

1286 R. Meir ben Barukh (Maharam) of Rothenburg, the leading rabbinic figure of his day, is arrested in Lombardy and delivered to Rudolph of Habsburg

The arrest, imprisonment, and death (in 1293) of R. Meir of Rothenburg signaled the end of the tosafist era. For close to two hundred years, rabbinic scholars in Ashkenaz (northern France and Germany) had been engaged in talmudic and legal (halakhahic) studies that were grounded in a dialectical method that revolutionized the nature of rabbinic interpretation. The study of rabbinic literature in the twelfth century was marked by sustained intellectual creativity, a hallmark of the larger twelfth-century renaissance that changed the face of scholarship in Christian Europe. Almost every section of the Talmud was subjected to close, critical analysis and compared with or contrasted to other relevant talmudic and rabbinic texts. Crucial to this process was the work of R. Solomon b. Isaac (Rashi) of Troyes (1040–1105), who attended the academies at both Mainz and Worms, the two major yeshivot of the pre-Crusade period. Rashi's running commentary to most tractates of the Talmud enabled his successors to apply new strategies of interpretation. The comments produced by Rashi's descendants and other students became known as *Tosafot*, or addenda. Given their wide scope on the one hand, and their attention to textual detail and nuance on the other, the comments were intended to complement or supplement the talmudic text itself as much as they were meant to probe or to enhance Rashi's commentaries. The scholars who composed the *Tosafot* were known as *ba'alei ba-Tosafot* (tosafists).

Traces of the dialectical method used by the tosafists can be found already at the academy of Worms in the last quarter of the eleventh century, although the possible influence of scholastic methods prevalent in the surrounding society must also be considered. The two most prominent tosafists in northern France in the twelfth century, Rashi's grandson R. Jacob ben Meir (known as Rabbenu Tam, 1100–1171) and a great-grandson of Rashi, R. Isaac b. Samuel of Dampierre (known as Ri), were exposed to this method by Rabbenu Tam's father, R. Meir, who had preserved samples of it from his student days at Worms. At the same time, Rabbenu Tam received *Tosafot* from an older contemporary who was perhaps the earliest German tosafist, R. Isaac ben Asher of Spires (Riba). The writings of the two major tosafists in twelfth- and early thirteenth-century Germany, R. Eliezer ben Nathan (Raban, a younger contemporary of Riba) and his grandson, R. Eliezer b. Joel ha-Levi (Rabiah), paralleled the developments in northern France, when the authors maintained contact.

There was, however, a significant difference in literary style. The German scholars composed free-standing books that presented halakhahic rulings, responsa, and other extracts according to the order of the talmudic tractates. The rabbis of northern France, on the other hand, offered comments that were closely attached to the talmudic text. These comments featured intricate textual analyses along with briefly stated legal

conclusions. Moreover, they were usually compiled by students and reflect the fluidity of the study hall discussions that produced them. The Tosafot texts that became part of the standard editions of the Babylonian Talmud (along with Rashi's commentary) represent the teachings of many different tosafist masters. The teachings of one master were often transmitted to other tosafist study halls or academies where further discussion was incorporated or appended.

Regardless of its origins, the effect of tosafist methodology was far-reaching. R. Solomon ben Luria, a sixteenth-century Polish rabbinic scholar, wrote that "the tosafists . . . rendered the Talmud as a spheroid." As he goes on to explain, they successfully manipulated and maneuvered a corpus that appeared to contain passages that were irreconcilable, making it possible not only to resolve interpretational inconsistencies but also to utilize the Talmud more effectively as a primary resource and repository for halakhahic decisions (Luria 1968, introduction to *Hullin*). Indeed, during the thirteenth century, in addition to the compilation, organization, and expansion of twelfth-century Tosafot texts, there appeared a series of tosafist codes that were intended to summarize and to apply further, in practical legal contexts, the fruits of the prior century. Examples of these are R. Barukh of Worms's *Sefer ba-Terumah*, R. Moses of Coucy's *Sefer Mizvot Gadol*, R. Isaac ben Moses of Vienna's *Sefer Or Zarua'* (R. Isaac was a student of Rabbiah and of other tosafist masters in both Germany and northern France), and R. Isaac of Corbeil's *Sefer Mizvot Qatan*.

The impetus to compose legal treatises was also generated in part by the German Pietists (*basidei asbkenaz*) whose leaders, R. Judah the Pious of Spire and later Regensburg (d. 1217) and R. Eleazar of Worms, were active at the turn of the twelfth century. The Pietists stressed the importance of talmudic study that was geared primarily toward halakhahic conclusions. Dialectical argumentation was to be downplayed in favor of the more methodical collecting of legal decisions and customs. R. Eleazar of Worms's own *Sefer Roqeah* is a fine example of the pietistic approach. Four of the five tosafists just mentioned had connections to the Pietists. Although their

halakhahic works represented the results of tosafist dialectic, the urge to compose these codes may have come from German Pietism.

Another possible factor in the composition of Ashkenazic codes was the rapidly increasing awareness of the major pillars of Sephardic Halakhah, especially Maimonides' *Mishneh Torah* and R. Isaac Alfasi's *Hilkhot ba-Rif*. *Sefer Mizvot Gadol* bears the unmistakable imprint of *Mishneh Torah*, just as it (along with *Sefer Or Zarua'*) makes extensive use of *Hilkhot ba-Rif*, although the goals and approaches of the Ashkenazic codes remained markedly different from their Sephardic precursors. In the second half of the thirteenth century, the effect of Sephardic codes on tosafist writings advanced even further, especially in Germany. R. Meir of Rothenburg, who studied in both Germany (with R. Isaac Or Zarua) and, following an established pattern, in northern France as well (with R. Yehiel of Paris and R. Samuel of Falaise among others), elevated the writings of Maimonides and R. Isaac Alfasi beyond the first rank that had been accorded them by earlier-tosafists. Although R. Meir and his students occasionally differed with Maimonides' conclusions, they considered his *Mishneh Torah* to be an inspired work, full of unquestionably authentic and accurate material. Moreover, several of the important commentary-codes of R. Meir's students—R. Asher ben Yehiel's *Perush ba-Rosh*, R. Mordekhai ben Hillel's *Sefer Mordekhai*, and R. Meir ha-Kohen's *Haggabot Maimuniyyot*—followed the order of or were based on *Hilkhot ba-Rif* and *Mishneh Torah*.

This dimension of Maharam mi-Rothenburg's approach to rabbinic literature should be linked with another. R. Meir dictated and composed Tosafot and novellae (*biddushim*) to a number of talmudic tractates and edited collections of earlier Tosafot material. Nonetheless, his responsa (*sbe'elot u-teshuvot*) and legal decisions and customs (*pesaqim u-minbagim*) were his most copious (and best known) compositions. R. Meir was certainly not the only tosafist to author responsa and brief *pisqei halakbab*. He was the first, however, to preserve large numbers of his own responsa and legal decisions. Moreover, he was the first to compile the responsa of earlier Ashkenazic authorities, especially those of his teachers. Hundreds of R.

Meir's responsa were preserved and organized into collections by several of his immediate students.

These two unprecedented developments, the systematic preservation of responsa and decisions by R. Meir and his students, as well as the veneration of monolithic Sephardic legal codes, were most probably the result of deteriorating conditions in Ashkenaz, which shaped life in the thirteenth century from the 1230s onward. R. Meir was present for the so-called burning of the Talmud in Paris in the early 1240s. This tragic event was itself a consequence of the ill-fated Trial of the Talmud in 1240 at which his teacher, R. Yehiel of Paris, served as the main Jewish spokesman. R. Meir composed an elegy, "Inquire, you who have been consumed by the fire" (*Sba'ali serufah va-esh*; Habermann 1945, 183–85), in which he described the shock and pain felt by students of the Talmud. He intimates that despite their momentous loss, Ashkenazic scholars characteristically maintained their faith and continued their studies. Nonetheless, this incident contributed greatly to the heightened sense of intellectual insecurity and spiritual inadequacy that became evident in the Ashkenazic rabbinic literature as the thirteenth century progressed.

In response to a poignant question about an actual incident that occurred in Coblenz, R. Meir asserted that German Jewry and its rabbinic leadership had, from the days of the First Crusade in 1096, accepted and approved the practices of committing suicide and even killing others in the face of torture that might lead to forced conversion (*Kabana*, vol. 2, 54 [#59]). Those who died under such circumstances were considered martyrs. In another responsum (*She'elot u-Teshuvot*, Prague, #517), Maharam argued that once someone had made the decision to die as a martyr, he felt none of the pain of his death, regardless of the means of execution. R. Meir supported his contention on the basis of ancient mystical and rabbinic texts but 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 or limb. Even if he tries to restrain himself he will be unable to do so. But we have seen many martyrs (*qedoshim*) who do not scream at all."

Temporal events had a noticeable effect on rabbinic literature. Legal decisions, preserved fully and authoritatively in the form of responsa, left little room for uncertainty, debate, or modification. By utilizing the works of Maimonides and Alfasi, which had been constructed to arrive at firm and undisputed legal decisions, Maharam and his students acquired additional stability and finality for their own rulings, a status that the difficult times demanded. Indeed, R. Asher ben Yehiel's son R. Jacob, born in Germany and influenced by R. Meir in his youth (prior to his family's flight to Spain to escape persecution), was the first rabbinic scholar trained in Ashkenaz to produce a full-fledged monolithic code, the *Arba'ab Turim*, which was in the mold of earlier Sephardic works.

This is not to suggest that R. Meir's considerable abilities as a halakhahist were limited to dealing with issues of tragedy or persecution. His responsa encompass all areas and aspects of Jewish law and have proven to be fruitful sources for the political, economic, and social history of medieval Ashkenazic Jewry. Despite the large number of Maharam's legal decisions, however, his tendencies toward strictness (*bumva*) or leniency cannot be categorized firmly. For every programmatic statement that appears, one can find examples that contradict it. Nonetheless, R. Meir's proclivities in deciding matters of Jewish law and custom may be accurately described as conservative, especially when compared to the tendencies of earlier tosafists. In ritual matters ranging from the necessity of reciting certain blessings to the procedures for the burial of the dead on a festival, R. Meir attempted to offer solutions that would bridge opposing positions of his teachers and other predecessors so that the essential demands of both positions could be satisfied (*Kabana*, vol. 1, 298–99 [#531–35]; Katz 1984, 169). It is possible that R. Meir was swayed in this direction by the German Pietists, whose influence is clearly discernible in R. Meir's interpretation of liturgical and biblical texts, his appreciation of the efficacy of mystical praxis, and his approval (following his teacher R. Isaac Or Zarua' and others) of various pietistic modes of penitence and physical forms of penance (*tiqqunei teshuvab*) proposed by R. Eleazar of

Worms (Urbach 1980, 522, 547, 564; Elbaum 1992, 19–20, n. 3; 22, n. 9).

A similar approach is evident in matters of economic policy and even communal government. R. Meir's views on the rights of the majority and the 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 (*tuvei ha-'ir*), if not of the members of the community themselves, was required in all aspects of communal government. The more common practice in Franco-Germany, explicated thoroughly and approved unconditionally by Rabiah, was to follow the will of the majority.

R. Meir was able to interpret and apply these seemingly antithetical views and to develop an overarching theory of communal government that took both positions into account. In situations that involved communal regulation of social, economic, and religious life and practice (*midgar milta*), R. Meir maintained the more conventional view of Rabiah that a majority of the members of the community could set policy. He sided with Rabbenu Tam, however, in cases that 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 to lose arbitrarily 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, which had the power to impose certain monetary fines and restrictions, be elected unanimously by members of the community.

Maharam's status as the leading scholar of his day (*gedol ha-dor*) accounted for the large number of questions that he received from near and far and for the unusually troublesome controversies that were brought to 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. For the most part, however, R. Meir accepted his role willingly and without hesitation. He was partic-

ularly inspired when it came to matters of personal status (Urbach 1980, 529–34).

A high degree of empathy and sensitivity may be detected throughout Maharam's writings and practices. In several formulations, R. Meir stressed that a son's failure to provide support for his parents from specially designated funds (assuming that the son had the means to do so) and his choice to instead provide that support from charity funds constituted a desecration of the biblical requirement to show honor for one's parents (*Kabana*, vol. 2, 118–19 [#87]). R. Meir displayed great personal respect for colleagues and students. He apparently rose when his students entered the room. He offered encouragement to those who entered the nascent professional rabbinate and called repeatedly for rabbinic scholars to treat each other respectfully, even when they disagreed in matters of law and authority (Agus 1954, 143, 174–76).

In the last decades of the thirteenth century, Western European Jewry experienced dramatic increases in severe taxation measures and other threats to their livelihoods, as well as a steep rise in incidents of physical and religious persecution. Modern scholarship has debated whether the group of northern French and English tosafists who made their way to Israel in 1210–11 did so primarily in response to political, economic, or religious sanctions, or whether their *aliyah* was motivated by positive considerations of the spirituality of the land of Israel. There can be no doubt, however, that the eastward flight of R. Meir of Rothenburg and many others from Germany in the mid-1280s (perhaps with Israel as their final destination) was occasioned by restrictive policies of Rudolph of Habsburg, in addition to a series of blood accusations and murders. R. Asher b. Yehiel and other students of R. Meir fled Germany for Spain in the early years of the fourteenth century following the severe pogroms of 1298.

The precise details and reasons for R. Meir's capture and lengthy imprisonment have not been fully clarified, nor has the inability of German Jewry to ransom him prior to his death been explained sufficiently. 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 (1968, *Gitten* 4:66) maintained that R. Meir himself forbade the communities to pay any additional sums for his release. It is possible, however, that negotiations continued up until R. Meir's death in 1293, involving R. Asher ben Yehiel among others. R. Meir's body was ransomed finally from Albert I in the spring of 1307. During his imprisonment, in which he was held in at least two different locales, R. Meir had occasional access to rabbinic texts. He was also visited by students who were able to discuss legal and ritual matters with him.

The first half of the fourteenth century was a bleak period for Ashkenazic Jewry, as it was for Europe as a whole. The Jews of England were expelled in 1290, and the Jews of northern and parts of central France in 1306. German Jewry was rocked by a series of persecutions culminating in the decimation associated with the Black Death in 1348–49 and its aftermath. By the end of the fourteenth century, a number of older German-Jewish communities were able to stabilize themselves, and newer communities began to develop, especially in the eastern and southern regions. Although rabbinic leadership was centered initially in Austria, several important German rabbinic figures emerged by the late fourteenth and early fifteenth centuries. It is not surprising that policies and approaches of R. Meir of Rothenburg figured prominently in the literature of this period. As the last great tosafist master, and with a corpus that was relatively well preserved, R. Meir served as a strong link to the heyday of Ashkenazic rabbinic literature and thought and as a source of religious tradition and guidance. Moreover, R. Meir himself had dealt with issues that faced Ashkenazic Jewry in a period of difficulty and decline. In addition, his rulings in communal and economic matters were valued for their obvious balance and sense of fairness.

Maharam's responsa were cited in regard to a number of vexing situations faced by recovering communities in the period after the Black Death. R. Jacob b. Moses ha-Levi Moellin (Maharil, d. 1427), who was considered the foremost rabbinic authority and teacher throughout Ger-

many, Austria, and Bohemia; his best student R. Jacob (Mahari) Weil (d. ca. 1450); and R. Moses (Maharam) Mintz, who studied with Mahari Weil in Germany and with R. Israel Isserlein in Austria all relied heavily upon a responsum of R. Meir of Rothenburg in the case of a community that was having difficulty electing the members of its administrative board and providing other key services. R. Meir ruled that the election, as well as the establishment of other services, could be accomplished through the acquiescence of the majority, despite his general preference that officers be elected unanimously. This ruling, which may have come to the attention of the fifteenth-century rabbis through its citation by R. Menahem of Merseburg (Saxony), who studied with a student of R. Meir's, was instrumental in allowing new or reconstituted communities to establish vital communal institutions with a minimum of difficulty. Rulings of Maharam were cited to the effect that individual Jews were barred from making any separate arrangement for the payment of taxes to the overlord unless the entire community agreed and every member could be compelled to contribute his share (Zimmer 1970, 19, 49–50).

R. Meir, extending a position of his father's teacher, the tosafist R. Simhah of Spires (which may itself have been based on the thought of the German Pietists), held that a habitual wife-beater should be punished severely, even by the amputation of his hand if necessary. R. Menahem of Merseburg applied this decision in the situation of anyone who had been heinously struck by a habitual attacker (R. Isaac b. Moses, *Sefer Or Zarua'*, vol. 3 [*Bava Qamma*], sec. 161; R. Meir b. Barukh, *She'elot u-Teshuvot*, Prague #81, Cremona #291; Zimmer 1970, 91–92). Maharam Mintz and other fifteenth-century rabbis referred to and prescribed pietistic *tiqqunei teshuvah*, which they associated with R. Meir. The approbation given to these practices by a halakhahist of Maharam's stature undoubtedly heightened their legitimacy in the eyes of fifteenth-century scholars, although there is a view within modern scholarship that suggests that some fifteenth-century rabbis resisted the use of these techniques. It should be noted that like their tosafist prede-

cessors (and unlike several of their contemporaries in Prague / Bohemia), the rabbis of fifteenth-century Germany and Austria did not demonstrate any proficiency or interest in Jewish philosophy. There is, however, literary evidence for small circles around Cologne and elsewhere that were engaged in mystical or esoteric studies. It appears that Maharil, who expressed an interest in astronomy and liturgical music, was also familiar with certain mystical teachings.

The very nature of German rabbinic literature of the fourteenth and fifteenth centuries was closely related to the works of R. Meir of Rothenburg. The genre that R. Meir brought to prominence from a position of relative obscurity, the written responsum, became the favored literary vehicle. The responsa of Maharil, Mahari Weil, Maharam Mintz, R. Israel Isserlein (*Terumat ha-Deshen*) in Austria, and Mahari Weil's student R. Israel (Mahari) Bruna (d. 1480), are by far the most important and influential rabbinic works of this period. To be sure, the vicissitudes of the time diminished the literary output of rabbis generally and may have contributed to the reduced range of rabbinic writings as well. Indeed, recent research has revealed the existence of a number of important communal rabbis, such as R. Zalman Katz of Nuremberg, who remained almost completely unknown, either because they left no unified compositions or because their small treatises were lost (Yuval 1989, 48–58).

Lists, or full-fledged collections of the customs that leading rabbis followed (*sifrei minbagim*), formed another genre that became popular in the fifteenth century. Two well-known examples of this genre are *Minbagei Maharil*, which was compiled by his student, R. Zalman of the Rhineland community of Sr. Goar, a number of years after Maharil's death, and *Leget Yosher* by R. Joseph b. Moses of Hoehstadt (Bavaria), which contains the customs and practices of his teachers R. Israel Isserlein and R. Jacob Weil, among others, together with selected responsa and pesaqim. This type of work had its principal antecedents among the students of Maharam. Both *Sefer ha-Parnas*, composed by R. Moses Parnas of Rothenburg, and the more widely cited *Sefer Tashbez*, compiled by the Boswell-like R. Samson ben Zadoq, pre-

sented in great detail the ritual, personal, and communal practices and customs of R. Meir. This genre became even more important after the turbulent fourteenth century, when it was no longer possible to establish customs consistently and accurately on the basis of what was done by the general populace in various communities. The best alternative was to disseminate the customs of the generation's greatest scholars, which could be adopted and followed by communities. A series of practical handbooks composed in fourteenth-century Germany dealt with topics such as scribal practices, circumcision, and other specialized ritual realms. These treatises, which were intended to standardize technical regulations and thereby provide guidance in areas where customs and traditions had been lost, also had their roots in works produced by students and other younger contemporaries of R. Meir of Rothenburg.

The status of rabbis in fifteenth-century Germany should also be considered in light of the life and times of Maharam, although in this instance the points of contrast are more significant than the commonalities. There is no evidence for a professionalized rabbinate in Ashkenaz (which meant the granting of both title and compensation) until the end of the thirteenth century. Even then, this institution seems to have begun slowly in outlying areas, and Maharam, as to be expected, was consulted when problems and questions arose. In addition to the upheavals of the fourteenth century, the desire of local rulers to appoint all spiritual leaders and the dearth of rabbinic leadership (which could still be found at the end of the thirteenth century even in the presence of Maharam and others), necessitated the formalization and expansion of the professionalized rabbinate (Breuer 1976, 18–20). Despite the formal appointment of and approbation for communal rabbis, however, their status and stature were perceived by both laymen and the rabbis themselves to be lower than those of their counterparts in earlier centuries. Mahari Weil discussed at length the tribulations that rabbis often endured in trying to retain their positions as communal leaders and heads of academies. Mahari Bruna was himself the target of abuse by vindictive laymen, overzealous colleagues, and compet-

itors alike, and Maharam Mintz describes the excesses of both haughty heads of academies and disrespectful laymen. In addition, rabbinic decisions routinely expressed both trepidation and inadequacy in offering independent halakhic rulings in certain kinds of cases (*yir'at habora'ah*).

Strongly felt expressions of inadequacy as well as concern for their abilities and status as decisors can also be found with increasing frequency in the rabbinic literature of Ashkenaz in the late thirteenth century. Nonetheless, the rabbinic establishment at that time did not undertake any initiatives to strengthen or reinforce its position. Indeed, Maharam wrote that although according to talmudic law an individual scholar could place a ban against a layman who had wronged him personally or economically without recourse to a sitting rabbinic court, this should not be done in practice because members of the community might not abide by such a ban and the scholar's prestige would in fact be diminished. In the fifteenth century, this issue was raised anew. Whereas leading scholars such as R. Jacob Weil maintained that the privilege of imposing a ban was unavailable to scholars of his day, others including R. Israel Bruna disagreed (Yuval 1989, 406–8, 417–18). Rabbis of the fifteenth century found it necessary generally to utilize prerogatives that would enhance their status. Despite the deteriorating societal conditions at the end of the thirteenth century, the position of the rabbinic scholar was still essentially intact. The need to strengthen it was felt less strongly, and therefore less benefit was seen in any attempts to do so.

A similar pattern can be seen in regard to tax exemptions for scholars, for which there was justification within talmudic law. Leading Ashkenazic scholars, beginning with the pre-Crusade period and continuing through the twelfth and thirteenth centuries (including students of R. Meir of Rothenburg), maintained the ideal that Torah study should not be associated with any type of overt economic advantage; thus they did not accept tax exemptions. A more lenient position in regard to tax exemptions developed among rabbinic leaders in both Austria and Germany during the period following the Black

Death, perhaps as a corollary to the formalized professional rabbinate.

As an heir to the legacy of Franco-German Jewry in the tosafist period, R. Meir of Rothenburg exhibited a remarkable and unending commitment to scholarship, piety, and community. His teachings and writings played a significant role in transmitting these values to the rabbinic leadership of Germany in the fourteenth and fifteenth centuries and beyond.

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