

Assessing the (Non-)Reception of *Mishneh Torah* in Medieval Ashkenaz

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Several studies published during the past two decades have sought to explain why Maimonides' *Mishneh Torah* is hardly cited in the rabbinic literature of northern Europe at least until the mid-thirteenth century.¹ This study argues that a nuanced evaluation of the pattern of citations from *Mishneh Torah* in *Sefer Or Zarua* by Isaac b. Moses of Vienna (d. c. 1250), along with an assessment of the citations from *Mishneh Torah* that appear in Ashkenazic writings which are not focused primarily on Talmudic studies and law, can yield a fuller understanding of the place of *Mishneh Torah* in medieval Ashkenaz.

Maimonides' major halakhic work, *Mishneh Torah*, written in well-crafted rabbinic Hebrew and organized into section headings, chapters,

1. See Avraham Grossman, "Me-Andalusiah le-Eiropah: Yaḥasam shel ḥakhmei Ashkenaz ve-Tsarefat ba-Me'ot ha-Yod Bet – ha-Yod Gimmel 'el Sifrei ha-Halakhhot shel ha-Rif ve-ha-Rambam," *Pe'amim* 80 (1999) 24–32; Jeffrey Woolf, "Admiration and Apathy: Maimonides' *Mishneh Torah* in High and Late Medieval Ashkenaz," *Be'erot Yitzhak*, ed. J. Harris (Cambridge, MA.: Harvard University Press, 2005), 427–47; Haym Soloveitchik, "The Halakhic Isolation of the Ashkenazic Community," *Simon Dubnow Institute Yearbook* 8 (2009), 41–47; and cf. idem, "*Mishneh Torah*, Polemic and Art," *Maimonides 800 Years After, Essays on Maimonides and his Influence*, ed. J. Harris (Cambridge, MA.: Harvard University Press, 2007), 339–55.

and laws in order to facilitate accessibility and even memorization, was completed in Egypt in 1178, and reached southern France no later than 1194.² By the end of the twelfth century, *Mishneh Torah* was the subject of intense study from Provence to Castile, and at least one major collection of glosses, those of Abraham b. David (Rabad) of Posquieres, had already been composed. Even Meir *ha-Levi* Abulafia (Ramah) of Toledo, an avowed critic of *Mishneh Torah* writing in the early years of the thirteenth century, could not help but notice the rapidity with which *Mishneh Torah* had become a focus of study and discussion in the west.³

However, the use of *Mishneh Torah* among the rabbinic elite of northern Europe appears to have proceeded at a markedly slower pace. Indeed, a somewhat startling datum in this connection is that the standard *Tosafot* glosses to the Babylonian Talmud, redacted for the most part in northern France during the second half of the thirteenth century, refer to rulings by Maimonides a mere two times.⁴

2. See Isadore Twersky, “The Beginnings of *Mishneh Torah* Criticism,” *Biblical and Other Studies*, ed. A.A. Altmann (Cambridge, MA.: Harvard University Press, 1963), 167–68; and cf. *Iggerot ha-Rambam*, ed. Y. Sheilat (Jerusalem, 1995), 1:196–203.

3. See Twersky, *ibid.*, 171–77; and Bernard Septimus, *Hispano-Jewish Society in Transition* (Cambridge, MA.: Harvard University Press, 1982), 39–43.

4. See *Tosafot Berakhot* 44a, s.v. *‘al*; and *Tosafot Menaḥot* 42b, s.v. *tefillin*. E.E. Urbach, *Ba‘alei ha-Tosafot* (Jerusalem: Mosad Bialik, 1984), 618 (n. 99) initially thought – but later recanted – that Rambam is the *rav ha-ḥovel ha-hofekh u-mevalbel*, the antagonist of Rabbenu Tam referred to by *Tosafot Megillah* 31b, s.v. *rosh ḥodesh*. Asher b. Yeḥiel (Rosh, d. c. 1325) added the views of a number of other rabbinic figures into the *Tosafot* of Ri’s students, Samson of Sens and Judah Sirleon that formed the basis of *Tosafot ha-Rosh*; see Urbach, *ibid.*, 587–96; Y.D. Galinsky, “Ha-Rosh ha-Ashkenazi bi-Sefarad: Tosafot ha-Rosh, Pisqei ha-Rosh, Yeshivat ha-Rosh,” *Tarbiz* 74 (2005), 396–400; and *Ḥiddushei ha-Ramban le-Massekhet Ketubbot*, ed. E. Shevat (Jerusalem: Horev, 1993), editor’s introduction, 34–37. References to Rambam are found in *Tosafot ha-Rosh* to *Berakhot* 43a; *Rosh ha-Shanah* 29b; *Pesaḥim* 5b; *Yoma* 16a; *Yevamot* 105a; *Ketubbot* 38a, 56a, 63b, 83b, 95a, 102a; *Kiddushin* 10a; *Sotah* 17a; *Shevu‘ot* 40a, 41b, 42b, 44b; *Horiyyot* 4b; *Ḥullin* 3b, 46b (*ve-khen matsati*

This exceedingly small number of references suggests that the literature of the *Tosafot* did not have much interest in *Mishneh Torah*.

Three students of Isaac b. Samuel (Ri) of Dampierre (d. 1189), Isaac b. Abraham (Ritsba, d. 1209), his brother Samson b. Abraham of Sens (d. 1214, in Israel), and Judah b. Isaac Sirleon of Paris (d. 1224), are the first Tosafists to show awareness of *Mishneh Torah*, although they too barely cite or mention it.⁵ Moreover, when they do, it is only to confirm their own approaches. The lone instance in which Maimonides is cited by a student of Ri in order to decide a matter of halakhah is found in a Genizah document penned by Joseph b. Barukh of Clisson. However, Joseph of Clisson reached Israel *circa* 1210 (along with Samson of Sens), and it is likely that R. Joseph adduced this passage from *Mishneh Torah* (which favors the so-called *tefillin* of Rashi against those of Rabbenu Tam) only after he had arrived in the east, where *Mishneh Torah* was already an entrenched halakhic source.⁶

It has been suggested that the pattern of minimal usage of *Mishneh Torah* by the Tosafists of northern France can best be understood as a ramification of the Maimonidean controversy. Samson of Sens was drawn by Meir *ha-Levi* Abulafia into the earliest phase of this controversy, and the period in which the standard *Tosafot* were produced occurred well after the phase of the controversy in the early 1230's, which involved a group of otherwise unidentified *rabbanei tsarefat*. In a word, the non-philosophically inclined Tosafists had little use for Maimonides or his *Mishneh Torah*. As will be seen below, however, this suggestion is untenable.⁷

katuv aḥar kakh be-shem ha-Ge'onim uve-shem ha-R. Mosheh Maimuni), 53b, 55b (*u-devarav temuhim*), 136b; and cf. below, n. 55.

5. See Urbach, *ibid.*, 263, 272, 311 (n. 117), 327; and Jacob Dienstag, "Yaḥasam shel Ba'alei ha-Tosafot leha-Rambam," *Sefer ha-Yovel li-Khvod Shmu'el Kalman Mirsky*, ed. S. Bernstein and G. Churgin (New York: Va'ad ha-Yovel, 1958), 354–57.

6. See Ephraim Kanarfogel and Moshe Sokolow, "Rashi ve-Rambam Nifgashim bi-Genizah ha-Qahirit: Hafnayah el Mishneh Torah be-Mikhtav me-et Eḥad mi-Ba'alei ha-Tosafot," *Tarbiz* 67 (1998), 411–16.

7. See Grossman (above, n. 1), 26–27. On Samson of Sens' (limited) criticism

The first work by a northern French Tosafist to make significant use of *Mishneh Torah* is *Sefer Mitsvot Gadol* (*Semag*) by Moses b. Jacob of Coucy, a student of Judah Sirleon (whose meager use of *Mishneh Torah* has been noted). It is important, however, to place *Semag* (which was completed during the 1240's, more than sixty years after *Mishneh Torah* was composed),⁸ into its proper literary and historical contexts. In the course of a campaign to preach the observance of Jewish law, Moses of Coucy traveled throughout France and into Spain where he spent quite a bit of time, perhaps even establishing an academy for those who wished to strengthen their Torah study and observance.⁹ R. Moses undoubtedly came to appreciate *Mishneh Torah* during his stay in Spain, where this work was utilized by both learned and less learned Jews, with the latter cohort relating to it as a primer of Jewish law.¹⁰

Given his stated intention to speak to a Spanish Jewish audience as well, it is hardly surprising that Moses of Coucy strayed from the pattern of his French teachers and colleagues and instead made extensive use of *Mishneh Torah*, to frame and inform his presentation of biblical precepts and halakhic concepts. At the same time, however, Moses of

of *Mishneh Torah*, see Septimus, *Hispano-Jewish Society*, 49–59. On the absence of meaningful Tosafist involvement in the controversy of 1232, see my “Varieties of Belief in Medieval Ashkenaz: The Case of Anthropomorphism,” *Rabbinic Culture and Its Critics*, ed. D. Frank and Matt Goldish (Detroit: Wayne State University Press, 2008), 119–22, 142–47; and my *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz* (Detroit: Wayne State University Press, 2013), 509–29.

8. Moses of Coucy produced two versions of *Semag*; see *Sefer Mitsvot Gadol*, vol. 1 (*mitsvot lo ta'aseh*), ed. Machon Yerushalayim (Jerusalem, 1993), editor's introduction, 17–24; and vol. 2 (*mitsvot lo ta'aseh*), ed. Machon Yerushalayim (Jerusalem, 2003), editor's introduction, 17–24.

9. See my “Rabbinic Attitudes toward Nonobservance in the Medieval Period,” *Jewish Tradition and the Non-traditional Jew*, ed. J.J. Schacter (Northvale, NJ: Jason Aronson, 1992), 9–10, 18, 24–25; Israel Ta-Shma, *Knesset Mehkarim*, vol. 2 (Jerusalem, 2004), 149–54; and below, n. 11.

10. See Septimus, above, n. 3.

Coucy does not use *Mishneh Torah* uncritically. He will rule against Maimonides in favor of the Tosafists, just as he occasionally laments (as others did) the absence of source citation in *Mishneh Torah*.¹¹

Moses of Coucy's extensive use of *Mishneh Torah* impacted several of his literary followers, who sought to make the halakhic material found in *Semag* accessible to an even wider readership by shortening if not eliminating lengthy Talmudic citations and conflicting legal opinions. Among these works is *Kitsur Semag* (composed circa 1260, and known also as *Simanei Taryag Mitsvot*) by Abraham b. Ephraim;¹² the halakhic and ritual compendium, *Ets H'ayyim* by Jacob b. Judah H'azzan of London (which focuses on the relationship between *Mishneh Torah* and *Semag* already in its introduction); and the anonymous *Sefer ha-Niyyar* which also cites Maimonides and Moses of Coucy frequently, and often together.¹³

11. See Judah Galinsky, "Kum 'aseh Sefer Torah mi-Shenei H'alaqim: Le-berur Kavvanat R. Mosheh mi-Coucy bi-Ketivat ha-Semag," *Ha-Ma'ayan* 35 (1995), 24–31; idem, "The Significance of Form: R. Moses of Coucy's Reading Audience and His Sefer ha-Mizvot," *AJS Review* 35 (2011), 293–321; Isadore Twersky, *Introduction to the Code of Maimonides* (New Haven: Yale University Press, 1980), 188–95, 259–72, 325–36; idem, "Mishneh Torah Criticism" (above, n. 2), 41; Woolf, "Admiration and Apathy," (above, n. 1), 441–42; and Israel M. Ta-Shma, *Knesset Mehkarim*, vol. 4 (Jerusalem: Mosad Bialik, 2010), 261–63.

12. *Sefer Kitsur Semag*, ed. Y. Horowitz (Jerusalem: Mekitse Nirdamim, 2005), 264 (index). This relatively small work cites Rambam more than thirty times, and there are additional sections in which a position of his is introduced anonymously (as the view of *maḥmirim*, *posqim*, or *ge'onim*). See, e.g. 113, 116, 124, 189. Cf. Soloveitchik, "The Halakhic Isolation of Ashkenaz," (above, n. 1), 43–44.

13. See Woolf, "Admiration and Apathy," 443–47; *Sefer ha-Niyyar*, ed. G. Appel (Jerusalem, 1994), editor's introduction, 14–16, 31, 246–48 (index); Dienstag, "Yaḥasam shel Ba'alei ha-Tosafot le-ha-Rambam," 369–72; and Urbach, *Ba'alei ha-Tosafot*, 518. On the suitability of these works for non-elite readers (akin to the popular consumption of *Mishneh Torah* in the Sephardic orbit alluded to above at n. 10), see Judah Galinsky, "Between Ashkenaz (Germany) and Tzarfat (France): Two Approaches toward Popularizing Jewish Law," *Jews and Christians in Thirteenth-Century France*, ed. E. Baumgarten and J. Galinsky

At the same time, however, the widely read *Ammudei Golah* (known also as *Sefer Mitsvot Katan*) by Isaac b. Joseph of Corbeil (composed circa 1265, with glosses added by Perets b. Elijah of Corbeil) makes little use of *Mishneh Torah*. The number of citations in *Sefer Mitsvot Katan* – which is an abridgement of *Sefer Mitsvot Gadol* in only limited ways – including Rabbenu Perets’ glosses as well, does not exceed twenty-five, and is closer to ten in many of the earliest manuscripts.¹⁴ Isaac of Corbeil and Rabbenu Perets were both students of the Tosafist academy led by the brothers of Evreux, and Isaac was the son-in-law of the prominent Tosafist, Yehiel of Paris.¹⁵ This result comports with the minimal presence of *Mishneh Torah* in the (contemporaneous) standard northern French *Tosafot* to the Talmud noted at the outset.

While the focus to this point has been on developments in northern France, the overall situation in Germany was similar. Citation from *Mishneh Torah* is spotty at best through the first third of the thirteenth century and even then, *Mishneh Torah* is not necessarily invoked as a source of Jewish law. The pietistic preambles (*hilkhot ḥasidut*, *hilkhot teshuvah*) with which Eleazar of Worms (d. c. 1230) begins his halakhic work, *Sefer Rokeaḥ*, appear to owe something to the form of *Mishneh Torah*, which starts in *Sefer ha-Madda* with matters or rules (*halakhot*) of philosophical thought, ethics and comportment before proceeding to deal with more traditional Jewish legal topics.¹⁶

(New York: Palgrave, 2015) 80–82; and below, n. 59. Jacob Ḥazzan of London studied with Elijah b. Menaḥem of London who also cites *Mishneh Torah* (as did Elijah’s father, Moses of London). See Pinchas Roth and Ethan Zadoff, “The Talmudic Community of Thirteenth-Century England,” *Christians and Jews in Angevin England*, ed. S.R. Jones and S. Watson (Woodbridge: York Medieval Press, 2013), 189–90, 194

14. See Galinsky, “The Significance of Form,” 311 (n. 85); and Soloveitchik, above, n. 12.

15. See Urbach, *Ba’alei ha-Tosafot*, 571, 576.

16. See Urbach, *ibid.*, 393, 408. See also idem, “Ḥelqam shel ḥakhmei Ashkenaz ve-Tsarefat ba-Polmos ‘al ha-Rambam ve-‘al Sefarav,” *Zion* 12 (1947), 150–52; Dienstag, “Yaḥasam shel Ba’alei ha-Tosafot le-ha-Rambam,” 358–39; and Ivan Marcus, *Sefer Ḥasidim and the Ashkenazic Book in Medieval Europe*

A Franco-German version of *Sefer Ḥasidim* – known as *Sefer Ḥasidut*, and sometimes designated in modern-day scholarship as *Sefer Ḥasidim I* – makes noticeable use of sections of *Sefer ha-Madda*.¹⁷ However, *Sefer Ḥasidut* is a treatise of ethics and pietism rather than a work of Jewish law or Talmudic interpretation, a point to which

(Philadelphia: Penn Press, 2018), 138 (n. 62). Eleazar of Worms rules (*Sefer Roqeah*, sec. 489, ed. B. Schneerson [Jerusalem, 1967], 324) that pouring a small amount of honey into wine will prevent it from becoming *yein nesekh*, a suggestive ruling that is found in *Mishneh Torah* (*hilkhot ma'akhalot asurot* 11:10) in the name of *ge'onei ha-ma'arav*. See Pinchas Roth, “Halakhah u-Bikkoret bi-Derom Tsarefat: R. David ben Sha’ul ‘al Hilkhot Yein Nesekh,” *Tarbiz* 83:3 (2015), 452–53; and cf. H. Soloveitchik, *Yeinam* (Tel-Aviv: Am Oved, 2003), 119–21. This position was embraced already by Ri Migash and *ge'onei ha-ma'arav* connotes Maimonides’ predecessors in the Maghreb and Andalusia. R. Eleazar, however, bases his ruling on passages from *Talmud Yerushalmi* and *Pesikta*, and does not cite Maimonides (or his work). See also Isaac of Vienna’s *Sefer Or Zarua, piskei avodah zarah*, secs. 158–59, ed. Machon Yerushalayim (Jerusalem, 2010), 610, which cites the *Yerushalmi* passage and then reports in the name of Judah Sirleon that this was apparently the practice (*ki-medumeh she-shama’ti*) in Moslem lands (“the land of Egypt and the land of *Yishma’el*”). Only *Qitsur Semag*, ed. Y. Horowitz, 208, sec. 88, mentions Rambam by name. Other abridgements of *Sefer Mitsvot Gadol* (see Roth, *ibid.*, and above at n. 13) do not, although some attribute the practice to *Semag* itself. This is not found in the standard edition of *Semag* (ed. Venice, 1547, *lo ta’aseh* 148, fol. 44c), but ms. Paris Mazarin 4472, fol. 75b, and ms. Vatican 144, fol. 80c, add a short paraphrase from this section of *Mishneh Torah*, suggesting that the practice of adding honey might also have been included at some point. Cf. Y.S. Spiegel, “Ha-Ishah ke-Mohelet: Ha-Halakhah ve-Gilguleha ba-Semag,” *Sidra* 5 (1989), 149–57; and above, n. 8. *Sefer Mordekhai al Massekhet Avodah Zarah* (sec. 846) records this practice approvingly, along with paraphrases from *Mishneh Torah* and introduced by the words *ge'onei ha-ma'arav ameru*, but Maimonides’ name is not mentioned. A later marginal gloss to the text of *Mordekhai* in ms. Vercelli 1, fol. 118c, adds עכ”ל הר”ם ב”ם ז”ל (appending a brief statement from Rashba that this practice is not to be relied upon).

17. See the studies of H. Soloveitchik and I. Marcus cited in J. Galinsky, “The Significance of Form,” 314–15; and see also Marcus, *Sefer Ḥasidim and the Ashkenazic Book*, 43–44.

we shall return. Mention should also be made of the remarkable encomium found in the Torah commentary of an associate of Eleazar of Worms, Ephraim b. Samson, which maintains that the last verse of the Torah (Deuteronomy 34:12, *ule-khol ha-yad ha-ḥazaqah ule-khol ha-mora ha-gadol asher 'asah Mosheh*) alludes to the two major works of Moses ben Maimon, his *Mishneh Torah* (known also as *Yad ha-Ḥazaqah* based on its fourteen organizational sections), and his *Moreh Nevukhim* (which is represented by the similar Hebrew word, *ha-mora*).¹⁸

The first Germanic rabbinic scholar to make significant use of *Mishneh Torah* in Talmudic and halakhic contexts is Isaac *Or Zarua* of Vienna, a contemporary of Moses of Coucy. R. Isaac, who hailed from Slavic lands, studied with the German Tosafists Rabiah of Cologne and Simḥah b. Samuel of Speyer, and with Judah Sirleon in Paris (and at least one other French Tosafist).¹⁹ However, since Judah Sirleon cites *Mishneh Torah* only once, it is likely that Isaac *Or Zarua*'s much more frequent use of *Mishneh Torah* derives from his teacher Simḥah of Speyer, in whose home he resided for a time. Another student of Simḥah of Speyer, Abraham b. Azriel of Bohemia, author of the *piyyut* commentary, *Arugat ha-Bosem* (composed circa 1235), cites *Mishneh Torah* more than fifty times, albeit only from areas typically associated with liturgical poetry. A third of these citations are from *Sefer ha-Madda* (*hilkhot yesodei ha-Torah, teshuvah*), a third are from *Sefer Ahavah* (laws of prayer, blessings, *tefillin, tsitsit, milah*) and the

18. See *Perush Rabbenu Ephraim b. Shimshon al ha-Torah*, ed. J. Klugmann (Jerusalem, 1992), pt. 1, 282 (to Exodus 25:36). Indeed, according to this commentary, a righteous person can only put forward significant new Torah compositions if the Torah alludes to them, *veha-maskil yavin*. See also my *The Intellectual History*, 23 (n. 83, end).

19. See Urbach, *Ba'alei ha-Tosafot*, 436–38; Uziel Fuchs, “Iyyunim be-Sefer Or Zarua le-R. Yitshak b. Mosheh me-Vienna (M.A. thesis, Hebrew University, Jerusalem, 1993), 11–20; and cf. Avraham Reiner, “From Rabbenu Tam to R. Isaac of Vienna,” *The Jews of Europe in the Middle Ages*, ed. C. Cluse (Turnhout: Brepols, 2004), 273–282.

largest third come from *Sefer Zemanim* (laws of the Sabbath, and the major and minor festivals).²⁰

A third student of Simḥah of Speyer, Isaiah di Trani (RiD), cites Maimonides' *Guide for the Perplexed* in several places in his Torah commentary, *Nimmukei ha-RiD*, which he completed *circa* 1200 while still a student in Ashkenaz, or just after his return to Italy. However, R. Isaiah does not cite *Mishneh Torah* with any frequency in his *Tosafot ha-Rid* or collected halakhic rulings, with the exception of his *pesakim* to tractate *Shevu'ot*.²¹

These *pesakim* contain some twenty-five references to *Mishneh Torah*, all of which deal with matters of monetary law and cite rulings in *hilkhot sekhirut*, *malveh ve-loveh*, and especially *to'en ve-nit'an*. Although RiD endorses the view of Rambam in a number of instances,²² he discusses (often at length) and strongly disagrees with Maimonides' position in quite a few others.²³ At one point, R. Isaiah cites both Alfasi and Rambam for an overview of how to practically balance the technical requirements and the actual swearing of oaths in a range of

20. See *Arugat ha-Bosem*, ed. E.E. Urbach, vol. 4 (Jerusalem, 1963), 272–73; and cf. Galinsky, “The Significance of Form,” 312–13.

21. See Israel M. Ta-Shma, *Creativity and Tradition* (Cambridge, MA: Harvard University Press, 2006), 177–78; and my *The Intellectual History*, 515–18. On RiD's *Nimmukei Humash* and its Ashkenazic origins, see my *The Intellectual History*, 238–40. Another student of Simḥah of Speyer, Avigdor b. Elijah Katz of Vienna, cites *Mishneh Torah* only sparingly. See his *Perushim u-Pesakim 'al ha-Torah* (ed. Machon Harerei Kedem, 1996), 381–82 (*pesak* 405), and 389 (*pesak* 420). However, the first of these citations (dealing with the interval that one must wait between eating meat and dairy) appears in a responsum composed by R. Avigdor, in which he endorses Rambam's seemingly unique approach. See S. Emanuel, *Shivrei Luhot* (Jerusalem: Magnes, 2006), 173.

22. See *Piskei R. Yeshayah di-Trani 'al Massekhet Shevu'ot*, ed. A.Y. Wertheimer (Jerusalem: Machon ha-Talmud ha-Yisra'eli, 1996), 77, 79, 104, 108–09, 111–12, 145

23. See *ibid.*, 70, 73–74, 83–84, 88–91, 96–98, 125, 134, 146. On 152–53, and 158–60, RiD cites Rambam approvingly, but then proceeds to argue with Rambam's view in related matters.

situations.²⁴ Impressed by Rambam's systematic treatment of the various oaths and their halakhic contexts, RiD felt that Maimonides' view had to be taken into account even when he does not agree. Indeed, in one of the three references to *Mishneh Torah* found in *Tosafot ha-RiD*, R. Isaiah praises Maimonides' unusual knowledge (*hokhmot nora'ot ve-nifla'ot*) concerning the questions that were put to witnesses who came forward to report having seen the new moon, asserting that no scholar can fathom (or perhaps, verify) Maimonides' teachings in this matter (*ve-'ein hakham ba-'olam she-yukhal la'amod 'al devarav*).²⁵

Isaac *Or Zarua*'s use of *Mishneh Torah* is much broader, and has been noted in the studies referred to at the outset. Avraham Grossman asserts that R. Isaac used *Mishneh Torah* more than any of his Germanic predecessors, suggesting that the even more extensive use of *Mishneh Torah* (and *Hilkhot ha-Rif*) by Meir (Maharam) of Rothenburg during the second half of the thirteenth century (to be discussed below) reflects the influence that Isaac *Or Zarua* had on his student Maharam.²⁶ Jeffrey Woolf refers to approximately fifteen citations of *Mishneh Torah* by Isaac of Vienna (all found in the first part of *Sefer Or Zarua*), noting that while some of these citations provide

24. See *ibid.*, 163.

25. See *Tosafot RiD al Massekhet Rosh ha-Shanah* (23b), ed. Y. Hirschfeld (Jerusalem, 2016), 66–67; and J. Dienstag, “Yaḥasam shel Ba’alei ha-Tosafot leha-Rambam,” 365. Cf. M.M. Kasher, *Torah Shelemah*, vol. 13 [*parashat Bo*] (New York, 1950), 192–93; and *Hassagot ha-Rabad le-Mishneh Torah, hilkhot kiddush ha-hodesh*, 7:7. Note that the other two references to *Mishneh Torah* in *Tosafot ha-RiD* are found in the first chapter of tractate *Nedarim* (12a), with regard to the properties of vows; and cf. below n. 42.

26. See Grossman “Me-Andalusiah le-Eiropah,” (above, n. 1), 26–27, 29. To be sure, Maharam studied with Isaac *Or Zarua* (in Wurzburg) at a very young age, and the extent of R. Isaac's influence on Maharam is difficult to gauge. See Urbach, *Ba’alei ha-Tosafot*, 523:25; and my *Jewish Education and Society in the High Middle Ages* (Detroit, 1992), 18, 121–22 (n. 14). As Grossman notes (*ibid.*, 18), Isaac of Vienna's extensive use of Alfasi's *Halakhot* was modeled by his teacher Rabiah (and by Rabiah's father, Joel *ha-Levi*). See also Ta-Shma (below, n. 31), 49–51; and Emanuel, *Shivrei Luhot*, 67, 77.

“a nuance not readily elicited from extant Ashkenazic sources . . . within the material examined, only rarely does Maimonides’ opinion serve as a pivot of a specific ruling.”²⁷

Haym Soloveitchik’s initial assessment is that “in the *Or Zarua*, the Maimonidean citations are peripheral, at best.”²⁸ He subsequently concludes that “[Isaac *Or Zarua*] cites many more Maimonidean rulings than do his *confreres*, but again they are technical citations of agreement and disagreement; there is rarely any engagement with Maimonidean Talmudic views, with the singular positions that he occasionally adopted that have fascinated Talmudists for close to a millennium.”²⁹ As such, *Sefer Or Zarua* does not deviate significantly from the Ashkenazic pattern of ambivalence toward *Mishneh Torah* that preceded his work (*pace Sefer Mitsvot Gadol*).

A careful review, however, of all of the citations of *Mishneh Torah* in *Sefer Or Zarua* yields some suggestive results. First, the total number of citations exceeds one hundred and sixty. To be sure, in most of the areas of Jewish law in *Sefer Or Zarua* in which *Mishneh Torah* is cited, this occurs only once or twice per area. For these instances, Soloveitchik’s characterization is apt: there is little if any engagement, as *Sefer Or Zarua* simply notes Rambam’s position in the matter at hand.³⁰

However, in three distinct areas of Jewish law (each found in a

27. See Woolf, “Admiration and Apathy,” (above, n. 1), 435–36

28. See Soloveitchik, “Catastrophe and Continuity: 1096, 1240, 1306, and 1298,” *Jewish History* 12 (1998), 84, n. 20.

29. See Soloveitchik, “The Halakhic Isolation of the Ashkenazic Community,” (above, n. 1), 44.

30. In *Sefer Or Zarua*, pt. 1, these include (according to the section numbers in ed. Machon Yerushalayim): *hilkhot tsedakah* (sec. 19); *keri’at shema* (25); *netilat yadayim* (68), *se’udah* (158); *shevi’it* (332); *niddah* (341); and in a responsum (sec. 745, fol. 632). In *Sefer Or Zarua*, pt. 2, see *hilkhot pesaḥim* (sec. 248); *megillah* (370–71), *avelut* (430, 432). In *Sefer Or Zarua*, pt. 3, see *piskei Bava Metsi’a* (ch. 1), secs. 20, 48; *piskei Bava Batra*, 104, 252 (in which citations from *Mishneh Torah* dominate the section, with no dissent at all), 260; *piskei shevu’ot*, 17, 19.

different part of *Sefer Or Zarua*), the citation pattern is strikingly different – *Mishneh Torah* is cited on numerous occasions, and not merely in light of *Sefer Or Zarua*'s conclusions. These three areas are *hilkhot Shabbat ve-eruvin* (more than sixty citations, as well as ten others from *hilkhot tefillah* in *Mishneh Torah*, concerning prayer customs on the Sabbath); the laws of *gittin* and *agunot* (thirteen citations within approximately twenty-five sections of *Sefer Or Zarua*); and a large swath of *piskei Bava Metsi'a* (in which *Mishneh Torah* is cited more than forty times). These *pesakim* cover chapters two through five in *Bava Metsi'a*, and deal with a range of monetary laws and contractual obligations. There are also eight citations in the *pesakim* on the fourth chapter of tractate *Sanhedrin* (*eḥad dinei mammonot*), which deal with judicial procedures. Understanding these citation patterns will go a long way toward establishing the criteria that guided the use of *Mishneh Torah* within medieval Ashkenaz.

It is helpful at this point to briefly review a solution proposed by Israel Ta-Shma, to explain another suggestive datum in terms of how the standard northern French *Tosafot* to the Talmud cited medieval predecessors from the Sephardic orbit. *Tosafot* cites Isaac Alfasi (Rif, d. 1103 in Lucena) more than fifty times. At the same time, however, *Tosafot* cites Ḥananel b. Ḥushiel of Qairwan (d. 1056) tenfold – or nearly six hundred times. Although Rif is cited quite respectfully by *Tosafot*, it is difficult to account for this large disparity in the number of citations from these two Sephardic scholars, whom the *Tosafot* (imprecisely) considered to be teacher and student.

Ta-Shma suggests that the Tosafists cite the Talmudic commentary of Rabbenu Ḥananel much more frequently than they do Alfasi's *Halakhot* because of the fundamental differences between these works in both form and function. Rabbenu Ḥananel's commentary is a running one, to the text of the Talmud itself, in which Rabbenu Ḥananel consistently (albeit briefly) decides the *halakhah* from among the views presented by the Talmud after he has interpreted them. Although Alfasi's *Halakhot* emerge from the text of the Talmud, this work is geared much more single-mindedly to deciding Jewish law, and is far less concerned with interpreting the Talmudic discussion as

it unfolds. As such, the Tosafists viewed Rabbenu Ḥananel's work as much closer to their own interpretational mission and methodology. The *Tosafot* are glosses or comments that deconstruct and interpret the Talmudic *sugya* closely, often following up these analyses with the implications for Jewish law. *Hilkhot ha-Rif*, on the other hand, is much more code-like.³¹

Maimonides' *Mishneh Torah* poses the same difficulties for the Tosafists, only more so. It certainly does not provide an ongoing commentary to the text of the Talmud (even as it does supply clear Hebrew translations for Talmudic passages in the course of its halakhic formulations). Maimonides, like Rif, may have been a great rabbinic scholar in the eyes of the Tosafists, but they remained fundamentally un-attracted to his monolithic code. The absence of citations from *Mishneh Torah* in the literature of the *Tosafot* of northern France is not about settling the score with Maimonides for his philosophy (or his dislike of certain rabbinic approaches to *aggadah*). Rather, it was about the different Talmudic and halakhic methodologies embraced by Rambam, differences that lie at the heart of the Tosafist enterprise.

However, if this is true, why does Isaac *Or Zarua* cite *Mishneh Torah* so frequently in the three areas of Jewish law outlined? My suggestion is that Isaac *Or Zarua* utilized *Mishneh Torah*'s *hilkhot Shabbat* in the ways that he did because he found within Maimonides' presentation useful definitions, structures and rulings. The laws of the Sabbath, as found in earlier Ashkenazic codes to which R. Isaac had access such as *Sefer Yere'im* by Eliezer b. Samuel of Metz (d. 1198) and *Sefer ha-Terumah* by Barukh b. Isaac (d. c. 1210), were treated as a series of cases and details, with little cohesion or overarching approaches to

31. See I. Ta-Shma, *Knesset Meḥkarim*, vol. 1 (Jerusalem: Mosad Bialik, 2004), 43–61. Ta-Shma proposes a secondary explanation, which is also applicable to *Mishneh Torah*. The Tosafists believed (with some justification) that Rabbenu Ḥananel was of Italian origin (while Alfasi was not). Since Italy was the *ursprung* of Ashkenazic rabbinic culture, an Italian “passport” provided a rabbinic work in the eyes of the Tosafists with additional credibility, an imprimatur not found in either Alfasi's work or in *Mishneh Torah*.

the categories of permitted and prohibited activities. Isaac *Or Zarua* wished to present an approach that would also include explanations and conceptualizations of the Sabbath laws in a more comprehensive way.³² To accomplish this, he made extensive use of two sources – Rashi’s Talmudic commentary and Maimonides’ *Mishneh Torah*.

Rashi’s Talmudic commentary was essential for studying the text of the Talmud, but it rarely if ever takes halakhic stands and is not necessarily conducive for composing a “bottom line” halakhic treatment. And yet, Rashi’s commentary is cited with noticeable frequency in *Or Zarua*’s treatment of *hilkhot Shabbat*, together with *Mishneh Torah*. Rashi’s Talmudic commentary is an excellent means of explaining the laws of the Sabbath, and Maimonides’ extensive treatment of the laws of the Sabbath (over the course of thirty chapters in *Mishneh Torah*) is seen as the quintessential categorization and conceptualized presentation of these laws, as an integrated whole.³³

In short, *Or Zarua* uses *Mishneh Torah* in *hilkhot Shabbat* because he felt that it was necessary and valuable to do so. He did not wish to rely solely on the Tosafist rulings and interpretations that he received from his teachers in northern France and Germany, as he did in other areas of ritual and religious law in which he barely mentions Maimonides. Moreover, there are more than a few instances in *hilkhot Shabbat* in which Isaac *Or Zarua* cites Maimonides’ treatment and adopts his rulings where there seems to be no analogous formulation from among his Tosafist teachers and predecessors,³⁴ others in which he singles *Mishneh Torah* out as representative of a particular approach,³⁵ and several in which Isaac of Vienna explains why he does not understand Rambam’s ruling, in terms which suggest that he nonetheless considered Rambam to be an important authority.³⁶

32. Cf. H. Soloveitchik, “Mishneh Torah: Polemic and Art,” 333, on *Semag*’s use of Maimonides’ *Hilkhot Shabbat*.

33. See *Sefer Or Zarua*, pt. 2, *Hilkhot Shabbat*, secs. 22, 28, 29, 54–56, 58, 60, 63, 68, 75, 83, 131, 178, 188, 191–92.

34. See *ibid.*, secs. 35, 44, 64, 116, 121, 126–27, 149, 184.

35. See *ibid.*, secs. 36, 42, 45, 120, 130, 150, 156, 170, 190.

36. See *ibid.*, secs. 57, 89, 122, 129.

Similar considerations animate *Or Zarua's* use of *Mishneh Torah* in the areas of divorce law and monetary law. An effective presentation of the laws of divorce, including resolving (or preventing) problems associated with *agunot*, needs to provide all the ways that a marriage can be retracted according to Jewish law. Isaac *Or Zarua* was well-versed in other areas of matrimonial law based on his extensive Tosafist training and background and did not feel the need for additional assistance from *Mishneh Torah*. However, innovative suggestions about how to deal with the often thorny dimensions of divorce law could be taken from any reliable quarter. Thus, Maimonides is cited, often at length, about instances in which a woman is permitted to re-marry on the basis of the testimony of one witness, about the responsibilities of a messenger (*shaliah*) who transports a bill of divorce,³⁷ and about contracts that are signed by non-Jews, along with his unique views about the validity of a bill of divorce which was (in effect) produced by the wife, or otherwise prepared on defective writing surfaces.³⁸ In one instance, Isaac *Or Zarua* appears to favor the approach of Rambam over that of Rashbam,³⁹ although in another, R. Isaac challenges Rambam's ruling as well-intentioned (since it was aimed at avoiding *iggun*) but nonetheless overly lenient.⁴⁰

In formulating Jewish monetary law – which is far less prescriptive than ritual law or other areas of *halakhah* that deal with permitted and prohibited acts based solely on Torah precepts – halakhic logic and clear reasoning are often the leading determinants, and there will likely be little variation resulting from different regional traditions or customs. As such, Isaac *Or Zarua* could again feel at ease taking advantage of creative and insightful Maimonidean approaches. R. Isaac will often begin the discussion of a topic in monetary law with a citation from *Mishneh Torah* followed by his own analysis, sometimes

37. See *Sefer Or Zarua*, pt. 1, *Hilkhot Agunah/Gittin*, secs. 693, 700; and see also 711, 721.

38. See *ibid.*, secs. 705, 716, 719–20, 737.

39. See *ibid.*, sec. 712.

40. See *ibid.*, sec. 696, and see also sec. 713.

introducing parallel Ashkenazic positions and discussions. It is not uncommon for Maimonides' view to be used to support that of a Tosafist, but there are times when Isaac *Or Zarua* subscribes to the view of Maimonides rather than to that of his Tosafist predecessors.⁴¹ In any case, Maimonides' formulations from *Mishneh Torah* are fully engaged by *Sefer Or Zarua* in many of these passages,⁴² just as they were by R. Isaac's colleague Isaiah di Trani in his *piskei shevu'ot*, another dimension of Jewish economic law in which Maimonides' creative ideas could easily be included.

In sum, Isaac *Or Zarua*'s approach to *Mishneh Torah* is consistent with that of other Tosafists only up to a point. Although *Mishneh Torah* may not have been similar to *Sefer Or Zarua* in style, method, or venue, Isaac of Vienna held that it should be used when needed, and does not otherwise detract from the perceived hegemony of Ashkenazic Talmudism. The gloss-like, standard *Tosafot* to the Talmud did not have the same aims (or space) as the large, discursive halakhic compendium known as *Sefer Or Zarua*, which despite its Tosafist loyalties (and training) also sought to provide a higher level of halakhic completeness.

These observations can explain more than the particular usage pattern of *Mishneh Torah* in *Sefer Or Zarua*. It was noted earlier that another of Simḥah of Speyer's students, Isaiah di Trani, had no difficulty citing Maimonides' *Moreh Nevukhim* in his Torah commentary. This is the case in other non-Talmudic disciplines as well, where the question of Ashkenazic dominance is not an issue. Abraham Ibn Ezra is barely mentioned in *Tosafot* texts, although Rabbenu Tam himself responds to an interpretational question that Ibn Ezra posed which had possible halakhic ramifications.⁴³ However, within their com-

41. See, e.g., *Sefer Or Zarua*, pt. 3, *piskei Bava Metsi'a*, sec. 66–67, 76, 90, 101; 115–17, 128, 133, 171, 183, 194, 237, 329. See also *piskei Sanhedrin*, sec. 75; and above, at n. 24.

42. See *piskei Bava Metsi'a*, sections 48; 54; 57, 71, 73, 84–85, 88, 91–92; 120–21, 129, 131–32, 175, 191, 362. See also *piskei Sanhedrin*, sections 50, 77, 79, 91.

43. See *Tosafot Rosh ha-Shanah* 13a, s.v. *de-akrivu*; *Tosafot Kiddushin* 37b, s.v.

ments on the Torah, various Tosafists, including Joseph *Bekhor Shor* of Orleans, Moses of Coucy, and Yehiel of Paris, are quite supportive of Ibn Ezra's interpretations, across a wide range of verses and topics.⁴⁴ In biblical interpretation, Ibn Ezra apparently had much to commend his interpretations to Tosafist authors; in Talmudic studies, he had little if anything to offer them.

Despite Maimonides' many achievements in Talmudic studies, the Tosafists' approach to his writings was essentially the same. While the teachings of *Mishneh Torah* are largely absent in the Talmudic and halakhic literature of the Tosafists during the thirteenth century, a series of Tosafist Torah commentaries compiled in the mid-thirteenth cite relevant passages from *Mishneh Torah*, and even from the *Guide for the Perplexed*. A particularly suggestive example is found in *Sefer ha-Gan* by Aaron b. Joseph *ha-Kohen*, which was compiled in northern France *circa* 1240.⁴⁵ On Genesis 1:26 ("And the Almighty said, let us make man in our image,"), *Sefer ha-Gan* begins by presenting (without attribution) the essence of Yosef *Bekhor Shor*'s interpretation of this verse. Since it is inappropriate to refer to the form of the Creator as indicated by a series of biblical verses, references to divine eyes or speech are a metaphor to convey the notion that God can

mi-moḥarat; and the commentary of Ibn Ezra to Leviticus 23:11. For literary contacts between Ibn Ezra and Rabbenu Tam on matters of syntax and poetry, see Urbach, *Ba'alei ha-Tosafot*, 68, 108–9.

44. See I. Ta-Shma, *Knesset Meḥkarim*, 1:276–77; and my *The Intellectual History*, 141, 178–79, 286, 301, 326, 334–35 (and the literature cited in n. 122), 495. For Ibn Ezra's influence on Ashkenaz in grammatical studies, see Judith Olszowy-Schlanger, "The Science of Language Among Medieval Jews," *Science in Medieval Jewish Cultures*, ed. G. Freudenthal (Cambridge, 2011), 393–98. Ibn Ezra's influence was apparently not felt, however, with regard to astrology. See Reimund Licht, "Toward a History of Hebrew Astrological Literature," *ibid.*, 261–62.

45. See S.A. Poznanski, *Mavo al ḥakhmei Tsarefat Mefarshei ha-Mikra* (Warsaw: Mekitse Nirdamim, 1913), XCVIII–CIV; *Sefer ha-Gan*, ed. J.M. Orlian (Jerusalem: Mosad ha-Rav Kook, 2009), editor's introduction, 19–29; and my *The Intellectual History*, 268–69, 287–89, 356–58.

communicate, akin to the scriptural comparison of God's voice to the sound of rushing water. Thus, the claim that man is made in God's image refers only to man's ability to intimidate, that fear of man (like the fear of God) will be placed over other creatures.⁴⁶

Sefer ha-Gan then describes the punishment for one who believes that God has a physical image according to "the book of Maimonides," in what appears to be a paraphrase of *Hilkhot Teshuvah*, 3:6–7. Rashbam's interpretation of Genesis 1:26 (that the form attributed to man corresponds to the form of the angels) is linked by *Sefer ha-Gan* to the category of angels found in *Hilkhot Yesodei ha-Torah* 2:7, called *ishim* (*anthropos*), who appear in prophetic visions such as those seen by Hagar, Joshua and Manoah. These particular angels, and the people to whom they appeared, are not mentioned in the passage from *Mishneh Torah*, but they are found in *Moreh Nevukhim* (II:42), suggesting that Aaron *ha-Kohen* also had access to this work.⁴⁷

46. See *Perushei R. Yosef Bekhor Shor al ha-Torah*, ed. Y. Nevo (Jerusalem: Mosad ha-Rav Kook, 1994), 6. See also *Pa'aneaḥ Raza*, (compiled in northern France during the late thirteenth century by R. Isaac *ha-Levi*) to Genesis 1:26; my "Varieties of Belief in Medieval Ashkenaz," (above, n. 7), 131–32; and *Tosafot ha-Shalem*, ed. J. Gellis, vol. 8 (Jerusalem, 1990), 119 (sec. 5).

47. See ms. Nuremberg 5, cited in *Tosafot ha-Shalem*, ed. Gellis, vol. 1 (Jerusalem, 1982), 1:65–66 (sec. 26). Cf. I. Ta-Shma, *Ha-Sifrut ha-Parshanit la-Talmud*, vol. 2 (Jerusalem, 2000), who (incorrectly) attributes this citation to Yosef Bekhor Shor himself. Gellis, *ibid.*, 1:65 (sec. 21), transcribes two other (later) northern French Tosafist Torah compilations, ms. Bodl. 271 (fol. 121r) and ms. Paris 48, which contain the first part of the passage in *Sefer ha-Gan* about the punishment according to Maimonides for believing that God is corporeal. See also Jacob b. Judah Ḥazzan, *Ets Ḥayyim*, ed. I. Brodie (Jerusalem: Mosad Harav Kook, 1962), 1:5–6. The second part of the passage, on the angels who appeared in human form, is cited in *Perushei ha-Torah le-R. Ḥayyim Palti'el*, ed. Y.S. Lange (Jerusalem, 1981), 4. For other citations of *Moreh Nevukhim* in Tosafist Torah compilations, see Gellis, *ibid.*, 1:121, 183. *Sefer ha-Gan* also cites *Mishneh Torah* in a halakhic context on Leviticus 21:4, ed. Orlian, 283. For additional citations from *Mishneh Torah* in Tosafist Torah compilations, see my "Varieties of Belief in Medieval Ashkenaz," 157, n. 103; Gellis, vol. 5 (Jerusalem, 1986), 42 (sec. 19); vol. 9 (Jerusalem, 1993), 101

This same distinction holds true for Abraham b. Azriel's *piyyut* commentary *Arugat ha-Bosem*, which is not a work of Talmudic interpretation or halakhic guidance. R. Abraham was also associated with the German Pietists, and their use of *Mishneh Torah* in editions of *Sefer Ḥasidim* – and by Eleazar of Worms in his *Sefer Rokeaḥ* – is focused, as noted above, on the ethical and moral imperatives that parallel the opening sections of *Mishneh Torah*. The fact that many of these citations come from *Sefer ha-Madda*, the opening section of *Mishneh Torah* which is closest to *Moreh Nevukhim* in terms of its philosophical orientation was apparently of no concern to these Ashkenazic authors.⁴⁸

In several passages, Nahmanides and other leading thirteenth-century Spanish Talmudists, who cite the literature of the *Tosafot* at every turn, refer to the Tosafists as the leading lights of Talmudic interpretation in their day,⁴⁹ a role and responsibility that the Tosafists accepted. They consulted (and deferred to) few non-Ashkenazic contemporaries in Talmudic studies and allied fields, except when these outside teachings could be helpful in providing halakhic definitions and other insights, as the cases of Isaac *Or Zarua* and Isaiah di Trani demonstrate. On the other hand, in areas of study other than Talmud and *halakhah*, the Tosafists were more open to outside influences. This has been shown to be the case with regard to biblical interpretation even before the thirteenth century, and it can be seen in *piyyut* composition throughout the twelfth and thirteenth centuries.⁵⁰

Indeed, these same considerations can explain, at least in part,

(sec. 1), and 172 (sec. 8). For citations of Maimonides by the German Tosafist Moses Taku of Regensburg (in his *Ketav Tamim*) and their refutation, see my “Varieties of Belief,” 157, n. 105; Jacob Dienstag, “Yaḥasam shel Ba’alei ha-Tosafot le-ha-Rambam,” 360–61; and Urbach, *Ba’alei ha-Tosafot*, 324.

48. Cf. above, at n. 7.

49. See my “Between Ashkenaz and Sefarad: Tosafist Teachings in the Talmudic Commentaries of Ritva,” *Between Rashi and Maimonides*, ed. E. Kanarfogel and M. Sokolow (New York: Ktav, 2010), 237–73.

50. See my *The Intellectual History*, 382–87, 393 (n. 74); 412, 436–37, 442–43, 495.

why the standard *Tosafot* to the Talmud barely mention Abraham b. David (Rabad) of Posquieres,⁵¹ even as Rabad frequently refers to the teachings of Rabbenu Tam.⁵² Although Rabad composed Talmudic *ḥiddushim* (in addition to his glosses to *Hilkhot Rif*, *Sefer ha-Ma'or*, and *Mishneh Torah*, along with various halakhic treatises and commentaries to *midreshei halakhah*), the standard *Tosafot* almost completely

51. The five *Tosafot* passages that mention Rabad (in *Ta'anit*, *Yoma*, *Temurah*, *Yevamot*, and *Avodah Zarah*) are listed in Isadore Twersky, *Rabad of Posquieres* (Philadelphia: Jewish Publication Society, 1980), 53 (n. 42). Note, however, that virtually all of these references are problematic. The standard *Tosafot* to *Ta'anit* were compiled only in the first half of the fourteenth century, and they exhibit a number of characteristics that are not found in any of the other *Tosafot* collections to the Babylonian Talmud; see Urbach, *Ba'alei ha-Tosafot*, 615–16. *Tosafot Yoma* was redacted by Meir of Rothenburg, whose tendency to cite Maimonides much more frequently as well will be noted shortly (and see below, n. 56). Similarly, the reference in Rabad in *Tosafot Yevamot* (5a) is also found in (and may be derived from) *Tosafot Yeshanim ha-Shalem al Massekhet Yevamot*, ed. A. Shoshana (Jerusalem: Ofeq, 1994), 33, whose completion is associated with students and colleagues of Maharam (see the editor's introduction, 26–30). Although *Tosafot Avodah Zarah* (38a, s.v. *ela*) mentions Avraham b. David, Urbach notes (*ibid.*, 654, n. 46) that this may not be a genuine reference, because *Tosafot Rash mi-Shants (Shitat ha-Kadmonim al Massekhet Avodah Zarah*, ed. M.Y. Blau [New York, 1969], 128) records only R. Avraham, without his father's name (as do *Piskei ha-Tosafot*, sec. 78, and *Tosafot ha-Rosh al Massekhet Avodah Zarah*, ed. D. Metzger [Jerusalem: Mosad Harav Kook, 2018], 120, as well as the text of *Sefer Mordekhai* in ms. Vercelli 1, fol. 114d). The suggestion is made in *Tosafot ha-Rosh al Massekhet Avodah Zarah*, *ibid.*, n. 946, that this is R. Abraham, the uncle of Ri of Dampierre, who is mentioned elsewhere in these *Tosafot* (p. 141, to *Avodah Zarah* 40a). In the standard *Sefer Mordekhai al Massekhet Avodah Zarah* (sec. 830), the name is recorded as Abraham of Orleans, the Tosafist son of Joseph b. Isaac Bekhor Shor of Orleans; see Urbach, *ibid.*, 140–42. At the same time, however, Urbach maintains that the Ephraim b. David mentioned in *Tosafot Avodah Zarah* 39a, s.v. *amar Rav*, is in fact Abraham b. David of Posquieres since this interpretation is similar to the one offered by Rabad in his *ḥiddushim* to *Avodah Zarah*, even as there is no textual basis for this identification.

52. See I. Ta-Shma, *Ha-Sifrut ha-Parshanit la-Talmud*, vol. 1 (Jerusalem: Magnes, 1999), 202–03.

ignore Rabad,⁵³ just as they did Rambam. As he did with Rambam,⁵⁴ Asher b. Yeḥiel adds a more noticeable number of references to Rabad (from throughout his literary corpus) into *Tosafot ha-Rosh*.⁵⁵

However, even *Tosafot ha-Rosh* cite Rabad extensively only in the one area in which Rabad had something substantial to add to Ashkenazic Talmudic and halakhic literature. Due perhaps to the subject matter – the status of the intermediate days of the festivals, and the laws of mourning – tractate *Mo'ed Katan* received little attention during the twelfth century and even beyond. The treatise composed by Meir of Rothenburg (d. 1293, and the major teacher of Rosh) on the laws of mourning (*hilkhot semaḥot*), which is the fullest treatment of this topic in medieval Ashkenaz, cites more than twenty Talmudic interpretations and halakhic conclusions offered by Rabad;⁵⁶ and

53. On the scope of Rabad's (mostly lost) Talmudic commentaries, see H. Soloveitchik, "Rabad of Posquieres: A Programmatic Essay," *Studies in the History of Jewish Society in the Middle Ages and the Modern Period*, ed. E. Etkes and Y. Salmon (Jerusalem: Magnes, 1980), 7–40; and Shalem Yahalom, *Bein Geronah le-Narbonnah* (Jerusalem: Yad Ben Zvi, 2013), 11–36. See *ibid.*, 100–109, 130–31, 147–48 (and the literature cited in n. 375), on the relative lack of citation of Rabad's glosses on *Mishneh Torah* outside of Provence and the general absence of Provençal material in the literature of the Tosafists (noted also by H. Soloveitchik, "The Halakhic Isolation of the Ashkenazic Community," 46).

54. See above, n. 4 (end).

55. There are more than ten references to Rabad in *Tosafot ha-Rosh al Massekhet Ketubot* (4a, 27b, 40b, 46a, 72b, 78b, 79b, 83b, 87a, 91b, 103a–b, 109b–110a); seven in *Tosafot ha-Rosh to Berakhot* (15b, 21a, 22a, 34b, 43a, 45a, 60a); five in *Tosafot ha-Rosh to Ḥullin* (8b, 18a, 46b, 105a, 112a); two in *Shevu'ot* (35b, 45a); and one in *Pesahim* (104b), *Rosh ha-Shanah* 27a (where *Zerahyah ha-Levi [Ba'al ha-Ma'or]* is also cited; see also *Rosh ha-Shanah* 3b, 10a); *Nedarim* (14a); *Bava Metsi'a* (69a), and cf. Urbach, *Ba'alei ha-Tosafot*, 595, n. 34.

56. See Meir b. Barukh, *Teshuvot, Pesakim u-Minhagim*, vol. 3 (*Hilkhot Semaḥot*), ed. I.Z. Kahana (Jerusalem: Mosad Harav Kook, 1962), 21, 31, 37–39, 45–47, 49–50, 61, 65, 79, 101, 111, 116, 155, 158. As Kahana notes, perhaps a handful of these citations originated with Rabad's father-in-law, Avraham b. Isaac *Av Bet Din* (Rabi). On the avoidance of studying *Mo'ed Katan* because it contains the laws of mourning, see *Sefer Ḥasidim*, ed. J. Wistinetzki (Frankfurt: Mekitse Nirdamim, 1924), secs. 1, 587–88; and cf. sec. 1495.

Tosafot ha-Rosh to *Mo'ed Katan* contains more than sixty references to Rabad. Although there are multiple references to Rabad in *Tosafot ha-Rosh* on several folios in the beginning sections of this tractate (which deal with the laws of the intermediate festival days), Rabad is cited multiple times by *Tosafot ha-Rosh* on virtually every folio from folio 19 onward, the section which covers the laws of mourning.⁵⁷

The consensus of modern scholarship is that a significant change occurs regarding the citation of *Mishneh Torah* during the second half of the thirteenth century, in the study hall of Maharam of Rothenburg. For the first time in Ashkenaz – and nearly a century after it was composed – *Mishneh Torah* is cited freely in the context of halakhic studies (along with Alfasi's *Halakhot*), although there is some debate about the intentions of programmatic statements made by R. Meir concerning *Mishneh Torah*. Nonetheless, several of Maharam's students also allied themselves with the halakhic works of Alfasi and Maimonides: *Piskei ha-Rosh* and *Sefer Mordekhai* are arrayed according to the order of Rif's *Halakhot*; and Meir *ha-Kohen*, the author of *Haggahot Maimuniyyot*, produces systematic glosses to *Mishneh Torah*.⁵⁸

57. See the list of citations from Rabad in *Tosafot ha-Rosh al Massekhet Mo'ed Katan*, ed. Y. Broner (Jerusalem, 2018), editor's introduction, 9. Cf. Urbach, *Ba'alei ha-Tosafot*, 596, n. 39; Yaakov Sussman, "Perush ha-Rabad le-Massekhet Sheqalim," *Me'ah She'arim*, ed. Ezra Fleischer et al. (Jerusalem: Magnes 2001), 165; H. Soloveitchik, "The Halakhic Isolation of the Ashkenazic Community," (above, n. 53); and S. Yahalom, *Bein Geronah le-Narboannah*, 47 (n. 174), 214 (n. 114). The largest share of the *Shitah al Mo'ed Katan le-Talmido shel R. Yehiel mi-Paris* (Jerusalem, 1937), which also cites material from Rabad, was produced by Yedidyah b. Israel of Nuremberg, a younger associate of Meir of Rothenburg, who studied in northern France with Yehiel of Paris (among other French Tosafists) as Maharam did. See my "Solomon Schechter and Medieval European Rabbinic Literature," *Jewish Historical Studies* 48 (2016), 27–30. *Sefer Mordekhai*, composed by another of Maharam's students, Mordekhai b. Hillel, barely cites Rabad, except in connection with the laws of mourning as found in *Mo'ed Katan*. See Samuel ha-Kohen, "R. Mordekhai b. Hillel ha-Ashkenazi," *Sinai* 14 (1944), 316.

58. See Urbach, *Ba'alei ha-Tosafot*, 548–49; Grossman, "Me-Andalusiah le-Eiropah," 27–29; Woolf, "Admiration and Apathy," 436–38; and Soloveitchik,

Leaving aside, however, the study hall of Maharam which effectively closes out the Tosafist period, Maimonides was neither friend nor foe in Ashkenaz. The reception of his writings depended not on his philosophy or beliefs but on what he had to offer Ashkenazic rabbinic figures, a calculation that depended on the genre and aim of each particular project and area of study.⁵⁹

“The Halakhic Isolation of the Ashkenazic Community,” (above, n. 53). Both Grossman and Woolf suggest that Maharam’s training with a series of French Tosafists is what commended *Mishneh Torah* to him. But as Soloveitchik maintains (and as this study has further demonstrated), German Tosafists were less isolated than their French counterparts in matters of Talmudic interpretation. I have suggested that by his embrace of Rif and Rambam, Meir of Rothenburg sought to encourage his students to foster the linkage of Ashkenazic rabbinic materials to these two towering and highly influential halakhic resources from the Sephardic world, which would help ensure the preservation of the works of *ḥakhmei Ashkenaz* as the centers of Jewish learning and life in northern Europe moved inexorably toward decline. See my entry in the *Yale Companion to Jewish Writing and Thought in German Culture, 1096–1996*, ed. S.L. Gilman and J. Zipes (New Haven: Yale University Press, 1997), 27–34.

59. This dichotomy may also govern the Ashkenazic usage of other Sephardic methods and materials more broadly; see my *The Intellectual History*, 538–40; and above, n. 50. Regarding *Mishneh Torah* and the laity in northern Europe, one of the few manuscripts copied there before 1300 was produced by Cresbian the Punctuator (Kershavyah *ha-Naqdan*) in 1243, apparently to provide a basic text of Jewish law for the growing number of non-elite readers. See ms. Cambridge Add. 1564; and cf. Norman Golb, *The Jews in Medieval Normandy* (Oxford, 1997), 441–44. Although many leading Ashkenazic talmudists chose not to cite *Mishneh Torah* in their works of advanced scholarship, Tosafist Torah compilations and summaries of Jewish law (such as *Ets Ḥayyim* and *Sefer ha-Niyyar*), which did, were also directed in some measure toward non-elite audiences. See Galinsky, “The Significance of Form,” 302–3; my *The Intellectual History*, 359–61; my “The Popularization of Jewish Legal and Customary Literature in Germanic Lands during the Thirteenth Century,” in *Judische Kultur in den SchUM-Stadten*, K.E. Grözinger ed. (Weisbaden: Harrassowitz, 2014), 243–45; S. Emanuel, “*Pereq Ḥoq ha-Yom*: A Jewish Book of Hours from Medieval France,” (forthcoming); and above, n. 13.

*“In the Dwelling of a Sage
Lie Precious Treasures”*



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Honor of Shnayer Z. Leiman

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