

Preservation, Creativity, and Courage: The Life and Works of R. Meir of Rothenburg

On the occasion of the 700th anniversary of his death

THE RABBINIC CULTURE of medieval Ashkenaz (northern France and Germany) produced a series of outstanding scholars who in turn led their students and communities in matters both spiritual and temporal. Four major studies on the life and career of R. Meir (Maharam) of Rothenburg published during the past century have focused attention on the significant role that he played.¹ His death in 1293, some seven hundred years ago, signaled the end of the period of the Tosafists. My goal here is to briefly highlight and analyze some of Maharam's accomplishments and methodologies, with special attention to issues that have been raised in recent research.

R. Meir was born into a rabbinic family circa 1220. His father, R. Barukh, had studied with R. Simḥah of Speyers and possibly with R. Eliezer b. Joel ha-Levi (Rabiah).² Although the precise year of his birth cannot be documented, it appears that R. Meir began to study with leading Tosafists while still in his early teens.³ He studied with R. Isaac b. Moses *Or Zarua* in Würzburg. Following an established pattern, he also spent a

1. Samuel Back, *R. Meir b. Baruch aus Rothenburg* (Frankfurt, 1895); Julius Wellesz, "Meir b. Baruch de Rothebourg," *REJ* 58 (1909): 226-40; 59 (1910): 42-58; 60 (1910): 53-72; 61 (1911): 44-59; Irving Agus, *R. Meir of Rothenburg* (Philadelphia, 1947) [hereafter, Agus], 3-155; E.E. Urbach, *Ba'alei ha-Tosafot* (fourth edition, Jerusalem, 1980), [hereafter, Urbach], 521-64.

2. Urbach, 522, n. 8.

3. See my *Jewish Education and Society in the High Middle Ages* (Detroit, 1992), 121-22, n. 14.

number of years in northern France, studying with R. Yehiel of Paris and R. Samuel of Falaise among others.⁴ Indeed, R. Meir was present at the so-called burning of the Talmud that occurred in Paris in 1242.

To mourn and commemorate this event, Maharam authored the elegy *Sha'ali Serufah va-Esh* ("Inquire, you who have been burned in the fire"), in which he described the pain and surprise felt by students of the Talmud. R. Meir intimates that despite their momentous loss, Ashkenazic scholars characteristically maintained their faith and continued their studies.⁵ Nonetheless, this incident undoubtedly contributed to the heightened sense of intellectual insecurity and spiritual inadequacy that became evident in rabbinic literature of Ashkenaz in the second half of the thirteenth century.⁶

RESTRICTIVE MEASURES

In the last decades of the thirteenth century, western European Jewry experienced dramatic increases in severe taxation measures and other threats to their livelihoods, and in incidents of physical persecution. R. Meir's own life came to an end following his arrest and a lengthy period of imprisonment. His most famous student, R. Asher b. Yehiel (Rosh), fled Germany for Spain in the early years of the fourteenth century.⁷ The spectre of increased persecution serves to partially explain the fact that while R. Meir composed and dictated *tosafot* and *hiddushim* (novellae) to a number of tractates, and edited col-

4. Agus, 9. Cf. Urbach, 528, and *Responsa of Maharam*, ed. Moshe Aryeh Bloch (Berlin, 1891) [see below, n. 8], 69 (#521). On the drawing power and dominance of the Tosafist academies in northern France over those in Germany during the 13th century, see Haym Soloveitchik, "Three Themes in the *Sefer Hasidim*," *AJS Review* 1 (1976): 348-50; "Can Halakhic Texts Talk History?" *AJS Review* 3 (1978): 194-95.

5. Cf. S.W. Baron, *A Social and Religious History of the Jews*, IX:65-71, and Urbach, 453-56.

6. See the sources cited in my *Jewish Education and Society*, 171-72, n. 49.

7. A.H. Freimann, *Ha-Rosh Rabbenu Asher b. Yehiel ve-Ze'eva'av* (Jerusalem, 1986), 22-29. See also below, n. 35. For other German rabbinic scholars and members of Maharam's circle who left Germany for Spain at this time due to persecution, see Israel Ta-Shema, "Rabbenu Dan mi-Galut Ashkenaz 'asher bi-Sefarad," *Mehkarim be-Filosofiyah Yehudit uve-Sifrut ha-Musar vehe-Hagut (Muggashim le-Yeshayah Tishby)*, ed. Joseph Dan and Joseph Hacker (Jerusalem, 1986), 385-87.

lections of earlier Tosafist material, his responsa (*she'elot u-teshuvot*) and legal decisions and customs (*pesaqim u-minhagim*) were his most copious (and best known) compositions.⁸

Already in the highly productive and relatively secure twelfth century, leading French Tosafists such as Rabbenu Tam and Ri wrote responsa and brief *pesaqim* which were only partially collected. Among German Tosafists, Raban and Rabiah, and later R. Isaac *Or Zaru'a*, included selected responsa within their halakhic writings. R. Meir was the first Tosafist, however, to preserve large numbers of his own responsa. Moreover, he was also the first to collect the responsa of earlier Ashkenazic authorities, especially those of his teachers.⁹ These activities were undoubtedly undertaken as a result of the increased pressures of the times. Legal decisions, preserved fully and authoritatively in the form of responsa, left little room for uncertainty, debate, or modification.

Moreover, several of the major commentary-codes of Maharam's students, works such as *Perush ha-Rosh*, *Sefer Mordekhai* and *Haggahot Maimuniyyot*, followed or were based on the *Halakhot* of R. Isaac Alfasi (Rif) and Rambam's *Mishneh Torah*.¹⁰ R. Meir himself had elevated the status of the rulings of Rambam and Rif even beyond the high rank that had been accorded to them by Tosafists of the mid-thirteenth century.¹¹ The Tosafist halakhic compendia of that period, e.g., *Sefer Mizvot Gadol* and *Sefer Or Zaru'a*, were autonomous works that sought to apply the methodology of Tosafist dialectic to the halakhic process while leaving room for further argumentation and reformulation. *Mishneh Torah* and *Hilkhot ha-Rif*, on the oth-

8. The four standard collections of R. Meir's responsa were published in Cremona (1557), Lemberg (1860), Berlin (1891), and Prague (1608, and with additional editing in Pressburg, 1895). Additional responsa were published by Agus in his *Teshuvot Ba'alei ha-Tosafot* (New York, 1954), 122-92, and by I.Z. Kahana, *Maharam mi-Rothenburg: Teshuvot, Pesaqim u-Minhagim* (Jerusalem, 1957-63). See now Simhah Emmanuel, "Teshuvot Maharam mi-Rothenburg Defus Prague," *Tarbiz* 57 (1988): 559-97. An English translation of the bulk of Maharam's responsa was done by Agus, 169-582.

9. See Ta-Shema, "Rabbenu Asher u-Veno R. Ya'aqov Ba'al ha-Turim: Bein Ashkenaz li-Sefarad," *Pe'amim* 46-47 (1991): 80-82.

10. See Freimann, *Ha-Rosh*, 85-86; Urbach, 553-60.

11. See Ta-Shema, "Rabbenu Asher u-Veno," 79-80; "Kelitatom shel Sifrei ha-Rif, ha-Rah, ve-Halakhot ha-Gedolot be-Zarefat ve-Ashkenaz ba-Me'ot ha-Yod Alef/Yod Bet," *Kiryat Sefer* 55 (1980): 196.

er hand, were meant to be all-encompassing, centralized codes that would arrive at firm and undisputed conclusions.¹² Maharam and his students venerated these two pillars of *halakhah* from the Sefardic orbit precisely because they provided additional stability and finality for their own rulings. Indeed, R. Jacob b. ha-Rosh, who was undoubtedly influenced by Maharam, was the first rabbinic scholar trained in Ashkenaz to produce a code, *Arba'ah Turim*, that was in the mold of the earlier Sefardic works.

MAHARAM'S APPROACH

Despite the hundreds of Maharam's legal decisions that are extant, it is impossible to categorically describe R. Meir's tendencies toward strictness (*humra*) or leniency. For every programmatic statement that appears, one can find examples that contradict it. R. Meir writes, "In all matters that the great scholars (*gedolim*) disagree, I rule with the stricter view, unless there is an obvious leniency that has been transmitted and adopted (*heter pashut she-pashat hetera*) in the practices of the earlier [sages] that we have before us."¹³ And yet, there are responsa in which R. Meir directly challenges his predecessors and rules leniently, against them.¹⁴ Nonetheless, R. Meir's proclivities in deciding matters of Jewish law and custom may be accurately characterized as conservative, especially when compared to the tendencies of the Tosafists who preceded him.

Rather than advocating one position or the other, R. Meir often concluded that both sides of an halakhic controversy should be represented by or even incorporated into his final ruling. Thus, Maharam ruled that a new fruit or garment should be procured to enable one to make the *shehecheyanu* blessing on the second day of *Rosh ha-Shanah* in any event. This ruling skirted the unresolved dilemma of whether the two days of *Rosh ha-Shanah* were to be considered as one elongated day or were to be viewed as two separate festival days in which case

12. Ta-Shema, "Rabbenu Asher," 85; "Kelitatan," 197. Note that R. Meir also recommended the study of *Sefer Mizvot Katan*; see Agus, 28.

13. *Responsa* (Berlin), 294 (#356).

14. See Urbach, 447-51, and Agus, 41-48.

the *shehehyanu* for the festival itself would have to be repeated.¹⁵ Similarly, he ruled that a non-Jew should dig the grave and fabricate the coffin and the shrouds for a Jew who was to be buried on the second day of a festival (*yom tov sheni shel galuyyot*), while Jews should carry the coffin. This decision effectively bridged the opposing positions of R. Isaac Or Zaruf'a (who held with the *She'iltot* that a Jew should not be involved at all in the burial of his dead on *yom tov sheni* unless no Gentiles were available), and Rabiah (who not only rejected the position of the *She'iltot* vis à vis the second day of *yom tov* but also required that Jews carry the coffin if the burial took place on the first day of the festival).¹⁶ In essence, R. Meir felt that the demands of both halakhic positions must be satisfied. To be sure, R. Meir may also have been influenced in this direction by the leanings toward *humra* manifested in the literature of the German Pietists. Their impact upon R. Meir is clearly discernable in other areas as well.¹⁷

COMMUNAL STRATEGY

Most of these kinds of decisions were made by R. Meir in regard to religious rituals and performances. This type of approach, however, was also evident in matters of economic policy and even communal government. R. Meir's views on the rights of the majority and minority in communal government amount to a nuanced amalgamation of the theories of Rabbenu Tam and Rabiah. Rabbenu Tam held that unanimous agreement of the communal board, if not of the members of the community themselves, was required in all aspects of communal government. The more prevalent practice in Franco-Germany, explicated thoroughly and approved unconditionally by Rabiah, was to follow the will of the majority.

These two approaches appeared, at first blush, to be mutually exclusive. R. Meir was able to interpret and apply both these

15. *Sefer Mordekhai, Sukkah*, sec. 768.

16. See the sources cited in Jacob Katz, *Goy shel Shabbat* (Jerusalem, 1984), 169. Cf. R. Ya'akov of Karlin, *Mishkenot Ya'akov* (repr. Jerusalem, 1960), 121.

17. See Urbach, 522, 547, 564; Ta-Shema, "Rabbenu Dan mi-Galut Ashkenaz," 390-91; *Ta'amei Massoret ha-Mikra le-R. Yehudah he-Hasid*, ed. Y.S. Lange (Jerusalem, 1981), introduction, p. 11. On the tendency toward *humra* within *Hasidtei Ashkenaz*, see Soloveitchik, "Three Themes," 318-19.

views and to develop an overarching theory of communal government that took both into account. In situations that involved communal regulation of social, economic, and religious life and practice (*migdar milta*), R. Meir maintained the more conventional view of Rabiah, that the majority of the members of the community could set policy. He sided with Rabbenu Tam, however, in cases which involved the apportioning of tax encumbrances. In light of the increasingly harsh taxation demands that had become the rule in Germany at this time, individual members of a community stood arbitrarily to lose substantial amounts in the tax-collection process. For these matters, R. Meir ruled that it was necessary to bind the members of a community together on the basis of unanimous agreement. He also preferred that the communal board (*tuvei ha-ir*), which had the power to impose certain monetary fines and restrictions, be elected by unanimous agreement of the members of the community.¹⁸

Maharam's status as the leading scholar of his day (*gedol ha-dor*) accounted for the large number of questions that he received on every aspect of Jewish law. Unusually troublesome controversies were brought before him for resolution. Occasionally, and without much success, R. Meir suggested that some of these matters might best be decided by the local rabbinic leadership. But for the most part, R. Meir accepted his role willingly and without hesitation.¹⁹ He was particularly inspired when it came to matters of personal status. Even in his younger years, he was unafraid to take on his teachers, and perhaps the rabbinic establishment generally, by ruling in favor of a groom from Düren against the claims of his wealthy father-in-law in a celebrated case that reverberated throughout Ashkenaz.²⁰

An unusual degree of empathy and sensitivity may be detected throughout Maharam's writings and practices. Several of R. Meir's formulations stressed that a son's failure to provide support for his parents from specially designated funds (assuming

18. See my "Unanimity, Majority, and Communal Government in Medieval Ashkenaz: A Reassessment," *PAAJR* 58 (1992) [in press]; Yizhak Handelsman, *Temurot be-Hanhagat Kehillot Yisrael be-Ashkenaz Bimei ha-Beinayim* (Ph.D. diss., Tel Aviv University, 1980), 73-81; Agus, 108-24.

19. Agus, 14-29, 50-53; Urbach, 537-40.

20. Urbach, 529-34; Agus, 48-50.

that the son had the means to do so), choosing instead to provide that support from charity funds, constituted a desecration of the biblical requirement to show honor for one's parents.²¹ R. Meir displayed great personal respect for students and colleagues. He apparently rose when his students entered the room.²² He offered encouragement to those who had entered the nascent professional rabbinate²³, and he repeatedly called for rabbinic scholars to treat each other respectfully even when they disagreed in matters of law and authority.²⁴ It should be noted that R. Meir's academy, which probably numbered no more than twenty-five students at any one time, was situated in his home, as was the style throughout the Tosafist period. A number of students, perhaps as many as fifteen, boarded in R. Meir's large home as well.²⁵ As the Boswell-like work of his student R. Samson b. Zadok (*Tashbez*) suggests, teacher and students learned with, from, and about each other in both formal and informal situations.²⁶

STUDENT ROLE

R. Meir was, however, more restrictive than his Tosafist predecessors concerning the rights that a student had to render legal decisions in close proximity to his teacher. The thrust of R. Meir's position was that a student could rule only on the basis of Geonic or post-Talmudic legal codes and writings. If a case did not appear in that corpus, the student was not entitled to rule on the basis of his own understanding and analysis of talmudic literature itself. Tosafists such as Ri, R. Samson of Sens, and the brothers Moses and Samuel of Evreux were much more expansive in granting students the opportunity to rule.²⁷

21. See the sources cited in Michael Signer, "Honor the Hoary Head: The Aged in the Medieval Jewish Community," *Aging and the Aged in Medieval Europe*, ed. Michael Sheehan (Toronto, 1990), 47.

22. *Haggahot Maimuniyyot to Mishneh Torah, Hilkhot Talmud Torah* 5:9, sec. 50.

23. *Teshuvot Ba'alci ha-Tosafot*, ed. Agus, 143.

24. See, e.g., *ibid.*, 174-76.

25. See Mordekhai Breuer, "Le-Iekker ha-Tippologiyyah shel Yeshivot ha-Ma'arav Bimei ha-Beinayim," *Studies in the History of Jewish Society in the Medieval and Early Modern Periods* (Presented to Prof. Jacob Katz), ed. Emmanuel Etkes et al., (Jerusalem, 1980), 50-53, and my *Jewish Education and Society*, pp. 66-67.

26. See Agus, 27; Urbach, 561-62.

27. See my "Rabbinic Authority and the Right to Open an Academy in Medieval

R. Meir's more cautious view is not surprising in light of his attitudes on halakhic decision-making that have been described earlier.

To be sure, Maharam also shared many of the views of his predecessors. Tosafists had considered the significance of the Land of Israel and the religious imperatives that governed and accompanied its settlement well before the increased persecutions and restrictions that appeared in western Europe during the second half of the thirteenth century. Several major northern French Tosafists, among them R. Samson of Sens, R. Joseph b. Barukh of Clisson, and R. Samson of Coucy, went on *'aliyah* in 1211. On the other hand, the Tosafist R. Ḥayyim Kohen believed that the biblical precept obligating a Jew to settle in Israel had temporarily lapsed due to the extremely difficult physical conditions that would be encountered within Israel and even on the journey there. R. Ḥayyim expressed his view prior to the *'aliyah* of 1211. A reponsum of Maharam perhaps indicates that not all Ashkenazic Talmudists approved of this enterprise either. Expressed in terms even more strident than those used by R. Ḥayyim, the reluctance of these scholars (*gedolim*) stemmed from their impression (or perhaps experience) that the remarkably poor conditions in the Land of Israel would make the fulfilling of precepts there extremely difficult and that Torah study would be next to impossible because of the unduly strong pressures that would be encountered in earning a livelihood in such an environment. This position was espoused by other German rabbinic figures as well.²⁸

Maharam, as a student of the northern French school, sided with the more positive view. He ruled that a child may settle in Israel against the wishes of his parents since that act itself did constitute the fulfillment of a Divine precept.²⁹ He explained that the virtue of the Land of Israel lay precisely in the opportunity that it provided for the fulfillment of precepts

Ashkenaz," *Michael* 12 (1991): 233-50.

28. *Responsa* (Berlin), 187 (#79). Cf. my "The *'Aliyah* of Three Hundred Rabbis' in 1211: Tosafist Attitudes Toward Settling in the Land of Israel," *JQR* 76 (1986): 191-207, and Avraham Grossman, "Iggeret Hazon ve-Tokhebah me-Ashkenaz ba-Me'ah ha-Yod Daled," *Cathedra* 4 (1974): 198.

29. *Responsa*, *ibid.*, and 154 (#28). R. Barukh of Worms, author of *Sefer ha-Terumah* and another leading Tosafist who participated in the *'aliyah* of 1211, also studied in northern France. See Urbach, 347-38, and above, n. 4.

that could not be observed in the Diaspora. The Babylonian Amoraim could not return to Israel in their day owing to harsh conditions there, but it appears that R. Meir believed that settlement was possible in his day.³⁰ Maharam was actually in contact with scholars who lived in Israel.³¹ There can be no doubt, however, that by the time R. Meir's teacher R. Yehiel of Paris emigrated to Israel c. 1260, worsening economic and political conditions in western Europe played a major role in his decision to leave, in addition to the ideological considerations that favored settlement in Israel.³²

MAHARAM'S DEPARTURE

It is likely that R. Meir was himself on the way to Israel when he was apprehended in Italy in 1286.³³ The exact details and reasons for his flight, capture, and lengthy imprisonment have not been fully clarified. Nor has the inability of German Jewry to ransom him prior to his death and even beyond been sufficiently explained. During the reign of Rudolph I (1273-91), the Jews of Germany felt compelled to leave Germany in large numbers. A series of blood accusations and murders in the mid-1280's, and the implementation of extraordinarily high tax demands appear to have been the impetus for a sudden, eastward mass-migration of Jews from Germany in 1286. R. Meir of Rothenburg and his family were part of that group. R. Meir was arrested in Italy and delivered to Rudolph. Negotiations between Rudolph and German Jewish rabbinic leaders and communities led to sums of money being paid and guaranteed but not to R. Meir's release. R. Solomon Luria, writing in the sixteenth century, maintained that Maharam himself forbade the communities to pay anything additional for his release.³⁴ It is possible, however, that negotiations continued up until R. Meir's death in 1293.³⁵ R. Meir's body was finally ransomed from Albert I in the spring of 1307.³⁶

30. *Responsa* (Berlin), 5 (nos. 14-15).

31. *Responsa* (Berlin), 199 (#108). Cf. Urbach, 541.

32. See my "The 'Aliyah of 'Three Hundred Rabbis'," 208-15.

33. See Joshua Prawer, *Ha-Zalbanim* (Jerusalem, 1975), 326-27, and Urbach, *op. cit.*

34. *Yam shel Shelomoh*, *Gittin* 4:66. Cf. Agus, 125-32, 150-51.

35. Urbach, 542-45. Note the involvement of R. Asher b. Yehiel.

36. Agus, 155.

R. Meir was held in at least two locales, in prisons (fortresses) described only by the term *migdal*. The severity of his imprisonment varied. He had limited or even moderate access to rabbinic texts at different times, and he was visited by students who were able to discuss legal and ritual matters with him at length. *Haggahot Maimuniyyot* refers to *hiddushim* that R. Meir began to compose while in prison.³⁷ These novellae have not survived as a separate entity but were perhaps incorporated into collections of his responsa and the works of his students.

MARTYR'S QUERY

One of the most poignant questions found within the responsa literature of the medieval period was addressed to R. Meir, prior to his arrest, by a Jew from Koblenz. The man had slaughtered his family while a pogrom was in progress, in order to prevent them from falling into Christian hands. He was saved from his own suicide attempt, or just prior to it. He asked R. Meir what penance he might do for the killing of his family. R. Meir had difficulty in justifying the act along technical, legalistic lines. Suicide in order to escape torture and possible forced conversion was halakhically justifiable. Killing others was another matter. Nonetheless, R. Meir concluded that the man's act was justified: "*mihu davar zeh pashat hetero* (permission for this act, and its actual occurrence, was widespread)."³⁸ Many great Ashkenazic scholars had done precisely this in the face of their tormentors during the First Crusade and in its aftermath. To require penance of this well-intentioned individual would be to denigrate and defame the pious scholars of earlier days who had performed this deed themselves and who had thereby permitted it to their followers.³⁹

In another formulation, Maharam asserted that once someone had made the decision to undertake martyrdom, he felt none of the pain of his death, regardless of the means of ex-

37. Agus, 151-53.

38. For the range of Ashkenazic attitudes concerning the permissibility of suicide and homicide in times of religious persecution, see the sources cited in Haym Soloveitchik, "Religious Law and Change: The Medieval Ashkenazic Example," *AJS Review* 12 (1987): 210-11, n. 8.

39. *Teshuvot, Pesaqim u-Minhagim*, ed. I.Z. Kahana, v. 2 (Jerusalem, 1960), 54 (#59).

ecution. R. Meir supported his contention using two ancient texts, but he saved his most striking proof for last. "There is no one in the world who will not scream when he touches fire with even the smallest finger/limb. Even if he tries to restrain himself, he will be unable to do so. But [we have seen] many martyrs (*kedoshim moserim 'azmam 'al kiddush ha-Shem*) [who are burned or killed who] do not scream at all."⁴⁰

Despite the difficult period in which he lived, and the abuses and tragedies that he witnessed and experienced, R. Meir b. Barukh of Rothenburg left a corpus and a spirit that has endured throughout the ages. As an heir to the legacy of medieval Franco-German Jewry, he exhibited a remarkable and unending commitment to scholarship, piety, and community..

40. *Responsa* (Prague), #517. Cf. David Tamar in *Kiryat Sefer* 33 (1948): 376.

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