katz).⁷ At the same time, Yerushalmi found that quite a few leading sixteenth and seventeenth century halakhists in eastern Europe did refer to the need for immersion, including R. Moses Isserles (Rema), R. Solomon Luria (Maharshah), R. Yo’el Sirkes (*Bah*), and R. Shabbetai b. Meir ha-Kohen (*Shakh*), among others. Yerushalmi concludes that

from the sources available to us, we cannot prove with finality that the re-judaizing rite as described by Bernard Gui is authentic. We can assert, however, that most of the elements appear highly plausible. The custom of requiring a ritual bath of the penitent apostate definitely existed.⁸

Like Katz, however, Yerushalmi regards this act of “debaptism” as a popular custom that perhaps had some measure of rabbinic approbation in the medieval period, rather than as a rabbinically mandated act, as it seems to have become in the early modern period. In the words of William Chester Jordan (characterizing the situation in northern France during the twelfth and thirteenth centuries), “whatever elitist rabbinic views might have been, an “unbaptizing” ritual was being practiced.”⁹

Writing a decade after Yerushalmi, Joseph Shatzmiller returned to the question of whether one who had decided to

⁶ Yerushalmi, 363-67.

⁷ See above, n. 4.

⁸ Yerushalmi, 371-73.

⁹ W. C. Jordan, *The French Monarchy and the Jews* (Philadelphia, 1989), 140-41.

abandon Christianity and return to Judaism was required to undergo immersion. Shatzmiller notes that R. Solomon b. Abraham ibn Adret of Barcelona (Rashba, d.c. 1310), an older contemporary of Bernard Gui, ruled (in accordance with the geonic view) that such an immersion ceremony or ritual was not required, although public admonition or even flagellation might be indicated instead. Shatzmiller highlights two other rabbinic sources in this regard: Maharshah’s *Yam shel Shelomoh*, and the talmudic commentary of Rashba’s student, R. Yom Tov b. Abraham ibn Ishvilli (Ritva), to tractate *Yevamot*. Ritva asserts that while there is no requirement according to the letter of the law to undergo immersion, there is a rabbinic requirement to do so (*ve-af ‘al pi khen hu tovel mi-derabbanan mishum ma’alah*, which Shatzmiller translates as “for the sake of perfection”). After citing an additional inquisitorial account of such an immersion, Shatzmiller concludes that Rashba’s formulation (which dismisses the need for immersion) was essentially a prescriptive legal instruction that should not be considered as evidence for what was actually being done in Spain in his day. Even if this immersion was being imposed only “for the sake of perfection” (as his younger contemporary Ritva put it), Rashba regarded this custom as unnecessary and even inappropriate, since it implied a recognition of the efficacy of the Christian sacrament of baptism. By stating unequivocally that no such immersion was required, Rashba, who was also an effective communal leader, meant to stress that no such recognition ought to be extended or implied in any way, against the prevailing popular practice.¹⁰

Basing herself in part on the studies of Yerushalmi and Shatzmiller, Elisheva Carlebach concluded that despite the vigorous efforts of R. Meir of Rothenburg in the late thirteenth century, following those of Rabbenu Gershom in the eleventh

¹⁰ J. Shatzmiller, “Converts and Judaizers in the Early Fourteenth Century,” *HTR* 74 (1981): 63-77. Cf. above, n. 4.

and Rashi in the twelfth, to sustain the Jewish status of repentant apostates,

Jewish folk beliefs and traditions concerning the efficacy of baptism endured. Returning apostates or forced converts were required to undergo various purification rites in order to rejoin the Jewish community. The persistence of these rituals reinforces the notion that medieval Jews in Ashkenaz attributed potency to baptism despite the fact that Jewish law did not recognize it.¹¹

Among the responsa cited by Carlebach to show that these ritual forms of counter-baptism survived over time is one by R. Israel Isserlein, from the fifteenth century. The questioner asked whether an apostate who had come forward to be purified on the intermediate days of the festival (*hol ha-mo'ed*) could be shaved in order to be immersed and thereby (re-)enter the true faith. In his response, Isserlein permits this to be done on *hol ha-mo'ed*. Without this shaving and subsequent immersion, the penitent

cannot be included in a quorum or any holy matter (*davar shebi-qedushah*). Although [the absence of] this [requirement of immersion] surely does not prevent him from doing so (*ve-'af 'al gav de-vadai 'eino me-'akkev*), the custom of our forefathers is akin to the law of the Torah (*minhag 'avoteinu Torah hi*).¹²

Commenting on the historical implications of this responsum, Edward Fram has called attention to the fact that rather than trying to eliminate this "folk custom", Isserlein manages to adduce a biblical interpretation (of Rashi, following R. Mosheh ha-Darshan) that supported it.¹³

According to all of the studies discussed to this point, it would appear that ritual immersion for a returning apostate

¹¹ E. Carlebach, *Divided Souls* (New Haven, 2001), 28-29.

¹² Isserlein, *Terumat ha-Deshen, Responsa*, no. 86.

¹³ See Fram, "Perception and Reception of Repentant Apostates," 318.

was not mandated by Jewish law. Moreover, such immersions were hardly mentioned in medieval rabbinic texts and were not required or promoted in any way by Ashkenazic rabbinic authorities during the high Middle Ages, in accordance with the halakhic posture of Rashi that the re-judaization of an apostate who wished to return to the Jewish community should be relatively easy and unencumbered. These rituals did emerge, however, as a kind of folk custom or popular tradition, one that rabbinic decisors began to countenance and even to embrace by the late Middle Ages and beyond.¹⁴

We can point to two additional twelfth-century Tosafist texts that support this assessment. The early German Tosafist R. Isaac b. Asher (Riva) ha-Levi of Speyer (d. 1133) asserts that

ritual immersion [as an act of conversion or reversion] can never be required of a Jew who had already been circumcised [i.e., one who had been born a Jew], even according to [or, on the level of] rabbinic law.¹⁵

Moreover, R. Isaac b. Abraham (Rizba, d. 1210), a student of Rabbenu Tam (d. 1171) and Ri of Dampierre (d. 1189), ruled that an apostate who had repented did not have to appear before a *beit din* tribunal of three (either to verify his sincerity or to formally supervise his re-inclusion within the community), since

it can easily be ascertained that he has returned to his Creator.... And even according to those who might be more stringent in this matter, his wine is no longer considered to be that of an idolater once he [again] practices the Jewish faith, even if he did not immerse

¹⁴ Cf. E. Carlebach, "Early Modern Ashkenaz in the Writings of Jacob Katz," *The Pride of Jacob: Essays on Jacob Katz and His Work*, ed. J. M. Harris (Cambridge, Mass., 2002), 77.

¹⁵ See the standard *Tosafot* to *Pesahim* 92a, s.v. 'aval 'arel Yisra'el, and *Tosafot ha-Rashba mi-Rabbenu Shimshon b. Avraham mi-Sens 'al Massekhet Pesahim*, ed. M. Y. From (Jerusalem, 1956), 221. On the role of Riva in the formation of *Tosafot*, see I. Ta-Shma, *Ha-Sifrut ha-Parshanit la-Talmud*, vol. 1 (Jerusalem, 1999), 66-70.

himself (*va-afilu lo taval*), or even if he lent money at interest to a Jew and has not yet returned the interest.... An apostate who has repented is considered a penitent (*ba'al teshuvah*) in every respect, and is a bit comparable (*domeh gezat*) to a convert. All he needs to do is to return to his Creator and to correct his misdeeds.¹⁶

This formulation of Rizba is quite similar to one found in *Sefer Hasidim*, the bulk of which was composed in Germany no later than 1225:

An apostate who returned to being a Jew (*lihyot yehudi*), and accepted upon himself to repent (*la'asot teshuvah*) according to the directives of the rabbinic authorities (*ka'asher yoruhu hakhamim*), from the time that he has accepted to do this they may drink wine with him and he may be included in a quorum, provided that he does as all other Jews do. For on the festivals, an 'am ha-'arez is believed with respect to ritual impurity.¹⁷

Like Rizba, *Sefer Hasidim* permitted wine that was touched by an apostate immediately after his return, provided that he appears to be observing Jewish practices generally. As Katz

¹⁶ See Urbach, *Ba'alei ha-Tosafot* (Jerusalem, 1980), 1:268-269, citing R. Moses of Zurich's *Semaq mi-Zurikh*, ed. Y. Har-Shoshanim, vol. 2 (Jerusalem, 1977), 49 (*mizvah* 156), and *Teshuvot ha-Rashba ha-Meyuhasot la-Ramban*, no. 180. See also S. Goldin, *Ha-Yihud veha-Yahad* (Tel Aviv, 1997), 94-95. Note also the similar position of Ri mi-Corbeil (ostensibly the little-known Tosafist, R. Judah of Corbeil), also cited by the *Semaq mi-Zurikh*, that the penitent apostate (whom Ri mi-Corbeil characterizes as a *Yisra'el ba'al teshuvah*) does not need a (court) document verifying that he has repented, since he conducts himself according to Jewish law. On the identity of Ri mi-Corbeil, cf. my "Rabbinic Figures in Castilian Kabbalistic Pseudepigraphy: R. Yehudah he-Hasid and R. Elhanan of Corbeil," *Journal of Jewish Thought and Philosophy* 3 (1993): 88-99.

¹⁷ *Sefer Hasidim* (Parma), ed. Y. Wistinetzki (Jerusalem, 1924), sec. 209 [= *Sefer Hasidim* (Bologna), ed. R. Margoliot (Jerusalem, 1957), sec. 206]. Cf. R. Moses Isserles' gloss to *Shulhan 'Arukh, Hoshen Mishpat*, 34:22 (based on *Teshuvot Mahariq*, no. 85).

had noted,¹⁸ this passage suggests that *Sefer Hasidim* was perhaps aware of the popular practice (as was Rizba) that required the former apostate to immerse himself and therefore maintains, at least by implication (that which Rizba had stated explicitly), that no such act is required according to Jewish law. *Sefer Hasidim* finds support for this position in a talmudic source (*Hagigah* 26a), according to which an 'am ha-'arez present in Jerusalem during a festival period may be entrusted to come in contact with *terumah* and other consecrated foods and utensils, which is not typically the case. On the basis of a verse in the book of Judges, the Talmud derives that 'ammei ha-'arez, who are in close quarters during the festival with the *haverim* and who are committed to proper observance of ritual purity at that time, immediately acquire the status of a *haver* for this purpose.¹⁹

Against the view held by Rizba and *Sefer Hasidim*, however, there are several manuscript passages which suggest that a number of *Ba'alei ha-Tosafot* and other leading Ashkenazic rabbinic authorities clearly recognized the need for ritual immersion by an apostate who wished to return to the community. Although we shall see that no Ashkenazic rabbinic figures regarded ritual immersion as an absolute halakhic obligation on the level of Torah law (*mide-Oraita*), this practice was rabbinically mandated and supported to a significant degree, and was not viewed simply as a popular custom or folk tradition. Although I believe that Professor Katz' overarching thesis concerning the impact of Rashi's approach to reversion on subsequent generations in Ashkenaz remains largely intact, these manuscript passages also suggest the need for an adjustment in our understanding of Ashkenazic rabbinic views on conversion to Christianity.

¹⁸ See above, n. 3.

¹⁹ Cf. *Tosafot ha-Rosh 'al Massekhet Hagigah*, ed. A. Shoshana (Jerusalem, 2002), 251.

Let us begin with a passage that involves Rizba's major teacher, R. Isaac b. Samuel (Ri) of Dampierre. A rich collection of marginal glosses to *Sefer Mordekhai* includes the case of an apostate who had returned to Judaism in Troyes.²⁰ The central issue in this case was akin to the one taken up by Rizba and *Sefer Hasidim*. Two Jews in Troyes had questioned a penitent former apostate about the sincerity of his repentance. Affirming that he had repented but still wary, the penitent withdrew from his questioners. Subsequently, he became a servant or waiter (*shamash*), which brought him into contact with Jewish wine. The question put to Ri concerned the status of the wine.

Ri responded that the wine was certainly kosher. Only with respect to the designation of a (newly careful) 'am ha-'arez as a fully qualified *haver* (who could now handle ritually pure foods) does the Talmud require a religious tribunal of three to confirm or to ratify this change in status.²¹ In the case of this apostate, however,

he knows that as long as he has not immersed himself and accepted upon himself the dicta of the rabbinic authorities (*she-kol zeman she'eino toveil u-meqabbel 'alav divrei hakhamim*), his status is considered to be that of a non-Jew (*muhzaq ke-goi*). Thus, it is not necessary to have [a tribunal of] three before whom he must accept [Judaism once again], since it is easy for us to verify that he has returned to his Creator (*debe-qal yesh lanu lomar she-shav 'el bor'o*), for he now conducts himself in accordance with the Jewish religion (*keivan she-noheg 'azmo ke-dat yehudit*).

Despite the similarities in both phrasing and content, Ri, unlike his student Rizba, clearly acknowledges that the penitent should undergo ritual immersion. Indeed, for Ri, this

²⁰ See ms. Vercelli (Bishop's Seminary) C 235/4, fol. 291v.

²¹ Ri alludes to his discussion of this matter in tractate *Bekhorot*. See *Tosafot Bekhorot* 31a, s.v. *ve-kulan she-hazru*, and *Tosafot Shanz 'al Massekhet Bekhorot*, ed. Y. D. Ilan, 61-62; and *Shitat ha-Qadmonim 'al Massekhet 'Avodah Zarah*, ed. M. J. Blau (New York, 1969), 45 (A.Z. 7a).

act is crucial in establishing the fact that the apostate is no longer to be regarded by the Jewish community as having the status of a non-Jew (with respect to touching Jewish wine and the like). The immersion does not have to be undertaken by the penitent in the presence of a rabbinic body or public tribunal, but it does serve to alert the penitent to his (renewed) status and his responsibilities. For Ri, ritual immersion was seen as a means of indicating and ensuring the compliance of the penitent with the requirements of Judaism (in addition to his acceptance of the words and dictates of the rabbis), if not as a means of "undoing" his baptism.²²

Just prior to this passage, the marginal glosses to *Sefer Mordekhai* record that Ri was asked about a convert who had undergone circumcision (improperly) at night, in front of a tribunal of three that was also not properly constituted. In this case, Ri ruled that most of the conversion procedures had to be redone, in light of the requirement that a (new) convert must be initiated into Judaism by a properly constituted legal body. The formal differences between this case and that of the former apostate in Troyes are clear, but so is the basic expectation or requirement for a returning apostate to undergo immersion on his own. Unlike *Sefer Hasidim* (and on the basis of different talmudic *sugyot*), Ri noted that an 'am ha-'arez who wished to be accorded the status of a *haver* (for the long term, and not

²² *Sefer Yosef ha-Maqqane*, ed. J. Rosenthal (Jerusalem, 1970), 79, records an anecdote that involved R. Yosef Bekhor Shor of Orleans (who, like Ri, was a student of Rabbenu Tam) and an apostate, who was so thoroughly convinced or mortified by R. Yosef's refutation of his claims with respect to Isaiah 53 that "he immediately tore his garments, rolled in the dust, and returned [to the Jewish community] in repentance." Cf. M. A. Signer, "God's Love for Israel: Apologetic and Hermeneutical Strategies in Twelfth-Century Biblical Exegesis," *Jews and Christians in Twelfth-Century Europe*, ed. Signer and J. Von Engen (Notre Dame, 2001), 124-25. Presuming the facticity of the anecdote itself, the omission of halakhic details (such as ritual immersion) in a polemical text such as this would not be surprising. Moreover, these actions appear to have represented an initial, public demonstration of repentance by the apostate that could easily have been followed later by immersion.

just during a festival) must present himself to a rabbinic tribunal for its approbation. Although the returning apostate does not have this particular requirement, he cannot rejoin the community simply by henceforth observing the law under their watchful eyes. He must undergo ritual immersion as well.

It is also instructive to compare Ri's formulation with Rashi's response to a similar question:

With regard to forced converts (*'anusim*) [who have repented], must one abstain from their wine until they have maintained their repentance for a lengthy period (*'ad she-ya'amdu bi-teshuvatan yamim rabbim*), so that their repentance is confirmed and well-known to all (*ve-tihyeh teshuvatan mefurset u-geluyah*)?

Rashi offers a multi-faceted response that permitted the wine to be consumed immediately. Part of his response relates to the fact that these were forced converts, who had never really intended to embrace idolatry. But Rashi also adds (in accordance with his broad halakhic policy of *'af 'al pi she-hata Yisra'el hu*) that "as soon as they accept upon themselves to return to fear our God (*le-yir'at Zurenu*), their wine is kosher (as are they; *harei hen be-kashrutan*)."²³ Ri agrees with Rashi that no public procedure or lengthy waiting period is necessary to verify the sincerity of the apostate's return, even in a case where the apostasy had been undertaken willingly. But for Ri, immersion was nonetheless incumbent upon the penitent. This private act served to seal his return to the Jewish community. For Rashi, however, this practice does not appear to have been required or even to have existed.²⁴

²³ See *Teshuvot Rashi*, ed. I. Efenbein (New York, 1942), 188-89, no. 168, and A. Grossman, *Rashi* (Jerusalem, 2006), 257-58.

²⁴ Urbach, *Ba'alei ha-Tosafot*, 1:244-45, maintains that Ri took the more lenient stance toward a returning apostate, and was a model in this regard for his student Rizba (above, n. 16, who did not require immersion). Urbach bases his assessment of Ri primarily on the responsum about the wine of the *'anusim* (in the above note), which is attributed by modern scholarship to Rashi. For reasons that are not fully clear, Urbach instead

A number of rabbinic texts (both published and in manuscript) cite a ruling of the German Tosafist and halakhist, R. Simhah of Speyer (d. c. 1225), that all penitents (*ba'alei teshuvah*) are required to undergo *tevilah* (ritual immersion).²⁵ R. Simhah bases his position on a case found in *Avot de-R. Natan*, in which a young woman was held captive by Gentiles. During the period of her captivity, she ate from their (non-kosher) food. Although partaking of non-kosher food and drink does not create or engender ritual impurity of the body (that must be nullified or removed according to statute), an immersion was required upon her release in order to purify her from this sinful act or perhaps from her state of sinfulness (*ke-dei le-ta'her min ha-'aveirah*).

R. Simhah's student, R. Isaac b. Moses Or Zarua', adds that although this immersion is required (*ve-khen qibalti mi-mori ha-rav Rabbenu Simhah she-kol ba'alei teshuvah zerikhin tevilah*), its absence or delay does not withhold or compromise the state of repentance (*'einah me-'akkevet 'et ha-teshuvah*). Rather, as soon as a person who has transgressed a sin of any magnitude (willingly or unwillingly) decides to repent, he (or she) is immediately considered to be fully righteous. However, one must make himself uncomfortable (*le-za'er 'et 'azmo*) and afflict his body (*le-sagef 'et gufo*) in order to achieve expiation (*kapparah*), and this is the role of the ritual immersion that was prescribed by R. Simhah.²⁶

believed this to be a responsum of Ri. The suggestive (and more stringent) responsa of Ri found in ms. Vercelli were apparently not yet available to Urbach.

²⁵ The references to both published and manuscript versions are conveniently collected in S. Emanuel, "Sifrei Halakhah Avudim shel Ba'alei ha-Tosafot," (Ph.D. diss., The Hebrew University of Jerusalem, 1993), 213-14. As Emanuel notes, one of the manuscript texts (ms. Vatican 183, fol. 186r) identifies R. Simhah's (no longer extant) halakhic tome, *Seder 'Olam*, as the literary source of this ruling. Cf. ms. Bodl. 1210, fol. 83v (*katav Rabbenu Simhah b"R. Shmu'el*); ms. Bodl. 784, fol. 99v; and J. Elbaum, *Teshuvat ha-Lev ve-Qabbalat Yissurim* (Jerusalem, 1993), 225-26.

²⁶ See R. Isaac b. Moses, *Sefer Or Zarua'* (Zhitomir, 1862), part 1, fol. 20b (responsa), no. 112. R. Isaac Or Zarua' resided for a time in R. Simhah's

R. Isaac Or Zarua's son, R. Hayyim Eliezer, and the Italian halakhist R. Zedekiah b. Abraham ha-Rofe, based the Ashkenazic custom for (all) Jewish males to immerse themselves on the eve of Rosh HaShanah and/or Yom Kippur on R. Simhah's ruling.²⁷

One of the manuscript versions of R. Simhah's ruling, which contains some additional information and discussion, was published by Efraim Kupfer more than thirty years ago.²⁸ A case had arisen concerning a Jewish woman who had been "submerged" (*nitme'ah*, with an *'ayin*, signifying conversion) among non-Jews, and who had given birth as a non-Jew (*yaldah be-goyut*). She then returned to Jewish practice and life together with her young sons, who were immersed in the mikvah prior to their (delayed) circumcisions. These immersions were not considered, however, to be part of a halakhically mandated conversion process (since the mother was Jewish) and as such, these immersions did not require the presence of three rabbinic scholars (sitting as a Jewish court). Nonetheless, the immersion itself was considered to be necessary in accordance with the case in *Avot de-R. Natan* (mentioned above), of the young woman who had been immersed after her experiences in captivity. It was further noted, however, that these young boys would not have rendered any wine that they touched as *yayn neseekh* prior to their immersion, for even an adult who had been an apostate does not render wine as such

home in Speyer. See *Sefer Or Zarua'*, pt. 4, *pisqei 'avodah zarah*, sec. 271 (fol. 36a); Urbach, *Ba'alei ha-Tosafot*, 1:413-14; and cf. my *Jewish Education and Society in the High Middle Ages* (Detroit, 1992), 66-67.

²⁷ See *Pisqei Halakhah shel R. Hayyim Or Zarua'* (*Derashot Maharah*), ed. Y. S. Lange (Jerusalem, 1993), 153; *Shibbolei ha-Leqet*, ed. S. Buber (Vilna, 1887), 266, sec. 283; and cf. *'Arugat ha-Bosem le-R. Avraham b. 'Azri'el*, ed. E. E. Urbach, 2:110.

²⁸ *Teshuvot u-Pesaqim*, ed. E. Kupfer (Jerusalem, 1973), 290-91 (sec. 171). The manuscript from which Kupfer published this volume, Bodl. 692, is a significant repository of material from R. Simhah's lost *Seder 'Olam*. See Kupfer's introduction, 11-12, and the index (343); and Emanuel, "Sifrei Halakhah Avudim," 211-13.

from the moment that he renounces his actions and begins his return. "A Jew who announces that he has sinned but wishes to return is still a Jew, and he can immerse himself privately (*ve-tovel beino le-vein azmo*)."

At this point, the text cites R. Bonfant (perhaps Bonenfant, a sobriquet for the German halakhist R. Samuel b. Abraham ha-Levi of Worms), in the name of [his teacher] SaR (=Rabbenu Simhah),²⁹ that the purpose of the immersion here was to purify the penitent from sin. Although non-Jewish food did not defile the body of the young captive woman more than other things (*yoter mi-she'ar devarim*), these penitents (who returned to Judaism with their mother) had to undergo immersion (as she did) in order to be purified from sin, so that they could repent and return in purity. This passage continues by noting that a *sugya* in tractate *Pesahim*³⁰ may also have mandated immersion for a penitent. Moreover, partial proof (*qezat yesh re'ayah*) can be brought from the case of Queen Esther, who immersed herself upon returning from Ahashverosh to live with Mordekhai. Since that immersion was

²⁹ Kupfer also published several rulings by R. Samuel, along with some additional comments. See *Teshuvot u-Pesaqim*, 129-32 (for a ruling issued jointly by R. Samuel and his teacher, R. Simhah); 218-20 (*sefer halizah me-nimmugei R. Shmu'el ha-Levi*) 282-89; and the index. See also I. A. Agus, *Teshuvot Ba'alei ha-Tosafot* (New York, 1954), 206-15, and S. Emanuel, "Teshuvot Maharam mi-Rothenburg she'Einan shel Maharam," *Shenaton ha-Mishpat ha-'Ivri* 21 (1998-2000): 173-76. I discuss R. Samuel's contributions to Ashkenazic *piyyut* in my forthcoming *The Intellectual History of Medieval Ashkenazic Jewry: New Perspectives* (Wayne State University Press, Detroit, 2008), chapter three. On R. Bonfant's close tutorial relationship with R. Simhah, see Kupfer's introduction, *ibid.*; I. Ta-Shma, *Knesset Mehqarim*, vol. 1 (Jerusalem, 2004), 161-62. On the name Bon(en)fant, cf. S. Schwarzfuchs, *Yehudei Zarefat Bimei ha-Benayim* (Tel Aviv, 2001), 319, n. 27. R. Samuel's son was the German *dayyan* and *payyetan*, R. Yaqar ha-Levi of Cologne. See Kupfer's introduction, 12-13, and 122-23, 264, 287; Ta-Shma, vol. 1, 168-74; and my "Religious Leadership During the Tosafist Period: Between the Academy and the Rabbinic Court," *Jewish Religious Leadership*, ed. J. Wertheimer (New York, 2004), vol. 1, 277-79, 292.

³⁰ 92a; cf. above, n. 15.

seen as a means of ridding Esther of the impurity (perhaps, the filth) imparted by the wicked king (*mishum zuhamato shel 'oto rasha*), penitent apostates (*ba'alei teshuvah*) must also immerse themselves in order to eliminate the residue transmitted by the impurity of idolatry (*mipnei zihum tum'at 'avodah zarah*).³¹ Further support may be derived from a passage in the Jerusalem Talmud that requires immersion whenever one passes from a profane to a holy state. Indeed, it is for this reason, according to the *Talmud Yerushalmi*, that a utensil purchased by a Jew from a non-Jew must be immersed prior to its use.

Although we cannot be certain that this entire passage was composed by R. Simhah or by his student R. Samuel ha-Levi of Worms, it does raise the possibility that the initial formulation of R. Simhah's ruling, that immersion should be undertaken as part of the overall process of repentance, was expressed in the case of a Jewish apostate who had returned to the community (and was then broadened to include other sins).³² The circumstances of apostasy reflect precisely the situation of the young women who had been held captive as described in *Avot de-R. Nathan*. Whether or not apostates to Christianity lived with non-Jews in sexual arrangements, they (like the young women) had ample opportunity to sin, through the partaking of non-Jewish food and other acts. Although the additional proof suggested on the basis of Esther's return to

³¹ On Esther's immersion in this way, see *Megillah* 13b, and see also *Tosafot*, ad loc., s.v. *ve-tovelet*.

³² See the formulation in I. Z. Kahana, "She'elot u-Teshuvot R. Yizhaq Or Zarua' u-Maharam b. Barukh," *Sinai* 24 (1949), 312, sec. 109, and cf. R. David Ibn Zimra (Radvaz), *Responsa*, pt. 3. no. 858. Radvaz, a leading sixteenth-century Sefardic authority, begins (and concludes) his responsum on the status of forced converts to Islam by citing the position of R. Simhah of Speyer, that while a *ba'al teshuvah* from any sin (including apostasy) should immerse himself (and thereby afflict himself), the absence of such an immersion does not inherently compromise or deny his repentance. The only other (named) position cited by Radvaz in this responsum is that of Riva ha-Levi of Speyer (above, at n. 15).

Mordekhai does bespeak a sexual context, the phrase *mipnei zihum tum'at 'avodah zarah* can also refer to other forbidden activities that one might encounter while living within an enclosed non-Jewish setting.

For R. Simhah of Speyer and his student R. Bonfant, the immersion of a returning apostate was necessary primarily as an act of penance, and not simply as a sign or indicator of the apostate's return to the fold, as it was for Ri. Although this immersion was not technically required by Jewish law, it was mandated as a penitential act. R. Simhah displays several affinities with the German Pietists, although the presence of various penitential acts (*tiqqunei teshuvah*) in the writings of a number of German Tosafists and rabbinic authorities from the late twelfth and early thirteenth centuries reflects the currency of these practices even outside the narrowly constructed circle of *Hasidei Ashkenaz*.³³ Moreover, the comparison to Esther here suggests a kind of un-baptism. In any case, for R. Simhah of Speyer and for R. Samuel ha-Levi of Worms, as for Ri, ritual immersion for a returning apostate was not merely a matter of popular custom or tradition. It had their overt approbation and support.

A formulation attributed by the early fourteenth-century compendium, *Semaq mi-Zurikh*, to R. Simhah's German contemporary, R. Eliezer b. Yo'el ha-Levi (Rabiah), goes even further. According to Rabiah, an apostate who wished to return

³³ On the affinities between R. Simhah and the *Hasidei Ashkenaz*, see my "Peering through the Lattices": *Mystical, Magical and Pietistic Dimensions in the Tosafist Period* (Detroit, 2000), 102-11, 255-28. Among those Ashkenazic rabbinic scholars who preserve and apply R. Simhah's ruling (above, nn. 27-28), R. Isaac Or Zarua' and R. Abraham b. 'Azri'el were also direct students of the leading German Pietists, R. Judah he-Hasid and/or R. Eleazar of Worms. For the influence of *Hasidei Ashkenaz* on *Shibbolei ha-Leqet*, see my "Mysticism and Asceticism in Italian Rabbinic Literature of the Thirteenth Century," *Kabbalah* 6 (2001): 135-49. On *tiqqunei teshuvah* in the writings and thought of the Tosafist R. Ephraim b. Isaac and his rabbinic colleagues in Regensburg, see my "R. Judah he-Hasid and the Rabbinic Scholars of Regensburg: Interactions, Influences, and Implications," *Jewish Quarterly Review* 96 (2006): 17-37. See also below, n. 39.

must shave and immerse himself just as a convert does (*ka-ger*). The apostate's immersion does not have to take place during the daytime (as does the immersion of a *ger*), but the apostate's (re-)acceptance of Judaism (*ha-qabbalah*) must be accomplished before three people.³⁴ Unlike R. Simhah (or Ri),

³⁴ Cited in *Semaq mi-Zurikh*, above, n. 16. Despite the gap in time of about a century, E. E. Urbach, as noted, presumed that the attributions to Rizba (and others) found in this wide-ranging passage are reliable although, to be sure, the names of Rizba and R. Eleazar of Worms also appear in the parallel passages found in *Teshuvot ha-Ramban*, and in ms. Vercelli; see also below, n. 36. S. Goldin, *Ha-Yihud v'ha-Yahad*, 200, n. 46, specifically accepts the authenticity of the Rabiah passage (which is not found in his name in any other source) as well. Indeed, I have had occasion to show that a highly significant position of Rabiah (*Avi ha-'Ezri*) on Jewish martyrdom, which was found initially only in *Semaq mi-Zurikh*, can be confirmed by its appearance (in somewhat tighter form) in several manuscripts of R. Abraham b. Ephraim's *Sefer Simmanei Taryag Mizvot*, a northern French halakhic digest based on R. Moses of Coucy's *Sefer Mizvot*, that was completed c. 1265. See my "Halakhah and *Mezi'ut* (Realia) in Medieval Ashkenaz: Surveying the Parameters and Defining the Limits," *Jewish Law Annual* 14 (2003): 211-16. Moreover, the recent publication of this work, under the title *Qizzur Sefer Mizvot Gadol le-R. Avraham b. Ephraim*, ed. Y. Horowitz (Jerusalem, 2005), reveals that this work contains a number of passages cited in the name of *Avi ha-Ezri* (see, e.g., 29, 32, 69, 94, 102, 129, 178-80, 204, 225), some of which can be found in Rabiah's extant *Sefer Avi ha-'Ezri/Sefer Rabiah*, and others that cannot, but which seem nonetheless to be authentic. (In one instance, p. 206, a position attributed to R. Eliezer b. R. Yo'el by name cannot be found in his extant writings.) It should also be noted that most of Rabiah's commentary to tractate *Yevamot* (which, as the present study confirms, is a common locus in medieval rabbinic literature for discussion of the status of returning apostates), was part of Rabiah's later (and now lost) halakhic work, *Sefer Avi'asaf*; cf. S. Emanuel, "Sifrei Halakhah Avudim," 103-08. Interestingly, the Rabiah passage in *Semaq mi-Zurikh* on the treatment of a returning apostate is also found, essentially verbatim, in *Qizzur Sefer Mizvot Gadol*, 194, as a directive put forward by (unidentified) 'omrim. Note also that a passage in the Sifra commentary attributed to R. Samson of Sens, *parashat Emor, parsheta* 14, n. 1 (Jerusalem, 1959), fol. 110b, maintains that the custom in vogue for a penitent apostate was to shave his head and cut his nails prior to his immersion, and that he was indeed referred to as a *ger*. It has been shown that the author of this commentary was not R. Samson (or any other French rabbinic figure), but rather a German contemporary of Rabiah, who refers to R. David b. Qalonymus of Muenzberg as his teacher. R. David asked a halakhic question of Rabiah's father R. Yo'el, and both answered and asked queries of Rabiah.

Rabiah appears to be focused on formalizing the return of the apostate in a rather public way. Interestingly, Rabiah characterizes the custom of men immersing before *Yom Kippur* as an act of general piety (*perishut*), and not as a *tiqqun teshuvah* that was associated with the ruling of R. Simhah.³⁵

The position of R. Eleazar b. Judah of Worms, a prominent German halakhist and a leading figure among the German Pietists, and a contemporary of both R. Simhah of Speyer and Rabiah, requires some clarification. In a text found in several rabbinic collections,³⁶ R. Eleazar is noted as being relatively lenient, similar to Rizba, with a returning apostate. R. Eleazar does not require the returnee to accept upon himself any acts of physical suffering or self-abnegation, even though these kinds of physical *tiqqunei teshuvah* were typically prescribed by R. Eleazar for those who had sinned in various other ways.³⁷ R. Eleazar also does not make any reference in this passage to the need for ritual immersion. When the one returning

rejoins the exile of his brethren, and recites the *Shema* twice daily, and is careful once again with what is permitted and prohibited to every other Jew, he is vouchsafed that he will not sin (grievously) again as a Jew,

See, e.g., Urbach, *Ba'alei ha-Tosafot*, 1:366; S. Emanuel, "Biographical Data on R. Barukh b. Isaac," [Hebrew] *Tarbiz* 69 (2000), 436-37; Y. Sussman, "Rabad on Shekalim? A Bibliographical and Historical Riddle," [Hebrew] *Me'ah She'arim: Studies in Medieval Jewish Spirituality in Memory of Isadore Twersky*, ed. E. Fleischer et al. (Jerusalem, 2001), 147-48, n. 64.

³⁵ See *Sefer Rabiah*, ed. V. Aptowitz, vol. 2, 185; my *Peering through the Lattices*, 45; and *Pisqei Rabbenu Yosef Talmid Rabbenu Shmu'el ha-Ro'eh mi-Bamberg in Shitat ha-Qadmonim*, ed. M. J. Blau (New York, 1992), 372, sec. 271. Cf. R. Eleazar b. Judah of Worms, *Sefer Roqeah* (repr. Jerusalem, 1967), secs. 214, 218.

³⁶ See Urbach, *Ba'alei ha-Tosafot*, 1:407 (and above, n. 16), and ms. Vercelli, fol. 291v (upper margin).

³⁷ See e.g., I. Marcus, "Hasidei Ashkenaz Private Penitentials: An Introduction and Descriptive Catalogue," *Studies in Jewish Mysticism*, ed. J. Dan and F. Talmage (Cambridge, Mass., 1982), 57-83.

and we should not be so strict with him, by requiring him to undergo afflictions in order to achieve expiation.

On the other hand, R. Eleazar, in his penitential treatises, explicitly mandates immersion (as well as a series of more arduous *tiqqunei teshuvah*) for an apostate who wished to return.³⁸ In the fullest version of these works, R. Eleazar puts forward the paradigm of Menasheh son of Hezekiah, who denied the Almighty for some thirty-three years and yet was able to return, from the moment that he repented fully in his heart and pledged to correct his actions. According to R. Eleazar, the returning apostate must similarly remove all signs of splendor or glory from himself and feel remorse, and fast regularly over a period of several years. He should not eat meat or drink wine, he should not bathe except a bit prior to the festivals, he should wash his head only once or twice a month and so on. In addition, he should not sit together with clergymen and priests, or where people are discussing the "impure idolatry". He must keep away from all idolators and derive no pleasure from them, and he may not come near to their homes or to the courtyard of a church. From the moment that he regrets what he has done *and immerses himself*, he is considered to be as a Jew. He must return to his Creator from all the sins that he has done and regret the pleasures that he had.³⁹

³⁸ On this apparent contradiction within texts by and about R. Eleazar, see Y. Dinari, *Hakhmei Ashkenaz be-Shilhei Yemei ha-Benayim* (Jerusalem, 1984), 86, n. 74. Cf. Y. Elbaum, *Teshuvat ha-Lev*, 28, n. 22, and the next note.

³⁹ See ms. Vatican 183/3, fols. 165v-166v. This *sefer ha-teshuvah* (which ends on fol. 188v) begins (on fol. 162r) with a penitential responsum ascribed to R. Judah he-Hasid. The long penitential text that follows, however, corresponds to the style and teachings of Eleazar's other penitentials. See Marcus, "Hasidei Ashkenaz Private Penitentials," 74, and cf. idem., "Hibburei ha-Teshuvah shel Hasidei Ashkenaz," *Mehqarim be-Qabbalah, be-Filosofiyah ube-Sifrut ha-Musar vehe-Hagut Mugashim le-Yeshayah Tishby*, ed. J. Dan and J. Hacker (Jerusalem, 1986), 369-79. See also Eleazar's *Sefer Roqeah* (repr. Jerusalem, 1967), *Hilkhot Teshuvah*, 31, sec. 24 (and Marcus, "Private Penitentials," 62-63); *Sefer Kol Bo*, sec.

Although the specific physical afflictions prescribed by R. Eleazar vary a bit within his different penitential treatises, the need for ritual immersion in all of these works is unequivocal. That act, together with the former apostate's good intentions, re-establishes his presence within the Jewish community. Moreover, while the passage attributed to R. Eleazar in the medieval rabbinic sources which downplays the need for *tikkunei teshuvah* does not specifically mention *tevilah*, positing the need for ritual immersion does not contradict anything else found in that passage. The immersion of the penitent for R. Eleazar of Worms can be understood, as it was for R. Simhah of Speyer, as a painless, yet necessary *tiqqun teshuvah*. It can also reflect the more basic kind of commitment that the apostate must make, as had been suggested by Rabiah (together with other, more public manifestations), or by Ri (as a private act).

These findings take us beyond the first quarter of the thirteenth century, in both northern France and Germany.⁴⁰ We are now in a better position to understand the historical

66 [*sefer niqra Moreh Hatta'im ve-niqra Sefer ha-Kapparot, hibbero ha-R. Eleazar mi-Germaiza*] (Tel Aviv, 1997), fol. 26a (and Marcus, 69-70); and *Darkhei Teshuvah* [appended to *Responsa* of R. Meir of Rothenburg (Prague, 1608), ed. M. A. Bloch (Budapest, 1895)], fol. 160c (and Marcus, 69). R. Simhah of Speyer's ruling that repentant sinners should immerse themselves, as derived from the case in *Avot de-R. Nathan* of the young woman who returned from captivity, appears toward the end of Eleazar's *sefer ha-teshuvah* in ms. Vatican 183; see above, n. 26. R. Judah he-Hasid's responsum in this manuscript (along with two others found in ms. Bodl. 682) was published by S. Spitzer, "She'elot u-Teshuvot Rabbenu Yehudah he-Hasid be-Inyanei Teshuvah," *Sefer ha-Zikkaron le-R. Shmu'el Barukh Vemer*, ed. Y. Buksboim (Jerusalem, 1996), 199-205. Cf. Marcus, "Hibburei ha-Teshuvah," 380-82.

⁴⁰ Although there was something of a separation in terms of literary sources as well as the movement of students between the Tosafist centers in northern France and Germany during the fifty-year period between 1175 and 1225, both centers have been amply represented in the discussion to this point. As in many other instances, the various positions begin to come together in the halakhic writings and thought of R. Meir of Rothenburg and his teachers. See, e.g., my "Religious Leadership During the Tosafist Period," 281-305.

and halakhic underpinnings of the rather striking responsum penned in the second half of the thirteenth century by R. Meir of Rothenburg (d. 1293), concerning the testimony of a former apostate in the case of a missing husband. R. Meir writes that he was loathe to accept the testimony of this individual whom he describes as “one who had become an apostate (*mumar*) and then repented, albeit not with a full heart (*shav ve-lo bekhlo libbo*), but just enough to be deceitful (*teshuvah shel remiyyah*).” At the end of his responsum, R. Meir again remarks that the testimony of this individual is unacceptable,

since this abominable one and others like him immerse themselves while holding a *sherez* in their hands (*tovlim ve-sherez be-yadam*). And it is well known that they do not consider themselves to be Jews except in order to have other [Jews] give them food, and in order to steal and to fulfill their every desire.⁴¹

Maharam was undoubtedly referring to a rabbinically endorsed or required immersion when he says that the apostate in question was *tovel ve-sherez be-yado*, no matter which reason for this immersion he might have favored. For R. Meir, (genuine) *teshuvah* and *tevilah* were both needed. Having studied with Tosafists in northern France and Germany (including students of both Ri and Rabiah), in addition to

⁴¹ See *Teshuvot Maimuniyyot le-Nashim*, no. 10; [*Haggahot*] *Mordekhai to Ketubot*, sec. 306. Rabbenu Yonah of Gerona (d. 1263), who had studied in his youth at the Tosafist academy of Evreux (in Normandy; cf. below, n. 48), is cited by his student Rashba as having heard from *Hakhmei Zarefat* that an apostate who moved from city to city, professing allegiance to Christianity in one place and to Judaism in the next, is to be treated, in the absence of other information, as a Jew (who does not render wine *yayn nesekeh*). The underlying assumption is that his sincere commitment is to Judaism and that his other claims are fundamentally false, and are being made only in order to derive pleasure or benefit. See Rashba, *Responsa*, vol. 6, no. 179. Irrespective of any precise comparisons between this ruling and that of Maharam, both these passages suggest that the phenomena of those who assumed dual or mixed religious allegiances was not as uncommon in medieval Jewish society as might have been imagined. See also Urbach, *Ba'alei ha-Tosafot*, 1:245.

having numerous affinities with *Hasidei Ashkenaz* and R. Eleazar of Worms in particular, R. Meir had easy access to this evolving (and by now dominant) trend in Ashkenazic rabbinic thinking.⁴² Indeed, another of his teachers and senior colleagues, R. Avigdor b. Elijah Kohen Zedeq (Katz) of Vienna, assumed without question (and so noted) that a married couple who were both returning apostates must be immersed prior to their re-acceptance into the community. The matter before R. Avigdor for his consideration was whether they also had to be separated for a period of three months (*havhanah*), as was required of a couple who were converting anew to Judaism.⁴³

Moreover, there is an additional *Tosafot* text which originated in northern France in the mid-thirteenth century, that may have also informed the responsum of R. Meir of Rothenburg. As noted above, Ritva in his talmudic commentary to tractate *Yevamot* (followed by *Nimmuqei Yosef*) cited the view that ritual immersion was required for a returning apostate according to rabbinic law or policy (*mi-derabbanan, mishum ma'alah*), from an Ashkenazic source that he called *Tosafot Aharonot*.⁴⁴ According to these *Tosafot Aharonot*, the immersion for an apostate was akin to or an extension of the talmudic (rabbinic) requirement that an ‘*eved kena'ani* had to undergo ritual immersion twice, once at the beginning of his servitude when he was initiated into the Jewish faith (and the partial

⁴² See Urbach, *Ba'alei ha-Tosafot*, 2:523-28, and my *Peering through the Lattices*, 115-24, 234-38.

⁴³ See *Perushim u-Pesaqim le-Rabbenu Avigdor (Zarefati) mi-Ba'alei ha-Tosafot*, ed. Makhon Harerei Qedem (Jerusalem, 1996), 410-11. R. Avigdor ruled that *havhanah* was not required in this case. On the provenance and literary output of (this) R. Avigdor, see my *Peering through the Lattices*, 107-10, 225-27, and my “Mysticism and Asceticism in Italian Rabbinic Literature,” above, n. 33.

⁴⁴ See *Hiddushei ha-Ritva le-Massekhet Yevamot*, ed. R. A. Jofen, 330-32 (*Yevamot* 47b); *Nimmuqei Yosef*, ad loc. (at the top of fol. 16b in the standard pagination of *Hilkhot ha-Rif*); and above, nn. 4, 10.

observance of *mizvot*), and again at his release, when he became a full-fledged member of the Jewish community.

Several *Tosafot* texts maintain that this second immersion of the 'eved *kena'ani* was required (only) by rabbinic law, and both Nahmanides and Rashba attribute this position to *rabbotenu ha-Zarefatim*.⁴⁵ A more recently published *Tosafot* variant to *Yevamot* characterizes this rabbinic requirement as a means of distinguishing formally between the states of slavery and freedom (*le-hakkir bein 'avdut le-herut*).⁴⁶ But none of these *Tosafot* passages refer to the case of a returning apostate.

In the manuscript glosses to *Sefer Mordekhai* discussed above, however, there is a passage marked *Tosafot Shitah* that explicitly extends the requirement of immersion to an apostate who had repented, for the same reason as the 'eved *kena'ani* who had been freed. Although the refrain of Rashi, 'af 'al pi *she-hata Yisra'el hu*, is specifically mentioned by this *Tosafot Shitah* passage as well, the passage asserts that the penitent apostate must undergo an immersion, *la'asot hekkera*, in order to make a distinction or demarcation.⁴⁷ This is the rabbinic requirement (and *Tosafot* source) for immersion referred to by Ritva and *Nimmuqei Yosef*, which they characterized as *mishum ma'alalah*. The apostate is not going from a state of slavery to one of freedom, but he is returning to a different or

⁴⁵ See *Tosafot* and *Tosafot ha-Rosh* to *Yevamot* 47b, s. v. *sham ger ve-'eved (meshuhrar) tovim*; *Hiddushei ha-Ramban* and *Hiddushei ha-Rashba* to the end of *Yevamot* 47b; and cf. *Tosafot Qiddushin* 62b, s. v. 'ela *me-'attah*. Nahmanides' own position is that this immersion is required according to Torah law (and is akin to the immersion of a *ger*). This possibility is implicit in some of the *Tosafot* texts as well. See, e.g., the discussion in *Ritva li-Yevamot*, ed. Jofen, 332, n. 263, and 348-49, n. 294.

⁴⁶ See *Tosafot Maharam ve-Rabbenu Perez 'al Massekhet Yevamot*, ed. H. Porush (Jerusalem, 1991), 129-130 (48a), s. v. *ki tanya ha-hi le-'inyan tevilah itmar*. This passage (and explanation) is not found, however, in a parallel collection, *Tosafot Yeshanim ha-Shalem 'al Massekhet Yevamot*, ed. A. Shoshana (Jerusalem, 1994), 283-86.

⁴⁷ See ms. Vercelli, fol. 291v.

higher status, as a fully recognized and religiously obligated member of the Jewish community. The comparison to an 'eved *kena'ani* is thus particularly apt.

The term *Tosafot Shitah* in this text refers, in all likelihood, to a type or genre of *Tosafot* that were produced in the Tosafist *beit midrash* at Evreux (led by the brothers R. Moses, R. Samuel and R. Isaac b. Shene'ur) during the mid-thirteenth century.⁴⁸ According to this text, the ritual immersion serves as an indication or as a sign for the penitent of his new status, and for the community as well, rather than as a personal act of penance (as had been suggested by R. Simhah of Speyer). It would seem to be a way of further formalizing what Ri of Dampierre had assumed from the private or personal perspective, although there is no indication that this immersion had to be undertaken more publicly, in front of a rabbinic tribunal.⁴⁹ At the same time, however, the talmudic paradigm for this immersion, the newly released 'eved *kena'ani*, might well have had to undergo his second immersion in the presence of a

⁴⁸ On *Tosafot/Shitah Evreux*, see Urbach, *Ba'alei ha-Tosafot*, 1:479-84, esp. 480, n. 11 and 484, n. 26* [the responsum of Maharam (ed. Prague) listed in 480, n. 11, should be corrected to no. 608 = *Mordekhai Shavu'ot*, sec. 771; cf. S. Emanuel, "Teshuvot Maharam mi-Rothenburg she'-Einan shel Maharam," 181-84]; I. Ta-Shma, *Ha-Sifrut ha-Parshanit la-Talmud*, vol. 2, 108-10; idem., *Knesset Mehqarim*, vol. 2 (Jerusalem, 2004), 111-14; my *Jewish Education and Society in the High Middle Ages*, 74-76; and *Tosafot Yeshanim ha-Shalem 'al Massekhet Yevamot*, editor's introduction, 24-26. On Ritva's awareness and use of additional sources of northern French *Tosafot* (as compared to Ramban and Rashba), see my "Between Ashkenaz and Sefarad: Tosafist Teachings in the Talmudic Commentaries of Ritva," *Between Rashi and Maimonides: Studies in Medieval Jewish Law, Thought and Culture*, ed. E. Kanarfogel (forthcoming).

⁴⁹ Indeed, *Tosafot ha-Rosh* (above, n. 45, which does not discuss a returning apostate) argues that the requirement of *tevilah de-rabbanan* means that the freed slave does not have to be immersed in the presence of a rabbinic court, since he is technically able to give *qiddushin* from the moment that he is freed. If a court of three was yet required to oversee his immersion, he would not be able to give *qiddushin* at that point, according to talmudic law. This is ostensibly the position of the *Tosafot Shitah* as well. Cf. R. Isaac of Corbeil (a student of *Hakhmei Evreux*) in his *Sefer Mizvot Qatan*, sec. 159.

rabbinic tribunal, at least according to some leading medieval halakhists.⁵⁰ If this was also the case for a returning apostate, the *Tosafot Shitah* text would support the somewhat unusual view attributed above to Rabiah, that a form of public ratification was required, even as the *Tosafot Shitah* passage invokes the (more lenient) principle of *'af 'al pi she-hata Yisra'el hu* as well. In any event, when Maharam mi-Rothenburg characterizes the shortcomings of the former apostate in question as one who was *tovel ve-sherez be-yado*, he is not merely referring to a popular custom that had been ineffective in ensuring the returnee's sincerity. Rather, his ire was directed toward the flouting of a solemn rabbinic requirement by someone who had undergone the required ritual immersion without the co-requisites of proper repentance and subsequent Jewish practice.⁵¹ In terms of access to the *Tosafot Shitah* passage, it should be noted that R. Samuel of Evreux was also a direct teacher of R. Meir of Rothenburg, during Meir's student days in Chateau-Thierry.⁵²

How are we to understand the changing attitudes of Ashkenazic rabbinic authorities during the twelfth and thirteenth centuries with respect to the requirement of ritual immersion for an apostate who wished to return to the Jewish community, as reflected in the texts that have been presented here? This rite might have begun initially in Ashkenaz as a local custom, and it may also have been embellished along the way by popular practice. If so, the main goal or intent of the Tosafists was to provide more formal legal grounding for this rite, as was their wont with regard to other bona fide customs that preceded them.⁵³ On the other hand, it is entirely possible

⁵⁰ See e.g., Rambam, *Mishneh Torah, Hilkhoh Issurei Bi'ah* 13:12; the comment of the *Maggid Mishnah* ad loc.; and above, n. 45.

⁵¹ Cf. I. Z. Kahana, *Maharam mi-Rothenburg: Teshuvot, Pesaqim u-Minhagim*, vol. 1 (Jerusalem, 1957), 157 (secs. 90-92).

⁵² See Urbach, *Ba'alei ha-Tosafot*, 2: 528.

⁵³ See, e.g., my "Halakhah and Realia in Medieval Ashkenaz," 193-201.

that the practice of ritual immersion for a returning apostate was initiated by talmudists and halakhists who were part of the rabbinic elite. In either case, was the change in the rabbinic view on the need for this immersion, which can be traced from the late twelfth century onward, solely the result of talmudic or other rabbinic considerations, or were there temporal factors that impacted the rabbinic view as well?

Several such factors can be suggested. Robert Chazan has drawn attention to the list presented by the rabbinic author and chronicler, R. Ephraim b. Jacob of Bonn, of no fewer than eleven anti-Jewish incidents that occurred between 1171 and 1196 (the year before Ephraim's death): five in Rhineland Germany (including one in Speyer), one in Austria, two in northern France, and two in England. These incidents, which occurred nearly a hundred years after the First Crusade, were precipitated, according to Chazan, by the deepening Christian perception of the Jews as enemies.⁵⁴ It stands to reason that an apostate who joined the Christian community in the late twelfth or early thirteenth centuries was seen by rabbinic authorities, as well as by the Jewish community at large, in an increasingly unfavorable light. The growing rabbinic demand for a demonstrative act of contrition, which indicated in a more graphic way that a significant line had been crossed, may also be understood in light of this series of events and the worsening perceptions that accompanied them.⁵⁵

⁵⁴ R. Chazan, *Medieval Stereotypes and Modern Antisemitism* (Berkeley, 1997), 53-78.

⁵⁵ For additional dimensions of the deterioration of the status of the Jews in Christian society through the twelfth century, see, e.g., A. Funkenstein, "Changes in the Patterns of Christian Anti-Jewish Polemic," [Hebrew] *Zion* 33 (1968): 137-43; A. Sapir Abulafia, *Christians and Jews in the Twelfth-Century Renaissance* (London, 1995), chapter 6; and J. Cohen, *Living Letters of the Law: Ideas of the Jew in Medieval Christianity* (Berkeley, 1999), 147-66, 254-70. In an unpublished paper, Dr. Rami Reiner of Ben-Gurion University of the Negev has demonstrated that from the second half of the twelfth century and through the first half of the thirteenth, a

Perhaps even more significant in this regard is the formulation of Pope Innocent III in 1201 (in a letter to the Archbishop of Arles), that effectively expanded the meaning of voluntary conversion to Christianity to include even those who were baptized only as a last-ditch means of avoiding death.⁵⁶ Innocent's new interpretation (which addressed a problem that had been raised several times during the twelfth century) meant that virtually every Jewish apostate was considered according to Christian dogma to be a full-fledged, willing Christian.⁵⁷ As we have seen, thirteenth-century Ashkenazic rabbinic formulations refer to ritual immersion as a means of removing the impurity of Christianity (*zuhama*), or as a demonstrative sign of change in status (*la'asot hekkera*), which might well mean that this requirement was seen on some level, even by the rabbinic leadership, as a kind of un-baptism.⁵⁸

We must also bear in mind, however, that unlike the more demanding physical forms of *tiqqunei teshuvah* (which were often accompanied by public humiliation), ritual immersion would not have been seen as much of an impediment to

number of leading northern French and German Tosafists embraced more positive views toward Christian converts to Judaism than had been the case in the prior period. He too sees this change in attitude as a function of the worsening position of the Jews in medieval Europe, as expressed in religious, political and cultural terms. Although the increasingly negative perception of Jews led fewer Christians to convert to Judaism at this time, it also caused Ashkenazic society and its rabbinic leadership to be markedly more accepting of those who did.

⁵⁶ See S. Grayzel, *The Church and the Jews in the XIIIth Century*, vol. 1 (New York, 1966), 101-02.

⁵⁷ See E. Fram, "Perception and Reception of Repentant Apostates," 304-05. Cf. J. M. Elukin, "The Discovery of Self: Jews and Conversion in the Twelfth Century," *Jews and Christians in Twelfth-Century Europe*, ed. Signer and Von Engen, 63-76, and A. Haverkamp, "Baptised Jews in German Lands During the Twelfth Century," *ibid.*, 260-67, 291-98.

⁵⁸ For references in Jewish polemical literature and *piyyut* during this period to baptism as pollution (*tinnuff*) or defilement (*shemezz*), see e.g., S. L. Einbinder, *Beautiful Death* (Princeton, 2002), 34-35, and D. Berger, *The Jewish-Christian Debate in the High Middle Ages* (Philadelphia, 1979), 94, sec. 78.

re-entry into the Jewish community, especially if it could be undertaken privately by the penitent. This essential part of Jacob Katz' thesis, that medieval Ashkenazic rabbinic authorities (following Rashi) did not wish to unnecessarily encumber an apostate's return, remains, for the most part, intact. The other axiom of Rashi highlighted by Katz, that a Jew who had undergone baptism retains his status as a Jew, is also not directly contradicted (except perhaps by the *Tosafot Shitah* of Evreux, if we presume that a rabbinic *beit din* had to oversee the immersion that was required). Nonetheless, at least some of the Tosafists and Ashkenazic rabbinic figures who supported the need for ritual immersion were positing the existence of a gap between the apostate and the Jewish community that Rashi (and others) did not recognize.

As the texts presented here have shown, the practice of ritual immersion in northern France and Germany during the twelfth and thirteenth centuries for a returning apostate enjoyed a good deal of rabbinic approbation and even encouragement. In light of these new findings, a number of other suggestive and somewhat elusive issues, including the frustration of Maharam of Rothenburg with insincere returnees (and his invalidation of their testimony), the inquisitorial reports presented by Y. Yerushalmi and J. Shatzmiller, and R. Israel Isserlein's fifteenth-century characterization of this immersion as *minhag 'avotenu Torah hi*,⁵⁹ are now more readily understood. Moreover, the data and analysis presented here surely have implications for assessing more precisely the transition to the early modern period, specifically in terms of the rabbinic requirements for immersion in that period, as well as rabbinic attitudes more generally toward the return of apostates to the Jewish community.

⁵⁹ Above, n. 12. Isserlein also refers to Maharam's responsum concerning the testimony of the insincere apostate. See *Terumat ha-Deshen, Ketavim*, no. 220, and cf. no. 138.

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